

LOVE, TRUTH, AND THE ECONOMY: A REFLECTION ON BENEDICT XVI'S *CARITAS IN VERITATE*

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INTRODUCTION

There is an old joke that goes something like this: It's late at night and two junkies are sitting on a park bench, both of them coming down from the high of their latest fix. One turns to the other and says, "Do you know what my problem is? Do you know what's wrong with the world? It's these dealers! They control everything! They control the supply and the quality. They corner the market and they charge whatever the hell they want! My problem is I can't afford the good stuff." The second junkie looks at the first with an incredulous smile. As it begins to rain on the two of them, he responds to his complaining bench mate with uncommon clarity and insight: "No, you got it all wrong. That's not your problem. Your problem is you're a junkie."

Although the respective situations are, of course, vastly different, in many important respects, the comments of the first addict are not unlike the government's response to the economic crisis that began in 2007 with the collapse of the subprime mortgage market—a collapse that led to the near total failure of the economy in the fall of 2008. In the aftermath of the crisis, several household names in the fields of financial services, insurance, securities, banking, and investment banking either ceased to exist, were acquired by other firms, or accepted substantial amounts of government money and partial government ownership in the face of imminent collapse. Among these entities were

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Countryside Financial, Lehman Brothers, Washington Mutual, Bear Stearns, AIG, Merrill Lynch, General Motors, and Chrysler—to name only the most obvious examples.¹

The U.S. Treasury, the Federal Reserve System, and other government officials responded with a practical diagnosis of the financial crisis that had befallen the world. They looked to the existing structures and institutions to understand the problem and to formulate a solution. The problem was a lack of liquidity. The problem was the crushing burden of toxic assets. The problem was the opaque nature of the transactions. The problem was the faulty and insufficient information the ratings agencies provided. The problem was the atrocious lack of regulatory oversight.² In a few instances, the government sought to assign blame to those whom it regarded as the responsible parties. For the most part, however, the government simply sought to provide immediate relief by dramatically increasing the supply of what everyone agreed was desperately lacking—namely, credit. Although a more ambitious reform agenda has since been proposed,³ this basic approach to basic structural reform remains in place.

The addict who complains about his supply of dope and the prices he must pay seems to offer a reasonable, perhaps even sophisticated analysis of the situation in which he finds himself. He looks to the market and sees a systemic problem—one of supply and demand. He seeks to assign blame by pointing to his unsympathetic pusher as the cause of his misery. We know, however, that his analysis falls short. It does not penetrate down to the reality in which his life is truly grounded. No matter how plausible it may sound when spoken, a relatively superficial analysis always yields a relatively superficial solution—a solution that will inevitably prove inadequate over

1. For a useful summary of these events, see Fed. Reserve Bank of St. Louis, *The Financial Crisis: A Timeline of Events and Policy Actions*, <http://timeline.stlouisfed.org/index.cfm?p=timeline> (last visited Feb. 12, 2010).

2. For two succinct analyses of the financial crisis, see John C. Coffee, Jr., *What Went Wrong? A Tragedy in Three Acts*, 6 U. ST. THOMAS L.J. 403 (2009), and Robert T. Miller, *Morality in a Market Bubble*, 35 U. DAYTON L. REV. 113 (2009).

3. Louis Uchitelle, *Volcker's Voice, Often Heeded, Fails to Sell a Bank Strategy*, N.Y. TIMES, Oct. 21, 2009, at A1 (reporting that Paul Volcker's view favoring the separation of commercial banks and investment banks has not been embraced by the Obama Administration).

time as circumstances change and the flawed premises upon which the solution is grounded reveal their true weakness.

Some might say that the addict is simply framing the problem as a “practical” matter that calls for a “practical” solution. Invoking such language, however, often masks the deeper values that are at stake in the matter at hand—values that lie hidden beneath the rhetorical gloss of practicality. What is presented as an obvious and simple matter of “common sense” is, upon closer examination, often revealed as something that is highly contestable, indeed, at odds with the values most people hold most dear.

Again, although clearly different in many important respects, the analysis offered by the second addict in the brief story recounted above is not unlike the diagnosis of the world economy offered by the former Joseph Ratzinger, now Pope Benedict XVI, in his recent social encyclical, *Caritas in Veritate*⁴—“Charity in Truth.” That is, the Pope’s analysis goes beyond a superficial analysis of immediate causes. It goes beyond the language of practicality. It goes beyond structures and institutions and cuts to the heart of the matter, all the way down to the bedrock of the human condition—all the way down to the human person herself.

The ostensible reason behind the publication of the letter—the third encyclical of Benedict’s pontificate—was the fortieth anniversary of another papal document, Pope Paul VI’s groundbreaking encyclical *Populorum Progressio*.⁵ Celebrating the anniversaries of earlier magisterial texts has proven to be a fruitful method for the development of modern Catholic social teaching. These celebrations have afforded the Church an opportunity to “look back” at the problems of the past and how the Church and the world responded, to “look around” at the circumstances of the day and the new challenges they present, and to “look to the future” by gazing beyond the present horizon with its “uncertainties and promises which appeal to our

4. Pope Benedict XVI, Encyclical Letter, *Caritas in Veritate* (June 29, 2009) [hereinafter *Caritas in Veritate*], available at http://www.vatican.va/holy_father/benedict_xvi/encyclicals/documents/hf_ben-xvi_enc_20090629_caritas-in-veritate_en.html.

5. Pope Paul VI, Encyclical Letter, *Populorum Progressio* (Mar. 26, 1967) [hereinafter *Populorum Progressio*], reprinted in *CATHOLIC SOCIAL THOUGHT: THE DOCUMENTARY HERITAGE* 240 (David J. O’Brien & Thomas A. Shannon eds., 1992) [hereinafter *CATHOLIC SOCIAL THOUGHT*].

imagination and creativity.”⁶ Although the Church’s teaching with respect to politics, the economy, and culture can be traced back to apostolic times,⁷ the point of departure for the modern tradition of Catholic social teaching is Pope Leo XIII’s encyclical *Rerum Novarum*.⁸ Published in 1891, Leo’s encyclical responded to the growing popularity of socialism and its rise as a political force, even as he addressed the new problems that rapid industrialization and urbanization created and the effects these social movements had on the family.⁹

Rerum Novarum was of such significance that Pope Pius XI referred to it as “the Magna Charta on which all Christian activities in social matters are ultimately based” when commemorating the fortieth anniversary of the document with his own encyclical, *Quadragesimo Anno*, in 1931.¹⁰ The anniversary of *Rerum Novarum* was again celebrated in Pope John XXIII’s encyclical *Mater et Magistra* in 1961,¹¹ Pope Paul VI’s apostolic letter *Octogesima Adveniens* in 1971,¹² and Pope John Paul II’s encyclicals *Laborem Exercens* in 1981¹³ and *Centesimus Annus* in 1991.¹⁴

Published in 1967, Pope Paul VI’s *Populorum Progressio* was plainly a product of its times with respect to the practical, state-oriented recommendations it set forth, a quality that, quite

6. Pope John Paul II, Encyclical Letter, *Centesimus Annus* ¶ 3 (May 1, 1991) [hereinafter *Centesimus Annus*], reprinted in CATHOLIC SOCIAL THOUGHT, *supra* note 5, at 439, 440, available at http://www.vatican.va/holy_father/john_paul_ii/encyclicals/documents/hf_jp-ii_enc_01051991_centesimus-annus_en.html.

7. See John R. Donahue, S.J., *The Bible and Catholic Social Teaching: Will This Engagement Lead to Marriage?*, in MODERN CATHOLIC SOCIAL TEACHING: COMMENTARIES AND INTERPRETATIONS 9, 24–31 (Kenneth R. Himes, O.F.M., ed., 2005) (discussing social justice in the New Testament texts).

8. Pope Leo XIII, Encyclical Letter, *Rerum Novarum* (May 15, 1891), reprinted in CATHOLIC SOCIAL THOUGHT, *supra* note 5, at 14.

9. *Id.* ¶¶ 1, 3.

10. Pope Pius XI, Encyclical Letter, *Quadragesimo Anno* ¶ 39 (May 15, 1931) [hereinafter *Quadragesimo Anno*], reprinted in CATHOLIC SOCIAL THOUGHT, *supra* note 5, at 42, 50.

11. Pope John XXIII, Encyclical Letter, *Mater et Magistra* ¶ 7 (May 15, 1961) [hereinafter *Mater et Magistra*], reprinted in CATHOLIC SOCIAL THOUGHT, *supra* note 5, at 84, 85.

12. Pope Paul VI, Apostolic Letter, *Octogesima Adveniens* ¶ 1 (May 14, 1971), reprinted in CATHOLIC SOCIAL THOUGHT, *supra* note 5, at 265, 265.

13. Pope John Paul II, Encyclical Letter, *Laborem Exercens* ¶ 1 (Sept. 14, 1981) [hereinafter *Laborem Exercens*], reprinted in CATHOLIC SOCIAL THOUGHT, *supra* note 5, at 352, 352.

14. *Centesimus Annus*, *supra* note 6, ¶ 2.

predictably, generated praise from some quarters and criticism from others.¹⁵ He insisted that the duty of human solidarity demanded that wealthy countries place their excess wealth “at the service of poor nations,”¹⁶ and that free trade, in order to be fair, must be “subject to the demands of social justice.”¹⁷ Beyond the controversy, however, *Populorum Progressio* remains a text worthy of commemoration because of Pope Paul VI’s call for “development . . . which is not wealth that is self-centered and sought for its own sake,”¹⁸ because “[i]ncreased possession is not the ultimate goal of nations nor of individuals.”¹⁹ It remains a salient document in the Catholic social tradition because of Pope Paul VI’s call for “development which is good and genuine,”²⁰—that is, development that is not restricted to economic growth alone,²¹ but development that is integral in that it seeks “to promote the good of every man and of the whole man”²² because “every life is a vocation.”²³

Pope John Paul II rightly praised *Populorum Progressio* for its originality in his encyclical *Sollicitudo Rei Socialis*²⁴ celebrating the twentieth anniversary of Pope Paul VI’s letter. Pope Benedict wanted to commemorate Pope Paul’s letter as well by publishing his own encyclical in 2007, forty years after *Populorum Progressio*. Publication of Pope Benedict’s encyclical was delayed, however, first because of different points of view among the Pope’s advisors concerning the particulars of the draft, and second because of the near total collapse of the world economy in the fall of 2008. After some revision in light of these events, the document was

15. See Robert Royal, *Populorum Progressio*, in *A CENTURY OF CATHOLIC SOCIAL THOUGHT: ESSAYS ON ‘RERUM NOVARUM’ AND NINE OTHER KEY DOCUMENTS* 115, 116 (George Weigel & Robert Royal eds., 1991) (noting that conservative commentators called it “warmed-over Marxism,” whereas others saw it as a vindication of Lyndon Johnson’s War on Poverty).

16. *Populorum Progressio*, *supra* note 5, ¶ 49; *accord id.* ¶ 48.

17. *Id.* ¶ 59.

18. *Id.* ¶ 86.

19. *Id.* ¶ 19.

20. *Id.* ¶ 86.

21. *Id.* ¶ 14.

22. *Id.*

23. *Id.* ¶ 15.

24. Pope John Paul II, Encyclical Letter, *Sollicitudo Rei Socialis* ¶ 2 (Dec. 30, 1987) [hereinafter *Sollicitudo Rei Socialis*], *reprinted in* CATHOLIC SOCIAL THOUGHT, *supra* note 5, at 395, 396.

published on June 29, 2009. The final text is long and unevenly written, plainly showing the work of many hands.²⁵

In *Caritas in Veritate*, Pope Benedict is quite self-conscious that he is contributing to an established tradition of papal commentary on the economic, political, and cultural problems of the day. It is an ongoing tradition that looks to the “universal moral law [as] a sound basis for all cultural, religious and political dialogue”²⁶ even as it confronts “the new problems that are constantly emerging.”²⁷ The Pope insists, however, that this tradition is “a single teaching, consistent and at the same time ever new.”²⁸ The “coherence of the overall doctrinal corpus” of Catholic social teaching embodies a “dynamic faithfulness to a light received.”²⁹ Thus, *Caritas in Veritate* is not simply a repetition of what Pope Paul VI said in *Populorum Progressio*, nor of Pope Leo XIII’s teaching in *Rerum Novarum*. Instead, Pope Benedict recognizes that “[t]he significant new elements in the picture of the development of peoples today in many cases demand *new solutions*” — solutions that can “be found together, respecting the laws proper to each element and in the light of an integral vision of man.”³⁰

The Church’s social teaching is indeed a corpus, a body of work, and Pope Benedict XVI and his collaborators, in preparing *Caritas in Veritate*, seemed intent on weaving virtually every major strand of that corpus into the letter. As such, it is a long and difficult text to read. This is unfortunate because what Pope Benedict has to say is deserving of reflection, not only by Catholics and other religious persons, but by economists, poli-

25. See George Weigel, *Caritas in Veritate in Gold and Red: The Revenge of Justice and Peace (or so they may think)*, NAT’L REV. ONLINE, July 7, 2009, <http://article.nationalreview.com/?q=NTdkYjU3MDE2YTdhZTE4NWlyN2FkY2U5YTfM2ZiMmE=> (remarking that the encyclical “seems to be a hybrid, blending the pope’s own insightful thinking on the social order with elements of the [Pontifical Council on] Justice and Peace approach to Catholic social doctrine,” such that the final result “resembles a duck-billed platypus”). One need not subscribe to Weigel’s attribution of different parts of the encyclical to different authors or his less than enthusiastic assessment of the encyclical as a whole to acknowledge that the letter appears to have been drafted by more than one person.

26. *Caritas in Veritate*, *supra* note 4, ¶ 59.

27. *Id.* ¶ 12.

28. *Id.* (emphasis omitted).

29. *Id.*

30. *Id.* ¶ 32.

ticians, business leaders, and other citizens who play an active role in the economy.

In Part I of the Article that follows, I explain the philosophical and theological concepts that Pope Benedict proposes as the foundation of economic and social life. These concepts—such as the intrinsically relational nature of “persons” and the “logic of gift” as distinguished from the “logic of exchange”—are not the normal stuff of legal and economic discourse. Nevertheless, these concepts are the centerpiece of any proper analysis of the economic and political order. In Part II, I explain the implications of these concepts as they relate to several concrete aspects of the economy that Pope Benedict addresses. These aspects include the role of profit in business, the structure of the modern business corporation, the circumscribed role of juridical structures in directing economic behavior, and the need for an effective global authority. In doing so, I suggest how *Caritas in Veritate* might contribute to a deeper analysis and more thoughtful response to the tumultuous events of the recent past, that is, toward a renewal of economic life and the progress of real development.

I. THE ONTOLOGICAL FOUNDATIONS OF THE SOCIAL QUESTION TODAY

A. *A Preliminary Matter: Papal Competence and Relevance*

In all likelihood, more than a few readers will doubt the Pope’s ability to contribute to the present conversation concerning the future of the world economy in a constructive fashion. This skepticism is not without foundation. After all, Pope Benedict is not an economist. He is a priest and theologian by training. Thus, it does not seem impertinent to ask whether “Charity in Truth” has anything meaningful to say about the recent economic crisis. Indeed, someone well-versed in the language of economics might reasonably question the relevance of concepts such as “love” and “truth” with respect to the mechanisms whereby capital is generated and made available to the producers and consumers of goods and services. Do “love” and “truth” fit with notions such as efficiency, utility, and wealth maximization? Or are they simply out of place—a religious authority’s misguided attempt to impose the language of morality onto the dynamics of the marketplace?

The fear that Pope Benedict would attempt to articulate a comprehensive economic plan for the future of the global economy is misplaced. The Pope knows what is and what is not within his field of competence. He assures the reader that “[t]he Church does not have technical solutions to offer and does not claim ‘to interfere in any way in the politics of States.’”³¹ Accordingly, the letter does not read like a policy position paper. It does not set forth a detailed blueprint of programmatic reforms designed to address the problems that plague the world economy. Nonetheless, the Pope maintains that the Church “does . . . have a mission of truth to accomplish”³² in sharing the truth about the nature and calling of the human person and how this truth relates to economic life. Exploring and proclaiming this truth while being open to truth “from whichever branch of knowledge it comes” and relating it to the challenges of social life is a mission “that the Church can never renounce.”³³

B. *The Moral Dimension of Economic Life*

Economics is, of course, one branch of knowledge that has much to say about the content of law³⁴ and, more generally, about how social life ought to be structured. By bringing the demands of moral truth to the conversation about economic life, Pope Benedict hopes to prevent today’s discussion from falling “into an empiricist and sceptical view of life, incapable of rising to the level of praxis because of a lack of interest in grasping the values . . . with which to judge and direct it.”³⁵ Put another way, the reaction that would dismiss the Pope’s remarks as sermonizing, having no place in the present conversation, presumes that the economic sphere is somehow “ethically neutral.”³⁶ Such a presumption is nothing short of delusional. The economy “is part and parcel of human activity and pre-

31. *Id.* ¶ 9 (footnote omitted) (quoting *Populorum Progressio*, *supra* note 5, ¶ 13).

32. *Id.*

33. *Id.*

34. The economic analysis of law is of course a well-established mode of legal discourse. For seminal texts on the matter, see A. MITCHELL POLINSKY, AN INTRODUCTION TO LAW AND ECONOMICS (3d ed. 2003); RICHARD A. POSNER, ECONOMIC ANALYSIS OF LAW (7th ed. 2007).

35. *Caritas in Veritate*, *supra* note 4, ¶ 9.

36. *Id.* ¶ 36.

cisely because it is human, it must be structured and governed in an ethical manner.”³⁷ Indeed, every economic decision has a moral dimension because every economic decision carries with it “a moral consequence.”³⁸ This moral dimension extends not only to the activity of service providers, manufacturers, and financiers,³⁹ but also to consumers who must recognize “that purchasing is always a moral—and not simply economic—act.”⁴⁰ What one purchases and the amount one consumes not only reflect the values that the consumer holds dear and the kind of lifestyle she thinks is worth living;⁴¹ her actions also have repercussions for others, both in the immediate chain of distribution and beyond.⁴²

One might say that just as “the Sabbath was made for man, and not man for the Sabbath,”⁴³ so the economic order is meant to serve the needs of the human person, not the other way around.⁴⁴ Indeed, “life in society has neither the market nor the

37. *Id.*

38. *Id.* ¶ 37.

39. *See id.* (“Locating resources, financing, production, consumption and all the other phases in the economic cycle inevitably have moral implications.”).

40. *Id.* ¶ 66; *see also Centesimus Annus, supra* note 6, ¶ 36 (noting that “[a] given culture reveals its overall understanding of life through the choices it makes in production and consumption”).

41. *See Centesimus Annus, supra* note 6, ¶ 36 (noting that “consumer attitudes and lifestyles can be created which are objectively improper and often damaging to [a person’s] physical and spiritual health,” such that much education and cultural work is needed, “including the education of consumers in the responsible use of their power of choice, the formation of a strong sense of responsibility among producers and among people in the mass media in particular, as well as the necessary intervention by public authorities”).

42. In the rather colorless language of economics, the latter are of course referred to as “externalities.” *See* BLACK’S LAW DICTIONARY 664 (9th ed. 2009); *see also* Guido Calabresi & A. Douglas Melamed, *Property Rules, Liability Rules, and Inalienability: One View of the Cathedral*, 85 HARV. L. REV. 1089, 1111 (1972).

43. SECOND VATICAN ECUMENICAL COUNCIL, PASTORAL CONSTITUTION ON THE CHURCH IN THE MODERN WORLD, *Gaudium et Spes* ¶ 26 (Dec. 7, 1965) [hereinafter *Gaudium et Spes*], reprinted in CATHOLIC SOCIAL THOUGHT, *supra* note 5, at 166, 181. The full context for this phrase is:

Hence, the social order and its development must unceasingly work to the benefit of the human person if the disposition of affairs is to be subordinate to the personal realm and not contrariwise, as the Lord indicated when he said that the Sabbath was made for man, and not man for the Sabbath.

Id.; *see also* Mark 2:27.

44. The centrality of the human person, whom economic life is supposed to serve, is a recurring theme in Pope Benedict’s letter and in modern Catholic social

state as its final purpose, since life itself has a unique value which the state and the market must serve."⁴⁵ The economy is not an end in its own right. Rather, its value is only instrumental.⁴⁶ It is the means whereby men and women provide for their own needs by exercising their intelligence and creativity in working to satisfy the material needs of others.⁴⁷

Precisely because the economy responds to people's needs and desires, it wields enormous power. One might therefore take Pope Benedict's point to be that the economy needs to be controlled and circumscribed by a force external to itself. Just as in an earlier age men learned that military power was too important to be left solely in the hands of generals, so today the economy is too important to be left solely in the hands of economists, bankers, and ministers of finance. Thus, one might interpret Pope Benedict's argument to be that just as the decision to go to war calls for a judgment that goes beyond the professional competence of military strategists, so also the management of the economy calls for something beyond mere technical proficiency in monetary, fiscal, and tax policy, and knowledge of the effect of such policies on the production, distribution, and consumption of goods and services.

In fact, Pope Benedict's argument is far deeper. By insisting on the ethical dimension of economic life, Pope Benedict seeks to situate economics as a discipline within a larger discourse—the discourse of moral philosophy. As an historical matter, framing the issue in this manner does not infect economics with a foreign agent. Economics is not a pristine science but

thought in general. See, e.g., *Caritas in Veritate*, *supra* note 4, ¶ 37 (noting that "[t]he Church's social doctrine has always maintained that justice must be applied to every phase of economic activity, because this is always concerned with man"); *id.* ¶ 45 (arguing that "[t]he economy needs ethics in order to function correctly[,] an ethics which is people-centred"); *id.* ¶ 47 (stressing "the centrality of the human person" in development programs such that "[t]he principal concern must be to improve the actual living conditions of the people in a given region"); *Gaudium et Spes*, *supra* note 43, ¶ 63 (describing man as "the source, the center, and the purpose of all socioeconomic life").

45. *Centesimus Annus*, *supra* note 6, ¶ 49.

46. See *Caritas in Veritate*, *supra* note 4, ¶ 36 (referring to the economy and finance as "instruments" that are good in themselves but which can be "transformed into harmful ones" when "those at the helm are motivated by purely selfish ends").

47. See *Centesimus Annus*, *supra* note 6, ¶ 32.

contains within it a particular view of human nature.⁴⁸ Similarly, “the market does not exist in the pure state” but “is shaped by the cultural configurations which define it and give it direction.”⁴⁹ Pope Benedict seeks to bring economics back to the original context from which it emerged as a discipline—back to the time before it was understood as a discipline of scientific technique divorced from moral concerns, back to when it went by the name “political economy” and was understood as a branch of moral philosophy.⁵⁰ It is “the conviction that the economy must be autonomous [and] that it must be shielded from ‘influences’ of a moral character [that] has led man to abuse the economic process in a thoroughly destructive way.”⁵¹ In response to this conviction, Pope Benedict maintains that “[t]he economy needs ethics in order to function correctly,”⁵² that is, in order to create and sustain a marketplace in which people “make use of contracts to regulate their relations as they exchange goods and services of equivalent value between them, in order to satisfy their needs and desires.”⁵³ The market can serve this purpose only to the extent that an underlying moral substrate exists upon which it is entirely dependent. Indeed, “[w]ithout internal forms of solidarity and mutual trust, the market cannot completely fulfil its proper economic function.”⁵⁴

C. *The Human Person—A Being in Relation*

Catholic social thought has long held that man is “the foundation, cause, and end of all social institutions.”⁵⁵ As such, the “pivotal point” of the Church’s exposition of the social question

48. See *infra* Part I.C. For a contrast of the anthropologies contained in classical economics and Marxist theory, respectively, see R.H. Coase, *Adam Smith’s View of Man*, 19 J.L. & ECON. 529 (1976) and ERICH FROMM, *MARX’S CONCEPT OF MAN* (1961). My point is not to endorse the views expressed in either of these sources with respect to the work of Adam Smith or Karl Marx. It is only to point out the often overlooked fact that economic theory, of whatever sort, always presupposes or argues for a particular philosophy of man.

49. *Caritas in Veritate*, *supra* note 4, ¶ 36.

50. See E. RAY CANTERBURY, *A BRIEF HISTORY OF ECONOMICS: ARTFUL APPROACHES TO THE DISMAL SCIENCE* 45 (2001).

51. *Caritas in Veritate*, *supra* note 4, ¶ 34.

52. *Id.* ¶ 45 (emphasis omitted).

53. *Id.* ¶ 35.

54. *Id.* (emphasis omitted).

55. *Mater et Magistra*, *supra* note 11, ¶ 219.

has always been “man himself.”⁵⁶ In setting forth what it believes is a “correct view of the human person” that serves as the “guiding principle” of Catholic social thought, the Church has stressed a number of characteristics essential to the identity of human beings as such.⁵⁷ These characteristics include the fact that every human is a single being, composed of a body and so destined to die, but possessing an immortal soul; that every human being is a person made in God’s image and endowed with intelligence and freedom; and that each person is social in nature and capable of enormous good, though corrupted by sin.⁵⁸

In *Caritas in Veritate*, Pope Benedict likewise emphasizes that “the social question [today] has become a radically anthropological question.”⁵⁹ Moreover, at the root of many of the contemporary problems that Benedict addresses in his letter—the economy, social communication,⁶⁰ education,⁶¹ the environment,⁶² immigration,⁶³ and technology⁶⁴—the Pope finds the

56. *Gaudium et Spes*, *supra* note 43, ¶ 3.

57. See *Centesimus Annus*, *supra* note 6, ¶ 11.

58. For an extensive discussion of each of these essential characteristics of human beings, see *Gaudium et Spes*, *supra* note 43, ¶¶ 12–18. See also Benedict M. Ashley, O.P., *A Philosophical Anthropology of the Human Person: Can We Know the Nature of Human Persons?*, in *RECOVERING SELF-EVIDENT TRUTHS: CATHOLIC PERSPECTIVES ON AMERICAN LAW* 52 (Michael A. Scaperlanda & Teresa Stanton Collett eds., 2007); John M. Breen, *Neutrality in Liberal Legal Theory and Catholic Social Thought*, 32 *HARV. J.L. & PUB. POL’Y* 513, 573–83 (2009); Francis Canavan, S.J., *The Image of Man in Catholic Thought*, in *CATHOLICISM, LIBERALISM, AND COMMUNITARIANISM: THE CATHOLIC INTELLECTUAL TRADITION AND THE MORAL FOUNDATIONS OF DEMOCRACY* 15 (Kenneth L. Grasso et al. eds., 1995); Angela C. Carmella, *A Catholic View of Law and Justice*, in *CHRISTIAN PERSPECTIVES ON LEGAL THOUGHT* 255, 260–65 (Michael W. McConnell et al. eds., 2001). For an argument that the Church’s anthropology has “stress[ed] freedom, equality, participation and historical mindedness” since the time of Paul VI, see Charles E. Curran, *The Changing Anthropological Bases of Catholic Social Ethics*, in *5 READINGS IN MORAL THEOLOGY: OFFICIAL CATHOLIC SOCIAL TEACHING* 188, 199 (Charles E. Curran & Richard A. McCormick, S.J., eds., 1986).

59. *Caritas in Veritate*, *supra* note 4, ¶ 75 (emphasis omitted).

60. *Id.* ¶ 73 (arguing that “the meaning and purpose of the media must be sought within an anthropological perspective”).

61. *Id.* ¶ 61 (arguing that “in order to educate, it is necessary to know the nature of the human person” but that the “increasing prominence of a relativistic understanding of that nature presents serious problems for education, especially moral education”).

62. *Id.* ¶¶ 48–50 (criticizing contemporary views that see the human person as “the result of mere chance or evolutionary determinism” or nature “as something more important than the human person” or the opposite view in which nature is simply an object of “technical dominion” and exploitation rather than a shared resource over which the human person must exercise “responsible stewardship”).

“reductive vision of the person”⁶⁵ that is so characteristic of modernity. The problems in each of these areas reflect the anthropology of the autonomous individual, the “unencumbered self”⁶⁶ according to which individuals “owe nothing to anyone, except to themselves.”⁶⁷ It is modern man’s conviction that he is “self-sufficient and can successfully eliminate the evil present in history by his own action alone [that] has led him to confuse happiness and salvation with immanent forms of material prosperity and social action.”⁶⁸ Indeed, it is confidence in their own self-sufficiency, often aided by technology, that leads the men and women of today to renounce any social responsibility.

Certainly, man’s capacity for knowledge and freedom features prominently in the letter, but Pope Benedict ties these human capacities more closely to the meaning of personhood as such—that of a being whose existence is marked by the unsatiated quest for communion, a being called to act with love in the truth, *caritas in veritate*. To say that man—that every human being—is a “person” is to say more than that he or she is a center of consciousness, of intellect, and of will—the solitary “*cogito ergo sum*” of Descartes.⁶⁹ Although the human person certainly possesses these qualities,⁷⁰ a person is not a being of pure egotism. In the first instance a person is a being in relation. Indeed, “[t]here is no such thing as person in the categorical singular.”⁷¹ As Joseph Ratzinger noted in an important book written shortly after the Second Vatican Council, the Greek and

63. *Id.* ¶ 62 (stating that “[e]very migrant is a human person who . . . possesses fundamental, inalienable rights” and so should not be treated as a “commodity”).

64. *Id.* ¶¶ 69–70 (remarking on the “intoxication with total autonomy” that technological capacity fosters and the technological worldview that confuses what is true with what is possible).

65. *Id.* ¶ 29.

66. MICHAEL J. SANDEL, PUBLIC PHILOSOPHY: ESSAYS ON MORALITY IN POLITICS 162 (2005).

67. *Caritas in Veritate*, *supra* note 4, ¶ 43.

68. *Id.* ¶ 34.

69. 1 THE PHILOSOPHICAL WORKS OF DESCARTES 101 (Elizabeth S. Haldane & G.R.T. Ross trans., Cambridge Univ. Press 1981) (1911).

70. See *Gaudium et Spes*, *supra* note 43, ¶¶ 12–18 (describing the essential characteristics of the human person including freedom and intellect); John XXIII, Encyclical Letter, *Pacem in Terris* ¶ 9 (Apr. 27, 1963) [hereinafter *Pacem in Terris*], reprinted in CATHOLIC SOCIAL THOUGHT, *supra* note 5, at 131, 132 (asserting that “every human being is a person; his nature is endowed with intelligence and free will”).

71. JOSEPH RATZINGER, INTRODUCTION TO CHRISTIANITY 128 (J.R. Foster trans., Seabury Press 1979) (1968).

Latin antecedents from which the modern English word *person* derives express relatedness. The Greek word *prosopon* means “look towards” and the Latin word *persona* means “sounding through,” such that each “includes the notion of relatedness as an integral part of itself.”⁷² Moreover, the “anthropological shape” of man’s being as a person—as a being in relation—is that of being *for* others, being *from* others, and being *with* others—the relations of love, communication, and knowledge.⁷³ Indeed, “being a man means being a fellow man in every aspect.”⁷⁴

A failure to appreciate the human person as such, as a being in relation, “end[s] up retarding or even obstructing authentic human development.”⁷⁵ Even worse, a rebellion against the truth of his nature, as witnessed in the “tragic tendency to close in on himself”⁷⁶ and embrace isolation and alienation, is “a rebellion against being human in itself” that “leads people—as Sartre percipiently observed—into a self-contradictory existence that we call hell.”⁷⁷ Put another way, the view of human nature that denies the personhood of men and women always results in a kind of poverty, because every variety of poverty—including material poverty—is “born from isolation, from not being loved or from difficulties in being able to love.”⁷⁸ The human person “is alienated when he is alone, when he is detached from reality,” when he “think[s] himself to be self-sufficient or merely an insignificant and ephemeral fact, a ‘stranger’ in a random universe.”⁷⁹

By contrast, the foundation of Pope Benedict’s letter is that “[m]an is not a lost atom in a random universe: he is God’s creature.”⁸⁰ Moreover, “[i]t is not by isolation that man establishes his worth, but by placing himself in relation with others

72. *Id.* at 128–29.

73. JOSEPH CARDINAL RATZINGER, TRUTH AND TOLERANCE: CHRISTIAN BELIEF AND WORLD RELIGIONS 248 (Henry Taylor trans., Ignatius Press 2004) (2003).

74. RATZINGER, *supra* note 71, at 185.

75. *Caritas in Veritate*, *supra* note 4, ¶ 55.

76. *Id.* ¶ 53.

77. RATZINGER, *supra* note 73, at 248.

78. *Caritas in Veritate*, *supra* note 4, ¶ 53; *accord Centesimus Annus*, *supra* note 6, ¶ 41 (arguing that “man is alienated if he refuses to transcend himself and to live the experience of self-giving and of the formation of an authentic human community oriented towards his final destiny, which is God”).

79. *Caritas in Veritate*, *supra* note 4, ¶ 53.

80. *Id.* ¶ 29 (footnote omitted).

and with God.”⁸¹ Although this understanding of the human person finds expression in Christian revelation, it is a truth that is not narrowly sectarian or even religious. As such, it should and can legitimately inform public discussions concerning the economy and other aspects of social life.⁸² As set forth in greater detail below, the relational character of human beings—their essential being as persons—exceeds the logic of the marketplace and even the demands of commutative justice. It points to love and the logic of gift.

D. *Veritas in Caritate and Caritas in Veritate*

Pope Benedict is aware of the modern-day cynicism surrounding ideas such as “love” and “truth,” and of the skepticism with which both are greeted, not only as a general matter but specifically when introduced into discussions involving the economy. Building on a theme developed at greater length in his first encyclical, *Deus Caritas Est*,⁸³ Pope Benedict notes that in today’s world “charity has been and continues to be misconstrued and emptied of meaning.”⁸⁴ In law, politics, and economics, love “is easily dismissed as irrelevant for interpreting and giving direction to moral responsibility.”⁸⁵ Likewise, he recognizes that we live “in a social and cultural context which relativises truth, often paying little heed to it and showing increasing reluctance to acknowledge its existence.”⁸⁶

Benedict argues that this perspective—the wisdom of the world—is indeed a kind of foolishness.⁸⁷ According to the Pope, what seems to be the height of sophistication is in fact only a kind of well-polished ignorance. Properly understood, “charity in truth is . . . the principal driving force behind the

81. *Id.* ¶ 53.

82. *See id.* ¶ 56 (“The Christian religion and other religions can offer their contribution to development *only if God has a place in the public realm*, specifically in regard to its cultural, social, economic, and particularly its political dimensions.”).

83. Pope Benedict XVI, Encyclical Letter, *Deus Caritas Est* ¶ 2 (Dec. 25, 2005) [hereinafter *Deus Caritas Est*], available at http://www.vatican.va/holy_father/benedict_xvi/encyclicals/documents/hf_ben-xvi_enc_20051225_deus-caritas-est_en.html (“Today, the term ‘love’ has become one of the most frequently used and misused of words, a word to which we attach quite different meanings.”).

84. *Caritas in Veritate*, *supra* note 4, ¶ 2.

85. *Id.*

86. *Id.*

87. *See* 1 *Corinthians* 1:18–25.

authentic development of every person and of all humanity" because every person desires to know and live the truth,⁸⁸ and "[a]ll people feel the interior impulse to love authentically."⁸⁹ To appreciate the importance of love and truth in the social order, including the economic order, it is necessary to examine Benedict's discussion of both love and truth and the intimate connection between them brought into relief by St. Paul's expression *veritas in caritate* ("the truth in love")⁹⁰ and the complimentary expression *caritas in veritate* ("love in the truth").

On the most basic level, truth and love complete one another in that "[d]eeds without knowledge are blind, and knowledge without love is sterile."⁹¹ That is, human beings are prompted to seek the truth and to share the truth with one another out of love. Likewise, when human beings reach out towards one another in love, they do so only insofar as their love is "understood, confirmed and practised in the light of truth."⁹² The human person pursues the truth and speaks the truth to others out of love. Conversely, he or she loves in a genuine manner only insofar as his or her actions are in accord with the truth. As Pope Benedict says, "[o]nly in truth does charity shine forth, only in truth can charity be authentically lived."⁹³ Put another way, "[c]harity does not exclude knowledge, but rather requires, promotes, and animates it from within."⁹⁴ Moreover, knowledge of the truth "is never purely the work of the intellect," a product of only "calculation and experiment."⁹⁵ If knowledge "aspires to be wisdom capable of directing man in the light of his first beginnings and his final ends, [then] it must be 'seasoned' with the 'salt' of charity."⁹⁶

88. *Caritas in Veritate*, *supra* note 4, ¶ 1; see also Pope John Paul II, Encyclical Letter, *Fides et Ratio* ¶ 28 (Sept. 14, 1998), available at http://www.vatican.va/holy_father/john_paul_ii/encyclicals/documents/hf_jp-ii_enc_14091998_fides-et-ratio_en.html (arguing that because "[l]ife in fact can never be grounded upon doubt, uncertainty or deceit . . . [o]ne may define the human being, therefore, as *the one who seeks the truth*").

89. *Caritas in Veritate*, *supra* note 4, ¶ 1.

90. *Ephesians* 4:15.

91. *Caritas in Veritate*, *supra* note 4, ¶ 30.

92. *Id.* ¶ 2.

93. *Id.* ¶ 3.

94. *Id.* ¶ 30.

95. *Id.*

96. *Id.*

Truth, for its part, is not simply a product that the human mind constructs. As Pope Benedict states, “[i]n every cognitive process, truth is not something that we produce, it is always found, or better, received.”⁹⁷ Thus, truth, like love, is a kind of

97. *Id.* ¶ 34. The non-empirical, non-quantifiable nature of human knowledge has been a dominant theme both in Benedict’s pontificate and in his scholarly writings prior to becoming pope. See, e.g., JOSEPH CARDINAL RATZINGER, CHURCH, ECUMENISM, AND POLITICS: NEW ENDEAVORS IN ECCLESIOLOGY 204–06 (Michael J. Miller et al. trans., Ignatius Press 2008) (1987) [hereinafter RATZINGER, CHURCH, ECUMENISM, AND POLITICS] (arguing that “[t]he real danger of our time . . . is the destabilization of ethics” that results from having “reduced reason to what is calculable,” and concluding that “we have to be converted again to a broader concept of reason; we must relearn moral reason as something rational” because “reason that is closed in on itself does not remain reasonable, just as the state that tries to become perfect becomes tyrannical”); JOSEPH CARDINAL RATZINGER, VALUES IN A TIME OF UPHEAVAL 66 (Brian McNeil trans., 2006) (“The real problem that confronts us today is reason’s blindness to the entire nonmaterial dimension of reality.”). Although Pope Benedict touches on this theme only in passing in *Caritas in Veritate*, his treatment of human knowledge and the implications of this treatment for law are deserving of an article in their own right. Pope Benedict’s basic argument with respect to the topic may be summarized here by recalling the key points he made in his now famous address at the University of Regensburg. In that lecture the Pope set forth what he described as “a critique of modern reason from within.” Pope Benedict XVI, Lecture of the Holy Father at the Aula Magna of the University of Regensburg: Faith, Reason and the University: Memories and Reflections (Sept. 12, 2006), available at http://www.vatican.va/holy_father/benedict_xvi/speeches/2006/september/documents/hf_ben-xvi_spe_20060912_university-regensburg_en.html. He described the modern concept of reason as being based “on a synthesis between Platonism (Cartesianism) and empiricism” which in the first dimension “presupposes the mathematical structure of matter, its intrinsic rationality” and in the second dimension maintains that “only the possibility of verification or falsification through experimentation can yield decisive certainty.” *Id.* The understanding of rationality that emerges from this synthesis holds that “[f]irst, only the kind of certainty resulting from the interplay of mathematical and empirical elements can be considered scientific,” and second that rationality “by its very nature . . . excludes the question of God, making it appear [as] an unscientific or pre-scientific question.” *Id.* Without “rejecting the insights of the modern age” we should, says Pope Benedict, “broaden[] our concept of reason and its application” by “overcom[ing] the self-imposed limitation of reason to the empirically falsifiable.” *Id.* The reasons for broadening the limits of rationality beyond its current post-Enlightenment boundaries are two-fold. First, Benedict says that human beings find this view of reason overly confining and ultimately unsatisfactory. This constricted view of reason limits humanity because “the specifically human questions about our origin and destiny, the questions raised by religion and ethics, then have no place within the purview of collective reason as defined by ‘science’, so understood, and must thus be relegated to the realm of the subjective.” *Id.* Second, “modern scientific reason with its intrinsically Platonic element bears within itself a question which points beyond itself.” *Id.* That is, “[m]odern scientific reason quite simply has to accept the rational structure of matter and the correspondence between our spirit and the prevailing rational structures of nature as a given, on which its methodology has to be based.” *Id.* But the question of why

gift. Indeed, something of the mystery of love is contained in every act of knowing the truth. “Knowing is not simply a material act, since the object that is known always conceals something beyond the empirical datum. All our knowledge, even the most simple, is always a minor miracle, since it can never be fully explained by the material instruments that we apply to it.”⁹⁸ Moreover, “[t]ruth, like love, ‘is neither planned nor willed, but somehow imposes itself upon human beings.’”⁹⁹ Indeed, the sharing of truth is a kind of lovemaking insofar as it brings about unity.¹⁰⁰ Love is also a part of the human search for the truth, “not [as] an added extra, like an appendix to work already concluded in each of the various disciplines: [Rather,] it engages them in dialogue from the very beginning.”¹⁰¹ Adherence to the truth is that which sets men and women free to be who they truly are as persons, free to love.

Love, properly understood, “is not merely a sentiment” because “[s]entiments come and go,”¹⁰² whereas love is definitive “in the sense of being ‘for ever.’”¹⁰³ Yet, “[w]ithout truth, charity degenerates into sentimentality. Love becomes an empty

the inherent rationality of the universe must be taken for granted as an assumption “is a real question, and one which has to be remanded by the natural sciences to other modes and planes of thought—to philosophy and theology.” *Id.* Modern reason, in other words, presupposes that which it also rejects—something that cannot be verified or falsified through experimentation, namely, the intrinsic rationality of matter and the correspondence to and receptivity of that rationality by the human mind.

98. *Caritas in Veritate*, *supra* note 4, ¶ 77.

99. *Id.* ¶ 34 (quoting *Deus Caritas Est*, *supra* note 83, ¶ 3).

100. *See id.* ¶ 54 (“Just as the sacramental love of spouses unites them spiritually in ‘one flesh’ . . . and makes out of the two a real and relational unity, so in an analogous way truth unites spirits and causes them to think in unison, attracting them as a unity to itself.”). In a volume of essays published shortly before his election as pope, Joseph Ratzinger argued that ultimately the questions of “what is true and what is good cannot in fact be separated one from another.” RATZINGER, *supra* note 73, at 230. According to Ratzinger, the identification of truth and love is found in the identification of love and goodness in God. That is, God is goodness itself, the answer to man’s search for truth and knowledge of what is truly good. This, he says, “attains its climax in the Johannine declaration: God is love. Truth and love are identical.” *Id.* at 230–31 (citing 1 *John* 4:8). *See also* RATZINGER, *supra* note 71, at 185 (noting that “just as one has only arrived at the specific nature of love when one has grasped it as a relation, that is, something coming from another, so too human knowledge is only reality when it is *being* known, being brought to knowledge, and thus again ‘from another’”).

101. *Caritas in Veritate*, *supra* note 4, ¶ 30.

102. *Deus Caritas Est*, *supra* note 83, ¶ 17.

103. *Id.* ¶ 6.

shell, to be filled in an arbitrary way.”¹⁰⁴ That is to say, truth shows that love is not mere emotion but an act of heart and mind that reflects the substance of human identity. As such, love has a definite content. It is not ultimately malleable. It is not a mere function of “contingent subjective emotions and opinions” where, in the distortions of the day, love “comes to mean the opposite.”¹⁰⁵ Instead, love is “concern and care for the other.”¹⁰⁶ To love another person “is to desire that person’s good and to take effective steps to secure it.”¹⁰⁷ Precisely because love “seeks the good of the beloved,”¹⁰⁸ it requires truth that “enabl[es] men and women to let go of their subjective opinions and impressions, allows them to move beyond cultural and historical limitations and to come together in the assessment of the value and substance of things.”¹⁰⁹ That is, truth instructs humanity not only in the meaning of love but also how to love—the manner in which love is to be directed and shared. Without truth, love is confined to a narrow set of relatively superficial relations, “excluded from the plans and processes of promoting human development of universal range, in dialogue between knowledge and praxis.”¹¹⁰ Without truth, “love” becomes an arbitrary choice.¹¹¹

Moreover, without an appreciation of love and truth, the process of building the just society in politics, economics, and culture will be in vain. “Without truth, without trust and love for what is true, there is no social conscience and responsibility, and social action ends up serving private interests and the logic of power, resulting in social fragmentation.”¹¹² Without truth,

104. *Caritas in Veritate*, *supra* note 4, ¶ 3.

105. *Id.* Sadly, we have become quite familiar with the unfaithful husband or wife who carries on an adulterous affair to “save” the marriage out of “love” for his or her spouse, and the mother who obtains an abortion out of “love” for her unborn child. These are the kinds of distortions of love that the Pope has in mind that have become commonplace in our culture today.

106. *Deus Caritas Est*, *supra* note 83, ¶ 6.

107. *Caritas in Veritate*, *supra* note 4, ¶ 7.

108. *Deus Caritas Est*, *supra* note 83, ¶ 6.

109. *Caritas in Veritate*, *supra* note 4, ¶ 4.

110. *Id.*

111. See RATZINGER, *supra* note 71, at 204 (arguing that “the principle of love, if it is to be genuine, includes faith” because “without faith, which we have come to understand as a term expressing man’s ultimate need to receive and the inadequacy of all personal achievement, love becomes an arbitrary deed”).

112. *Caritas in Veritate*, *supra* note 4, ¶ 5.

deeds (no matter how well-intentioned) will be “blind,” and without love, knowledge of the truth will be “sterile.”¹¹³

Although there are many examples of this phenomenon readily apparent in the current age, the one to which Pope Benedict repeatedly refers is “the tragic and widespread scourge of abortion.”¹¹⁴ The truth that abortion calls us to recognize, but that is denied in the face of power, is that abortion, insofar as it is successful, always involves “*the deliberate killing of an innocent human being.*”¹¹⁵ By contrast, an openness to the truth brings with it an “openness to life [that] is at the centre of true development.”¹¹⁶

E. *The Relationship Between Love, Justice, and the Common Good*

Recent years have witnessed a growing confusion over the relationship between love and justice, with some Catholic theologians concluding that the two virtues are identical.¹¹⁷ In

113. *Id.* ¶ 30.

114. *Id.* ¶ 75. For other portions of the letter discussing the need to protect human life, and the connection of this imperative to true development, see *id.* ¶¶ 15, 28, 44, 51, 74.

115. Pope John Paul II, Encyclical Letter, *Evangelium Vitae* ¶ 58 (Mar. 25, 1995), available at http://www.vatican.va/holy_father/john_paul_ii/encyclicals/documents/hf_jp-ii_enc_25031995_evangelium-vitae_en.html. The claim that the entity in the womb killed in the process of abortion is a “human being” is a matter of medical science, not politics or ideology. See FRANCIS J. BECKWITH, DEFENDING LIFE: A MORAL AND LEGAL CASE AGAINST ABORTION CHOICE 65–83 (2007) (citing numerous medical authorities and scientific texts confirming the assertion that the life of a new human being begins at conception, and responding to objections); MAUREEN L. CONDIC, WESTCHESTER INST. FOR ETHICS & THE HUMAN PERSON, WHEN DOES HUMAN LIFE BEGIN?: A SCIENTIFIC PERSPECTIVE (2008); KEITH L. MOORE & T.V.N. PERSAUD, THE DEVELOPING HUMAN: CLINICALLY ORIENTED EMBRYOLOGY 15 (8th ed. 2008). Indeed, the empirical belief that the victim of abortion is a human being is not really open to serious debate by serious people. The subsequent claim that this nascent human being should enjoy the protections afforded by legal or moral personhood is a normative contention. It is a belief about value, or rather, about whether and to what extent a certain kind of entity ought to be valued. Many reasonable people, including many scientists, contend that, as a legal and moral matter, the entity in the womb should not be regarded as a “person” until some late point in gestation or even until birth. It is neither reasonable nor scientific to assert that this entity—whatever normative status it ought to enjoy—is not a human being.

116. *Caritas in Veritate*, *supra* note 4, ¶ 28 (emphasis omitted).

117. See, e.g., GUSTAVO GUTIÉRREZ, A THEOLOGY OF LIBERATION: HISTORY, POLITICS AND SALVATION 194–203 (Sister Caridad Inda & John Eagleson trans., 1973); cf. NICHOLAS WOLTERSTORFF, JUSTICE: RIGHTS AND WRONGS 1 (2008) (noting that

drawing upon the Church's tradition of moral reflection, the Pope's letter provides some needed clarity with respect to this matter. In doing so, however, Pope Benedict adds to the tradition by demonstrating how justice alone is incapable of inspiring and sustaining true human development.

For Benedict, "justice is inseparable from charity,"¹¹⁸ but the two virtues are not coextensive. The Catholic intellectual tradition, and indeed the classical tradition of moral philosophy in the West, holds that justice is the personal virtue and quality of an act whereby one renders to another person that which is his or her due.¹¹⁹ As such, the structure of justice is always that of a debt that is owed, and "[t]o be just means . . . to owe something and to pay the debt," regardless of one's desire to do so.¹²⁰ The structure of love, by contrast, is that of a gift. It is an affirmation that is not owed.¹²¹ Love is to turn to another who is already present and say, "[i]t's good that you exist; it's good that you are in this world!"¹²² Therefore, love always involves an expression of will¹²³ that is "[a]t bottom . . . undeserved. We can

"[l]arge swaths of American Christians believe that in the New Testament love supplanted justice—except for retributive justice").

118. *Caritas in Veritate*, *supra* note 4, ¶ 6.

119. See JOSEF PIEPER, *THE FOUR CARDINAL VIRTUES: PRUDENCE, JUSTICE, FORTITUDE, TEMPERANCE* 44 (Richard Winston et al. trans., Harcourt, Brace & World 1965) (1954).

120. *Id.* at 57. Pieper adds that "[w]herever justice in the full sense is done, the external act is an expression of an inner assent." *Id.* at 63.

121. As noted above, the primary difference between love and justice is that love is something freely given whereas justice is a debt that is owed. In his essay on justice, Pieper explains that love and justice differ in several other important respects. First, "in the relationship of justice, men confront each other as separate 'others,' almost as strangers" whereas in the case of love "the loved one is not properly 'someone else'" but rather someone with whom the lover identifies. *Id.* at 54. Second, justice is an act that "can be judged even from the outside, by an impartial third party" without assessing the inner state of the person who acts justly, whereas love necessarily says something about the interior disposition and will of the person who loves. *Id.* at 60. Third, justice, especially commutative justice, involves a "balancing of interests." *Id.* at 76–77. Justice involves "a form of mutual understanding" between the parties according to which "what is yours is yours, and what is mine is mine." *Id.* at 77. In the case of love, by contrast, there is no such understanding. Rather, "What is mine is yours!" See *id.* Thus, unlike justice, love is not a matter of fairness, or balancing of interests, or reciprocity. Instead, love is founded on the logic of gift, not the logic of exchange.

122. JOSEF PIEPER, *FAITH, HOPE, LOVE* 164 (Richard Winston & Clara Winston trans., Ignatius Press 1997) (1986).

123. *Id.*

neither earn it nor promote it; it is always pure gift.”¹²⁴ Thus, says Pope Benedict, although justice is “intrinsic” to love, love also surpasses it:

*Charity goes beyond justice, because to love is to give, to offer what is “mine” to the other; but it never lacks justice, which prompts us to give the other what is “his”, what is due him by his reason of his being or his acting. I cannot “give” what is mine to the other, without first giving him what pertains to him in justice. If we love others with charity, then first of all we are just towards them.*¹²⁵

That is to say, one cannot act with love toward other people and treat them unjustly at the same time. Rather, “charity demands justice: recognition and respect for the legitimate rights of individuals and peoples.”¹²⁶ In this way, it “strives to build the *earthly city* according to law and justice.”¹²⁷

At the same time, justice alone is incapable of sustaining a truly good society. “That the just man give to another what is *not* due to him is particularly important since injustice is the prevailing condition in our world.”¹²⁸ Because “human need and want persist, even though no specific person fails to fulfill his obligation,” justice is not enough to sustain a peaceful and harmonious society.¹²⁹ It must also be animated by the virtue of love. Indeed, love “will always prove necessary, even in the most just society [because t]here is no ordering of the State so just that it can eliminate the need for a service of love.”¹³⁰ Put another way, the truly good society “is promoted not merely by relationships of rights and duties” but by love which “transcends justice and completes it in the logic of giving and forgiving.”¹³¹

124. *Id.* at 179.

125. *Caritas in Veritate*, *supra* note 4, ¶ 6.

126. *Id.*

127. *Id.*

128. PIEPER, *supra* note 119, at 112.

129. *Id.* For a more elaborate discussion of this point, see Mary Keys, *Why Justice Is Not Enough: Aquinas and Wilberforce on Mercy, Love, and the Common Good* (Nov. 13, 2009) (unpublished manuscript).

130. *Deus Caritas Est*, *supra* note 83, ¶ 28.

131. *Caritas in Veritate*, *supra* note 4, ¶ 6.

F. The Meaning of Authentic Development

From all of this it seems that a social order animated only by justice and not by love is incapable of achieving the “authentic development” that Pope Benedict seeks to promote.¹³² “Only in charity, illumined by the light of reason and faith, is it possible to pursue development goals that possess a more humane and humanising value.”¹³³ Indeed, standing alone, “[h]uman knowledge is insufficient and the conclusions of science cannot indicate by themselves the path towards integral human development.”¹³⁴ This remark of course raises the antecedent questions: What is the meaning of “integral human development”? What does it mean for development to be “authentic”?

As a preliminary matter, it is worth noting that to describe a specific kind of development as “authentic” suggests that there are other varieties of development that are inauthentic, counterfeit, or fraudulent. Likewise, to say that the desired goal is “integral” development is also to say that some development may be partial, incomplete, and in a certain sense defective.

For Pope Benedict and the Catholic social tradition as a whole dating as far back as Pope Paul VI, “development” is not integral if it is merely technical or utilitarian. Indeed, development, properly understood, is not limited to material existence. “True development does not consist primarily in ‘doing’”¹³⁵—that is, in mere physical accomplishment. Development is not just “a matter of financial engineering, the freeing up of markets, the removal of tariffs, investment in production, and institutional reforms—in other words, a purely technical matter.”¹³⁶ It is vital to work for the satisfaction of material needs, but “development” is not simply an activity that leads to the creation of jobs where unemployment is rampant, or providing food and shelter where these are in short supply. Indeed, “progress of a merely economic and technological kind is insufficient” to constitute true and integral development.¹³⁷ What is worse, to confine development in this manner is to fall prey to

132. The phrase “authentic development” appears in the opening sentence of the letter and numerous times throughout. See *Caritas in Veritate*, *supra* note 4, ¶ 1.

133. *Id.* ¶ 9 (emphasis omitted).

134. *Id.* ¶ 30.

135. *Id.* ¶ 70.

136. *Id.* ¶ 71.

137. *Id.* ¶ 23 (emphasis omitted).

“utopian and ideological visions that place [the] ethical and human dimensions [of politics] in jeopardy.”¹³⁸

The underpinnings of authentic development are “not guaranteed by merely technical progress and relationships of utility, but by the potential of love that overcomes evil with good.”¹³⁹ In the first instance, development is a kind of progress that “is first and foremost a vocation.”¹⁴⁰ Development, in other words, is “a call that requires a free and responsible answer.”¹⁴¹ Indeed, “[i]ntegral human development presupposes the responsible freedom of the individual and of peoples [such that] no structure can guarantee this development over and above human responsibility.”¹⁴² Rather, it is the presence of freedom—the truth that man possesses an interior life and not just an external appearance and physical condition—that makes development possible:

If man were merely the fruit of either chance or necessity, or if he had to lower his aspirations to the limited horizon of the world in which he lives, if all reality were merely history and culture, and man did not possess a nature destined to transcend itself in a supernatural life, then one could speak of growth, or evolution, but not development.¹⁴³

As Benedict declares in the opening sentence of the letter, charity in truth “is the principal driving force behind the authentic development of every person and of all humanity.”¹⁴⁴ It is only because man is a being who possesses an interior life—because the human person *is a person*—that she is capable of knowing the truth, working for justice, and expressing love. Authentic development is the mature exercise of each of these human capacities that supports both the common good and individual fulfillment.

138. *Id.* ¶ 14 (emphasis omitted).

139. *Id.* ¶ 9.

140. *Id.* ¶ 16.

141. *Id.* ¶ 17.

142. *Id.* (emphasis omitted).

143. *Id.* ¶ 29.

144. *Id.* ¶ 1.

II. THE CONCRETE IMPLICATIONS OF BENEDICT'S VISION

A. Finance, Profit, and the Goal of Business

Few would disagree with Pope Benedict's assessment of finance as having been "misuse[d]" in a way that has "wreaked . . . havoc on the real economy."¹⁴⁵ In the period leading up to the recent economic collapse, methods of finance involving both debt instruments and ownership interests in the form of securities buoyed by "scandalous speculation"¹⁴⁶ were used to "sustain unnatural and consumerist growth" that was eventually "exposed as a destructive sham."¹⁴⁷ Perhaps what is most tragic about this turn of events is that the parties who issued credit to those who were not creditworthy were not, from a purely economic perspective, behaving in an irrational manner, given the perverse incentives then in place. The ability to sell debt through securitization without regard to debtors' ability to pay was fostered by the single-minded pursuit of profit in the short term. In reflecting on these practices and their aftermath "with confidence rather than resignation," the Pope sees the crisis as providing "an opportunity for discernment, in which to shape a new vision for the future."¹⁴⁸

Pope Benedict insists that "[f]inanciers must rediscover the genuinely ethical foundation of their activity, so as not to abuse the sophisticated instruments which can serve to betray the interests of savers."¹⁴⁹ Moreover, the world of finance needs to be ethical "not merely by virtue of an external label"¹⁵⁰—as is perhaps the case with finance that is called "green"¹⁵¹ or "socially conscious"¹⁵²—"but by . . . respect for requirements intrinsic to its very nature."¹⁵³

145. *Id.* ¶ 65.

146. *Id.*

147. *Id.* ¶ 68.

148. *Id.* ¶ 21 (emphasis omitted).

149. *Id.* ¶ 65.

150. *Id.* ¶ 45.

151. See, e.g., Adam Rombel, *Growth Story: Despite the drumbeat of headlines about the troubled banking and finance industries, one area is coming up green*, GLOBAL FIN., Sept. 2008, at 24, 24.

152. See, e.g., Cynthia Harrington, *Socially Responsible Investing*, J. ACCT., Jan. 2003, at 52, 52.

153. *Caritas in Veritate*, supra note 4, ¶ 45.

The ethical foundation of finance is not located in a word but in a function. Finance serves the good of debtors, creditors, and society as a whole when it functions as “an instrument directed towards improved wealth creation and development.”¹⁵⁴ As it was widely practiced in the time leading up to the global economic meltdown, finance no longer served as an instrument of wealth creation. It instead became a sophisticated method for the redistribution of wealth already in existence, and in that way was something akin to gambling.¹⁵⁵ Wealth creation occurs when credit is extended at a reasonable rate of return, commensurate with the risk, on terms that enable the debtor to appreciate the obligations he or she has undertaken and to repay the debt while advancing the enterprise at hand. By contrast, when things are bought and sold with little regard for their actual value or the likelihood that the debtor will repay—even if the formal requirements of disclosure have been satisfied, even in the absence of fraud in the technical sense—such a state of affairs is indicative of a dysfunctional economy that has become wildly distorted and that has lost sight of its real purpose.

This is not to say that profit-seeking is evil or somehow not in keeping with an economic and social order oriented toward “authentic development.” Indeed, it is significant that, in keeping with the teaching of his predecessor Pope John Paul II,¹⁵⁶ Pope Benedict does not denigrate the important role that profit plays in a market economy. Still, for Pope Benedict as for Pope John Paul, the value of profit is instrumental. Profit is not an end in itself. It is only a regulative principle that helps ensure the efficient operation of a business. Thus, “[p]rofit is useful if it serves as a means towards an end that provides a sense both

154. *Id.* ¶ 65 (emphasis omitted).

155. Posting of Phil Izzo to Real Time Economics, <http://blogs.wsj.com/economics> (July 7, 2009, 15:58 EDT). Indeed, the credit default swaps that crippled AIG (to cite but one example) were analogous to a person deliberately purchasing something in a brown paper sack, not really knowing what was hidden inside, but knowing that it might be a bomb and gambling that it would not detonate during the short time she held it.

156. See *Centesimus Annus*, *supra* note 6, ¶ 35 (acknowledging “the legitimate role of profit as an indication that a business is functioning well” and describing profit as “a regulator of the life of a business, but . . . not the only one”). Paul VI did not conclude that profit was immoral in that “[a]ll growth is ambivalent.” *Populorum Progressio*, *supra* note 5, ¶ 19. He did, however, criticize the construction of a society “which considers profit as the key motive for economic progress.” *Id.* at ¶ 26.

of how to produce [that end,] and how to make good use of it.”¹⁵⁷ Profit becomes problematic, however, if it “becomes the exclusive goal, if it is produced by improper means and without the common good as its ultimate end.”¹⁵⁸

The belief at the heart of this assessment of profit—that it is not an end in itself, but rather that it merely serves as a means toward some other end—will undoubtedly strike many as not only odd, but plainly false. Indeed, Pope Benedict recognizes “that the sole criterion for action in business is thought to be the maximization of profit.”¹⁵⁹ Accordingly, if one were to ask the typical business manager to identify the purpose of his business enterprise, the manager would in all likelihood reply that his purpose is “to make money” or, more obliquely, “to increase shareholder value.” For Pope Benedict, however, this answer, although not completely false, is seriously flawed. Profit is not the ultimate goal of the entity. Rather, the goal is “to foresee both the needs of others and the combinations of productive factors most adapted to satisfying those needs.”¹⁶⁰ Profit is a measure of whether these needs exist and are being met in an efficient manner, thereby contributing to the common good. Thus, a declaration that “I am in business in order to make money” is an ultimately incorrect answer that manifests a deeply flawed perspective on the nature of business. Instead, the manager or entrepreneur should declare that he or she is in business to, for example, build homes, or transport materials for their construction, or finance their creation or purchase, or advertise their availability, or ensure their legal ownership. Not only is such a perspective different, it also requires the manufacturer, supplier, carrier, banker, advertiser, or lawyer to evaluate the content of what he or she provides and to determine whether it contributes to the common good. Suffice it to say that this judgment is not one that most economic actors are accustomed to making, but it is one that Pope Benedict hopes to encourage.¹⁶¹

157. *Caritas in Veritate*, *supra* note 4, ¶ 21.

158. *Id.*

159. *Id.* ¶ 71.

160. *Centesimus Annus*, *supra* note 6, ¶ 32.

161. Izzo, *supra* note 155.

B. *The Structure of the Modern Business Corporation*

A concern that the corporate form might somehow lead to distortions in the marketplace has been a theme in modern Catholic social teaching since Pope Pius XI. In *Quadragesimo Anno*, written in the shadow of the Great Depression, Pope Pius criticized the “abominable abuses” occasioned by the favorable treatment that corporations received in the form of “divided responsibility and limited liability.”¹⁶² Although many would view these characteristics as the genius of the corporate form—a form that has proven enormously successful as a vehicle for investment and wealth creation¹⁶³—Pope Pius saw, in the separation of ownership and control, and in the exemption from personal liability for both investors and managers, a “greatly weakened accountability” that led to “[t]he worst injustices and frauds.”¹⁶⁴

Although the most egregious kinds of fraud that led to the collapse of the stock market in 1929 were addressed in the securities laws and enforcement apparatus established by the United States and the other democratic capitalist nations of the West in the years that followed,¹⁶⁵ the systemic problem of the dissociation of ownership, control, and responsibility persists. The virtue of the corporate form remains its vice. Indeed, as Pope Benedict observes, the problem is even more acute in the current context that calls for “a profoundly new way of understanding business enterprise.”¹⁶⁶ For Benedict, “one of the greatest risks for businesses is that they are almost exclusively answerable to their investors.”¹⁶⁷ That is to say, there is a definite lack of accountability to others outside the corporate structure of ownership even though there may be many stakeholders in the business. These stakeholders, existing outside the corporation’s formal boundaries, include “the workers, the clients, the suppliers of various elements of production, [and] the community of reference.”¹⁶⁸ This lack of accountability has been augmented in recent years because of “the so-called out-

162. *Quadragesimo Anno*, *supra* note 10, ¶ 132.

163. See JOHN MICKLETHWAIT & ADRIAN WOOLDRIDGE, *THE COMPANY* (2003).

164. *Quadragesimo Anno*, *supra* note 10, ¶ 132.

165. See Robert A. Prentice, *The Inevitability of a Strong SEC*, 91 CORNELL L. REV. 775, 776 (2006).

166. *Caritas in Veritate*, *supra* note 4, ¶ 40 (emphasis omitted).

167. *Id.*

168. *Id.*

sourcing of production,” and the “extraordinary mobility” that businesses enjoy, and because it is now “increasingly rare for business enterprises to be in the hands of a stable director who feels responsible” for the long term life of the company.¹⁶⁹ Indeed, many firms are now run by “a new cosmopolitan class of managers . . . who are often answerable only to the shareholders generally consisting of anonymous funds which *de facto* determine their remuneration.”¹⁷⁰ With this even greater separation of corporate managers from social responsibility comes an even greater “temptation of seeking only short-term profit, without regard for the long-term sustainability of the enterprise, [and] its benefit to the real economy.”¹⁷¹

The challenge then is to devise new models of ownership that foster responsibility without discouraging the creativity and risk taking that are unavoidable aspects of running a business. Benedict contends that charity in truth “requires that shape and structure be given to those types of economic initiative which, without rejecting profit, aim at a higher goal than the mere logic of the exchange of equivalents, of profit as an end in itself.”¹⁷² Benedict does not specifically suggest how to adjust the corporate form to internalize values other than profit maximization. To do so would have been to venture beyond his field of competence. Instead, this task is for economists, policymakers, and lawyers to address while drawing upon their respective disciplines.¹⁷³

C. *Making Space for Gratuity: The Logic of Exchange and the Logic of Gift*

Perhaps the most radical aspect of Pope Benedict’s letter is his insistence that “economic, social, and political development, if it is to be authentically human, needs to make room for the principle of gratuitousness.”¹⁷⁴ What Pope Benedict calls

169. *Id.*

170. *Id.*

171. *Id.*

172. *Id.* ¶ 38.

173. For some initial reflections on this topic within legal scholarship, see Lyman Johnson, *Faith and Faithfulness in Corporate Theory*, 56 CATH. U. L. REV. 1 (2007); Susan J. Stabile, *A Catholic Vision of the Corporation*, 4 SEATTLE J. SOC. JUST. 181 (2005); Susan J. Stabile, *Using Religion to Promote Corporate Responsibility*, 39 WAKE FOREST L. REV. 839 (2004).

174. *Caritas in Veritate*, *supra* note 4, ¶ 34 (emphasis omitted).

“the logic of gift”¹⁷⁵ must be an operative force in the workings of the economy for the economy to function properly and fulfill its purpose. At the same time, Pope Benedict makes clear that gratuity cannot be compelled by the state. It must instead be fostered by the institutions of civil society in the wider culture.

The economy as a whole and each of its constituent elements—the business corporation, methods of finance, centers of production and channels of distribution—are based on the principle of remuneration or “the logic of exchange.”¹⁷⁶ According to this logic, “persons, inasmuch as they are economic subjects . . . make use of contracts to regulate their relations as they exchange goods and services of equivalent value between them, in order to satisfy their needs and desires.”¹⁷⁷ It is founded on “the principle of the equivalence”¹⁷⁸ in value of that which is exchanged. Under this logic each party must provide something to his or her counterpart, but this kind of giving is “giving in order to acquire.”¹⁷⁹ It is a matter of private obligation governed by “the principles of so-called commutative justice, which regulates the relations of giving and receiving between parties to a transaction.”¹⁸⁰

In addition to “the logic of exchange” is what Benedict calls “the logic of public obligation,”¹⁸¹ the coercive power of the state imposed by law. It involves a giving or rendering, not through love or by agreement, but “through duty.”¹⁸²

In contrast to both of these is “the logic of gift.”¹⁸³ It too is a kind of logic, a *logos*, a kind of rationality. Unlike exchange, however, which is based on desert, parity, and reciprocity, the nature of gift “goes beyond merit [in that] its rule is that of superabundance.”¹⁸⁴ Moreover, whereas every party to a contract expects to receive the performance for which he or she bargained, under the logic of gift, nothing is expected in return.

175. *Id.*

176. *Id.* ¶ 39.

177. *Id.* ¶ 35.

178. *Id.*

179. *Id.* ¶ 39 (emphasis omitted).

180. *Id.* ¶ 35.

181. *Id.* ¶ 39.

182. *Id.* (emphasis omitted).

183. *Id.* ¶ 34.

184. *Id.*

Furthermore, unlike the logic of public obligation which is imposed on a person from without, a gift is an outward expression of one's innermost freedom.

According to Pope Benedict, the logic of gift is in fact antecedent to the logic of exchange upon which the complex apparatus of the economy is largely based. Indeed, the latter presupposes and is dependent upon the former insofar as the idea of gift lies at the bedrock of human life and of all existence. Truth "is itself gift" because "[i]n every cognitive process, truth is not something that we produce, it is always . . . received."¹⁸⁵ The logic of gift is thus immanent in all knowledge as the universe reveals itself to the human mind. Nature itself is a gift that "expresses a design of love and truth."¹⁸⁶ "[T]he Creator . . . has given [nature] an inbuilt order," enabling human beings to understand it and prosper from it.¹⁸⁷

Most important, "the astonishing experience of gift"¹⁸⁸ is a constitutive part of the human person. The fact of our very existence is a kind of gift in that "the truth of ourselves, of our personal conscience, is first of all *given* to us."¹⁸⁹ Indeed, "we all know that we are a gift, not something self-generated."¹⁹⁰ Although the human person possesses the capacity for free thought and action, "[o]ur freedom is profoundly shaped by our being, and by its limits,"¹⁹¹—that is to say, by what is already given. In this respect, "[n]ot only are other persons outside our control, but each one of us is outside his or her own control."¹⁹²

The logic of gift is not only present in the origin of humanity and of every human person, it is also present as each person's final end. "The human being is made for gift, which expresses

185. *Id.*

186. *Id.* ¶ 48 (emphasis omitted).

187. *Id.* ¶ 48. Pope Benedict goes on to say that seeing nature as "God's gift to everyone" saves us from "either considering nature an untouchable taboo or, on the contrary, abusing it." *Id.* That is, viewing nature as a gift helps us both to avoid "attitudes of neo-paganism or a new pantheism" and to see nature as "more than raw material to be manipulated at our pleasure." *Id.* For a more thorough examination of the topic, see Lucia A. Silecchia, *Discerning the Environmental Perspective of Pope Benedict XVI*, 4 J. CATH. SOC. THOUGHT 227 (2007).

188. *Caritas in Veritate*, *supra* note 4, ¶ 34.

189. *Id.*

190. *Id.* ¶ 68.

191. *Id.*

192. *Id.*

and makes present his transcendent dimension.”¹⁹³ This dimension is manifest in man’s encounter with truth “and the love which it reveals [and that] cannot be produced: they can only be received as a gift”—a gift from God, “who is himself Truth and Love.”¹⁹⁴ The logic of gift reveals not only our origin but our final end insofar as “[t]hat which is prior to us and constitutes us—subsistent Love and Truth—shows us what goodness is, and in what our true happiness consists.”¹⁹⁵

These philosophical claims¹⁹⁶ have profound implications for social life. The economy—that complex system of production, manufacture, and distribution carried out through methods of exchange and remuneration, and made secure by the rule of law—presupposes gift at the primordial level of being. Indeed, Pope Benedict insists that, without some recognition of the priority of gift, “without gratuitousness, there can be no justice in the first place.”¹⁹⁷ That is, justice requires reception of a truth that is given—the truth of the human person.¹⁹⁸ To be under the obligations that justice imposes, one must accept the personhood of another not as something of one’s own making but *as a given*. Justice requires the recognition of others as persons “whom God chose to endow with an immortal soul and whom he has always loved.”¹⁹⁹ Indeed, it is “[o]nly through an en-

193. *Id.* ¶ 34.

194. *Id.* ¶ 52.

195. *Id.*

196. These claims are properly *philosophical* and not *theological* insofar as they do not necessarily rely upon Christian revelation for support. By contrast, in other portions of the letter, Benedict does explicitly make claims about the human person and human relationships “in the light of the revealed mystery of the Trinity.” *Caritas in Veritate*, *supra* note 4, ¶ 54 (emphasis omitted).

197. *Id.* ¶ 38.

198. As Josef Pieper explains:

Man . . . is a *person*—a spiritual being, a whole unto himself, a being that exists for itself and of itself, that wills its own proper perfection. Therefore, and for *that very reason*, something *is* due to man in the fullest sense, *for that reason* he does inalienably have a *suum*, a “right” which he can plead against everyone else, a right which imposes upon every one of his partners the obligation at least not to violate it.

PIEPER, *supra* note 119, at 50.

199. *Caritas in Veritate*, *supra* note 4, ¶ 29; *see also* PIEPER, *supra* note 119, at 51 (“Man has inalienable rights because he is created a person by the act of God, that is, an act beyond all human discussion.”).

counter with God [that we are] able to see in the other something more than just another creature."²⁰⁰

Moreover, the logic of exchange is not sufficient to sustain the market. Indeed, the market must rely on something outside its field of competence to function. That is to say, "if the market is governed solely by the principle of the equivalence in value of exchanged goods, it cannot produce the social cohesion that it requires in order to function well."²⁰¹ The market is in fact dependent upon something foreign to the logic of exchange that cannot be compelled by the state. Gratuitousness "fosters and disseminates solidarity and responsibility for justice and the common good among the different economic players."²⁰² "Solidarity is first and foremost a sense of responsibility on the part of everyone with regard to everyone."²⁰³ "Without internal forms of solidarity and mutual trust, the market cannot completely fulfil its proper economic function."²⁰⁴ The market can function only because of what the logic of gift makes possible.

Notwithstanding the importance of gratuitousness, and the solidarity that it fosters, law and the market are impotent in the face of this vital need. As Pope Benedict notes, "[t]he market of gratuitousness does not exist, and attitudes of gratuitousness cannot be established by law."²⁰⁵ Solidarity is not something that is exchanged, nor can it be compelled. At the same time, "both the market and politics need individuals who are open to reciprocal gift."²⁰⁶ Beyond "the traditional principles of social ethics like transparency, honesty and responsibility," commercial relationships need to make room for "the principle of gratuitousness and the logic of gift as an expression of fraternity."²⁰⁷ Indeed, "[d]evelopment is impossible without upright men and women, without financiers and politicians whose

200. *Caritas in Veritate*, *supra* note 4, ¶ 11.

201. *Id.* ¶ 35.

202. *Id.* ¶ 38.

203. *Id.*; see also *Sollicitudo Rei Socialis*, *supra* note 24, ¶ 38 (explaining that solidarity is not "a feeling of vague compassion or shallow distress at the misfortunes" of others, but is instead "a firm and persevering determination to commit oneself to the common good" and a "readiness . . . to 'lose oneself' for the sake of the other instead of exploiting him" (emphasis omitted)).

204. *Caritas in Veritate*, *supra* note 4, ¶ 35 (emphasis omitted).

205. *Id.* ¶ 39.

206. *Id.*

207. *Id.* ¶ 36 (emphasis omitted).

consciences are finely attuned to the requirements of the common good.”²⁰⁸

This would thus seem to be an insoluble problem resulting from the need for men and women in the marketplace who understand the principle of gratuity and live it in their lives, the fact that the logic of gift is beyond the competence of the market, and the inability of law to impose gratuity through the coercive power of the state. The situation is insoluble, however, only if our field of vision is restricted to “[t]he exclusively binary model of market-plus-State,” a model that Pope Benedict says “is corrosive of society.”²⁰⁹ The solution to the problem lies in “the priority of culture over politics and economics as the engine of historical change.”²¹⁰

Culture is the sphere of social life in which human beings, as individuals and in groups, contemplate the world around them, make the crucial decision as to what is truly worth valuing in life, and give expression to that decision in various concrete practices, attitudes, and institutions.²¹¹ Indeed, “[d]ifferent cultures are basically different ways of facing the question of the meaning of personal existence.”²¹² Culture gives rise to both the economy itself and to the law that oversees it. Both law and economics are “cultural artifacts” that emerge from a complex amalgam of values in dynamic relation to one another within and across social groups. Even though the principle of gratuitousness cannot be established by law, it can be nurtured by culture through the organs of civil society.

The Pope notes that “economic forms based on solidarity . . . find their natural home in civil society,” and that, if not restricted to that realm, these forms can help to “build up society” as a whole.²¹³ Civil society—that diverse array of social organizations, fraternal groups, businesses, schools, places of worship, and other intermediate institutions that stand be-

208. *Id.* ¶ 71 (emphasis omitted).

209. *Id.* ¶ 39.

210. George Weigel, *John Paul II and the Priority of Culture*, FIRST THINGS, Feb. 1998, at 19, 19.

211. I have addressed this topic in some detail in two prior articles. See John M. Breen, *John Paul II, The Structures of Sin and the Limits of Law*, 52 ST. LOUIS U. L.J. 317, 338–48 (2008); John M. Breen, *Modesty and Moralism: Justice, Prudence, and Abortion—A Reply to Skeel & Stuntz*, 31 HARV. J.L. & PUB. POL’Y 219, 261–63 (2008).

212. *Centesimus Annus*, *supra* note 6, ¶ 24.

213. *Caritas in Veritate*, *supra* note 4, ¶ 39.

tween individuals and the state—must nurture market actors who not only understand the nature of gift and appreciate its place in the social order, but who are also imbued with a spirit of gratuity. It is in this vast and decentralized forum, which is distinct from the market and not contingent on the state, that “a great deal of educational and cultural work is urgently needed.”²¹⁴ Indeed, the active presence of men and women who understand the centrality of gift is necessary for the future success of the market economy.

D. A Robust Skepticism Concerning the Efficacy of Structures

Joseph Ratzinger has long expressed a healthy skepticism of the capacity of juridical structures and institutions to bring about substantial change in social life. This skepticism appears in Pope Benedict’s first two encyclicals, *Deus Caritas Est* and *Spe Salvi*, and in some of his earlier writings. It also features prominently in *Caritas in Veritate*. Indeed, throughout the text of the letter Benedict insists that “[d]evelopment will never be fully guaranteed through automatic or impersonal forces, whether they derive from the market or from international politics.”²¹⁵ Time and again he assures the reader that “no structure can guarantee [integral human] development over and above human responsibility.”²¹⁶

The reason that popular confidence in structures is misplaced has to do with the mistaken anthropology that lies behind it. In an essay written over twenty years before his election as pope, Ratzinger explained that the confidence some wish to place in structures and institutions in the reform of social life is based on the myth that “[i]n a liberated society, the good no longer depends on the ethical striving of the people responsible for this society; rather, it is simply and irrevocably provided by the structures.”²¹⁷ This view in fact entails a “renunciation of morality” and a “renunciation of responsibility and freedom” according to which the freedom and justice of a given society are qualities that “must be produced, so to speak, by its structures; indeed, morality is shifted away from man to

214. *Centesimus Annus*, *supra* note 6, ¶ 36.

215. *Caritas in Veritate*, *supra* note 4, ¶ 71.

216. *Id.* ¶ 17.

217. RATZINGER, CHURCH, ECUMENISM, AND POLITICS, *supra* note 97, at 196.

the structures” such that “[w]e have to design and construct them the way one builds appliances.”²¹⁸

At its root “the claim that just social structures [are sufficient to] make works of charity superfluous masks a materialist conception of man: the mistaken notion that man can live ‘by bread alone.’”²¹⁹ They presume that the situation can be corrected, that man can be “redeemed simply from outside”²²⁰ because, as an ultimate matter, a human being is only an external surface that does not enjoy an interior life. According to this view, the human person is only a particle that collides with other particles, “a lost atom in a random universe.”²²¹

In reality, however, man is “a subjective being capable of acting in a planned and rational way, capable of deciding about himself and with a tendency to self-realization.”²²² That is, the human person possesses an interior life. As such, every human being is not simply something that can be acted upon, but someone who acts—someone who pursues and shares the truth in love, *veritas in caritate*, and who loves according to the truth, *caritas in veritate*. The tendency to place “too much confidence” in institutions “as if they were able to deliver the desired objective automatically”²²³ is based on a denial of this reality. Structures and institutions will never be enough to bring about substantial change in social life “because integral human development is primarily a vocation, and therefore it involves a free assumption of responsibility in solidarity on the part of everyone.”²²⁴

The truth of the human person makes itself known even in the face of its denial. Thus, even if the state were empowered to provide for the material needs of people through the mechanisms of government, it would still be “incapable of guaranteeing the very thing which the suffering person—every person—

218. *Id.*

219. *Deus Caritas Est*, *supra* note 83, ¶ 28 (quoting *Matthew* 4:4).

220. Benedict XVI, Encyclical Letter, *Spe Salvi* ¶ 25 (Nov. 30, 2007) [hereinafter *Spe Salvi*], available at http://www.vatican.va/holy_father/benedict_xvi/encyclicals/index_en.htm.

221. *Caritas in Veritate*, *supra* note 4, ¶ 29.

222. *Laborem Exercens*, *supra* note 13, ¶ 6.

223. *Caritas in Veritate*, *supra* note 4, ¶ 11.

224. *Id.*

needs: namely, loving personal concern.”²²⁵ An anthropology that is not cognizant of love as an essential aspect of the person—the reality of man’s interior life—or which dismisses love as mere sentiment, best explained as the product of chemical reactions in the human brain, is an anthropology that will always come to grief.²²⁶ What is worse, if put into practice in a programmatic fashion, it will be a source of suffering and misery—a fact that history, including recent history, has demonstrated.²²⁷

What does this framework mean in terms of the recent economic crisis and the world’s response? It does not mean that the pursuit of new and better structures for the regulation of economic life should be abandoned and forsaken. “Such structures are not only important, but necessary”²²⁸ because they prevent the collapse of social and economic life into anarchy and ensure the enjoyment of a basic, just order. But even if we construct an institutional solution to the current economic crisis, something more will be necessary. Even if we find an effective method to reform, curtail, or eliminate the sale of homes to individuals who are poor credit risks, the securitization of the mortgages representing those purchases, and the sales of those securities to investors unable to determine with reasonable certainty the risks involved, the real problem will not be solved because it goes far deeper.

The problem that lies at the foundation of the recent financial collapse is a moral problem. It is the problem of humanity’s fallibility, and not simply in the sense of being prone to errors in judgment. The problem is also humanity’s fallibility in the

225. *Deus Caritas Est*, *supra* note 83, ¶ 28.

226. See Breen, *supra* note 58, at 558–66.

227. See *Caritas in Veritate*, *supra* note 4, ¶ 11 (“In the course of history, it was often maintained that the creation of institutions was sufficient to guarantee the fulfillment of humanity’s right to development. Unfortunately, too much confidence was placed in those institutions, as if they were able to deliver the desired objective automatically.”). Benedict’s predecessor, Pope John Paul II, likewise argued that “the fundamental error of socialism is anthropological in nature” in that it “views human and social reality in a mechanistic way.” *Centesimus Annus*, *supra* note 6, ¶ 13. This error was not, however, confined to socialism. John Paul also stressed that the liberal consumerist democracies of the West sought “to defeat Marxism on the level of pure materialism” but that in “den[ying] an autonomous existence and value to morality, law, culture and religion, it agrees with Marxism, in the sense that it totally reduces man to the sphere of economics and the satisfaction of material needs.” *Id.* ¶ 19.

228. *Spe Salvi*, *supra* note 220, ¶ 24.

sense of “man’s basic and tragic tendency to close in on himself, thinking himself to be self-sufficient.”²²⁹ Man succumbs to the error of self-sufficiency when he believes that all evil can be eliminated by his actions alone, when he “confus[es] happiness and salvation with immanent forms of material prosperity.”²³⁰ The problem is man’s “tragic tendency” to want to do the wrong thing while pursuing only immediate material success not integral human development. It is a problem that we can solve only by continuous moral renovation on the part of every person and society as a whole. And even then, we cannot solve it definitively and permanently because of “the perpetual endangerment of human affairs” posed by human imperfection and human freedom.²³¹ No institution or structure—whether legal, cultural, economic, or otherwise—will ever be able to guarantee justice because the dynamism and contingency of human freedom defy the mechanical certainty of planned structures. Instead, “every generation has the task of engaging anew in the arduous search for the right way to order human affairs; this task is never simply completed.”²³²

As Pope Benedict says, “the decisive issue is the overall moral tenor of society.”²³³ Accordingly, authentic human development “is impossible without upright men and women . . . whose consciences are finely attuned to the requirements of the common good.”²³⁴ Thus, the reform of the economic system requires not merely a reform of institutions, new mechanisms, and improved systems of regulation and enforcement. The reform of the domestic and world economy requires something more. It requires virtue. It requires a reform of man.

Because virtue is not something that can be coerced, the problem is not readily amenable to a legal solution. Indeed, law stands before the problem in tedious embarrassment. But the world is not without hope. Although virtue is not something

229. *Caritas in Veritate*, *supra* note 4, ¶ 53. As Benedict notes, the Church has traditionally referred to humanity’s wounded nature and the pernicious effects to which it gives rise as “original sin.” See *id.* ¶ 34; see also *Centesimus Annus*, *supra* note 6, ¶ 25; *Original Sin*, XI THE CATHOLIC ENCYCLOPEDIA 312–15 (Charles G. Herbermann et al. eds., Encyclopedia Press 1913) (1911).

230. *Caritas in Veritate*, *supra* note 4, ¶ 34.

231. RATZINGER, CHURCH, ECUMENISM, AND POLITICS, *supra* note 97, at 197.

232. *Spe Salvi*, *supra* note 220, ¶ 25.

233. *Caritas in Veritate*, *supra* note 4, ¶ 51 (emphasis omitted).

234. *Id.* ¶ 71 (emphasis omitted).

that can be brought about in a mechanical way through the introduction of one or another structure, it is something that can be brought about in an organic fashion. It is something that can be cultivated and nurtured through culture.

E. *A Responsible Global Authority: Regulation of the Economy and World Government*

One particular structure receives special attention in Pope Benedict's encyclical. The Holy See has long been a proponent of the United Nations, at least with respect to its peace-keeping efforts, humanitarian relief programs, and initiatives to encourage cultural exchange.²³⁵ This support for world authority comes naturally enough from the Catholic Church, which was born and came to maturity within the territory and historical epoch of the Roman Empire, a political entity that understood itself as a kind of world authority.²³⁶ In *Caritas in Veritate*, Benedict XVI follows a long line of popes who have presented cogent arguments recognizing the need for an international authority—a line that in modern times begins with Pope Benedict XV, who strongly encouraged nation-states to join the League of Nations following the Great War.²³⁷ Nevertheless, within this historical context, and the current context of globalization that has often proceeded at an alarming rate, some commentators

235. See, e.g., *Centesimus Annus*, *supra* note 6, ¶ 21; *Pacem in Terris*, *supra* note 70, ¶¶ 142–145. Regrettably, in recent years, the U.N. has become an active proponent of contraception, abortion, and same-sex marriage as human rights that should be recognized in international law. See JACQUELINE E. DARROCH, SUSHEELA SINGH, & JENNIFER NADEAU, GUTTMACHER INST., *CONTRACEPTION: AN INVESTMENT IN LIVES, HEALTH AND DEVELOPMENT* (2008); REPUBLICAN STUDY COMM., UNITED NATIONS POPULATION FUND (UNFPA) (2003); Neil MacFarquhar, *In a First, Gay Rights are Pressed At the U.N.*, N.Y. TIMES, Dec. 19, 2008, at A22.

236. See FRANCIS CARDINAL GEORGE, O.M.I., *THE DIFFERENCE GOD MAKES: A CATHOLIC VISION OF FAITH, COMMUNION, AND CULTURE* 7–8 (2009); see also CHRISTOPHER DAWSON, *THE MAKING OF EUROPE* 29–36 (2d ed. 1954).

237. See Pope Benedict XV, Encyclical Letter, *Pacem, Dei Munus Pulcherrimum* ¶ 17 (May 23, 1920), available at http://www.vatican.va/holy_father/benedict_xv/encyclicals/documents/hf_ben-xv_enc_23051920_pacem-dei-munus-pulcherrimum_en.html (arguing that “all States, putting aside mutual suspicion, should unite in one league”). See generally JOSEPH BERNHART, *THE VATICAN AS A WORLD POWER* (George N. Shuster trans., 1939); HYGINUS EUGENE CARDINALE, *THE HOLY SEE AND THE INTERNATIONAL ORDER* (1976); J. DEREK HOLMES, *THE PAPACY IN THE MODERN WORLD 1914–1978*, at 14 (1981).

have incorrectly read certain passages in *Caritas in Veritate* as setting forth a renewed papal call for world government.²³⁸

In the letter, Pope Benedict plainly acknowledges that “[i]n an increasingly globalised society, the common good and the effort to obtain it cannot fail to assume the dimensions of the whole human family, that is to say, the community of peoples and nations.”²³⁹ The process of globalization has “ma[de] us neighbours but does not make us brothers.”²⁴⁰ Thus, the inhabitants of the world are now strangers who live in close proximity to one another, but not persons committed to one another and recognizing that they share a common fate. Moreover, the new context of transnational economic integration has challenged the sovereignty of states by exposing their inability to address the problems of the day.²⁴¹ The recent course of globalization frustrates the cause of true development, which “depends, above all, on a recognition that the human race is a single family working together in true communion, not simply a group of subjects who happen to live side by side.”²⁴² Thus, Pope Benedict acknowledges that “there is a strongly felt need, even in the midst of a global recession, for a reform of the United Nations Organisation, and likewise of economic institutions and international finance, so that the concept of the family of nations can acquire real teeth.”²⁴³ In doing so he may appear to be repeating the call of his predecessors for a “true world political authority.”²⁴⁴

238. DOUGLAS A. SYLVA, CATHOLIC FAMILY & HUMAN RIGHTS INST., IS POPE BENEDICT IN FAVOR OF WORLD GOVERNMENT? 2 (2009); Douglas Farrow, *Charity & Unity*, FIRST THINGS, Oct. 2009, at 37, 37.

239. *Caritas in Veritate*, *supra* note 4, ¶ 7.

240. *Id.* ¶ 19.

241. *Id.* ¶ 24.

242. *Id.* ¶ 53 (emphasis omitted).

243. *Id.* ¶ 67 (emphasis omitted). At least one commentator has criticized the rendering of the phrase “real teeth” since the French translation speaks only of *une realite concrete*. See Farrow, *supra* note 238, at 37.

244. *Caritas in Veritate*, *supra* note 4, ¶ 67. The full passage is as follows:

To manage the global economy; to revive economies hit by the crisis; to avoid any deterioration of the present crisis and the greater imbalances that would result; to bring about integral and timely disarmament, food security and peace; to guarantee the protection of the environment and to regulate migration: for all this, there is urgent need of a true world political authority

Id.

However, Pope Benedict immediately qualifies this seeming endorsement, noting that:

Such an authority would need to be regulated by law, to observe consistently the principles of subsidiarity and solidarity, to seek to establish the common good, and to make a commitment to securing authentic integral human development inspired by the values of charity in truth.²⁴⁵

Elsewhere in the letter, Pope Benedict makes clear that by “law” he is referring to the “universal moral law [that] provides a sound basis for all cultural, religious and political dialogue, and [that] ensures that the multi-faceted pluralism of cultural diversity does not detach itself from the common quest for truth, goodness and God.”²⁴⁶ Indeed, adherence to the natural law is “the precondition for all constructive social cooperation.”²⁴⁷ Likewise, the Pope cautions that, “[i]n order not to produce a dangerous universal power of a tyrannical nature, the governance of globalisation must be marked by subsidiarity, articulated into several layers and involving different levels that can work together.”²⁴⁸

Subsidiarity is of course the principle of social organization that regards “it [as] an injustice and at the same time a grave evil and a disturbance of right order to transfer to the larger and higher collectivity functions which can be performed and provided for by lesser and subordinate bodies.”²⁴⁹ Pope Bene-

245. *Id.* Benedict’s predecessor, Pope John Paul II, also addressed the U.N. General Assembly twice. Although John Paul praised the institution on both occasions, his remarks also included significant criticisms. See Pope John Paul II, Address to the Fiftieth General Assembly of the United Nations Organization (Oct. 5, 1995), available at http://www.vatican.va/holy_father/john_paul_ii/speeches/1995/october/documents/hf_jp-ii_spe_05101995_address-to-uno_en.html; Pope John Paul II, Address to the Thirty-Fourth General Assembly of the United Nations (Oct. 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. The current Pope’s address to the U.N. was likewise supportive but subtle in its criticism. See Pope Benedict XVI, Address to the Members of the General Assembly of the United Nations Organization (Apr. 18, 2008), available at http://www.vatican.va/holy_father/benedict_xvi/speeches/2008/april/documents/hf_ben-xvi_spe_20080418_un-visit_en.html. The Holy See’s support for the United Nations goes back to the founding of the organization. See HOLMES, *supra* note 237, at 181–82.

246. *Caritas in Veritate*, *supra* note 4, ¶ 59.

247. *Id.*

248. *Id.* ¶ 57 (emphasis omitted).

249. *Quadragesimo Anno*, *supra* note 10, ¶ 79.

dict insists that subsidiarity “fosters freedom and participation through assumption of responsibility” and in this way “is the most effective antidote against any form of all-encompassing welfare state.”²⁵⁰ Given the United Nations’ recent practice of ignoring the principle of subsidiarity and contradicting the demands of the natural law,²⁵¹ the encyclical can hardly be construed as a clarion call for the United Nations as it currently operates in the world. Indeed, as one commentator has observed,²⁵² Benedict’s remark that “[t]he integral development of peoples and international cooperation [marked by subsidiarity] . . . require the construction of a social order that *at last* conforms to the moral order”²⁵³ clearly implies that the United Nations has failed to carry out its mission in compliance with these values.

Thus, although Pope Benedict supports the idea of an effective world authority, it is not the vision of such authority now regnant in the minds of many Western elites. This difference does not mean that we should abandon the United Nations as a once laudable idea now hopelessly gone awry. What *Caritas in Veritate* proposes instead, at least by implication, is the painstaking task of helping the U.N. to realize its potential for assisting nations in true human development.

CONCLUSION

Throughout much of history the ship has been a recurring symbol for commerce, and by extension the economy as a whole. From the days of the ancient Phoenicians who brought the wealth of North Africa and the Levant to Italy and Greece, to the English merchants who carried the riches of the Orient

250. *Caritas in Veritate*, *supra* note 4, ¶ 57.

251. The most infamous example of this trend is the United Nation’s efforts to establish abortion as an international right. See AUSTIN RUSE, CATHOLIC FAMILY & HUMAN RIGHTS INST., DANGEROUS MISCHIEF AT THE UNITED NATIONS: ABORTION AS THE LAW OF THE WORLD (2003) (describing the attempt to establish a right to abortion in “customary international law through the repetitious use of undefined or ill-defined terms” such as “family planning,” “reproductive rights,” “reproductive services,” and “reproductive health” in U.N. sponsored conventions); Christina Zampas & Jaime M. Gher, *Abortion as a Human Right—International and Regional Standards*, 8 HUM. RTS. L. REV. 249 (2008) (summarizing developments in U.N., European, Inter-American, and African human rights systems with respect to abortion).

252. See SYLVA, *supra* note 238, at 3.

253. *Caritas in Veritate*, *supra* note 4, ¶ 67 (emphasis added).

and the West Indies to Britain and Continental Europe, to the fleets of massive container ships that sail today from China, Japan, and Korea to all the corners of the globe, the ship has been a means that has enabled diverse peoples, who live great distances apart, to share in one another's wealth through mutually agreed exchange. In so doing, ships of commerce have not only served as vessels for the transportation of cargo, they have also served as means for the sharing of cultural, religious, and political ideas among people. In this way, the ship has, in different historical eras and in different ways, helped to bring about a kind of communion among the nations of the earth.

Long before it was a symbol for commerce, however, the ship was a symbol for civilization itself.²⁵⁴ Indeed, before any ship can properly serve as an instrument of commerce, it must first function as a society of persons. Although it is true that order on a ship can be maintained solely on the basis of the logic of exchange, vessels that operate on this basis are often tested and overcome by the tempests that life brings. To survive these storms and truly flourish, a ship must be more than a collection of individuals. It must be a true community whose members are bound together in solidarity and share a common fate. It must be a society that operates not only according to the logic of exchange and the order of justice, but a community sustained by the principle of gratuity, the logic of gift, a community where the truth is valued and love—literally, “fellowship”—is no less important than the integrity of the hull.

Pope Benedict XVI stands in the shoes of a fisherman and guides the “barque of Peter”²⁵⁵ today. As humanity's gaze turns from the economic storms of the recent past towards the future and a new horizon, the men and women of the world would all do well to consider *Caritas in Veritate* in setting a new course.

254. See, e.g., PLATO, *THE REPUBLIC*, 488a–489a.

255. This traditional expression invokes the image of the ship, an ancient symbol for the Church. See *THE CATHOLIC ENCYCLOPEDIA DICTIONARY* 749–50 (1941); JOHN A. HARDON, *MODERN CATHOLIC DICTIONARY* 503 (1980).