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JOHN XXIII AND JOHN PAUL II THE HUMAN RIGHTS POPES

The postmodern world in which we live holds that “truth, linguistic meaning, moral values, and human nature no longer have stable meanings.” If we cannot claim that in some real sense all human beings share a common human nature, we cannot argue that all human beings share the same basic rights. In other words, the defense of universal human rights depends on acknowledging some universal truths about the subjects of human rights, namely human persons.

Pope John XXIII and Pope John Paul II stand among the most significant popes in the modern era. Both of these saints did many extraordinary things for the church and the world, and their rich legacies have myriad important theological, ecclesiological and social dimensions. Referring to them as “the human rights popes” does not imply that we can capture the fullness of their papacies in this way. Nonetheless, these particular popes have done more than any other to advance the Roman Catholic Church’s teaching on human rights and to promote human rights globally.¹ Pius XII laid important groundwork for the Church’s affirmation of human rights by speaking of political and civil rights.² However, John XXIII sharpened the Church’s focus on human dignity

¹ Some Catholics have objected to the introduction of rights language into official Catholic teaching. See for example, Ernest L. Fortin, *Classical Christianity and the Political Order*, Collected Essays (Lanham, Md.: Rowman & Littlefield Pub., 1996), 223-86; Ernest L. Fortin, “‘Sacred and Inviolable’: *Rerum Novarum* and Natural Rights,” *Theological Studies* 53, no. 2 (1992): 203-33. Archbishop Lefebvre and his followers famously rejected the understanding of human rights in *Dignitatis Humanae* and thus created a schismatic movement. See Massimo Faggioli, *Vatican II: The Battle for Meaning* (New York: Paulist Press, 2012), 30-5. See also Jan Andrzej Kłoczowski, “Bóg wybrał ryzyko wolności,” in *Dzieci Soboru zadają pytania. Rozmowy o Soborze Watykańskim II*, ed. Zbigniew Nosowski (1996), 313-4; F. Russell Hittiner, “The Declaration on Religious Freedom, *Dignitatis Humanae*,” in *Vatican II: Renewal within Tradition*, ed. Matthew L. Lamb and Matthew Levering (Oxford: Oxford University Press, 2008), 362. The present article presumes that the Church’s defense of the dignity and rights of the human person is not only legitimate, but essential to Christian discipleship and evangelization. I acknowledge, however, that Catholics can and do disagree about the best means to fulfill human rights.

² See J. Bryan Hehir, “The Modern Catholic Church and Human Rights: The Impact of the Second Vatican Council,” in *Christianity and Human Rights: An Introduction*, ed. John Witte and Frank S. Alexander (Cambridge, UK, and New York: Cambridge University Press, 2010), 143-46. John XXIII himself lauded Pius XII for clarifying the Church’s stance on human rights. See John XXIII, *Mater et Magistra*, no. 41. On the importance of Pius XII for Catholic teaching on human rights, see also François Refoulé, “Efforts Made on behalf of Human Rights by the Supreme

and human rights, proclaiming that “an unshakable affirmation and defense of the dignity and rights of the human person” had become the “one basic theme” of Catholic social teaching.³ Cardinal Avery Dulles correctly maintained that no Pope stressed human rights more often than John Paul II.⁴ For this reason, I have chosen to focus on their significance for the human rights agenda in this article. I will leave it to other skilled theologians, historians and esteemed prelates to do justice to the myriad other aspects of their papacies.⁵

The article begins with some general remarks about Catholicism and human rights, and then turns to John XXIII, focusing on just a few aspects of his landmark papal encyclical *Pacem in Terris*. I discuss briefly the context, reception, and impact of *Pacem in Terris*. Next the article explicates the encyclical’s natural law foundation for human rights. Then I focus on the encyclical’s endorsement of two sets of rights: civil and political rights and economic, social and cultural rights. The section of the paper on John XXIII concludes with a word about the significance of John XXIII’s spirit of dialogue for us today.

The second part of the article focuses on John Paul II’s innovations and achievements pertaining to human rights. In the conclusion of article, I will raise some ways in these popes’ legacies regarding human rights continue to challenge us today. In other words, I will argue that in many ways we – both in the church and in society broadly speaking – have not yet fully realized the call of John XXIII and John Paul II to promote the human dignity and rights of all.

Authority of the Church,” *Concilium: International Journal for Theology* 15, no. 4 (1979): 78-9; Piotr M a z u r k i e w i c z, *Kościół i demokracja* (Warszawa: Pax, 2001), 112-3; H i t t i n g e r, “The Declaration on Religious Freedom, *Dignitatis Humanae*,” 361-2; David H o l l e n b a c h, *Claims in Conflict: Retrieving and Renewing the Catholic Human Rights Tradition* (New York: Paulist Press, 1979), 56-61. See also John P. L a n g a n, “The Christmas Messages of Pius XII (1939-45),” in *Modern Catholic Social Teaching: Commentaries and Interpretations*, ed. Kenneth R. Himes and Lisa Sowle Cahill (Washington, D.C.: Georgetown University Press, 2005), 175-90. Drew Christiansen notes that Pius XII “appealed for an international bill acknowledging the rights flowing from the dignity of the human person” (Drew C h r i s t i a n s e n, “*Pacem in Terris*,” in *Modern Catholic Social Teaching: Commentaries and Interpretations*, 236). However, Pius XII did not express approval of the U.N. Universal Declaration of Human Rights because it lacked a robust philosophical foundation for human rights in his view.

³ David H o l l e n b a c h, “*Pacem in Terris* and Human Rights,” *Journal of Catholic Social Thought* 10, no. 1 (2013): 8.

⁴ Avery D u l l e s, *Church and Society: The Laurence J. McGinley Lectures, 1988-2007*, (New York: Fordham University Press, 2008), 278.

⁵ I attempt a broader, albeit succinct overview of their legacies in Gerald J. B e y e r “Reflections on the Canonizations of John XXIII and John Paul II,” *Political Theology Today*, April 14, 2014 (available at <http://www.politicaltheology.com/blog/reflections-on-the-canonizations-of-pope-john-xxiii-and-pope-john-paul-ii>).

POPE JOHN XXIII: CHAMPION OF HUMAN DIGNITY
AND DIALOGUE

CONTEXT, RECEPTION, AND IMPACT OF “PACEM IN TERRIS”

Not long ago legal historian John Witte Jr. stated that “[r]eligions will not be easy allies to engage, but the struggle for human rights cannot be won without them.”⁶ For much of its history, the Roman Catholic Church did not officially endorse many of the rights contained in the U.N. Universal Declaration of Human Rights. In particular, the church was slow to fully accept civil and political rights.⁷ In the modern era, the Church’s view of the right to religious freedom developed until its fullest acceptance in *Dignitatis Humanae*.⁸

⁶ Cited in R. Scott Appleby, *The Ambivalence of the Sacred: Religion, Violence, and Reconciliation* (Lanham Md.: Rowman & Littlefield Publishers, 2000), 248.

⁷ See note 2 above and David Hollenbach, “An Advocate for All: How the Catholic Church Promotes Human Dignity,” *America*, December 1, 2008 (available at <http://americamagazine.org/issue/678/article/advocate-all>). There were, however, antecedents to the modern rights tradition in Christian thought (see Christiansen, “*Pacem in Terris*,” 233-5 and Gerald J. Beyer, “Economic Rights: Past, Present, and Future,” in *Handbook of Human Rights*, ed. Thomas Cushman (London and New York: Routledge, 2012), 291-310).

⁸ The history of this issue is complex and cannot be fully explored here. Much depends on what is meant by the “right to religious freedom.” In a 1966 commentary on Vatican II, Fr. Joseph Ratzinger saw in *Dignitatis Humanae* “something new, something that is quite different from what is found, for example, in the statements of Pius XI and Pius XII” (Joseph Ratzinger, *Theological Highlights of Vatican II*, (New York: Paulist Press, 2009), 212). In his Christmas address of 2005 Pope Benedict XVI provided more nuance, claiming “The Second Vatican Council, recognizing and making its own an essential principle of the modern State with the Decree on Religious Freedom, has recovered the deepest patrimony of the Church” (available at http://www.vatican.va/holy_father/benedict_xvi/speeches/2005/december/documents/hf_ben_xvi_spe_20051222_roman-curia_en.html). Cardinal Pietro Pavan pointed to the innovations in *Dignitatis Humanae* (see Pietro Pavan, “Declaration on Religious Freedom,” in *Commentary on the Documents of Vatican II*, ed. Herbert Vorgrimler (London: Herder & Herder 1967), 67, 80-3). Martin Rhonheimer has argued for “discontinuity with the 19th-century popes” and for a “deeper continuity” with early Christian belief and practice (see Martin Rhonheimer, “Benedict XVI’s ‘Hermeneutic of Reform’ and Religious Freedom,” *Nova et Vetera* 9, no. 4 (2011): 1031-2. For a rejection of this view, see Thomas Pink, “The Interpretation of *Dignitatis Humanae*: A Reply to Martin Rhonheimer,” *Nova et Vetera* 11, no. 1 (2013): 77-121. Raymond Lafontaine maintains that the teaching of *Dignitatis Humanae* differs “dramatically in tone and doctrinal content” from 19th century papal teaching (see Raymond Lafontaine, “Lonergeran’s Functional Specialties as a Model for Doctrinal Development: John Courtney Murray and the Second Vatican Council’s Declaration on Religious Freedom,” *Gregorianum* 88, no. 4 (2007): 781-82). Conversely, Avery Dulles has argued against the notion of discontinuity in the tradition on religious freedom (see Avery Dulles, “*Dignitatis Humanae* and the Development of Catholic Doctrine,” in *Catholicism and Religious Freedom: Contemporary Reflections on Vatican II’s Declaration on Religious Liberty*, ed. Kenneth L. Grasso and Robert P. Hunt (Lanham, Md.: Rowman & Littlefield Publishers, 2006), 43-67). Debate exists about the twentieth century papal teaching as well. Dulles, for example, sees a right to religious freedom in Pius XI’s 1942 radio address (see Dulles,

Moreover, its members have not always lived up to its affirmation of the rights and dignity of the person, as I shall discuss in the conclusion. Nonetheless, many observers, such as political scientist Samuel Huntington, have rightly acknowledged that in the latter part of the 20th century Catholicism became a leading force for the promotion of human rights.⁹

The Church's stance on human rights changed definitively with Pope John XXIII's 1963 encyclical *Pacem in Terris*.¹⁰ Prior to his papacy, Angelo Roncalli's life experiences propelled him towards this *magnum opus*. His tenure as papal nuncio in France and permanent observer to UNESCO in the 1940's and fifties taught him how to collaborate with all those aiming at the good, regardless of their belief system.¹¹ During this time he also became interested in the Commission on Human Rights.¹² Years later he deemed the UN Univer-

Church and Society: The Laurence J. McGinley Lectures, 1988- 2007, 309). Hittinger, who sees *Dignitatis Humanae* as a "major development in the way the Church situates itself in the political world" (Hittinger, "The Declaration on Religious Freedom, *Dignitatis Humanae*," 375), notes Pius XII's influence (seven citations) in the document (see *ibid.* 362-77). On the other hand, John Courtney Murray argued that Pius XII adopted a doctrine of toleration, not religious freedom (see John Courtney Murray and J. Leon Hooper, *Religious Liberty: Catholic Struggles with Pluralism* (Louisville, Ky.: Westminster/John Knox Press, 1993), 134-5). Rhonheimer agrees with Murray about Pius XII (see Rhonheimer, "Benedict XVI's 'Hermeneutic of Reform' and Religious Freedom": 1035). Cardinal Angelo Scola has also recently clarified what the Church did and did not oppose in this area until Vatican II (see Angelo Scola, "The Nature and Scope of Religious Freedom in Our Contemporary Culture," *Communio* 40, no. 2-3 (2013): 319-21). Herminio Rico claims that with *Dignitatis Humanae*, "in a solemn way, the church proclaimed its renunciation of what — in many different forms, some very obvious, others more subtle — have been very much a part of its life since the time of Constantine . . . The church definitively forsook any claim to a privileged juridical status..." (Herminio Rico, *John Paul II and the Legacy of Dignitatis Humanae* (Washington, D.C.: Georgetown University Press, 2002), 7). The silencing of John Courtney Murray prior to Vatican II for his writings on religious freedom and the subsequent role he played in drafting *Dignitatis Humanae* also relate to this issue. On this, see David Hollenbach, "Religious Freedom, Morality and Law: John Courtney Murray Today," *Journal of Moral Theology* 1, no. 1 (2012): 71. As the previous citations suggest, Murray's contention about *Dignitatis Humanae* remains valid: "the course of development between *The Syllabus of Errors* (1864) and *Dignitatis Humanae Personae* (1965) still remains to be explained by theologians. But the Council formally sanctioned the validity of the development itself ..." (John Courtney Murray, "Introduction to *Dignitatis Humanae*" in *The Documents of Vatican II*, ed. Walter M. Abbot (New York: Guild Press, 1966), 673). On this, Gerald O'Collins has recently stated that *Dignitatis Humanae*, "when set over against the *Syllabus of Errors*, looks more like a reversal than a development" (Gerald O'Collins, "Does Vatican II Represent Continuity or Discontinuity?," *Theological Studies* 73, no. 4 (2012): 778).

⁹ See Hollenbach, "Pacem in Terris and Human Rights": 8.

¹⁰ John XXIII expressed his support for human rights in his earlier encyclical *Mater et Magistra*, which he promulgated in 1961. However, I focus here on *Pacem in Terris* for the reasons I have described in the text.

¹¹ See Peter Hebblethwaite and Margaret Hebblethwaite, *John XXIII Pope of the Century* (London; New York: Continuum, 2000), 114.

¹² Dullies, *Church and Society: The Laurence J. McGinley Lectures, 1988-2007*, 309.

sal Declaration of Human Rights “a clear proof of the farsightedness of this organization” in *Pacem in Terris* (no. 143).

Although Pope John affirmed the rights of the human person in his earlier encyclical *Mater et Magistra* (1961), *Pacem in Terris* brought about a sea change in the Roman Catholic tradition, making the Church a major voice in the advancement of peace and human rights.¹³ *Pacem in Terris* was the culmination of the life and teaching of John XXIII. He hastened to complete it while he was dying of cancer because he believed in its powerful potential. Thus, papal biographer Peter Hebblethwaite dubbed it John’s “last will and testament.”¹⁴ The fact that events commemorating the fiftieth anniversary of *Pacem in Terris* have been held over the last two years at the Vatican, the United Nations and Catholic universities globally attests to the importance of this encyclical.¹⁵ Dr. Joe Holland, a renowned expert on Catholic social thought, dubbed *Pacem in Terris* the “most famous and relevant papal document of contemporary times.”¹⁶

Deemed Catholicism’s “Magna Carta,” *Pacem in Terris* remains the most systematic and extensive presentation of rights and duties in the Catholic social tradition.¹⁷ *Pacem in Terris*’ clear affirmation of the right “to worship God in accordance with the right dictates of his own conscience, and to profess his religion both in private and in public” (no. 14) paved way for the teaching on religious freedom in *Dignitatis Humanae*. According to Pietro Pavan, *Pacem in Terris* synthesized previous papal teaching on the “inviolable rights” of the person. The Declaration on Religious Freedom “developed [it] still further.”¹⁸ He also notes that *Pacem in Terris* had articulated government’s role in protecting human rights, which *Dignitatis Humanae* applied to the right to religious freedom.¹⁹ As Pavan and John Courtney Murray explained to Paul VI and the Council Fathers, *Pacem in Terris* provided the best precedent in the tradition

¹³ See John XXIII, *Mater et Magistra*, nos. 7, 16, 20, 55, 61, 67, 99, 103, 106, 109, 147, 157, 211. In this encyclical Pope John XXIII affirms the rights defended by his predecessors. He breaks new ground, as I will discuss, in *Pacem in Terris*.

¹⁴ Hebblethwaite and Hebblethwaite, *John XXIII: Pope of the Century*, 249.

¹⁵ The symposium at the United Nations headquarters took place on October 24, 2012. The presentations from the symposium have been published in *Pacem in Terris: Its Continuing Relevance for the 21st Century*, ed. Frances Dubois and Josef Klee (Washington, D.C.: Pacem in Terris Press, 2013).

¹⁶ Joe Holland, “*Pacem in Terris*”: Summary and Commentary for the 50th Anniversary of the Famous Encyclical Letter of Pope John XXIII on World Peace (Washington, D.C.: Pacem in Terris Press, 2012).

¹⁷ Hollenbach, “*Pacem in Terris* and Human Rights,” 5; Hehir, “The Modern Catholic Church and Human Rights: The Impact of the Second Vatican Council”; Mazurkiewicz, *Kościół i demokracja*, 113-4.

¹⁸ Pavan, “Declaration on Religious Freedom,” 64.

¹⁹ See *ibid.*, 72.

for the right to religious freedom. This argument enabled the Council Fathers to embrace the fuller development of this right enunciated in *Dignitatis Humanae*.²⁰ Indeed, the first several lines of the Declaration, appealing to the principle of freedom and the dignity of the human person, are almost taken verbatim from *Pacem in Terris*.²¹ The Declaration cites *Pacem in Terris* seven times, clearly relying on it as a basis for its more complete theory of religious freedom.²² John's encyclical also opened the door for an official recognition of the legitimacy of Christian pacifism, which also came at Vatican II.²³ In addition, the *Pacem in Terris* broadened the subject of Catholic social teaching to the international sphere by calling for a universal common good and a world-wide community of nations.²⁴

Pacem in Terris had a major impact both within and beyond the Catholic Church. Having witnessed the horrors of war firsthand as a conscripted medic in World War I and as a Vatican diplomat in Greece and France during World War II, John XXIII wanted to diffuse the tensions of the Cold War.²⁵ He intervened during the Cuban missile crisis in 1962 by appealing to President Kennedy and Russian leader Nikita Khrushchev to avert war. Some have argued that John XXIII played a key role in easing the tensions between Russia and the U.S.²⁶ His desire to help end the Cold War and promote peaceful conflict resolution prompted him to pen the encyclical. *Pacem in Terris* was officially promulgated shortly before Easter in 1963.²⁷ From the very first words, the document signaled a major shift in papal teaching. Never before had a pope addressed an encyclical to "all men [sic] of goodwill." However, John XXIII

²⁰ See Leslie Griffin, "Commentary on *Dignitatis Humanae* (Declaration of Religious Freedom)," in *Modern Catholic Social Teaching: Commentaries and Interpretations*, ed. Kenneth R. Himes and Lisa Sowle Cahill (Washington, D.C.: Georgetown University Press, 2005), 253-4.

²¹ See Dulles, "*Dignitatis Humanae* and the Development of Catholic Doctrine," 48, 58. Dulles also states "*Pacem in Terris* came closest to *DH* by building the principle of freedom into [its] theory of society" (ibid., 58).

²² For more on this point, see Murray's helpful commentary and notes in Murray, "Introduction to *Dignitatis Humanae*," 672-96.

²³ See *Gaudium et Spes*, nos. 78-80 and John XXIII, *Pacem in Terris*, nos. 126-7.

²⁴ See John XXIII, *Pacem in Terris*, nos. 7, 139-140.

²⁵ See Hebblethwaite and Hebblethwaite, *John XXIII: Pope of the Century*, 37-43, 82-116.

²⁶ See Holland, "*Pacem in Terris*": *Summary and Commentary for the 50th Anniversary of the Famous Encyclical Letter of Pope John XXIII on World Peace*, 1. For more specifics on Pope John's role in mediating this conflict, see Hebblethwaite and Hebblethwaite, *John XXIII: Pope of the Century*, 230-51.

²⁷ I draw here on the detailed accounts in Christiansen, "*Pacem in Terris*," 217-23, and Kenneth P. J. Hallahan, "*Pacem in Terris*," in *The New Dictionary of Catholic Social Thought*, ed. Judith A. Dwyer (Collegeville, Minnesota: The Liturgical Press, 1994), 696-97. See also Hebblethwaite and Hebblethwaite, *John XXIII: Pope of the Century*, 230-51.

used this formulation to convey his keen interest in cooperation among Catholics and non-Catholics alike in the urgent endeavor of peace building. In doing so, the Pope achieved his goal of reaching people outside the Church. As Peter Steinfels stated, "*Pacem in Terris* was embraced by non-Catholic readers like no previous encyclical."²⁸ The entire text was printed in the *New York Times*, along with several editorials on it. It was positively received in the Soviet Union as well.²⁹

The encyclical did, however, have its critics. Renowned Protestant theologians such as Reinhold Niebuhr and Paul Tillich bemoaned John XXIII's naïve optimism concerning the ability to promote peace and justice and overcome the Cold War exclusively through nonviolent means. Even some Catholics were skeptical of the Pope's utopian vision, including high-ranking prelates in Rome.³⁰ Nonetheless, *Pacem in Terris* profoundly changed the landscape of Catholic thinking on human rights, providing a firm anchor and benchmark for Catholics concerned about human rights. The document was an impetus for the promotion of human rights for Catholic bishops' conferences throughout the world. It also inspired lay and ordained Catholics in myriad nations to struggle in solidarity for the rights of all in places such as Poland, Chile, El Salvador, South Korea, the Philippines and elsewhere.³¹ For example, Cardinal Stefan Wyszyński criticized the Communist regime in Poland by explicitly appealing to *Pacem in Terris* in his defense of the human rights and duties that inhere in the nature of the human person.³² Likewise, Archbishop Oscar Romero quoted John XXIII in defending the "right of assembly and association,"³³ which the Salvadoran regime violently suppressed in the 1970s and 1980s. In recent years the encyclical has inspired a global movement called the *Pacem in Terris* Global Leadership Ecumenical Initiative.³⁴ According to Joe Holland, a founding member, "[Pope] John's prophetic vision seeks a purified and updated World

²⁸ Peter Steinfels, "Pacem in Terris, and Debate on It, Echo Anew," *The New York Times*, February 1, 2003 (available at <http://www.nytimes.com/2003/02/01/nyregion/beliefs-pacem-in-terris-and-debate-on-it-echo-anew.html>).

²⁹ Hallahan, "Pacem in Terris," 696.

³⁰ See Steinfels, "Pacem in Terris, and Debate on It, Echo Anew" and Christiansen, "Pacem in Terris".

³¹ See Hollenbach, "An Advocate for All: How the Catholic Church Promotes Human Dignity"; Christiansen, "Pacem in Terris," 238.

³² See Adam Michnik, *Kościół, lewica, dialog*, (Warszawa: Świat Książki, 1998), 105-6.

³³ Oscar A. Romero, *Voice of the Voiceless: The Four Pastoral Letters and Other Statements* (Maryknoll, N.Y.: Orbis Books, 1985), 90.

³⁴ The initiative seeks to "contribute to a postmodern Christian global intellectual-artistic renaissance, which will seek creative pathways into a regenerative Postmodern Global Electronic-Ecological Civilization." See Joe Holland, "The Unsustainability of Modern Western Civilization and of Modern Western Catholic Evangelization," http://paceminterris.net/Home_Page.html.

Church serving a humanistic and ecological Global Civilization beyond modern ideologies and grounded in justice, peace, and agroecology.”³⁵

Now that I have briefly discussed the context and impact of *Pacem in Terris*, let me turn to the substance of its argument. Many helpful commentaries have already summarized the overall argument of this lengthy encyclical and its component parts.³⁶ I will therefore focus on a few of its key ideas regarding human rights and their significance today.

THE FOUNDATIONS OF HUMAN RIGHTS IN A POSTMODERN WORLD

Catholic law professor and human rights scholar Mary A. Glendon has recently argued that philosophical relativism presents “perhaps the most complicated challenge facing the human rights project at the present time.”³⁷ Glendon’s claim points to postmodern epistemologies, which ultimately provide no basis for arguing for universal human rights. The postmodern world in which we live holds that “truth, linguistic meaning, moral values, and human nature no longer have stable meanings.”³⁸ If we cannot claim that all human beings possess certain attributes in all cultures, places and times, we are left without a foundation to anchor claims about universal human rights.³⁹ If we cannot claim that in some real sense all human beings share a common human

³⁵ See *ibid.* For Holland’s book-length analysis of the encyclical, see “*Pacem in Terris*”: Summary and Commentary for the 50th Anniversary of the Famous Encyclical Letter of Pope John XXIII on World Peace.

³⁶ See for example Holland, *Pacem in Terris*: Summary and Commentary for the 50th Anniversary of the Famous Encyclical Letter of Pope John XXIII on World Peace; Christiansen, “*Pacem in Terris*”; Hallahan, “*Pacem in Terris*”; Hollenbach, *Claims in Conflict: Retrieving and Renewing the Catholic Human Rights Tradition*, 62-69; Hollenbach, “*Pacem in Terris* and Human Rights”; John Paul II, “*Pacem in Terris*”: A Permanent Commitment, http://www.vatican.va/holy_father/john_paul_ii/messages/peace/documents/hf_jp-ii_mes_20021217_xxxvi-world-day-for-peace_en.html.

³⁷ Mary A. Glendon, “The Influence of Catholic Social Doctrine on Human Rights,” *Journal of Catholic Social Thought* 10, no. 1 (2012): 78. On this, see also Eberhard Schöckenhoff, *Natural Law & Human Dignity: Universal Ethics in an Historical World* (Washington, D.C.: Catholic University of America Press, 2003), 42-81. This book originally appeared as *Naturrecht und Menschenwürde: Universale Ethik in einer geschichtlichen Welt* (Mainz: Matthias-Grünwald-Verlag, 1996).

³⁸ Glenn B. Siniacchi, “Postmodernism and the Need for Rational Apologetics in a Post-Conciliar Church,” *Heythrop Journal* LII (2011): 751 (this article provides a succinct overview of the rise of postmodernism and its worldview).

³⁹ Jacques Maritain and other drafters of the U.N. Universal Declaration of Human Rights were aware of this problem (see Gerald J. Beyer, “Beyond ‘Nonsense on Stilts’: Towards Conceptual Clarity and Resolution of Conflicting Economic Rights,” *Human Rights Review* 6, no. 4 (2005): 5-31).

nature, we cannot argue that all human beings share the same basic rights. In other words, the defense of universal human rights depends on acknowledging some universal truths about the subjects of human rights, namely human persons, even if we acknowledge some characteristics of human personhood are socially and historically conditioned.⁴⁰ Natural law functions in this way in Catholic social teaching on human rights.

Pacem in Terris elaborated the most systematic exposition of natural law as the foundation for human rights in modern Catholic teaching. At the very outset of the encyclical, Pope John XXIII contends there is an “astonishing order” in the universe that reflects the mind of God (no. 2). The first four parts of the encyclical deal with: 1) the order of relationships between individuals; 2) the order of relationships within a state; 3) the order of relationships among states; and 4) the order of relationships between individuals, the state and the international community as a whole. Citing Romans 2:15, John XXIII argues that God has “imprinted in the human being’s heart an order which his conscience reveals to him and enjoins him to obey...” (no. 5). The order found in the universe is reflected in human persons and is the basis of their inviolable dignity. This dignity is the basis of an array of rights.⁴¹

In other words, the laws governing the relationships between humans and between states are rooted in the very nature of the human person (no. 6). Who is this human person? What does it mean to possess human dignity? *Pacem in Terris* fleshes out what it means to say the human being possesses dignity, and why human dignity commands the recognition of human rights and duties (nos. 9, 10). In other words, it spells out the anthropological bases of Catholic human rights theory.⁴²

The first aspect of this anthropology points to the teleological nature of the human person. In other words by their nature human beings are meant to flourish, grow and develop towards certain “ends.” How the “ends” towards which human nature tends and how inherent human capacities must be protected and fostered determines the scope of and content of human rights (and thus the demands of human dignity). The discussion of specific rights in *Pacem in Terris* spells out the demands of human dignity, i.e. the scope of human rights. For example, John XXIII states that “from the dignity of the human person” arises: (1) the right to carry on economic activities

⁴⁰ I make this argument more fully in Gerald J. Beyer, “Freedom, Truth, and Law in the Mind and Homeland of John Paul II,” *Notre Dame Journal of Law, Ethics and Public Policy* 21, no. 1 (2007): 17-49 (available at <http://scholarship.law.nd.edu/ndjlepp/vol21/iss1/2>).

⁴¹ See Todd Whitmore, “*Pacem in Terris*,” in *The HarperCollins Encyclopedia of Catholicism*, ed. Richard P. McBrien and Harold W. Attridge (New York: HarperCollins, 1995), 950.

⁴² I have elaborated this framework previously in Beyer, “Beyond ‘Nonsense on Stilts’: Towards Conceptual Clarity and Resolution of Conflicting Economic Rights.”

according to the degree of responsibility of which one is capable” (no. 20); (2) the right to participation in the life of the community and to contribute to the common good (no. 26); (3) the right ‘by the natural law’ to an opportunity to work and to perform one’s job without coercion (no. 18). The second aspect of this anthropology holds that human beings are endowed with *unique rational, relational, moral and spiritual capacities*. In this vein, Pope John XXIII wrote that “every human being is a person; that is, his nature is endowed with intelligence and free will” (no. 9; see also nos. 29, 36, 158). Third, human beings have a *transcendent dimension*. In other words, what they do and what they can know in the present lifetime transcends in some way earthly life. According to Pope John XXIII, “there is a need that is congenital to [human] nature and never becomes extinguished, compelling him to break through the web of error and open his mind to the knowledge of truth” (no. 158). Lastly, human beings can only achieve the ends towards which they naturally tend in community because humans are by nature *social beings*. In Pope John’s words, “[s]ince men are social by nature they are meant to live with others and to work for one another’s welfare” (no. 31).

This anthropology undergirds the claim that because a person has human dignity, others must respect and protect that human dignity. *Pacem in Terris* thus states: “For every fundamental human right draws its indestructible moral force from the natural law, which in granting it imposes a corresponding obligation” (no. 30). To put it another way, *Pacem in Terris* expresses what it means to be *normatively human*: all human beings have certain rights and obligations flowing directly from their human nature (see no. 9). Those things that are necessary for all human beings to flourish determine the scope of human rights. *Pacem in Terris* lists myriad human rights, some of which I shall discuss in greater detail momentarily. For now, it is important to note, as David Hollenbach states, “the thread which ties all these rights together is human dignity. Human dignity is not an abstract or ethereal reality but is realized in concrete conditions of personal, social, economic and political life. The history of papal teaching has been a process of discovering and identifying these conditions of humanity. These conditions are called human rights.”⁴³

⁴³ Hollenbach, *Claims in Conflict: Retrieving and Renewing the Catholic Human Rights Tradition*, 68. Michael Schuck insists that ‘human dignity’ was not the foundation of human rights in official Roman Catholic teaching prior to John XXIII. He argues that the phrase was never used in the pre-Leonine period and it appeared sparingly in the writing of Leo XIII, Pius XI and Pius XII. Rather, the recognition of specific rights developed on an ad hoc basis until John XXIII’s systematization (see Michael Schuck, *That They May Be One: The Social Teaching of the Papal Encyclicals 1740-1989* (Washington, DC: Georgetown University Press, 1991), esp. 178-180). Since John XXIII, Roman Catholic teaching has posited human dignity as the foundation of human rights (see

The natural law argument for the basis of human rights in *Pacem in Terris* has several advantages. First, it creates a stable and coherent foundation for universal human rights by providing an alternative to the postmodern worldview that truth, human nature, and morality are contingent “all the way down.” Many thinkers have argued against deriving human rights, or any ethical claims from human nature. They contend that “human nature” is a construct that has no basis in reality. Moreover, many believe natural law thinking involves a dangerous essentialism that allows the powerful to determine what counts as “natural.”⁴⁴ An obvious example of this would be patriarchal societies deeming women getting an education and working outside the home “unnatural.” Some Catholics, including bishops, justified holding slaves by claiming it was in accordance with natural law.⁴⁵ Throughout history oppressors have deemed those whom they wish to subjugate or extirpate to be “inhuman.” For example, the depictions of Native Americans as savages in the chronicles of Cristóbal Colón and Amerigo Vespucci set the stage for their annihilation at the hands of European settlers.⁴⁶ Hence, there is good reason to be skeptical of appeals to human nature as a basis for natural rights and corresponding duties. This skepticism has caused leading proponents of human rights to eschew any reference to natural law or human nature as a basis for their arguments. Many of these otherwise impressive efforts to promote human rights fail to explain persuasively why a person has a duty to help others realize their rights and/or implicitly operate with an underlying concept of human nature, i.e. something akin to a supple understanding of “natural law.”⁴⁷ Therefore, as I will discuss

John XXIII, *Pacem in Terris*, no. 9-27; John Paul II, “Address to the 34th General Assembly of the United Nations” (New York, October 2, 1979, available at http://www.vatican.va/holy_father/john_paul_ii/speeches/1979/october/documents/hf_jp-ii_spe_19791002_general-assembly-onu_en.html); John Paul II, *Centesimus Annus*, nos. 28, 34, 47; United States National Conference of Catholic Bishops, *Economic Justice for All: Pastoral Letter on Catholic Social Teaching and the U.S. Economy*, nos. 79-84 (available at http://www.usccb.org/upload/economic_justice_for_all.pdf).

⁴⁴ Stephen Pope, “Natural Law and Christian Ethics,” in *The Cambridge Companion to Christian Ethics*, ed. Robin Gill (Cambridge, U.K.: Cambridge University Press, 2001), 90-1. For discussion of critiques of natural law and cogent responses, see Eberhard Schöckenhoff, *Natural Law & Human Dignity: Universal Ethics in an Historical World*.

⁴⁵ See Marvin L. Krier Mich, *Catholic Social Teaching and Movements* (Mystic, CT: Twenty-Third Publications, 1998), 136.

⁴⁶ I discuss this more extensively in Beyer, “Freedom, Truth, and Law in the Mind and Homeland of John Paul II,” 37-9. I am indebted to Professor Michelle Grijalva for this example, which she discussed in her paper “The Dawn of a Renaissance? The Image of the ‘Noble Savage’ and its Impact on American Indian Education and Religion” on July 30, 2007 at the Oxford Round Table, Oxford University.

⁴⁷ For examples of implicit reliance on a conception of human nature/natural law, with simultaneous resistance to acknowledging it, see Thomas Pogge, *World Poverty and Human Rights: Cosmopolitan Responsibilities and Reforms*, (Cambridge: Polity, 2008), 54-65 and Martha Craven Nussbaum, *Women and Human Development: The Capabilities Approach* (Cambridge Cam-

in a section dealing with John Paul's insistence on truth below, appealing to natural law to ground human rights remains necessary for a viable human rights ethic. A natural law approach can both acknowledge these potential dangers and accommodate historicity, contingency, and difference among human beings and cultures, while still providing a foundation for human rights.⁴⁸

Second, the natural law approach in *Pacem in Terris* undercuts a critique that has often been rendered against human dignity as the foundation of human rights.⁴⁹ According to philosopher Alan Gewirth, the statement "A has a right to X against B by virtue of Y" captures the formal elements of a right.⁵⁰ Thus, in the human dignity paradigm, I have a claim to something against (perhaps more aptly, from) someone or some group of people simply because I possess human dignity. An often-raised objection hinges on a putatively missing logical step: (1) Person A possesses human dignity. (2) Therefore, Person A has a right to good X from B; B owes and has a duty to help A attain X. The intermediary step that is missing could be stated as follows: (2a) Human dignity requires recognition by others (thereby necessitating the duty to protect it).

bridge University Press, 2000), 77-8, 252-61. In her later work, Nussbaum acknowledges reliance on the "Grotian natural law tradition" in her capabilities approach (see Martha Craven Nussbaum, *Frontiers of Justice: Disability, Nationality, Species Membership* (Cambridge, Mass.: The Belknap Press: Harvard University Press, 2006), 21 and Martha Craven Nussbaum, *Creating Capabilities: The Human Development Approach* (Cambridge, Mass.: Belknap Press of Harvard University Press, 2011), 128-9; see also Peter Singer's critique of Nussbaum for using natural law at <http://www.utilitarianism.net/singer/by/20021113.htm>). Henry Shue argues that rights can be posited without appealing to overarching principles that "serve as their reasons for their demands" (Henry Shue, *Basic Rights: Subsistence, Affluence, and U.S. Foreign Policy* (Princeton, N.J.: Princeton University Press, 1996), 28. He tries to demonstrate on a case-by-case basis why certain "basic" rights are needed for the realization of all other rights. Amartya Sen also offers a non-foundationalist defense of human rights (see Amartya Sen, *The Idea of Justice* (Cambridge, Mass.: Belknap Press of Harvard University Press, 2009), 227, 51, 372-3). A full treatment of this issue requires another essay.

⁴⁸ John Courtney Murray, S.J., who helped draft *Dignitatis Humanae*, recognized that "the theory of (natural law) never forgets that the nature with which it deals has no existence except in the person, who is a unique realization of the nature, situated in an order of other unique realizations" (John Courtney Murray, *We Hold These Truths: Catholic Reflections on the American Proposition* (New York: Sheed and Ward, 1960), 296; see this chapter for Murray's responses to critiques of natural law). See the excellent exposition of Murray on natural law in Robert W. McElroy, *The Search for an American Public Theology: The Contribution of John Courtney Murray* (New York: Paulist Press, 1989), 53-60. On this see also Schockenhoff, *Natural Law & Human Dignity: Universal Ethics in an Historical World*.

⁴⁹ The following paragraph is excerpted from a fuller discussion in Bayer, "Beyond 'Nonsense on Stilts': Towards Conceptual Clarity and Resolution of Conflicting Economic Rights."

⁵⁰ According to Gewirth, there are five formal elements of a right: the subject of the right, the nature of the right, the object of the right, the respondent of the right and the justifying basis or ground of the right (see Alan Gewirth, *Human Rights: Essays on Justification and Applications* (Chicago: University of Chicago Press, 1982), cited in John Coleman, "Catholic Human Rights Theory: Four Challenges to an Intellectual Tradition," *Journal of Law and Religion* 2, no. 2 (1984): 350).

One commentator summarizes the critique as follows: “It is one thing to say that I have dignity, which refers to myself alone. But it is quite another thing to say that I can rightly demand that others provide me with basic economic goods as something they owe me. There is a logical gap between these two propositions...”⁵¹ This type of criticism fails to see the connection between human rights, the common good, and the rich social anthropology articulated in *Pacem in Terris*.⁵² John XXIII’s claim that “since men [sic] are social by nature they are meant to live with others and to work for another’s welfare”⁵³ fills in the “logical gap.” It legitimates the move from “A has human dignity” to “person A has a right to economic good X from B,” provided that we demonstrate that X is necessary for A’s life worthy of dignity. Given the rich ‘social anthropology’ of *Pacem in Terris* as a backdrop, it should be easy to apprehend why the move from human dignity to human rights and duties is valid. The “Person A” of formal logic becomes a human person in the personalist, communitarian sense typical of Roman Catholic thought.⁵⁴ Human beings by nature can only flourish by living with and for one another.⁵⁵ Simply put, John XXIII provides a lucid and elegant corrective to the hyper-individualistic, solipsistic, materialist understanding of human nature and human purpose so prevalent in the United States and elsewhere today.⁵⁶ The encyclical provides a cohesive vision of a just society based on solidarity: each member is guaranteed certain rights while being required to perform duties in service of the common good: “...the common good is chiefly guaranteed when personal rights and duties are maintained” (no. 60).

⁵¹ Ping-Cheung Lo, “Are There Economic Rights?,” *Thomist* 52, no. 4 (1988): 707.

⁵² Perhaps it would be more illuminating to say that the foundation of rights is the “dignity of the human person as a member of the human family.” In Catholic personalist thought, a human being is always seen as a person qua social being. See for example, Jacques Maritain *The Person and the Common Good*, trans. John J. Fitzgerald (Notre Dame: University of Notre Dame Press, 1966).

⁵³ John XXIII, *Pacem in Terris*, no. 31.

⁵⁴ For clarification of the personalist, communitarian nature of Roman Catholic thought, see Maritain, *The Person and the Common Good*, 65.

⁵⁵ For a fuller discussion of this claim, grounded in Trinitarian theology, see Michael J. Himes and Kenneth R. Himes, *Fullness of Faith: The Public Significance of Theology* (New York: Paulist Press, 1993).

⁵⁶ I discuss individualism in my book Gerald J. Beyer, *Recovering Solidarity: Lessons from Poland’s Unfinished Revolution*, (Notre Dame, Ind.: University of Notre Dame Press, 2010). For an excellent treatment of individualism throughout American history, see E. J. Dionne, *Our Divided Political Heart: The Battle for the American Idea in an Age of Discontent* (New York: Bloomsbury, 2012). Dionne persuasively argues that a communitarian ethos was prevalent at various points in American history, but it has been eclipsed in recent decades. On excessive individualism in economic thought, see Angus Sibley, *The ‘Poisoned Spring’ of Economic Libertarianism* (Washington, DC: Pax Romana/CM ICA, 2011).

 OVERCOMING THE CIVIL, POLITICAL VS. ECONOMIC, SOCIAL, CULTURAL RIGHTS DIVIDE

In addition to the issue of a stable foundation for human rights and duties, another long-standing debate about the scope of human rights exists, which started during the drafting of the U.N. Universal Declaration of Human Rights and persists to this day. During the Cold War years the Soviet Union alleged that the U.S. denied its citizens' economic rights. On the other hand, the U.S. decried the violation of civil and political rights in the Soviet Union.⁵⁷ This led to the creation of two separate covenants in 1966, International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights (hereafter ICESCR).⁵⁸ The United States government has never officially recognized economic rights, failing to ratify the later Covenant.⁵⁹

Some Catholic thinkers have also opposed economic rights. For example, the influential Catholic thinker Michael Novak worries that acknowledgment of economic rights will lead to a culture of dependency and an oversized welfare state.⁶⁰ On the other hand, as I said earlier, official Catholic teaching long rejected civil and political rights. Leo XIII's 1896 encyclical *Rerum Novarum* already endorsed many economic rights, such as the right to a just wage (no. 34) and to form unions (nos. 36, 37).⁶¹ In other words, Catholic social teaching first advocated economic and social rights. Only later did it come to accept democracy, citizen participation in governing a society and civil and political rights. Although Pius XII had leaned towards democratic participation, *Pacem in Terris* represents the first listing of both sets of rights in Catholic social teaching.⁶² John XXIII, like the drafters of the Universal Declaration of Human Rights, embraced both groups of rights: civil, political

⁵⁷ See Henry J. Steiner and Philip Alston, *International Human Rights in Context: Law, Politics, Morality* (Oxford: Oxford University Press, 2000), 250; R.J. Vincent, *Human Rights and International Relations* (Cambridge: Cambridge University Press, 1986), 61-75.

⁵⁸ Scholars such as Henry Shue argue that the division of rights into the categories of social, economic, cultural and civil and political (the so-called "first" and "second" generation rights) is both artificial and inauspicious (see Henry Shue, *Basic Rights: Subsistence, Affluence, and U.S. Foreign Policy* (Princeton: Princeton University Press, 1980), 7, 44, 51, 53).

⁵⁹ See Barbara Stark, "At Last? Ratification of the Economic Covenant as a Congressional-Executive Agreement" *Transnational Law and Contemporary Problems* 20 (2011): 107-42.

⁶⁰ See Michael Novak, "Economic Rights: the Servile State," *Catholicism in Crisis* 4, no. 10 (1985): 11.

⁶¹ In *Rerum Novarum*, no. 34, Leo XIII also posits the "right to procure what is required in order to live." Thus the pope points to the right to food, clothing and shelter. See Hollenbach, *Claims in Conflict: Retrieving and Renewing the Catholic Human Rights Tradition*, 48.

⁶² J. Bryan Hehir describes Pius XII as a "transitional" pope, who provided a foundation for John XXIII by affirming some political and civil rights, though not the right to freedom of religion,

and economic, social, and cultural (nos. 11-27). He accepts both sets of rights because a deprivation of either kind of rights affronts human dignity by causing marginalization. As Hollenbach puts it, "...persons can be just as effectively excluded or left out of the life of the community by long-term unemployment or homelessness as by the denial of the vote or freedom of speech."⁶³

Novak and others still have not accepted the teaching on economic rights, but to the billions of people suffering from economic deprivations, John XXIII preached 'good news.'⁶⁴ These theoretical debates about the foundations and scope of human rights are not merely academic. They have dire consequences for many people. Hundreds of millions of people have died and large swaths of the world's population struggle to survive daily because they have been deprived of many of the rights enshrined in *Pacem in Terris* and international agreements.⁶⁵ In fact, Thomas Pogge estimates 400 million people have died in the last twenty-two years alone due to poverty-related causes.⁶⁶ UNICEF reports that about 24,000 children die each day due to preventable diseases. Meanwhile, the nations of the world spend 1,514 billion dollars annually on military spending.⁶⁷ The UN has estimated that it would cost 30 billion dollars to end world hunger (experienced by 850 million people daily), a drop in the bucket compared to annual military spending.⁶⁸ These statistics show that the rights of much of the world's population remain empty promises, in spite of the progress in poverty-reduction and human development that has been made.⁶⁹ In large part, this failure is due to indifference and inaction, not lack of resources.

for example (see Hehir, "The Modern Catholic Church and Human Rights: The Impact of the Second Vatican Council," 143-6).

⁶³ David Hollenbach, *Justice, Peace, and Human Rights: American Catholic Social Ethics in a Pluralistic World* (New York: Crossroad, 1988), 106.

⁶⁴ On Catholics who reject economic rights, see Dulles, *Church and Society: The Laurence J. McGinley Lectures, 1988-2007*, 317-8. Dulles defends the official teaching.

⁶⁵ Thomas Pogge makes this argument particularly cogently (see Thomas Pogge, *World Poverty and Human Rights: Cosmopolitan Responsibilities and Reforms* (Cambridge: Polity, 2008) and Thomas Pogge, "Poverty and Violence," *Law, Ethics and Philosophy* 1, no. 1 (2013): 87-111).

⁶⁶ See Pogge, "Poverty and Violence." See this article for other statistics displaying the widespread and deadly deprivations of economic rights.

⁶⁷ See Project Plowshares Website, <http://plowshares.ca/programs/armed-conflict/acr-graphs/#Refugees>.

⁶⁸ See *The Price of Hunger* (editorial), "Los Angeles Times", June 23, 2008 (available at <http://articles.latimes.com/2008/jun/23/opinion/ed-food23>).

⁶⁹ A United Nations Development Programme 2013 document on poverty reduction states, "Globally, the number of extreme poor has dropped by 650 million in the last three decades, a level of progress humankind had never seen" (see "Poverty Reduction and UNDP," available at http://www.undp.org/content/undp/en/home/librarypage/results/fast_facts/poverty-reduction/). According to another UNDP document, a decrease from 43 percent in 1990 to 22 percent in 2008 of the world's population living in extreme poverty occurred. However, more than 1.2 billion people still live in extreme poverty (less than \$1.25 daily) while 1.57 billion people live in 'multidimensional' poverty (see United Nations

Thus, accepting John XXIII's vision of human rights and duties arising out of the very nature of the human person remains an urgent task. As Pope Francis has recently maintained, "we can only praise the steps being taken to improve people's welfare in areas such as health care, education and communications. At the same time we have to remember that the majority of our contemporaries are barely living from day to day, with dire consequences. A number of diseases are spreading. The hearts of many people are gripped by fear and desperation, even in the so-called rich countries."⁷⁰ Accepting the notion of economic rights does not of course guarantee the end of poverty and marginalization. Positing a right to an economic good leads to debates about who bears the correlative duty to enable the realization of that right and by what mechanisms.⁷¹ As I shall discuss below, John Paul addressed this issue in his writings. In addition, hearts and minds, and culture more broadly, must change so that people become virtuous citizens who defend the rights of others.⁷² Nonetheless, the adoption of human rights provisions in international treaties and national constitutions has helped the world's poor and oppressed by giving them greater protections and recourse when their rights are violated. More must be done to make the effective enforcement of economic rights as legal rights a reality.⁷³

Development Programme, "Human Development Report 2013," 11, 13, 120, available at http://hdr.undp.org/sites/default/files/reports/14/hdr2013_en_complete.pdf.

⁷⁰ F r a n c i s, *Evangelii Gaudium*, no. 52 (available at <http://www.vatican.va/evangelii-gaudium/en/>).

⁷¹ On this point, Amartya Sen correctly states, "we can surely distinguish between a right that a person has which has not been fulfilled and a right that a person does not have" (Amartya Kumar Sen, *Development as Freedom*, (New York: Knopf, 1999), 230-1). I discuss the problem of rights and correlative duties extensively in B e y e r, "Economic Rights: Past, Present, and Future."

⁷² See J o h n P a u l I I, *Sollicitudo Rei Socialis*, no. 38; J o h n P a u l I I, *Novo Millennio Ineunte*, no. 43; J o h n P a u l I I, *Evangelium Vitae*.

⁷³ As Glendon maintains, "yes, dreadful violations of human dignity still occur. But thanks in great measure to those who framed the universal declaration, growing numbers of women and men have been inspired to do something about them." Mary Ann G l e n d o n, *A World Made New: Eleanor Roosevelt and the Universal Declaration of Human Rights*, (New York: Random House, 2001), 241. In this vein, The European Social Charter of 1961 contains an expansive list of economic rights, defines them more precisely, and establishes a more rigorous implementation verification scheme (see Jack D o n n e l l y "The West and Economic Rights," in *Economic Rights: Conceptual, Measurement, and Policy Issues*, ed. Shareen Hertel and Lanse Minkler (Cambridge: Cambridge University Press, 2007), 44-5). In addition, several nations have inserted economic rights provisions in their constitutions, with South Africa making them equally enforceable rights (see Wiktor O s i a t y Ń s k i, "Needs-Based Approach to Economic Rights," in *Economic Rights: Conceptual, Measurement, and Policy Issues*, 61). Henry J. Richardson argues South Africa's Constitutional Court has "provided a model" for "effectively enforcing economic, social, and cultural rights as legal rights" (Henry J. R i c h a r d s o n, "Patrolling the Resource Transfer Frontier: Economic Rights and the South African Constitutional Court's Contributions to International Justice," *African Studies Quarterly* 9, no. 4 (2007): 72).

Every official document of Catholic social teaching since has endorsed the full catalogue of rights named in *Pacem in Terris*.⁷⁴ Moreover, although much work remains to be done, Catholic groups and agencies such as Catholic Relief Services stand today at the forefront of promoting economic rights.⁷⁵ While Catholics can debate how to make sense of economic rights conceptually, and how best to fulfill them, they need not debate whether they exist.⁷⁶ John XXIII definitively settled that issue. According to Pope John, the fulfillment of these rights is the linchpin of peace (see nos. 1, 130, 163, 167).⁷⁷ Empirical realities seem to lend credence to John XXIII's claim. In 2012, Israel was the only highly developed country according to the U.N.'s Human Development Index (HDI) to experience armed conflict. Seventy-five percent of countries with armed conflict are in the low development (44%) or medium development (31%) HDI category.⁷⁸

JOHN XXIII ON THE RIGHT TO EDUCATION

John XXIII wrote especially trenchantly about the right to education. Pope John Paul II championed this right on numerous occasions, as did Paul VI.⁷⁹ However, Pope John emphasized it more lucidly in *Pacem in Terris* than any other pope. It is worth quoting the entire passage (no. 13): "The natural law also gives man the right to share in the benefits of culture and therefore a right to a basic education and to technical and profession training in keeping with the stage of the educational development of the country to which he belongs. Every effort should be made to ensure that persons be enabled, on the basis of

⁷⁴ See for example John Paul II, *Laborem Exercens*, nos. 19, 20; John Paul II, "Respect for Human Rights: The Secret of True Peace" (Message for the Celebration of the XXXII World Day of Peace, January 1, 1999) no. 9 (available at http://www.vatican.va/holy_father/john_paul_ii/messages/peace/documents/hf_jp-ii_mes_14121998_xxxii-world-day-for-peace_en.html); John Paul II, *Centesimus Annus*, no. 48; United States National Conference of Catholic Bishops, *Economic Justice for All: Pastoral Letter on Catholic Social Teaching and the U.S. Economy*, no. 80; United States Conference of Catholic Bishops, "A Catholic Framework for 'Economic Life,'" November 1996 (available at http://www.usccb.org/upload/economic_justice_for_all.pdf).

⁷⁵ On Catholic Relief Services, see for example Jeffrey Odell Korgen, *Solidarity Will Transform the World: Stories of Hope from Catholic Relief Services* (Maryknoll, N.Y.: Orbis Books, 2007).

⁷⁶ See Beyer, "Economic Rights: Past, Present, and Future."

⁷⁷ See Christiansen, "*Pacem in Terris*," 223.

⁷⁸ See Project Plowshares, *Armed Conflict Report 2012: Armed Conflicts Poster*, available at <http://plowshares.ca/programs/armed-conflict/armed-conflicts-report/>.

⁷⁹ See the review of Catholic social teaching on the right to education in Gerald J. Beyer, "Catholic Universities, Solidarity and the Right to Higher Education in the American Context" *Journal of Catholic Social Thought* 7, no. 1 (2010) and Gerald J. Beyer, "Otworzyć drzwi dla wszystkich... Solidarność z ubogimi, prawo do edukacji i uczelnie katolickie w społeczeństwie amerykańskim i polskim," *Ethos* 24, no. 4 (96) (2011).

merit, to go on to higher studies, so that, as far as possible, they may occupy posts and take on responsibilities in human societies in accordance with their natural gifts and the skills they have acquired". In Catholic social teaching, human rights are interrelated. The real attainment of one right often requires a host of other rights.⁸⁰ Attainment of education, an end in itself, fosters the ability to fulfill other rights, such as the right to work, to just wage, and the right to participation in all levels of society.⁸¹ Globally more than seventy million children are denied the right education, while more than 700 million adults remain illiterate according to UNESCO. In the U.S. context, Catholic primary and secondary education has historically empowered the poor, who would otherwise have little chance to receive a quality education, particularly in inner cities.⁸² However, in many dioceses Catholic schools are disappearing in the inner cities, where they are arguably needed the most because of poor public school systems. In addition, as I have argued elsewhere, realities in contemporary information societies like the U.S. and Poland make including higher education in the right to education even more urgent than in John XXIII's day. While some U.S. Catholic colleges and universities have done a good job recruiting, admitting, and retaining economically disadvantaged students, many Catholic universities are failing in this regard. John XXIII's call for greater access to higher education for the poor has been recognized by some Catholic colleges and universities. However, other institutions have demonstrated less of a commitment to helping poor students realize the right to education.⁸³ These universities appear to rank this goal lower than other institutional priorities, such as expensive building projects, exceedingly generous administrator and athletic coaches' salaries, heavily merit-based financial aid policies, etc.⁸⁴ Catholic institutions of higher learning in all countries must do more to promote the right of all to education.

⁸⁰ See H o l l e n b a c h, *Claims in Conflict: Retrieving and Renewing the Catholic Human Rights Tradition*, 99-100; B e y e r, *Recovering Solidarity*, 140-44.

⁸¹ I elaborate on the following claims in B e y e r, "Catholic Universities, Solidarity and the Right to Higher Education in the American Context" and B e y e r, "Otworzyć drzwi dla wszystkich... Solidarność z ubogimi, prawo do edukacji i uczelnie katolickie w społeczeństwie amerykańskim i polskim."

⁸² See Joseph M. O'K e e f e, "Catholic Schools and Vouchers: How the Empirical Reality Should Ground the Debate" in *School Choice: The Moral Debate*, ed. Alan Wolfe (Princeton, NJ: Princeton University Press, 2003), 195-210. However, O'Keefe draws attention to the waning numbers of students from the lowest socioeconomic quartile at Catholic high schools. He calls this an "eliting phenomenon."

⁸³ See B e y e r, "Otworzyć drzwi dla wszystkich... Solidarność z ubogimi, prawo do edukacji i uczelnie katolickie w społeczeństwie amerykańskim i polskim" and B e y e r, "Catholic Universities, Solidarity and the Right to Higher Education in the American Context."

⁸⁴ Information concerning the highest-paid employees on the campuses of Catholic colleges and universities can be found by searching the institutions 990 forms. These are publicly available

EMULATING JOHN XXIII'S METHOD OF DIALOGUE IN SOLIDARITY

Much more could be said about *Pacem in Terris* and its vision of human rights. However, given the limitations of the present article I will conclude my discussion of John XXIII with a few brief remarks about dialogue. Pope John saw himself as a humble “servant of the entire human family.” Shortly before his death he proclaimed that “now more than ever, we are called to serve man as such and not merely Catholics; to defend above all and everywhere the rights of the human person, and not merely those of the Catholic Church.”⁸⁵ As Drew Christiansen, S.J., has written, Pope John XXIII “displayed the bonhomie” of his peasant upbringing and an abiding “trust in the goodness of ordinary people.”⁸⁶ This allowed him to engage in personal dialogue with Kennedy and Khrushchev alike. At the time, many at the Vatican were deeply worried about Catholics collaborating with socialists and communists in practical matters.⁸⁷ Pope John XXIII, however, distinguished between erroneous ideas and people who hold them. People who hold mistaken views retain their dignity and must “be always regarded and treated in accordance with that lofty dignity” (*Pacem in Terris*, no. 158). Moreover, he paved the way for collaboration with socialists, for example, who may hold “false philosophical teachings” but also have “elements that are positive and deserving of approval” (no. 159). According to Pope John, the church retains the right and duty to discuss the application of its “principles of ethics and religion” to political, social and economic issues. However, the virtue of prudence should guide Catholics in deciding when to find common cause with those who reject the Church’s teaching in order to achieve “economic, social, cultural and political ends which are honorable and useful” (no. 160). In particular, experts in those realms are called to decide when such collaboration might be fruitful and legitimate.

The Church today desperately needs people like Pope John. In a Church deeply divided by ideological rifts, Catholics should emulate his spirit of dialogue in solidarity with those who differ politically and theologically, both within and beyond the Church.⁸⁸ There are examples of leaders in the Church

at the Economic Research Institute website <http://www.eri-nonprofit-salaries.com/index.cfm?FuseAction=NPO.Search>.

⁸⁵ Hebblethwaite and Hebblethwaite, *John XXIII: Pope of the Century*, 498; Christiansen, “*Pacem in Terris*,” 218.

⁸⁶ Christiansen, “*Pacem in Terris*,” 219-20.

⁸⁷ See *ibid.*, 222.

⁸⁸ On the global level, see for example, Faggioli, *Vatican II: The Battle for Meaning*, esp. 6-20; John L. Allen, *The Future Church: How Ten Trends Are Revolutionizing the Catholic Church*, 1st ed. (New York: Doubleday, 2009), 422-4, 54-6. In the U.S context, see NCR Editorial Staff, “Editorial: Extreme Voices Lead to Politicized Church,” *National Catholic Reporter*, November 6, 2012 (available at nronline.org/printpdf/38541). On Roman Catholicism in Poland,

today who exemplify this spirit. For example, Bishop Robert Lynch of St. Petersburg, Florida, recently acknowledged that “[p]erhaps we bishops need a little more humility from time to time, recognizing that we are not the only ‘game in town’ but that there are other players, women and men of great faith who also love the Church, and who can speak for themselves and their organizations, on what effect legislation, proposed legislation, regulations will have on their ministry. A more collaborative effort might lead to greater results.”⁸⁹ Pope Francis has also emulated John XXIII’s spirit of dialogue. His letter to the Italian journalist Eugenio Scalfari called for a “dialogue that is open and free of preconceptions” among Christians and secularists, thereby displaying an openness akin to Pope John.⁹⁰ In a church with so many wounds among its faithful, building upon the legacy of John XXIII in this way is crucial.

JOHN PAUL II: “THE HUMAN RIGHTS POPE”

CONTEXT AND BACKGROUND

Pope John Paul II traveled across the globe and wrote many important documents to champion the rights of all people. He referred to the U.N. Declaration on Human Rights with great admiration on numerous occasions, calling it the “one of the highest expressions of the human conscience of our time.”⁹¹ He unremittently reminded the world of the inviolable dignity of the human person and her human rights on pastoral visits to his native Poland and myriad other countries.⁹² This earned him the moniker “the human rights pope.”⁹³ In

see B e y e r, *Recovering Solidarity*, 157-204 and Gerald J. B e y e r “The Catholic Church and the Ethic of Solidarity in Poland after 1989: An Update,” *The Polish Review* 58, no. 2 (2013): 37-54.

⁸⁹ Bishop Robert L y n c h, “The Devil is in the Details” (*For His Friends: Thoughts and Reflections by Bishop Robert Lynch* [blog]), <http://bishopsblog.dosp.org/?p=5689>.

⁹⁰ F r a n c i s, “Letter to a Non-Believer,” September 4, 2013 (available at http://w2.vatican.va/content/francesco/en/letters/2013/documents/papa-francesco_20130911_eugenio-scalfari.html).

⁹¹ J o h n P a u l I I, Address to the Fiftieth General Assembly of the United Nations Organization (New York, October 5, 1995), http://www.vatican.va/holy_father/john_paul_ii/speeches/1995/october/documents/hf_jp-ii_spe_05101995_address-to-uno_en.html. For other references by John Paul II to the Declaration, see D u l l e s, *Church and Society: The Laurence J. McGinley Lectures, 1988-2007*, 278-9.

⁹² J. Bryan Hehir argues that the dignity of the human person was the “signature moral theme of his pontificate” (H e h i r, “The Modern Catholic Church and Human Rights: The Impact of the Second Vatican Council,” 153). Likewise, Avery Dulles maintains that John Paul II was “outstanding for his insistence on human dignity and human rights” (Avery D u l l e s, *The Splendor of Faith: The Theological Vision of Pope John Paul II* (New York: Crossroad Pub. Co., 1999), 249). For accounts of John Paul II’s pastoral visits, see George W e i g e l, *Witness to Hope: The Biography of Pope John Paul II*, (New York, NY: Cliff Street Books, 1999).

⁹³ Krzysztof M ą d e l and Milena K i n d z i u k, “Papież praw człowieka,” <http://tezeusz.pl/cms/tz/index.php?id=840>. See also Rocco B u t t i g l i o n e, “John Paul II: Pope of Human Rights,”

2011 the United Nations honored him as a “consistent promoter of peace and human rights.”⁹⁴ Former Chief Rabbi of Ireland Rabbi David Rosen extolled John Paul II’s appeal to Jews and Christians to “work together in promoting the dignity of every human person and in safeguarding human rights, especially religious freedom.”⁹⁵ Lisa Sowle Cahill has argued that given his defense of the equality and rights of women in the family and in society went far beyond his predecessors, Pope John Paul II might justifiably be called “the feminist pope,” even if some aspects of his teaching in this area remain problematic for many feminists.⁹⁶ According to Laura Tortorella, John Paul II’s teaching on “women’s issues has born unprecedented and precious fruit.”⁹⁷

John Paul explicitly lauded his predecessor Saint John XXIII for “[s]eeing the growth of awareness of human rights that was then emerging within nations and at the international level” and for discerning “the potential of this phenomenon and . . . its singular power to change history.” He also expressed his prayer

in *Christ, Church, Mankind: The Spirit of Vatican II According to John Paul II*, ed. Zdzisław Józef Kijas and Andrzej Dobrzynski, transl. Sean O’Neill, (New York: Paulist Press, 2008), 13-31.

⁹⁴ Kassym-Jomart Tokayev, “The Return of John Paul II to the United Nations in Geneva” in *The Promotion of Human Rights and John Paul II* (Città del Vaticano: Libreria Editrice Vaticana, 2011), 7.

⁹⁵ David Rosen, “The Legacy of Pope John Paul II” (Address given at Georgetown University, February 2, 2004, available at <http://www.ajc.org/site/apps/nlnet/content3.aspx?c=7oJILSPwFfJS-G&b=8451903&ct=12477353>). Rabbi Rosen mentions that John Paul’s thinking about the rights of the Jewish people was influenced by his boyhood friendships with Jewish people and Adam Mickiewicz’s call for the equal rights of the Jewish people in 1848.

⁹⁶ Lisa Sowle Cahill, “The Feminist Pope,” in *Does Christianity Teach Male Headship? The Equal Regard Marriage and Its Critics*, ed. David Blankenhorn, Don S. Browning, and Mary Stewart Van Leeuwen (Grand Rapids, Mich.: William B. Eerdmans Pub. Co., 2004), 40-41. Cahill mentions John Paul’s affirmation of the teaching restricting ministerial ordination to males and his insistence on motherhood as the primary vocation as problematic for many feminists. See also Lisa Sowle Cahill, “On Being a Catholic Feminist” (Lecture given at Santa Clara University, April 27, 2003, available at www.scu.edu/ic/publications/.../scl-0304-cahill.pdf). Here Cahill states “overall, John Paul II’s advocacy for women gives me hope that he is furthering a momentum within the Church as well as society toward gender equality, even if accomplishments to date remain ambiguous.” For other feminist appraisals of John Paul, see Patricia Lamoureux, “*Laborem Exercens*,” in *Modern Catholic Social Teaching: Commentaries and Interpretations*, ed. Kenneth R. Himes et al. (Washington, D.C.: Georgetown University Press, 2005); Christine Fier Hinz, “Women, Families, and the Legacy of *Laborem Exercens*: An Unfinished Agenda,” *Journal of Catholic Social Thought* 6, no. 1 (2009): 389-414; Ewa Karabina, „Nadchodzą zmiany? Kościelna teoria i praktyka wobec kobiet,” *Wież* 52, no. 1-2 (2009): 10-25 (available at http://laboratorium.wiez.pl/teksty.php?kwk_nadchodza_zmiany); Stanisława Grab ska, Elżbieta Adamiak, Monika Walus, “Przed wszystkim człowiek – rozmowa,” *Wież* 52, no. 1-2 (2009): 26-43 (available at http://laboratorium.wiez.pl/teksty.php?kwk_przedem_wszystkim_czlowiek); Laura Tortorella, “Women in the Light of Mary: from Vatican II to Pope John Paul II” in *Christ, Church, Mankind*, 89-101.

⁹⁷ Tortorella, “Women in the Light of Mary: from Vatican II to Pope John Paul II,” 96.

and desire for a renewed commitment to “the noble mission, which *Pacem in Terris* proposed forty years ago to all men and women of good will.”⁹⁸

John Paul II took up this mission with great zeal. His papal teaching on human rights presupposed and expanded on *Pacem in Terris*.⁹⁹ Early in his papacy, encounters in Latin America such as the Puebla Meeting of Latin American Bishops and in Poland during the Solidarity era in (1980-89) also prompted him to reflect on the nature and dignity of the human person and her inalienable rights.¹⁰⁰ His crucial role in the struggle for human rights in Communist Poland is well documented.¹⁰¹ He also forcefully advocated the rights of the growing poor and marginalized in capitalist Poland after 1989.¹⁰² He may have had differences with leading figures in the Church in Latin America like Oscar Romero, Gustavo Gutiérrez, and (more severely) Ernesto Cardenal.¹⁰³ Nonetheless, as J. Bryan Hehir puts it, John Paul II helped the Church in Latin America and elsewhere pursue “a ministry of human rights and social justice using the language of *Gaudium et Spes*, engaging the church with the world,

⁹⁸ John Paul II, “*Pacem in Terris: A Permanent Commitment*” (available at http://www.vatican.va/holy_father/john_paul_ii/messages/peace/documents/hf_jp-ii_mes_20021217_xxxvi-world-day-for-peace_en.html).

⁹⁹ See Hehir, “The Modern Catholic Church and Human Rights: The Impact of the Second Vatican Council.”

¹⁰⁰ See *ibid.*, 153. See also Lamoureux, “*‘Laborem Exercens,’*” 391 and Gerald J. Beyer, “The Meaning of Solidarity in Catholic Social Teaching,” *Political Theology* 15, no. 1 (2014): 13-5.

¹⁰¹ See Beyer, *Recovering Solidarity: Lessons from Poland’s Unfinished Revolution*, 15-26; Maciej Zięba, *Niezwykły pontyfikat* (Kraków: Znak, 1997), 86-101; Jarosław Kupczak, “Jan Paweł II a ‘Solidarność,’” *KAI Biuletyn Prasowy* 69 (2000), 57-62; George Weigel, *The Final Revolution: The Resistance Church and the Collapse of Communism* (New York: Oxford University Press, 1992). ; Lamoureux, “*‘Laborem Exercens,’*” 390-1.

¹⁰² See Beyer, *Recovering Solidarity: Lessons from Poland’s Unfinished Revolution*. 85-8.

¹⁰³ See Mary Jo Ledy, “Romero and John Paul II: Now They See Face to Face,” in *National Catholic Reporter*, April 5, 2005 (available at <http://www.nationalcatholicreporter.org/globalpers/gp040505.htm>). Some observers argue that tensions between John Paul and Oscar Romero have been exaggerated. See Filip Mazurczak, “Oscar Romero’s Exaggerating Critics,” *First Things*, March 7, 2013 (available at <http://www.firstthings.com/web-exclusives/2013/03/oscar-romeros-exaggerating-critics>). Romero himself stated that John Paul expressed his understanding and approval of what he was trying to accomplish under difficult circumstances. He also repeatedly referred to the Pope’s ideas on the Church and politics approvingly. See Romero, *Voice of the Voiceless: The Four Pastoral Letters and Other Statements*, 116, 28, 32, 37, 58, 71. On Cardenal and other figures, see Weigel, *Witness to Hope: The Biography of Pope John Paul II*, 451-59. In a recent interview Gutiérrez described his difficulties with Pope John Paul II (see Joshua J. McElwee, “With Vatican Doctrinal Czar, Liberation Theology Pioneer Reflects on Troubles,” *National Catholic Reporter*, February 28, 2014, available at <http://ncronline.org/news/theology/vatican-doctrinal-czar-liberation-theology-pioneer-reflects-troubles>).

but within a strict vertically directed definition of Catholicism.”¹⁰⁴ According to Gutiérrez, who applauded John Paul’s emphasis on solidarity with workers and the poor, John Paul’s personal experience led him to exhort the entire Church “to commitment, to a fight for justice, and to practical action.”¹⁰⁵

KAROL WOJTYŁA’S PRE-PAPAL THOUGHT CONCERNING HUMAN RIGHTS

Earlier in his life Karol Wojtyła endured experiences such as forced labor during the Nazi occupation of Poland and witnessing the slaughter of many of his friends and colleagues during World War II. Approximately 2 million of his compatriots were deported to the Siberian death camp Kolyma after the war.¹⁰⁶ Pope John Paul explicitly acknowledged his thinking and writing about the need to protect human dignity and human rights were shaped by these experiences, long before John XXIII’s watershed encyclical.¹⁰⁷ Evidence of this can be found in one of Karol Wojtyła’s earliest writings, *Katolicka etyka społeczna*¹⁰⁸, which is an unpublished transcript of some of his lectures as a professor at the Catholic University of Lublin.¹⁰⁹ It is interesting to examine

¹⁰⁴ H e h i r, “The Modern Catholic Church and Human Rights: The Impact of the Second Vatican Council,” 153.

¹⁰⁵ Gustavo G u t i é r r e z, *The Density of the Present: Selected Writings* (Maryknoll, N.Y.: Orbis Books, 1999), 37. Gutierrez offers a penetrating analysis of John Paul’s encyclical on workers’ rights, *Laborem Exercens*.

¹⁰⁶ See Robert C o n q u e s t, *Kolyma: The Arctic Death Camps* (London: Macmillan, 1978).

¹⁰⁷ J o h n P a u l I I, *Gift and Mystery: On the 50th Anniversary of My Priestly Ordination*, (New York: Doubleday, 1996), 66-7. Fr. Józef Tischner, friend of John Paul II and the philosopher and chaplain of Solidarność wrote: “You cannot understand John Paul II’s thought if you do not realize that it arose from the world of Auschwitz and Kolyma.” J ó z e f T i s c h n e r, *W krainie schorowanej wyobraźni*, (Cracow: Znak, 1997), 157.

¹⁰⁸ See Fr. Karol W o j t y ł a, PhD, *Katolicka etyka społeczna. Wykłady*, parts 1-2 [Kraków 1957]. (Unless otherwise noted, all translations are my own.)

¹⁰⁹ I am grateful for a copy of this manuscript from Professor Charles Clark of Saint John’s University. This manuscript has caused some controversy in recent years. There is considerable disagreement about the origin and significance of this text. For example, some scholars believe that it does not contain Wojtyła’s own original material; he simply elaborated on lectures prepared by the Catholic ethicist Fr. Jan Piwowarczyk, who was well-known in Poland. For this view, see W e i g e l, *Witness to Hope: The Biography of Pope John Paul II*, 130-1, 288. I have also corresponded with staff at the Centrum Myśli Jana Pawła II in Warsaw and the Instytut Jana Pawła II at the Catholic University of Lublin. Based on their opinions, I conclude that while Karol Wojtyła may have based many of the ideas found in the manuscript on Piwowarczyk’s work, he adapted them and added his own intellectual imprint for a text that he used as his own, thus confirming his approval of the ideas. For debates about the status and meaning of this text, see John M. G r o n d e l s k i, *Social Ethics in the Young Karol Wojtyła: A Study-in-Progress*, <http://www.catholicculture.org/culture/library/view.cfm?recnum=3905>; Jonathan L u x m o r e, “Letter to the Editor and Response on ‘How an Unknown Text Could Throw New Light on John Paul II’s Views on Economics,’” *Catholic Worker*,

what the future Pope says in this manuscript because it is little known and adumbrates much of his later advocacy of human rights as pope. For example, in this manuscript Wojtyła begins his defense of human rights with the freedom of conscience, which according to him both natural law and revelation establish as the most fundamental of all human rights. He writes: „The principle of freedom of conscience defines most fundamentally the true good of the human person which must not be violated by the society. Implementation of this principle in particular socio-economic conditions of human existence requires a definition of an entire range of other human rights.”¹¹⁰ Wojtyła approvingly cites the list of human rights advanced by Émile Chénon in his 1922 book *Le rôle social de l'Église*,¹¹¹ which include the right to work (which “fosters the growth of the human person and ensures obtaining the basic material necessities of life”¹¹²), the right to private property, the right to association, the right to freedom of speech and writing “within the general boundaries of the demands of morality.”¹¹³ The realization of such rights can be temporarily postponed in exceptional circumstances, such as war or natural disasters, for the sake of the common good. However, the pursuit of these human rights must be quickly resumed after this “temporary situation” because they are “necessary for the true good of the human person.”¹¹⁴ Elsewhere in this work, the future Pope describes the rights given to the human person by the Creator. Among them he includes the right to own those things necessary for meeting one’s basic material needs¹¹⁵ and develops a lengthy, nuanced discussion of the right to private property.¹¹⁶ Wojtyła also includes an entire section on the rights of workers, arguing for the right to work *per se*, and that this right gives rise to a “host of

June, 1, 2007, (available at <http://cjd.org/2007/06/01/letter-to-the-editor-and-response-on-how-an-unknown-text-could-throw-new-light-on-john-paul-ii-s-views-on-economics/>); Jonathan L u x m o r e and Jolanta B a b i u c h, “Unpublished Work by John Paul II Speaks Debate,” *National Catholic Reporter*, July 14, 2006 (available at http://natcath.org/NCR_Online/archives2/2006c/071406/071406h.php). On Fr. Piwowarczyk, see <http://nowyobywatel.pl/2012/04/13/ekonomia-i-moralnosc-ks-jan-piwowarczyk-krzewiciel-katolicyzmu-spolecznego-2/>.

¹¹⁰ W o j t y ł a, *Katolicka etyka społeczna*, part 1, 33. This claim later became a leitmotif of his papal teaching on human rights (see H e h i r, “The Modern Catholic Church and Human Rights,” 289).

¹¹¹ É. C h é n o n, *Le rôle social de l'Église* (Paris–Barcelone–Dublin: Bloud & Gay, 1922).

¹¹² W o j t y ł a, *Katolicka etyka społeczna*, p. 1, 34.

¹¹³ *Ibid.*

¹¹⁴ *Ibid.*

¹¹⁵ See *ibid.*, part 2, 12-14.

¹¹⁶ See *ibid.*, part 2, 15-34. Given the space constraints of this article, and the fact that a copy of this unpublished manuscript I am working with is illegible in certain places, I cannot treat this issue at length.

other socioeconomic rights.¹¹⁷ First among them is the right to a just wage.¹¹⁸ In addition, workers should ideally have a share in ownership and management of the company and “the freedom to choose their form of work, that is to take up the line of work they choose according to their capabilities and passions.”¹¹⁹ Because workers’ rights flow from the principle of social justice, the state should protect them, including the eight hour workday limit, the right to rest on holidays, the physical, mental, and moral well-being of workers, and myriad other rights aimed at promoting the well-being of workers.¹²⁰ Wojtyła also defends the right of workers to belong to unions that promote the principles of justice and fairness. Labor unions are necessary to protect the interests of workers against injustices of capital.¹²¹ He also affirms, with certain qualifications, the right to strike.¹²² Succinctly stated, this manuscript foreshadows John Paul II’s later defense of a panoply of workers rights’ in his encyclical 1981 *Laborem Exercens*, where he states, among other things, that the problem of just remuneration is the key to social ethics in the area of work.

Cardinal Wojtyła also boldly spoke of the rights of the human person in homilies while he was Archbishop of Kraków from 1964-78.¹²³ In his most important pre-papal treatise, *Osoba i czyn* [The Acting Person], he argues that each human person has the right to engage in acts that contribute to her becoming the person that she was created to be, i.e. in fulfilling her destiny.¹²⁴ In other words, Wojtyła insists on the right to participation in the common good as the right and duty of all, which only solidarity among human beings can ensure.¹²⁵ Much of his other pre-papal writing underscores the right to participation as the precondition to and justification for all other human rights.¹²⁶ Space precludes an examination of these writings here. Given my constraints in this article I will now turn to his papal thought.

¹¹⁷ Ibid, part 2, 57.

¹¹⁸ See *ibid.*, part 2, 57-60.

¹¹⁹ Ibid., part 2, 61. See also *ibid.*, part 2, 59-60.

¹²⁰ See *ibid.*, part 2, 61-3.

¹²¹ See *ibid.*, part 2, 63-6.

¹²² See *ibid.*, part 2, 64-6.

¹²³ See Adam Michnik, *Kościół, lewica, dialog* (Warszawa: Świat Książki, 1998), 105-6.

¹²⁴ Karol Wojtyła, “*Osoba i czyn*” oraz *inne studia antropologiczne* (Lublin: Towarzystwo Naukowe KUL, 2000), 315.

¹²⁵ See *ibid.*, 301-5.

¹²⁶ See Meghan J. Clark, “Integrating Human Rights: Participation in John Paul II, Catholic Social Thought and Amartya Sen,” *Political Theology* 8, no. 3 (2007): 299-317. On John Paul’s pre-papal writing on human rights, see also Dules, *Church and Society: The Laurence J. McGinley Lectures, 1988-2007*, 310-2; Gregory R. Beabout and Mary Catherine Hodges, “John Paul II on the Relationship between Civil Law and the Moral Law: Understanding the *Evangelium Vitae* in Light of the Principle of Subsidiarity and the Moral Grammar of John Paul II,” *Notre Dame Journal of Law, Ethics & Public Policy* 21, no. 1 (2007): 93-7.

John Paul II advocated human rights in far too many writings and venues during his pontificate for a complete review here. He defended all the civil, political, social, economic, and cultural rights found in *Pacem in Terris* and elsewhere in modern papal social teaching.¹²⁷ However, he also devoted sustained attention to particular rights in his writing. I will limit myself here to a few of the most important, original, or currently relevant themes in his human rights legacy.¹²⁸

HUMAN RIGHTS IN A CHRISTOLOGICAL KEY

John Paul II affirmed the natural law basis for human rights, which was most fully elaborated by John XXIII. Human rights are, in John Paul II's words, "connatural with man" (*Laborem Exercens*, no. 16). A "correct view of the human person" enables us to recognize that rights "flow from" her "essential dignity" (*Centesimus Annus*, no. 11). However, John Paul II added his own distinctive theological, biblical, and philosophical accents to the Catholic human rights tradition.¹²⁹ In his first papal encyclical *Redemptor Hominis* of 1979, John Paul II established that while human rights flow from human dignity and the very nature of the human person, Jesus Christ is ultimately the foundation

¹²⁷ See for example John Paul II, "Address to the 34th General Assembly of the United Nations"; John Paul II, "Respect for Human Rights: The Secret of True Peace," no. 9; John Paul II, *Centesimus Annus*, nos. 6-10, 15, 23, 24, 29, 48.

¹²⁸ Additional perspectives on John Paul II's teaching on human rights can be found in Hehir, "The Modern Catholic Church and Human Rights: The Impact of the Second Vatican Council"; Dullea, *The Splendor of Faith: The Theological Vision of Pope John Paul II*; Glendon, "The Influence of Catholic Social Doctrine on Human Rights"; Buttiglione, "John Paul II: Pope of Human Rights"; Renato Raffaele Martino, "John Paul II and the International Order: Human Rights and the Nature of the Human Person," *Notre Dame Journal of Law, Ethics & Public Policy* 21, no. 1 (2007); Madel and Kindzik, "Papież praw człowieka"; Heinz-Gerhard Justenhoven, "The Peace Ethics of Pope John Paul II," *University St. Thomas Law Journal* 3, no. 1 (2005): 111-8. Cahill, "The Feminist Pope"; Card. Tarcisio Bertone, "John Paul II, Teacher of Human Rights" in *The Promotion of Human Rights and John Paul II*, 17-24; Hanna Suchocka, "John Paul II, a Catalyst for Change" in *The Promotion of Human Rights and John Paul II*, 25-32.

¹²⁹ See Hehir, "The Modern Catholic Church and Human Rights: The Impact of the Second Vatican Council," 148, 52. On John Paul II's use of natural law to ground human rights, see Martino, "John Paul II and the International Order: Human Rights and the Nature of the Human Person," 60-9. With regard to John Paul II's use of scripture, Gustavo Gutiérrez points out that *Laborem Exercens* cites the Bible 71 times (see Gutiérrez, *The Density of the Present: Selected Writings*, 12). Gutiérrez also discusses the Christocentrism of *Laborem Exercens* and much of John Paul's social teaching, as does Justenhoven (see Justenhoven, "The Peace Ethics of Pope John Paul II," 111-8).

and source of all rights.¹³⁰ In this theologically rich document, which encapsulates much of John Paul's later papal teaching, the Pope argues that through the incarnation of Jesus Christ, God unites God's very self to each and every human person.¹³¹ Not only does the doctrine of the Incarnation teach us that God became human in Jesus Christ, it also reveals that God remains present in each human being. Jesus Christ has restored the dignity of human beings, which was marred by Original Sin, but fully restored by him. Catholic teaching insists on respecting this dignity, which requires safeguarding human rights.¹³² Thus, John Paul II's theological anthropology has profound implications for human rights, as the incarnational principle undergirds the insistence on the rights of all.

In addition, "Christ the new Adam, in the very revelation of the mystery of the Father and of his love, fully reveals man to himself and brings to light his most high calling."¹³³ Christ is the anthropological key to understanding the nature and destiny of the Church and the human person. According to John Paul II, Christ's concern for others in the Gospels reveals that the Church, in conjunction with others, is called to defend human rights because without them human dignity remains vulnerable to numerous threats. Although progress has been made towards respecting the rights of all, many menaces to human dignity persist in modern world, such as: pollution of the natural environment, continual armed conflicts, the prospect of nuclear self-destruction, the failure to respect the life of the unborn.¹³⁴ In addition, John Paul II bemoans an economy that permits some to abuse their freedom by pursuing excessive profits and material gain at the expense of many, whose freedom is constrained as a result of poverty and systematic marginalization¹³⁵. John Paul II warns that both the "spirit" and the "declared letter" of the UN Declaration on Human Rights are often flouted.¹³⁶ He calls upon the Church to protect the dignity and rights of all human persons because their "election, calling, birth and death, salvation or perdition, is so closely and unbreakably linked with Christ."¹³⁷

¹³⁰ See Dulles, *Church and Society: The Laurence J. McGinley Lectures, 1988-2007*, 278-9. Dulles also contends that John Paul appeals to natural law as the philosophical foundation of human rights in *Veritatis Splendor*, nos. 12-3.

¹³¹ Krzysztof Mądziel, S.J., sees *Redemptor Hominis* as John Paul II's most important and programmatic treatment of human rights (see Mądziel and Kieżlik, "Papież praw człowieka"). Oscar Romero claimed the encyclical contained an "entire program for the modern apostolate" (Romero, *Voice of the Voiceless: The Four Pastoral Letters and Other Statements*, 158).

¹³² See *Redemptor Hominis*, nos. 1, 8, 10, 13.

¹³³ *Ibid.*, no. 8.

¹³⁴ See *ibid.*

¹³⁵ *Ibid.*, no. 16.

¹³⁶ See *ibid.*, no. 17.

¹³⁷ *Ibid.*, no. 14.

Ultimately, John Paul II believes that human rights will remain in jeopardy unless all people recognize their transcendent grounding. As he states: "It must be added that totalitarianism arises out of a denial of truth in the objective sense. If there is no transcendent truth, in obedience to which man achieves his full identity, then there is no sure principle for guaranteeing just relations between people. Their self-interest as a class, group or nation would inevitably set them in opposition to one another. If one does not acknowledge transcendent truth, then the force of power takes over, and each person tends to make full use of the means at his disposal in order to impose his own interests or his own opinion, with no regard for the rights of others. People are then respected only to the extent that they can be exploited for selfish ends. Thus, the root of modern totalitarianism is to be found in the denial of the transcendent dignity of the human person who, as the visible image of the invisible God, is therefore by his very nature the subject of rights which no one may violate — no individual, group, class, nation or State. Not even the majority of a social body may violate these rights, by going against the minority, by isolating, oppressing, or exploiting it, or by attempting to annihilate it."¹³⁸ Avery Dulles argues that John Paul II implies here that human rights remain precarious unless God is explicitly recognized as their source.¹³⁹ However, in my judgment John Paul II primarily refers to acknowledging anthropological truth when he speaks of the realization of human rights. To argue that protection of human rights requires explicitly recognizing the truth of Christianity would undercut the natural law framework John XXIII meticulously constructed in *Pacem in Terris*.

According to John Paul II, citizens of modern democracies should fear moral relativism because it may lead toward totalitarianism. John Paul II contended that democracy can be 'ethical.' Democracy can be a potent force for the protection of human rights when freedom and its relationship to the truth about the human person are properly apprehended. Succinctly stated, John Paul II contends that safeguarding human rights requires recognizing the basic truth about the human person, which I have summarized elsewhere as follows: the human person is "imbued with inviolable dignity, given the capacity to realize freedom in solidarity and solidarity in freedom, and entrusted with the right and duty of participation."¹⁴⁰ If human nature is entirely "malleable," human

¹³⁸ J o h n P a u l I I, Encyclical *Centesimus Annus* (available at http://www.vatican.va/holy_father/john_paul_ii/encyclicals/documents/hf_jp-ii_enc_01051991_centesimus-annus_en.html#-2J).

¹³⁹ See D u l l e s, *Church and Society: The Laurence J. McGinley Lectures, 1988-2007*, 320.

¹⁴⁰ B e y e r, "Freedom, Truth, and Law in the Mind and Homeland of John Paul II," 47. The following discussion draws on my more extensive analysis of this issue in this article. This line of argument resembles the thinking of John Courtney Murray, who wrote: "the foundation of human society lies in the truth about the human person, or in its dignity, that is, in its demand for responsible freedom" (M u r r a y and H o o p e r, *Religious Liberty: Catholic Struggles with Pluralism*, 241).

persons correspondingly have “malleable” worth. Such a belief eviscerates the bulwark against the totalitarian state’s squashing of the individual. According to John Paul II’s close friend Fr. Józef Tischner, “[H]ow can one respect human rights, not knowing the truth about the human person and the truth about the rights of the person?”¹⁴¹ History has tragically revealed that John Paul II was correct. The denial of the dignity and humanity of human beings led to Auschwitz, the arctic death camps of Kolyma, the Rwandan genocide, and many other attempts to annihilate entire peoples.¹⁴² As Zbigniew Brzezinski, Erich Fromm, Tischner, and John Paul II have argued, the philosophical rejection of objective moral norms and the absolute value of the human person created an abyss into which the value of human life slipped in the twentieth century, most notably in totalitarian systems.¹⁴³ Today the problem also resides in what Pope Francis called a “disposable culture,” in which “human beings are themselves considered consumer goods to be used and then discarded.”¹⁴⁴

Of course, a defense of the dignity of the human person predicated upon a certain philosophical or theological anthropology must simultaneously be willing to discern the cultural and historical contingency of certain anthropological assumptions and to revise them in the light of continued analysis of human personhood. Insights from human experience and the sciences should contribute to an increasingly perceptive understanding of human personhood. Such insights can and should inform reflection on how human dignity should be protected. For example, Cristina Traina has argued that a growing body of research demonstrates that certain forms of touching by adults are crucial for the healthy development of children. Therefore, she believes a ‘right to be touched in an appropriate manner’ should coexist with the necessary legal prohibition of inappropriate touching.¹⁴⁵ Thus, our perception of what it means

¹⁴¹ Tischner, *W krainie schorowanej wyobraźni*, 75 (see also Bertone, “John Paul II, Teacher of Human Rights,” 18).

¹⁴² Genociders have repeatedly denied the humanity of their victims, depicting them as pigs, cockroaches, and other non-human creatures. This makes it easier for masses to kill their victims. See Samantha Power, *“A Problem from Hell”: America and the Age of Genocide* (New York: Basic Books, 2002).

¹⁴³ See Zbigniew Brzezinski, *Out of Control: Global Turmoil on the Eve of the Twenty-First Century* (New York: Collier Books 1994), 29-30, 54, 63; Erich Fromm, *Escape from Freedom*, (New York: H. Holt, 1994), 171; Tischner, *W krainie schorowanej wyobraźni*, 75.

¹⁴⁴ Francis, *Evangelii Gaudium*, no. 53. John Paul II likewise referred to the ‘culture’ of death in *Evangelium Vitae*.

¹⁴⁵ Cristina L.H. Traina, “Touch on Trial: Power and the Right to Physical Affection,” *Journal of the Society of Christian Ethics* 25, no. 1 (2005): 3-34. See also Cristina L.H. Traina, *Erotic Attunement: Parenthood and the Ethics of Sensuality between Unequals* (Chicago: University of Chicago Press, 2011). Traina has also authored an insightful attempt to reconcile natural law with historicity and contingency. See Cristina L.H. Traina, *Feminist Ethics and Natural Law: The End of the Anathemas* (Washington, D.C.: Georgetown University Press, 1999).

to be human and what full human flourishing requires can and does evolve. In other words, our grasp of the natural law can and does evolve.¹⁴⁶ However, if we cannot acknowledge certain ‘core’ truths about the human person that exist across time and cultures, such as equal human dignity, universal human rights remain unintelligible.¹⁴⁷ Moreover, human rights, starting with the right to life, are jeopardized. Natural law was revived during the Nuremberg trials for this reason.¹⁴⁸

THE RIGHT TO RELIGIOUS FREEDOM AND FREEDOM OF CONSCIENCE THE HEART OF HUMAN RIGHTS

Pope John Paul II reiterated on numerous occasions that the most basic right is the right to life. Not protecting this “first of the fundamental rights” endangers all other rights because it leads to “complete relativism.”¹⁴⁹ In other words, denying the right to life shakes the very foundation of human rights, the inviolable dignity of the human person.¹⁵⁰ If the right to life is the “first,” John Paul II maintained that the “very heart of human rights” is the right to religious freedom.¹⁵¹ As he explained in his 1999 Message for the World Day of Peace, this is the case because the quest to know the truth about God and human existence expresses the “deepest aspirations”¹⁵² of the human person.

¹⁴⁶ Jacques Maritain thus wrote that the ‘gnoseological’ element of the natural law changes, while its ‘ontological’ dimension remains constant (see Jacques Maritain and William Sweet, *Natural Law: Reflections on Theory and Practice* (South Bend, Ind.: St. Augustine’s Press, 2001), 25-74).

¹⁴⁷ Some of the drafters of the UN Universal Declaration of Human Rights were aware of this problem. They believed that simply agreeing upon a list of rights without more substantive agreement on their foundation would generate disagreements about implementing those same rights. Mere reference to human dignity was not enough in their minds (see Richard McKee, “The Philosophical Bases and Material Circumstances of the Rights of Man,” in *Human Rights: Comments and Interpretations*, ed. UNESCO (New York: Columbia University Press, 1949), 35-6; Maritain’s introduction to the same volume, and Beyer, “Beyond ‘Nonsense on Stilts’: Towards Conceptual Clarity and Resolution of Conflicting Economic Rights”).

¹⁴⁸ See Eric D’Arcy, “Natural Law,” in *Encyclopedia of Bioethics*, ed. Warren T. Reich (New York: Free Press, 1978), 1131, 35.

¹⁴⁹ John Paul II, *Evangelium Vitae*, no. 20.

¹⁵⁰ See *ibid.*, nos. 18-20. See also John Paul II, “Respect for Human Rights: The Secret of True Peace.” For more on the right to life in John Paul II’s thought, see Martino, “John Paul II and the International Order: Human Rights and the Nature of the Human Person,” 62-4.

¹⁵¹ John Paul II, “Respect for Human Rights: The Secret of True Peace,” no. 5.

¹⁵² *Ibid.* John Paul II elsewhere stated “religious freedom, which is at the basis of all other freedoms and is inseparably tied to them all by reason of that very dignity which is the human person” (available at http://www.vatican.va/holy_father/john_paul_ii/letters/1978/documents/hf_jp-ii_le-t_19781202_waldheim_en.html).

John Paul II notes that the Second Vatican Council underscored the importance of this right by devoting an entire document to it, The Declaration on Religious Freedom *Dignitatis Humanae*.¹⁵³

According to John Paul II, the denial of the right to religious freedom and conscience constitute “an attack on man’s very dignity” and “a radical injustice with regard to what is particularly deep within man, what is authentically human.”¹⁵⁴ Echoing *Dignitatis Humanae*, John Paul argues Jesus and his Apostles esteemed the rights of conscience and religious freedom, as they did not compel anyone to believe in the Gospel message.¹⁵⁵ Religious freedom must be protected in a way that promotes “honest and respectful” dialogue between believers, agnostics, and atheists “without violating the essential rights of conscience of any man or woman living on earth.”¹⁵⁶

Denying rights to ‘material goods’ or ‘spiritual goods’ deprives the human being of essential needs for full human flourishing. Therefore, denials of either sort threaten peace. However, according to John Paul II the rights to spiritual goods, such as the right to freedom of “thought, conscience and religion,” are “pre-eminent.”¹⁵⁷ The right to spiritual goods is “pre-eminent” because they are at the heart of what it means to be human and properly orient human beings to the use of material goods. In other words, without the right to properly develop one’s faith and conscience, the rights to material goods will not be utilized in a way that promotes peace and the common good.¹⁵⁸ Moreover, like the drafters of *Dignitatis Humanae*, John Paul II ascribes intrinsic value to the right to religious freedom, and all other rights, as they are rooted in human nature and dignity. However, human rights also have instrumental value, as they enable the human being’s search for truth.¹⁵⁹ Religious freedom is also necessary for the attainment of peace.¹⁶⁰

¹⁵³ See J o h n P a u l I I, *Redemptor Hominis*, no. 17; J o h n P a u l I I, *Veritatis Splendor*, no. 31.

¹⁵⁴ J o h n P a u l I I, *Redemptor Hominis*, no. 17

¹⁵⁵ See *ibid.*, no. 12; see also *ibid.*, no. 5. George Weigel contends that by stressing the right to religious freedom so greatly John Paul II was simultaneously sharply critiquing the Communist regimes that violated it, such as the People’s Republic of Poland (see W e i g e l, *Witness to Hope: The Biography of Pope John Paul II*, 289).

¹⁵⁶ J o h n P a u l I I, “Address to the 34th General Assembly of the United Nations,” no. 20.

¹⁵⁷ *Ibid.*, no. 13.

¹⁵⁸ See *ibid.*, nos. 12-14.

¹⁵⁹ See *Dignitatis Humanae*, nos. 2-4. “The right to religious freedom and to respect for conscience on its journey towards the truth is increasingly perceived as the foundation of the cumulative rights of the person.” J o h n P a u l I I, *Veritatis Splendor*, no. 31. “As Cardinal John Henry Newman, that outstanding defender of the rights of conscience, forcefully put it: ‘Conscience has rights because it has duties’” (*ibid.*, no. 34).

¹⁶⁰ See J o h n P a u l I I, “Religious Freedom: Condition for Peace” (Message for the Celebration of the World Day of Peace, January 1, 1988” (available at http://www.vatican.va/holy_father/john_paul_ii/messages/peace/documents/hf_jp-ii_mes_19871208_xxi-world-day-for-peace_en.html).

Just as he did in his pre-papal writing, the Pope affirmed that ‘spiritual rights’ apply to all people, believers and nonbelievers alike. In his words, “people are obliged to follow their conscience in all circumstances and cannot be forced to act against it. Precisely for this reason, no one can be compelled to accept a particular religion, whatever the circumstances or motives.”¹⁶¹ Furthermore, both individuals and religious groups must be able to publicly profess their religious beliefs. If the state gives “special status” to one religion, it should not be “to the detriment of others.”¹⁶² These claims clearly reflect *Dignitatis Humanae* (see nos. 2-3). However, John Paul II rejected an understanding of freedom of conscience as the ability to subjectively create one’s own moral norms. Rather, the function of conscience is to apply universal moral norms in “a specific situation and thus to express a judgment about the right conduct to be chosen here and now.”¹⁶³ While John Paul II acknowledges that the entirety of Church’s moral teaching cannot be translated into civil law, he also argues that laws cannot validate “abuses which can occur in the name of conscience and under the pretext of freedom,”¹⁶⁴ such as abortion and euthanasia. The putative rights of conscience cease to exist when such claims violate the basic rights of others, such as the right to life.¹⁶⁵ This argument reflects *Dignitatis Humanae*’s claim that the state can limit religious freedom when its abuse threatens the “public order.” Public order is comprised of the safeguarding of the rights due to all citizens in accordance with justice, public peace, and public morality.¹⁶⁶

John Paul II’s cultural heritage as a Pole and lived experience prepared the Archbishop from Kraków to make significant contributions to *Dignitatis*

¹⁶¹ John Paul II, “Respect for Human Rights: The Secret of True Peace,” no. 5.

¹⁶² Ibid.

¹⁶³ John Paul II, *Veritatis Splendor*, no. 32; see also *ibid.*, no. 62.

¹⁶⁴ John Paul II, *Evangelium Vitae*, no. 71.

¹⁶⁵ See *ibid.*, nos. 68-71. For discussion, see Beyer, “Freedom, Truth, and Law in the Mind and Homeland of John Paul II.”

¹⁶⁶ See *Dignitatis Humanae*, no. 7. John Courtney Murray, S.J., has been credited with this concept. See Hollenbach, “Religious Freedom, Morality and Law: John Courtney Murray Today,” 86 and David L. Schindler, “Freedom, Truth, and Human Dignity: An Interpretation of *Dignitatis Humanae* on the Right to Religious Liberty,” *Communio* 40, no. 2-3 (2013): 220. For his classic statement of the concept, see Murray and Hooper, *Religious Liberty: Catholic Struggles with Pluralism*, 129. For reservations about this concept at Council, including Wojtyła’s, see Schindler, “Freedom, Truth, and Human Dignity: An Interpretation of *Dignitatis Humanae* on the Right to Religious Liberty,” 226-7; Andrzej Dobrzyński, “Karol Wojtyła and *Dignitatis Humanae*: A Historical Perspective,” *Communio* 40, no. 2-3 (2013): 396-9 and Pavan, “Declaration on Religious Freedom,” 74-5. I articulate strengths and weaknesses of this idea in Beyer, “Freedom, Truth, and Law in the Mind and Homeland of John Paul II,” 42-6.

Humanae during its drafting.¹⁶⁷ The memory of the eleventh century martyr St. Stanisław and the defense of religious freedom by Paweł Włodkowic at the Council of Constance (1414-18), coupled with the repression of the Church under Communism, impressed the importance of this right upon the future Pope.¹⁶⁸ Throughout his papacy, John Paul II defended the basic claim of *Dignitatis Humanae* that all people “are to be immune from coercion” by any other person or entity and that they may never be “forced to act in a manner contrary to [their] own beliefs” (no. 2). He also repeated the Declaration’s insistence that the right to religious freedom, which arises from the dignity, intelligence, and rational nature, requires the ability to seek the truth freely and obliges the human person to find and uphold the truth.¹⁶⁹ Both the drafters of the Declaration and John Paul II eschewed religious indifferentism by affirming that Christians should avow the truth of the Gospel and invite others to accept it.¹⁷⁰

Some scholars have questioned whether or not John Paul II fully assimilated the teaching of *Dignitatis Humanae*, particularly in the sphere of public morality and civil law. Space precludes resolving this debate, although I will raise a question on this issue in the conclusion.¹⁷¹ *Dignitatis Humanae* is a complex document, open to interpretation and in need of further clarification on various points.¹⁷² It will suffice to say here that John Paul II clearly saw himself as a defender of its teaching and believed that the nature and dignity of the human person requires religious freedom. As has been demonstrated here and

¹⁶⁷ See Dobrzyński, “Karol Wojtyła and *Dignitatis Humanae*,” 390-8. On Wojtyła’s contributions to *Dignitatis Humanae*, see also Griffin, “Commentary on *Dignitatis Humanae* (Declaration of Religious Freedom),” 256-61.

¹⁶⁸ See Dobrzyński, “Karol Wojtyła and *Dignitatis Humanae*,” 387-8.

¹⁶⁹ See *Dignitatis Humanae* no. 3; John Paul II, *Veritatis Splendor*, no. 31.

¹⁷⁰ See *Dignitatis Humanae*, no. 14.

¹⁷¹ See Rico, *John Paul II and the Legacy of Dignitatis Humanae*, 169-82; Griffin, “Commentary on *Dignitatis Humanae* (Declaration of Religious Freedom),” 256-61. For responses to these criticisms and/or positive appraisals of John Paul II’s appropriation of *Dignitatis Humanae*, see John F. Crosby, “On Proposing the Truth and Not Imposing It: John Paul II’s Personalism and the Teaching of *Dignitatis Humanae*,” in *Catholicism and Religious Freedom: Contemporary Reflections on Vatican II’s Declaration on Religious Liberty*, ed. Kenneth L. Grasso and Robert P. Hunt (Lanham, Md.: Rowman & Littlefield Publishers, 2006); Schindler, “Freedom, Truth, and Human Dignity: An Interpretation of *Dignitatis Humanae* on the Right to Religious Liberty;” Andrzej Dobrzyński, “Karol Wojtyła and *Dignitatis Humanae*”; Andrzej Dobrzyński, “‘Prawo żywe i przemożne’. Prawo religijne w nauczaniu Jana Pawła II,” *Analecta Cracoviensia* 43 (2011): 107-124.

¹⁷² On this, see Murray and Hooper, *Religious Liberty: Catholic Struggles with Pluralism*, 230-44. More recently, Ladislav Orsy, S.J., has written: “the reception of *Dignitatis Humanae* is far from coming to a close; its meaning continues to unfold” (Ladislav Orsy, “The Divine Dignity of Human Persons in *Dignitatis Humanae*,” *Theological Studies* 75, no. 1 (2014): 21, see also 11).

elsewhere, he defended this teaching throughout his life.¹⁷³ The emphasis on the dignity of the human person, expressed so clearly in the Declaration on Religious Freedom, became the cornerstone of John Paul II's entire social teaching. Furthermore, as John Crosby has argued, John Paul II's personalism, developed over his career, deepens the teaching of *Dignitatis Humanae*: "Wojtyła takes the argument further by showing that coercion works its interference at a more fundamental level. Coercion, he shows, tends to prevent people from even encountering the gentle power of truth; it blocks the sight of the values out of which moral truth arises and hinders people from understanding how Christ reveals man to himself; it tends to close the space in which the believer must exist if he is to grow in personalist value and really own his profession of faith."¹⁷⁴

WORKERS' RIGHTS, THE RIGHTS OF THE POOR AND MARGINALIZED AND SOLIDARITY

Echoing the social encyclicals of Leo XIII and Pius XI, John XXIII repeated the defense of the right to work, to safe working conditions, a just wage, unemployment, disability and retirement benefits, the right to unionize, and the right to collective bargaining.¹⁷⁵ However, John Paul II produced the most powerful and nuanced teaching concerning human labor of modern Catholic social teaching. By his own account, his manual labor in a stone quarry and the Solvay furnaces in Kraków during the Nazi occupation made the "working class ... particularly close to him" and helped him "to learn the Gospel anew."¹⁷⁶ The Gospel, he said, must be applied to the world of work.

Although it was addressed to the entire world, his 1981 encyclical *Laborem Exercens* was inspired by and gave inspiration to *Solidarność* in Poland.¹⁷⁷ It

¹⁷³ See Dobrzyński, "Karol Wojtyła and *Dignitatis Humanae*"; Dobrzyński, "Prawo żywe i przemożne"; Avery Dulles, "John Paul II on Religious Freedom: Themes from Vatican II," *Thomist* 65, no. 2 (2001).

¹⁷⁴ Crosby, "On Proposing the Truth and Not Imposing It," 155. See also Buttiglione, "John Paul II: The Pope of Human Rights."

¹⁷⁵ See John XXIII, *Pacem in Terris*, nos. 11, 18, 19, 20, 23. Although John XXIII did not explicitly discuss collective bargaining in *Pacem in Terris*, he does in his earlier encyclical *Mater et Magistra* (see no. 97).

¹⁷⁶ John Paul II, Homily delivered during the Holy Mass at the Shrine of Holy Cross (Mogila, June 9, 1970) (available at http://www.mogila.cystersi.pl/index.php?option=com_content&view=article&id=133:homilia-jana-pawla-ii&catid=48:jan-pawe-ii-w-mogile&Itemid=150; cf. the Vatican translation at http://www.vatican.va/holy_father/john_paul_ii/homilies/1979/documents/hf_jp-ii_hom_19790609_polonia-mogila-nowa-huta_en.html).

¹⁷⁷ See Lamoureux, "Laborem Exercens," 390-1; Bayer, *Recovering Solidarity: Lessons from Poland's Unfinished Revolution*, 22.

is a tour de force on workers' rights and the meaning and dignity of work that resembles yet surpasses his thinking in *Katolicka etyka społeczna* and *The Acting Person*. Work must serve the human person; all work should help "to realize [our] humanity."¹⁷⁸ Jesus Christ himself toiled as a manual laborer, thereby revealing that the dignity of work comes from the fact that a human being does it, not the work itself.¹⁷⁹ Through their labor, human beings also participate in God's mending of the broken world.¹⁸⁰ John Paul II acknowledged that both socialism and capitalism has led to the exploitation of workers.¹⁸¹ *Laborem Exercens* insists that in any economic system all workers must have the rights to a just wage, also a "family wage," which enables one spouse to support a family while other raises children.¹⁸² In addition, societies must devise policies that protect the right of women to work outside the home while simultaneously respecting their right to work inside the home as mothers.¹⁸³ Workers are also entitled to other rights, such as affordable healthcare, rest (at least one day per week and a yearly vacation), retirement pensions, unemployment insurance, workers compensation, maternity leave and safe working conditions. These rights are needed to "ensure the life and health of workers and their families".¹⁸⁴ Workers also have the right to form unions, which are a necessary "mouthpiece for the struggle for social justice, for the just rights of working people".¹⁸⁵ Workers and unions have the right to strike "as a kind of ultimatum to the competent bodies, especially the employers,"¹⁸⁶ although this right should not be exercised frivolously. In addition, all the rights of the worker belong to disabled people, as they share the same humanity as all workers. Their humanity entitles them to fully participate in society, including the workplace.¹⁸⁷

John Paul II argues that both the employer and the "indirect employer," i.e. all those that affect labor policy must endeavor to protect the rights of the worker, starting with the right to work.¹⁸⁸ Ultimately, this responsibility rests

¹⁷⁸ John Paul II, *Laborem Exercens*, no. 6.

¹⁷⁹ See *ibid.* Gutiérrez expounds on the witness of Jesus's work, and the "Gospel of Work" (see Gutiérrez, *The Density of the Present: Selected Writings*, 17-19).

¹⁸⁰ John Paul II, *Laborem Exercens*, nos. 25, 27.

¹⁸¹ See *ibid.*, nos 7-8.

¹⁸² See *ibid.*, no. 19.

¹⁸³ See *ibid.* For critiques of the family wage and the claim that women must fulfill their domestic role, see Lamoureux, "Laborem Exercens" and Firer Hinz, "Women, Families, and the Legacy of *Laborem Exercens*: An Unfinished Agenda."

¹⁸⁴ John Paul II, *Laborem Exercens*, no. 19.

¹⁸⁵ *Ibid.*, no. 20. See also *Centesimus Annus*, no. 35.

¹⁸⁶ John Paul II, *Laborem Exercens*, no. 20.

¹⁸⁷ See *ibid.*, no. 22.

¹⁸⁸ See *ibid.*, no. 18.

with the state, but it must exercise its authority in conjunction with other levels of society. The Pope spelled this out more clearly in *Centesimus Annus*, where he also defended the rights of workers and clarified the provision of economic rights and correlative duties.¹⁸⁹ While the state is tasked with “overseeing and directing the exercise of human rights in the economic sphere,”¹⁹⁰ individuals and various groups in society should primarily ensure these rights.¹⁹¹ The Pope uses the example of the right to work to concretize this claim. He holds that “the state has a duty to sustain business activities by creating conditions which will ensure job opportunities, by stimulating those activities where they are lacking or by supporting them in moments of crisis.”¹⁹² Thus, John Paul II delineated a middle course between the socialist model of all the state exclusively creating jobs and the laissez-faire demand for no governmental interference in the labor market. John Paul II argued that the state should not infringe upon “the human rights to private initiative, ownership of property, and to freedom in the economic sector.”¹⁹³ Yet, the market alone cannot provide all basic human needs. In the current phase of capitalism human beings continue to possess rights to certain goods necessary for a dignified life.¹⁹⁴ Just as the state needed to defend the rights of workers during the Industrial Revolution, the state and all of society must defend such basic rights today.¹⁹⁵

In *Laborem Exercens* John Paul II posits that solidarity among human beings requires pursuing the rights of all, which are “the key element in the whole of the social moral order” (no. 17).¹⁹⁶ The exploitation of labor demands “new movements of solidarity of the workers and with the workers.”¹⁹⁷ Workers slip into poverty and hunger when their rights to work, to a just wage, and to “the personal security of the worker and his or her family”¹⁹⁸ are violated. In this situation, the Church must foster worker solidarity as a proof of her fidelity to Christ and to “truly be the Church of the poor.”¹⁹⁹ As John Paul II

¹⁸⁹ The following paragraph is based on Beyer, *Recovering Solidarity*, 93-4.

¹⁹⁰ John Paul II, *Centesimus Annus*, no. 48.

¹⁹¹ See *ibid.*

¹⁹² *Ibid.*

¹⁹³ *Ibid.*, no. 24.

¹⁹⁴ See *ibid.*, nos. 34-5; 40-2.

¹⁹⁵ See *ibid.*, no. 40. John Paul II calls the belief that the market alone can satisfy all human needs the “idolatry of the market” (*ibid.*). For further discussion of the role of the state and other duty bearers in fulfilling human rights, see Hehir, “The Modern Catholic Church and Human Rights: The Impact of the Second Vatican Council,” 155-58; Beyer, *Recovering Solidarity*, 93-4, 100-5, 38-43.

¹⁹⁶ John Paul II, *Laborem Exercens*, no. 17.

¹⁹⁷ *Ibid.*, no. 8.

¹⁹⁸ *Ibid.*

¹⁹⁹ *Ibid.*

told his compatriots on the Baltic Coast in 1987, “solidarity is the fight for the human person, her rights, and her true progress.”²⁰⁰ Solidarity especially and vigorously pursues the rights of the poor, the weakest, and the marginalized, according to John Paul II.²⁰¹ Solidarity requires taking the side of the poor, and sometimes even engaging in nonviolent conflict, to “defend their rights and attend to their just claims.”²⁰² The poor deserve “the right to share in enjoying material goods and to make good use of their capacity for work, thus creating a world that is more just and prosperous for all.”²⁰³ The Church’s option for the poor demands that the realization of their basic rights is not postponed.²⁰⁴ However, according to John Paul II, fulfillment of their basic rights is precluded by a wealthy minority whose avarice compels them to buy, consume, and hoard more than they need.²⁰⁵ In addition, the right to participate in the decisions that shape their lives is violated, as economic and social policies are created “over their heads.”²⁰⁶

One of John Paul II’s enduring contributions to the human rights movement was his emphasis on solidarity. “The language of solidarity bridges the duties/rights and individual/communal divides better than rights language alone. An ethic of solidarity has the advantage of stressing the right to participation in the creation of just social structures as its basic requirement. Solidarity seeks

²⁰⁰ J o h n P a u l I I, “Address to the people of the sea during the celebration of the Liturgy of the Word” (Gdynia, June 11, 1987, available at http://www.vatican.va/holy_father/john_paul_ii/homilies/1987/documents/hf_jp-ii_hom_19870611_gente-mare_pl.html).

²⁰¹ See J o h n P a u l I I, “Address to the representatives of the Polish Government and the President of the Republic of Poland,” no. 4 (Warsaw, June 8, 1991, available at http://www.opoka.org.pl/biblioteka/W/WP/jan_pawel_ii/przemowienia/34warszawa_08061991.html#). See also J o h n P a u l I I, *Sollicitudo Rei Socialis*, nos. 27-34.

²⁰² Cited in K.P. D o r a n, *Solidarity: A Synthesis of Personalism and Communalism in the Thought of Karol Wojtyla / John Paul II*, P. Lang, New York 1996, 213; see also, *ibid.* 157-8; 213-7. For more on John Paul on the role of conflict, see J o h n P a u l I I, *Centesimus Annus*, no. 14; J o h n P a u l I I, *Laborem Exercens*, no. 20; B e y e r, “The Meaning of Solidarity in Catholic Social Teaching,” 20-1.

²⁰³ J o h n P a u l I I, *Centesimus Annus*, no. 28.

²⁰⁴ See J o h n P a u l I I, *Sollicitudo Rei Socialis*, nos. 27-34. See also B e y e r, *Recovering Solidarity: Lessons from Poland’s Unfinished Revolution*, 86-7.

²⁰⁵ See J o h n P a u l I I, “Dialogue Between Cultures for a Civilization of Love and Peace,” no. 17 (Message for the Celebration of the World Day of Peace, January 2, 2001; available at http://www.vatican.va/holy_father/john_paul_ii/messages/peace/documents/hf_jp-ii_mes_20001208_xxxiv-world-day-for-peace_en.html); J o h n P a u l I I, *Redemptor Hominis*, no. 16; J o h n P a u l I I, “Address to the 34th General Assembly of the United Nations,” nos.17-8. On this point the Pope echoes Saint Basil the Great and other Cappadocian fathers (see for example B a s i l of C a e s a r e a, “I Will Pull Down My Barns,” in *The Sunday Sermons of the Great Fathers: Vol. III*, ed. and trans. M.F. Toal (Chicago: Henry Regnery, 1959), 325-32.

²⁰⁶ J o h n P a u l I I, “Respect for Human Rights: The Secret of True Peace,” no 6. See also J o h n P a u l I I, *Centesimus Annus*, no. 33.

to empower all people to fulfill their rights and, in turn, empower others to do the same.²⁰⁷ Saint John Paul II bequeathed to us a language and a legacy that can greatly aid us in this endeavor. Building solidarity with workers and promoting their rights is imperative, as we live in a world where the dignity and rights of workers are under assault.²⁰⁸

FURTHERING THE LEGACY OF THE HUMAN RIGHTS POPES

In conclusion, I want to raise several questions for further reflection. Honoring the human rights legacies of John XXIII and John Paul II requires grappling with questions about the realization of human rights in concrete circumstances, and making more progress in advancing the human rights of all. The following discussion does not intend to be exhaustive, but rather to point towards a few pressing areas concerning human rights.

As was stated above, the Catholic Church has undoubtedly done a great deal to help countless people realize their God-given rights. However, Catholics must acknowledge when their own institutions fail to respect the human rights affirmed by their own tradition. For example, union busting has taken place at Catholic hospitals, schools, and Catholic universities in the United States.²⁰⁹ In addition, the right to a just wage for all workers is not respected by Catholic employers. Thousands of teachers, adjunct faculty, food service workers, janitorial staff, security officers, ministers and other employees at Catholic institutions make below a living wage in their region.²¹⁰ This problem may exist in Poland (and other countries) as well.²¹¹ In short, much work needs to be done in this area in order to honor the legacy of John XXIII and John

²⁰⁷ Beyer, "Economic Rights: Past, Present, and Future," 307.

²⁰⁸ See Gerald J. Beyer, "Workers' Rights and Socially Responsible Investment in the Catholic Tradition: A Case Study," *Journal of Catholic Social Thought* 10, no. 1 (2013), 1-6.

²⁰⁹ See for example, David L. Gregory and Charles J. Russo, "The First Amendment and the Labor Relations of Religiously-Affiliated Employers," *Boston University Public Interest Law Journal* 8 (1999): 449-467; Adam D. Reich, *With God on Our Side: The Struggle for Workers' Rights in a Catholic Hospital* (Ithaca: Cornell University Press, 2012); Interfaith Worker Justice, "Ascension Health. A Fall from Grace: Workers' Rights Abuses at Ascension Health's Michigan Hospitals," July 15, 2010 (available at <http://www.catholiclabor.org/hospital/AscensionHealthAFallFromGrace.pdf>); Walter „Bob” Baker, *Catholic Social Teaching and Unions in Catholic Primary and Secondary Schools: Clash between Theory and Practice within the United States* (Washington, DC: Pacem in Terris Press, 2014).

²¹⁰ See for example „Does the Church Live up to Its Teaching?," *U.S. Catholic*, July 28, 2008 (available at <http://www.uscatholic.org/church/2008/07/does-church-live-its-teaching>).

²¹¹ See Jarosław Makowski, *Wariacje Tischnerowskie* (Warszawa: Świat Książki, 2012), 233-8.

Paul II on workers' rights. As I mentioned above, many Catholic institutions of higher learning must do a better job of promoting the right to education for all by ensuring that tuition costs do not exclude economically disadvantaged students from achieving degrees.²¹² Even more urgent is the task of pressing ahead with ecclesial reforms to protect the rights of children not to be sexually abused or mistreated, as Pope Francis recently stated.²¹³ In commitment to truth and human rights, the Church must also analyze situations where its members have committed atrocities, such as during the Rwandan genocide.²¹⁴ The Church must try to discern from such situations what more it can possibly do to prevent Christians and others from violating the rights of others to life and bodily integrity – and the fifth commandment.

Affirming the right to religious freedom was one of the great gifts of Pope John XXIII to the Church. Pope John Paul II assured that we appreciate this gift by often reminding us of its importance. However, difficult questions about how to protect the right to religious freedom and freedom of conscience of all citizens in a pluralistic democracy remain.²¹⁵ Whose freedom of religion, and whose freedom of conscience do we propose to protect, particularly when competing claims are raised that are rooted in different faith traditions and/or judgments reached in conscience?²¹⁶ When should the exercise of religious

²¹² See Beyer, "Otworzyć drzwi dla wszystkich... Solidarność z ubogimi, prawo do edukacji i uczelnie katolickie w społeczeństwie amerykańskim i polskim"; Beyer, "Catholic Universities, Solidarity and the Right to Higher Education in the American Context."

²¹³ See Francis, "Address to Members of the International Catholic Child Bureau (BICE)" (April 11, 2014; available at, http://w2.vatican.va/content/francesco/en/speeches/2014/april/documents/papa-francesco_20140411_ufficio-cattolico-infanzia.html).

²¹⁴ On the Rwandan genocide and Christian involvement, see for example Elise Rutagamba, "The Rwandan Church: The Challenge of Reconciliation" in *The Catholic Church and the Nation State*, ed. Paul Christopher Manuel, Lawrence C. Reardon, and Clyde Wilcox (Washington, DC: Georgetown University Press), 173-190; *Genocide in Rwanda: Complicity of the Churches*, ed. Carol Rittner (St. Paul, Minnesota: Paragon House, 2004); Emmanuel Catangole, *Mirror to the Church: Resurrecting Faith after Genocide in Rwanda* (Zondervan, 2009). In Poland, Wojciech Tochman's book *Dzisiaj narysujemy śmierć* (Wołowiec: Wydawnictwo Czarne, 2010) generated much discussion, among other places in one of Poland's most respected Catholic newspapers, *Tygodnik Powszechny* (see <http://tygodnik.onet.pl/rwanda-kosciol-trauma>).

²¹⁵ Herminio Rico argues that John Paul II departed from *Dignitatis Humanae* on this issue (see Rico, *John Paul II and the Legacy of Dignitatis Humanae*, 170). However, I think the document's ambiguity on public order opens the space for John Paul II's interpretation and application of it. On this ambiguity, see Pavan, "Declaration on Religious Freedom," 75. Mary Doak sees John Paul II's call for "Constitutional recognition of Christianity" in the E.U. as inconsistent with the Declaration (see Mary Doak, "Resisting the Eclipse of *Dignitatis Humanae*," *Horizons* 33, no. 1 (2006): 49).

²¹⁶ For a more thorough discussion of this issue, see Hollenbach, "Religious Freedom, Morality and Law: John Courtney Murray Today"; David Hollenbach and Thomas A. Shannon, "A Balancing Act: Catholic Teaching on the Church's Rights and the Rights of All," *America. The National Catholic Review*, March 5, 2012 (available at <http://americamagazine.org/issue/5131/article/>)

liberty be constrained in order to protect the rights of others? Was a Catholic school properly exercising its religious freedom when it fired a teacher for becoming pregnant outside of wedlock (which violates the morals clause of her contract)?²¹⁷ Error may not have rights, but “a person has rights even if he [or she] is in error,”²¹⁸ as Cardinal Scola put it. Violations of labor rights should not be excused in the name of religious liberty.²¹⁹

The Catholic tradition has elaborated principles dealing with the appropriate relationship between moral law and civil law and cases when religious tenets of Catholicism clash with the rights of citizens. These principles do not construe every instance of civil law conflicting with the Church’s teaching “as a direct threat to Catholic religious freedom.”²²⁰ From Augustine to Aquinas to Vatican II, Catholicism has never held that the entirety of the moral law (the Church’s moral teachings) must be reflected in civil law. This element of the Catholic tradition must be kept in mind in deliberations about religious freedom. *Dignitatis Humanae* stated that freedom can be constrained by law when public order is threatened but “the freedom of man is to be respected as far as possible and is not to be curtailed except when and insofar as necessary” (no. 7). Balancing the right to religious freedom with the demands of public order, which must be understood with regard to truth about the human person, will require patience, dialogue, good will, and prudential reasoning among all those involved. As I have written elsewhere, the concept of public order from *Dignitatis Humanae* delimits the sphere within which civil laws must reflect the fullness of the Church’s moral teaching. However, determining just what constitutes a true threat to justice, public peace, and morality (thereby requiring legal prohibition) involves prudential judgment and often involves controversy.²²¹

There are real threats to religious liberty across the globe today.²²² However, those who sincerely wish to protect religious liberty must recognize

balancing-act); William A. Galston et al., “The Bishops & Religious Liberty,” *Commonweal*, May 30, 2012 (available at <https://www.commonwealmagazine.org/bishops-religious-liberty>).

²¹⁷ See Meghan Clark, “Truly Scandalous: Fired for Choosing Life,” *Millennial*, February 6, 2014 (available at <http://millennialjournal.com/2014/02/06/truly-scandalous-fired-for-choosing-life/>).

²¹⁸ Scola, “The Nature and Scope of Religious Freedom in Our Contemporary Culture,” 321.

²¹⁹ For discussion, see Gerald J. Beyer, “Strange Bedfellows: Religious Liberty and Neoliberalism,” *National Catholic Reporter*, February 15, 2012 (available at <http://ncronline.org/news/politics/strange-bedfellows-religious-liberty-and-neoliberalism>).

²²⁰ Hollenbach and Shannon, “A Balancing Act,” 25.

²²¹ See Beyer, “Freedom, Truth, and Law in the Mind and Homeland of John Paul II,” 41-46. See also Hollenbach, “Religious Freedom, Morality and Law: John Courtney Murray Today,” 89; David L. Schindler, “The Repressive Logic of Liberal Rights: Religious Freedom, Contraceptives, and the ‘Phony’ Argument of the *New York Times*,” *Communio* 38, no. 4 (2011): 523-547.

²²² See Angelo Scola, “The Nature and Scope of Religious Freedom in Our Contemporary Culture,” *Communio* 40, no. 2-3 (2013): 317-33.

cases where it is not being abused. For example, in the U.S. several Catholic universities, the Association of Catholic Colleges and Universities, and the Association of Jesuit Colleges and Universities have claimed that their right to religious liberty exempts them from the authority of the National Labor Relations Board (NLRB).²²³ According to Vatican II's Pastoral Constitution on the Church in the Modern World *Gaudium et Spes*, the right to unionize without fear of reprisal ranks among the "basic rights of the human person."²²⁴ Therefore, it is hard to imagine how recognizing unions violates the religious freedom of Catholic universities in the light of *Dignitatis Humanae*. The Declaration rightly claimed the freedom for the Church to preach the Gospel (see no. 13). According to Catholic social teaching, one important component of this evangelization is promoting justice and the human rights of all people.²²⁵ Thus, it is a non-sequitur to argue that the state compelling a Catholic institution to uphold its own teaching violates its religious freedom. Admittedly, NLRB oversight involves determining whether or not a Catholic university is a 'religious institution' worthy of exemption from labor laws may be excessive government intrusion. However, this problem can be avoided by allowing a free and fair union election to take place among the workers without NLRB involvement.²²⁶

Another question surrounds the right to life and capital punishment. John Paul II rightly condemned the culture of death and affirmed the right to life of all human beings from conception until natural death. He also urged halting the use of the death penalty as a punishment against capital offenders.²²⁷ His numerous criticisms of the death penalty contributed much to the growing opposition to the death penalty and sparked an evolution of the Catholic Church's teaching on capital punishment.²²⁸ It would seem that John Paul II made clear his

²²³ See Susan Stable, "Blame It on Catholic Bishop: The Question of NLRB Jurisdiction over Religious Colleges and Universities," *Pepperdine Law Review* 39, no. 5 (2013): 1317-1345; Marie Rohde, "Labor Board: Adjunct Professors at Catholic University Can Form Union," *National Catholic Reporter*, April 25, 2014 (available at <http://ncronline.org/news/faith-parish/labor-board-adjunct-professors-catholic-university-can-form-union>).

²²⁴ Second Vatican Council, *Gaudium et Spes*, no. 68.

²²⁵ See Paul VI, *Evangelii Nuntiandi*, nos. 13, 14, 27, 29, 31, 41; John Paul II, *Centesimus Annus*, nos. 5, 54; *Message of His Holiness Benedict XVI for the World Mission Sunday 2011* (available at http://www.vatican.va/holy_father/benedict_xvi/messages/missions/documents/hf_ben-xvi_mes_20110106_world-mission-day-2011_en.html); Francis, *Evangelii Gaudium*, nos. 176-87; *Compendium of the Social Doctrine of the Church*, nos. 62-67.

²²⁶ See Peter Schmidt, "Adjuncts Appeal to Higher Power in Debate over Unions at Religious Colleges," *The Chronicle Of Higher Education*, December 9, 2013; Stable, "Blame It on Catholic Bishop: The Question of NLRB Jurisdiction over Religious Colleges And Universities."

²²⁷ See John Paul II, *Evangelium Vitae*, nos. 27, 40, 56.

²²⁸ See the excellent treatment of the evolution of Catholic teaching on capital punishment: E. Christian Brugger, "The Catholic Moral Tradition" in *Where Justice and Mercy Meet: Catholic*

opposition, as he stated “I therefore renew my appeal to all leaders to reach an international consensus on the abolition of the death penalty, since ‘cases in which the execution of the offender is an absolute necessity are very rare, if not practically non-existent’ (*Catechism of the Catholic Church*, no. 2267).”²²⁹ Nonetheless, Cardinal Avery Dulles and others have argued that John Paul II stopped short of explicitly positing the right to life of murderers and theoretically acknowledged that the State has the right to execute criminals “in some cases.”²³⁰ Catholic politicians and judges have used this putative “loophole” in order to justify and exercise their authority to end the lives of criminals.²³¹

Therefore, Catholics ought to foster John Paul II’s spirit of mercy, exemplified most prophetically by his forgiveness of his would-be assassin Mehmet Ali Ağca, by advocating for the abolition of the death penalty. As at least forty-four cases in the United States have tragically revealed, the death penalty often violates the right not to be tortured.²³² It also violates the right to life of those who might one day repent and seek reconciliation with God and the loved ones of those whom they have offended. The leaders of the Church should clarify or modify the teaching to rule out capital punishment unambiguously. This would honor the spirit and legacy of Saint John Paul II.²³³

Opposition to the Death Penalty, ed. Vicki Schieber, Trudy Conway, and David Matzko McCarthy (Collegeville, Minnesota: Liturgical Press, 2013), 113-25; E. Christian B r u g g e r, “The Church and Capital Punishment in the Modern Period” in *Where Justice and Mercy Meet: Catholic Opposition to the Death Penalty*, 126-136; Msgr. Stuart W. S w e t l a n d, “The Catechism in Historical Perspective” in *Where Justice and Mercy Meet: Catholic Opposition to the Death Penalty*, 137-148; Msgr. Stuart W. S w e t l a n d, “The Death Penalty in the Catechetical Tradition” in *Where Justice and Mercy Meet: Catholic Opposition to the Death Penalty*, 149-162.

²²⁹ J o h n P a u l I I, “Angelus” (Vatican, December 12, 1999; available at http://www.vatican.va/holy_father/john_paul_ii/angelus/1999/documents/hf_jp-ii_ang_12121999_en.html).

²³⁰ D u l l e s, *Church and Society: The Laurence J. McGinley Lectures, 1988-2007*, 369. See also Tadeusz Ś l i p k o, S.J., *Kara śmierci z teologicznego i filozoficznego punktu widzenia* (Kraków: Wydawnictwo WAM, 2000).

²³¹ See Gerald J. B e y e r, “The Capital Punishment Conundrum of Catholic Politicians,” *National Catholic Reporter*, October 3, 2011 (available at <http://ncronline.org/news/peace-justice/capital-punishment-conundrum-catholic-politicians>).

²³² See <http://www.deathpenaltyinfo.org/some-examples-post-furman-botched-executions>.

²³³ I make a case for this in B e y e r, “The Capital Punishment Conundrum of Catholic Politicians.” See also the letter “A Catholic Call to Abolish the Death Penalty,” which was signed by almost 400 Catholic theologians and scholars (<http://catholicmoraltheology.com/a-catholic-call-to-abolish-the-death-penalty/>).