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**JOHN PAUL II ON THE RELATIONSHIP
BETWEEN CIVIL LAW AND THE MORAL LAW:
UNDERSTANDING *EVANGELIUM VITAE* IN LIGHT OF
THE PRINCIPLE OF SUBSIDIARITY AND THE
MORAL GRAMMAR OF JOHN PAUL II**

GREGORY R. BEABOUT* AND MARY CATHERINE HODES**

To what extent should civil law reflect the moral law? What is the appropriate role of religion in a democracy with regard to influencing civil law? In particular, to what extent should Roman Catholic leaders, especially the Pope and the bishops, seek to influence public policy?

These questions have recently gained peculiar prominence in the political discourse of the United States and in other parts of the world. In the United States, the proliferation of reproductive and therapeutic technologies that manipulate embryonic life has exacerbated the perpetual tension between religious believers and non-believers on life issues. The political and cultural influence wielded by that segment of believers known as “the religious right” has grown increasingly controversial in proportion to its rising strength and publicity. At the same time, Roman Catholic bishops have spoken out about how Catholic teaching might influence the voting of Catholic politicians and the faithful.

International events have also raised debate about the relationship between civil law and moral law. The world continually witnesses tragedies attributable at least in part to the virulent incompatibility between Islamic religious extremism and democratic governance. Is democratic government fundamentally incompatible with Islamic Sharia law?

Historically, American democracy has accepted, and even protected, religious belief and practice. However, the recent debate over religion in public life is characterized by unprecedented polarization and particularly by vilification of those who

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view religion as politically relevant.¹ Critics have lined up to brand representatives of politically active religious movements as “anti-democratic theocrats.”² By seeking to impose their religious beliefs on all Americans, these critics charge, those whose political activity is informed by religious belief threaten the very foundations of our democracy.

Proponents of a role for religion in democracy, on the other hand, charge that secularism is the real threat to democracy because it denies government’s essential orientation toward the common good and the protection of fundamental human rights.³ Without some commitment to uphold moral principles, democracy cannot preserve even such basic tenets as equality before the law, and there is nothing keeping the democratic system from becoming an instrument serving the pure self-interest of the majority. Thus, democracy without a moral (and perhaps religious) commitment to the dignity of the human person will inevitably degrade into a form of tyranny.⁴

One characteristic of this debate is that the battle lines do not simply pit professed religious believers against avowed non-believers. In fact, some of the deepest trenches have appeared within faith traditions. The most prominent recent example of this is the debate among Roman Catholics in the United States when several bishops in 2004 issued statements expressing an obligation for Catholic politicians to exercise their political power in a manner compatible with Catholic teaching on abor-

1. See, e.g., Peter Steinfels, *Beliefs: Religion, Politics, and the Good—or Harm—That May Result from the 2004 Campaign*, N.Y. TIMES, Oct. 23, 2004, at A15 noting a “hardening of lines between believers and nonbelievers,” and that “[f]aith-based’ has become shorthand for all the charges of ideological stubbornness, national self-righteousness and blindness to evidence that the Iraq war has inevitably pushed to the center of the presidential contest”); Maureen Dowd, *Vote and Be Damned*, N.Y. TIMES, Oct. 17, 2004, § 4, at 11 (“America is awash in selective piety, situational moralists and cherry-picking absolutists.”).

2. See, e.g., KEVIN PHILLIPS, *AMERICAN THEOCRACY* (2006) (arguing that radical religion is one of several significant threats to the United States); see also Ross Douthat, *Theocracy, Theocracy, Theocracy!*, 165 FIRST THINGS 23–30 (2006) (reviewing four recent books that warn of imminent theocracy as a result of the influence of conservative religious movements); see also Frank Rich, *The Passion of the Embryos*, N.Y. TIMES, July 23, 2006, § 4, at 12 (characterizing Ralph Reed’s involvement in “religious-right” politics in the 1990s as “theocratic politics”).

3. See, e.g., Robert P. George, *The Tyrant State*, 67 FIRST THINGS 39 (1996) (“Belief that laws and the regimes that make and enforce them must be evaluated by reference to universal standards of justice is shared by people of different faiths and of no particular faith. It is the premise of any serious conception of human rights.”).

4. See, e.g., RICHARD J. NEUHAUS, *THE NAKED PUBLIC SQUARE: RELIGION AND DEMOCRACY IN AMERICA* (1984).

tion and other life issues.⁵ Even the leadership of the Catholic Church in the United States could not agree on the appropriateness of these statements and their articulation of a necessary relationship between Catholics' civic responsibilities and the moral law.⁶ Not surprisingly, the reaction to these statements was conflicted in the United States, especially among Catholic clergy, scholars, and the faithful. For some, the Roman Catholic bishops' statements on voting may seem like alarming evidence that the Roman Catholic Church aims to bring about a Catholic theocracy by imposing its religious beliefs on the American populace.

The bishops' insistence on resistance to laws supporting abortion can be traced to Pope John Paul II's 1995 encyclical *Evangelium Vitae*, or "The Gospel of Life."⁷ In that encyclical, John Paul II refers to the "doctrine on the necessary *conformity of civil law with the moral law*"⁸ that might itself be cited as evidence of the Roman Catholic Church's anti-democratic impulses. Among the implications of that doctrine are that any law purporting to allow abortion or euthanasia is illegitimate and demands civil disobedience⁹ and that no democracy could legitimately enshrine the choice to terminate a pregnancy or the life

5. See, e.g., David D. Kirkpatrick & Laurie Goodstein, *Group of Bishops Using Influence to Oppose Kerry*, N.Y. TIMES, Oct. 12, 2004, at A1 (characterizing bishops' statements on "Catholic priorities" in voting as "converging" with efforts by the Bush campaign to attract conservative Catholic voters and also noting a "counterattack" from "liberal Catholics" against the bishops' statements); Steinfels, *supra* note 1 (noting polls measuring the Catholic vote in the wake of the bishops' statements and the "moral pondering" of Catholic voters over a number of issues).

6. See Interim Report by U.S. Conference of Catholic Bishops' Task Force on Catholic Bishops and Catholic Politicians, Interim Reflections of the Task Force on Catholic Bishops and Catholic Politicians (June 15, 2004), in 34 ORIGINS 100, 106 (2004) (observing that "[t]here are also clear differences among the bishops over sanctions for politicians—their appropriateness, wisdom, etc. Among those who expressed a view, the majority were negative on refusing communion by a margin of roughly 3–1."); see also Statement of U.S. Conference of Catholic Bishops, Catholics in Political Life (June 18, 2004), in 34 ORIGINS 97, 99 (2004) (noting that "[b]ishops can legitimately make different judgments on the most prudent course of pastoral action" with respect to "whether the denial of holy communion to some Catholics in political life is necessary because of their public support for abortion on demand"); John Rather, *Bishop Won't Deny Rites to Politicians*, N.Y. TIMES, July 11, 2004, at L12 (noting different approaches taken by American bishops with regard to offering Communion to pro-choice politicians).

7. POPE JOHN PAUL II, *EVANGELIUM VITAE: ON THE VALUE AND INVIOABILITY OF HUMAN LIFE* (1995) [hereinafter *EVANGELIUM VITAE*].

8. *Id.* at para. 72 (emphasis added).

9. See *id.* at para. 73.

of a disabled or elderly person as a “right,”¹⁰ as the Supreme Court of the United States did in 1973.

Not surprisingly, given the active debate over these issues in the United States, John Paul II’s statement in *Evangelium Vitae* on the “doctrine on the necessary conformity of civil law with the moral law” was greeted with immediate suspicion by American thinkers. Indeed, just after the encyclical’s release, moral theologian Father Richard McCormick, S.J., predicted that the Pope’s discussion of that doctrine would remain the most controversial element of the encyclical “after the dust settles.”¹¹

The purpose of this paper is to demonstrate that *Evangelium Vitae*’s “doctrine on the necessary conformity of civil law with the moral law” is not an anti-democratic call for the civil enforcement of Catholic moral principles. Such an interpretation inappropriately ignores John Paul II’s central teachings on the relationship between church and state, between moral law and civil law, which he articulated most extensively in his 1991 encyclical *Centesimus Annus*. Although *Evangelium Vitae* is John Paul II’s most explicit treatment of the relationship between civil law and moral law, his discussion there is limited to the implications of the Church’s teachings on life issues. John Paul II’s teaching on the general relationship between moral law and civil law cannot be understood without considering *Evangelium Vitae* in light of his earlier and more comprehensive teachings on the relationship among church, state, and the individual human person.

First, we review Pope John Paul II’s articulation of the “doctrine on the necessary conformity of civil law with the moral law” in *Evangelium Vitae*, showing why some have interpreted this teaching as an endorsement of theocracy. Next, we articulate the central principles in the moral grammar of Pope John Paul II, using the notion of subsidiarity as an entrée into his moral vocabulary. With a particular focus on the terms “human rights,” “human personhood,” and “human freedom,” we draw out the moral grammar of Pope John Paul II by contrasting it with that of John Locke. Next, we turn to *Centesimus Annus*, the Pope’s 1991 encyclical in which he gives his most detailed account of the relationship between the social sphere and the political-judicial sphere. In *Centesimus Annus*, John Paul II shows how subsidiarity dictates separate spheres for moral and civil law; the state plays

10. See *id.* at para. 71.

11. Kevin P. Quinn, S.J., *Whose Virtue? Which Morality? The Limits of Law as a Teacher of Virtue*, in CHOOSING LIFE: A DIALOGUE ON *Evangelium Vitae*, at 150 (Kevin Wm. Wildes, S.J. & Alan C. Mitchell eds., 1997) [hereinafter CHOOSING LIFE] (citing Richard A. McCormick, *The Gospel of Life*, AMERICA, Apr. 29, 1995, at 10, 12).

only a supporting role in promoting compliance with the moral law. We conclude by showing that the teaching of *Evangelium Vitae* is consistent with the view presented in *Centesimus Annus* because protection of the most fundamental of human rights is consistent with the subsidiary role of the state.

I. *EVANGELIUM VITAE* AND THE “NECESSARY CONFORMITY OF CIVIL LAW WITH THE MORAL LAW”

Pope John Paul II issued the encyclical *Evangelium Vitae*, or “The Gospel of Life,” on March 25, 1995. The Pope intended the encyclical to be “a *precise and vigorous reaffirmation of the value of human life and its inviolability*,” as well as “a pressing appeal addressed to each and every person in the name of God: *respect, protect, love and serve life, every human life*.”¹² The encyclical begins by setting forth the Pope’s diagnosis of “present-day threats to human life,”¹³ then proceeds to articulate the Christian message on life as conveyed in scripture.¹⁴ The third portion of the encyclical addresses the implications of the Sixth Commandment, “You shall not kill.”¹⁵ In its final segment, the encyclical envisions a “new culture of human life.”¹⁶

In his elaboration of the moral law imposed by the Sixth Commandment, the Pope dwells on the particularly grievous violations of that moral law represented by abortion and euthanasia.¹⁷ Immediately thereafter, he turns from purely moral considerations to consider the civil law’s relationship to these moral truths.¹⁸

A. *Ethical Relativism and Legal “Attacks on Human Life”*

To begin, the Pope identifies various philosophical justifications underlying modern legal “attacks on human life.”¹⁹ Some who support permissive abortion and euthanasia laws have adopted a “proportionalist approach,” whereby they view the lives ended by an abortion or act of euthanasia as only “relative good[s]” that do not measure up against the goods served by procuring an abortion or otherwise ending a life.²⁰ Some would declare abortion a “right” because they believe doing so will pre-

12. *EVANGELIUM VITAE*, *supra* note 7, at para. 5 (emphasis added).

13. *Id.* at paras. 7–28.

14. *Id.* at paras. 29–51.

15. *Id.* at paras. 52–77.

16. *Id.* at paras. 78–105.

17. *See id.* at paras. 58–67.

18. *See id.* at paras. 68–74.

19. *Id.* at para. 68.

20. *Id.*

serve “civil coexistence” by delegating difficult moral judgments to those most closely affected by the decision.²¹ Some believe that, in the interest of enforceability and legitimacy, governments should not legislate moral standards more rigorous than those shared by all citizens.²² The most radical justifications for such laws rely on a theory of the state as a mere preserver of the “complete freedom” of born individuals and oppose restricting abortion because it would restrict absolute freedom by imposing one particular “opinion” among many possible views.²³

Not surprisingly, the Pope is critical of these arguments. He first observes that they yield two opposing tendencies: on one hand, the private claim, for oneself, of maximum autonomy to make moral choices; on the other, the public claim that those who govern must set aside their autonomous judgments out of respect for those who might disagree, yielding entirely the conclusions of their individual consciences and limiting their considerations to that which is dictated by civil law.²⁴ Moreover, he argues, all of these justifications amount to versions of ethical relativism, or the belief that all ethical positions are equally valid.²⁵

The Pope next considers the claim by some that ethical relativism is the only appropriate foundational philosophy for a democracy, in that it promotes civility by requiring government to refrain from imposing the beliefs of some upon all of society. In response, the Pope points out the obvious truth that, whatever one believes about abortion, anyone can identify certain abuses of human dignity that even unanimous consensus could not legitimate.²⁶ A society based on pure ethical relativism would be powerless to prevent such abuses. Accordingly, pure ethical relativism cannot be the foundational principle of a civilized society.

B. *Democracy Is a “Means” for the Pursuit of Moral Ends*

Because ethical relativism and pure consensus cannot form the basis of a democratic system, the Pope argues, humans cannot pursue democracy as an end in itself, judging the legitimacy of political decisions only according to whether they preserve democratic civility.²⁷ Instead, according to Pope John Paul II,

21. *Id.*

22. *See id.*

23. *Id.*

24. *See* EVANGELIUM VITAE, *supra* note 7, at para. 69.

25. *See id.* at para. 70.

26. *See id.*

27. *See id.*

democracy is a system, or a “means” to some end. As such, its moral legitimacy must be measured like that of any other human activity: “its morality depends on the morality of the ends which it pursues and of the means which it employs.”²⁸

Thus, the relationship between the moral and the civil law begins with a democratic system’s commitment to the pursuit of moral ends:

[T]he value of democracy stands or falls with the values which it embodies and promotes. Of course, values such as the dignity of every human person, respect for inviolable and inalienable human rights, and the adoption of the “common good” as the end and criterion regulating political life are certainly fundamental and not to be ignored.²⁹

Since, as the Pope has pointed out, mere majority opinion cannot be relied upon to safeguard these fundamental values, democracy must acknowledge “an objective moral law which, as the ‘natural law’ written in the human heart, is the obligatory point of reference for civil law itself.”³⁰

Without such an acknowledgement, democracy “would be reduced to a mere mechanism for regulating different and opposing interests on a purely empirical basis.”³¹ Although this alone might be valuable for the purpose of preserving peace, the Pope argues that “peace which is not built upon the values of the dignity of every individual and of solidarity between all people” would be impossible to preserve and, further, would “frequently prove[] to be illusory.”³²

C. *The Role of Civil Law in Pursuing Moral Ends*

John Paul II then turns to considering the role of the civil law in a democracy that acknowledges an “objective moral law” and accepts that moral law as “the obligatory point of reference for civil law.”³³ Seeking “the *basic elements of a vision of the relationship between civil law and moral law*,” the Pope starts by emphasizing the limited purpose and responsibilities of the civil law.³⁴ The civil law is “limited in scope” compared to the moral law, and it can never “take the place of conscience.”³⁵ Its “real pur-

28. *Id.*

29. *EVANGELIUM VITAE*, *supra* note 7, at para. 70.

30. *Id.*

31. *Id.* (citing POPE JOHN PAUL II, *VERITATIS SPLENDOR: THE SPLENDOR OF TRUTH* paras. 97, 99 (1993) [hereinafter *VERITATIS SPLENDOR*]).

32. *EVANGELIUM VITAE*, *supra* note 7, at para. 70.

33. *Id.*

34. *Id.* at para. 71 (emphasis added).

35. *Id.*

pose" is "to guarantee an ordered social coexistence in true justice"36

In order to bring about such an "ordered coexistence," civil law's responsibilities, according to the Pope, include "ensur[ing] that all members of society enjoy respect for certain fundamental rights which innately belong to the person"37 Primary among these fundamental rights is "the inviolable right to life of every innocent human being."³⁸

John Paul II anticipates the objection that respect for individuals requires civil law to leave decisions about abortion and euthanasia to the realm of personal freedom or individual conscience. He responds that the fundamental right to life must be protected by civil law precisely because it is so easily abused in the name of conscience: "[S]ociety has the right and the duty to protect itself against the abuses which can occur in the name of conscience and under the pretext of freedom."³⁹

Quoting *Pacem in Terris*, a 1963 encyclical letter of Pope John XXIII, John Paul II emphasizes that it is essential for the common good and for the very legitimacy of civil law that civil authorities safeguard fundamental human rights such as the right to life:

"[T]o safeguard the inviolable rights of the human person and to facilitate the performance of his duties is the principal duty of every public authority." Thus any government which refused to recognize human rights or acted in violation of them would not only fail in its duty; its decrees would be wholly lacking in binding force.⁴⁰

John Paul II terms this conclusion the "doctrine on the necessary conformity of civil law with the moral law."⁴¹ He emphasizes its roots in the tradition of the Church as far back as St. Thomas Aquinas, who wrote: "Every law made by man can be called a law insofar as it derives from the natural law. But if it is somehow

36. *Id.*

37. *Id.*

38. *Id.*

39. EVANGELIUM VITAE, *supra* note 7, at para. 71. (citing SECOND VATICAN COUNCIL, DIGNITATIS HUMANAЕ: THE DECLARATION ON RELIGIOUS FREEDOM para. 7 (1966) [hereinafter DIGNITATIS HUMANAЕ]). The Pope's objection here is an example of his disagreement with his interlocutors about the true meanings of "conscience" and "freedom." See discussion *infra* Parts II, IV.

40. EVANGELIUM VITAE, *supra* note 7, at para. 71 (citing POPE JOHN XXIII, PACEM IN TERRIS: PEACE ON EARTH paras. 60–61 (1963)).

41. EVANGELIUM VITAE, *supra* note 7, at para. 72 (emphasis added).

opposed to the natural law, then it is not really a law but rather a corruption of the law."⁴²

D. *The Role of Civil Law in Prohibiting Abortion and Euthanasia*

Turning to the implications of this doctrine for the evils of abortion and euthanasia, Pope John Paul II argues that prohibiting these practices is the "first and most immediate" element of the civil law's obligation to protect fundamental rights.⁴³ This is because laws that allow abortion and euthanasia attack the inviolable right to life, which is "the fundamental right and source of all other rights."⁴⁴ Disregard for this most fundamental of rights "is what most directly conflicts with the possibility of achieving the common good" because it "leads to the killing of the person whom society exists to serve."⁴⁵ Because laws permitting abortion and euthanasia thus attack the most fundamental right due to every human being, in the process doing violence to the very foundation of society, the Pope concludes that "a civil law authorizing abortion or euthanasia ceases by that very fact to be a true, morally binding civil law."⁴⁶

E. *Civil Disobedience*

Having established the invalidity of laws purporting to allow abortion and euthanasia, the Pope next articulates "the *grave and clear obligation to oppose* [such laws] *by conscientious objection*"⁴⁷; "[I]t is . . . never licit to obey . . . or to 'take part in a propaganda campaign in favor of . . . or vote for'" an "intrinsically unjust law, such as a law permitting abortion or euthanasia."⁴⁸ The Pope carefully notes that this does not prohibit a politician whose "absolute personal opposition to procured abortion was well known" from supporting a measure aimed at "*limiting the harm*" done by a law generally permitting abortion.⁴⁹ The Pope concludes by articulating the personal moral obligation not to coop-

42. *Id.* (quoting THOMAS AQUINAS, *SUMMA THEOLOGIAE*, I-II, Q. 95, Art. 2).

43. *EVANGELIUM VITAE*, *supra* note 7, at para. 72.

44. *Id.*

45. *Id.*

46. *Id.*

47. *Id.* at para. 73 (emphasis added).

48. *Id.* (quoting Hieronymus Hamer, Titular Archbishop of Lorum, Sec'y of the Sacred Congregation for the Doctrine of the Faith, Declaration on Procured Abortion (June 28, 1974), available at www.vatican.va/roman_curia/congregations/cfaith/documents/rc_con_cfaith_doc_19741118_declaration-abortion_en.html).

49. *EVANGELIUM VITAE*, *supra* note 7, at para. 73 (emphasis added).

erate in evil actions, such as procured abortion or euthanasia, and the obligation of civil law to protect individuals' essential right to choose not to participate in such actions.⁵⁰

II. THE "NEW BABEL"

One reason that Pope John Paul II's view of the relation between civil law and moral law is misunderstood stems from a problem in language. A prominent feature of the contemporary world, especially as English has emerged as the world language, is that the "words by which key concepts are expressed take on quite different meanings in diverse ideological systems."⁵¹ We term this problem a "new Babel."

In the biblical story of the Tower of Babel, we are told of a time when "the whole earth had one language."⁵² In an effort to make a name for themselves, the people tried to build a city and a tower that rose to the heavens. In response, the Lord said, "Come, let us go down, and there confuse their language, that they may not understand one another's speech."⁵³ In the *Genesis* narrative, we are told that God introduced confusion by multiplying languages. Each language, with its own grammar and vocabulary, used different terms to describe the same (or similar) realities, so those who spoke Hebrew were unable to understand those who spoke Greek or Egyptian and so forth. This was the problem of the old Babel.

Now we find ourselves in a new Babel, where the situation is inverted. Although there are still many places in the world where the translation problems of the old Babel exist, English has now emerged as a world language.⁵⁴ Sharing a language raises a new kind of linguistic confusion. In the new Babel, language is confused, not by multiplying words, but by using the same words to mean different things. Terms and concepts that have a specific meaning within one way of life or grammar can be

50. *Id.* at para. 74.

51. SECOND VATICAN COUNCIL, *GAUDIUM ET SPES: PASTORAL CONSTITUTION ON THE CHURCH IN THE MODERN WORLD* para. 4 (1965).

52. *Genesis* 11:1.

53. *Genesis* 11:7.

54. See *ATLAS OF THE WORLD'S LANGUAGES IN DANGER OF DISAPPEARING* (Stephen A. Wurm ed., 2d ed. 2001) (1996) (noting that, as of the 1990s, it is estimated that there are about six thousand languages spoken in the world and that half of them are likely to disappear in the foreseeable future); see also RACHEL McALPINE, *GLOBAL ENGLISH FOR GLOBAL BUSINESS* (2005) (observing that approximately 375 million people speak English as a first language and that more than one billion people use English as a foreign language).

drained of their content—sometimes unwittingly and over long periods of time—then refilled with a different meaning.

The term “freedom” provides an example of this phenomenon. “Freedom” originally connoted the bonds of love and friendship. In Norse mythology, Fri (for whom Friday is named) was the goddess of love. She remained with Odin, her husband, not because she was coerced, like Odin’s slaves, but because she loved him. The word “friend” developed out of this connection between freedom and love, in recognition that we feel most free with our friends and those with whom we share the bonds of love and family. Now, however, many contemporary speakers see the bonds of love as an infringement on freedom. Despite its etymology, these thinkers use freedom to signify the lack of constraints, or the ability to do whatever one wants without regard for others. Thus, in the new Babel, two people professing a commitment to “freedom” might mean two different things. One person’s freedom is another’s slavery.

A variety of thinkers have recognized the phenomenon of the new Babel in different contexts.⁵⁵ In the natural sciences, Thomas Kuhn has shown that key scientific concepts (such as matter and energy) mean different things in distinct paradigms. Aristotle, Newton, and Einstein all discuss “matter” and “energy,” but although each borrowed from his predecessors, there are subtle but significant differences in the way each understood these terms.⁵⁶ Of course, among practicing scientists, the Aristotelian understanding of “matter” is a museum piece, suitable only for historical study. With terms significant to moral and social life, unfortunately, the situation is more complicated.

Alasdair MacIntyre has traced several distinct understandings of the meaning of “justice.” Focusing on the moral grammar of Aristotle, St. Augustine, Thomas Aquinas, and David Hume, MacIntyre shows that each of these paradigms is concerned with “justice,” yet each has a distinctive understanding of what it means to be “just,” as well as what qualifies as “rational.”⁵⁷ As MacIntyre argues, contemporary moral and social life is complicated by the fact that those engaged in moral and social

55. Cf. JEFFREY STOUT, *ETHICS AFTER BABEL: THE LANGUAGES OF MORALS AND THEIR DISCONTENTS* (1988) (using the Babel metaphor in a slightly different way than suggested here).

56. See THOMAS KUHN, *THE STRUCTURE OF SCIENTIFIC REVOLUTIONS* (1996).

57. See ALASDAIR MACINTYRE, *WHOSE JUSTICE, WHICH RATIONALITY?* (1988).

debate frequently employ an apparently common moral vocabulary but endow the shared words with distinctive meanings.⁵⁸

MacIntyre's insight with respect to traditions of justice is equally true of the concepts "rights," "personhood," and "freedom" in contemporary moral and social debate. These notions are used in very different ways, unwittingly drawing from distinct traditions. What one paradigm considers liberating, another considers enslaving, and vice versa. To use abortion as an example, that which is viewed as a "right" by some is considered by others to be plainly wrong.

Thus, in order to understand Pope John Paul II's account of the relation between moral law and civil law, one must understand his distinctive moral grammar. What does he mean by "rights," "personhood," and "freedom"? In what distinctive way has he extended the vocabulary of the Church? How does his use of those terms differ from other thinkers with which some might be more familiar? In order to get at these questions, we find it helpful to begin with the notion of subsidiarity.

III. STARTING WITH SUBSIDIARITY

To understand the moral grammar of Pope John Paul II, it seems helpful to start with subsidiarity. Because the notion of subsidiarity originated in the tradition of Catholic social thought, it is not as prone to the problems of the new Babel. Thus, understanding subsidiarity is a helpful way to understand the grammar implicit in the vocabulary of Catholic social thought.

Unfortunately, this pedagogical approach is not widespread. For example, in their 1998 statement, *Sharing Catholic Social Teaching: Challenges and Directions*, the U.S. bishops make virtually no mention of subsidiarity.⁵⁹ Instead, they begin with the notion of "human dignity." The bishops state:

[T]he Catholic Church proclaims that human life is sacred and that the dignity of the person is the foundation of a moral vision for society. Our belief in the sanctity of human life and the inherent dignity of the human person

58. See ALASDAIR MACINTYRE, *AFTER VIRTUE: A STUDY IN MORAL THEORY* (1981) (This is MacIntyre's diagnosis of the interminable character of contemporary moral debates. The debates are interminable, he thinks, precisely because the interlocutors fail to recognize that they are using the same words to mean different things.).

59. See Statement of U.S. Conference of Catholic Bishops, *Sharing Catholic Social Teaching: Challenges and Directions* (June 19, 1998), in 28 *ORIGINS* 102 (1999).

is the foundation of all the principles of our social teaching.⁶⁰

In the new Babel, the bishops face a difficult task trying to explain Catholic social teaching through the lens of the “dignity of the person,” particularly to an American audience. What could be more American than emphasizing that every human being has dignity and equal rights? Virtually every American citizen already is committed to respecting human dignity as a central civic and secular belief. It is a mistake to situate the debate as between those who are “for” human dignity and those who are “against” it. Rather, there is widespread cultural disagreement about what respecting human dignity entails. For example, the bishops teach that abortion and euthanasia are violations of the dignity of the human person, but others in American society consider limiting access to abortion or euthanasia to be a violation of human dignity.

Thus, in order to instruct on “human dignity” or any other concept in Catholic social teaching, the bishops must illuminate the unique grammar of Catholic social teaching. Only an understanding of the Church’s use of terms that are shared with other moral grammars can eliminate the confusion produced by the multiple meanings of the key terms in the debate and allow for a reasoned account of why the Church’s way of using those terms is preferable.

The danger of confusion is particularly acute when it comes to the concept of “human dignity.” Unfortunately, the bishops have not given us much to help us understand why human dignity is “foundational.” At the same time, secular thinkers have done a great deal to try to establish this claim. From Hobbes to Rorty, virtually every modern thinker concerned with moral and social philosophy has been committed to the claim of equal human dignity. Modern secular thinkers nearly universally justify the claim of equal human dignity in terms of skepticism about human goodness. Roughly, the argument is that human beings cannot have knowledge about human goodness, so we must respect the rights of individuals to make their own choices. That belief has, in many ways, become the foundation of American moral and social life.⁶¹

This secular justification of equal dignity is quite different from, even opposed to, the understanding of the dignity of the

60. *Id.* at 104.

61. For a detailed account of the history of modern liberalism and its various efforts to justify equal rights, see ROBERT P. KRAYNAK, *CHRISTIAN FAITH AND MODERN DEMOCRACY* 31–38 (2001).

human person that Catholic social thought advances. While secular thinkers rely on our lack of knowledge about goodness, the Church's understanding of "human dignity" and "human personhood" arises from theological and philosophical knowledge claims about the truth of a good human life. A great deal of intellectual work is needed to distinguish the Church's understanding of the dignity of the human person from the various understandings of the same ideal advanced in secular culture.

Thus, rather than beginning with the "dignity of the person," we believe it is helpful to start with subsidiarity. This is not to say that subsidiarity is foundational, though it is important to the Church's social teaching. Instead, we believe it is helpful to start with subsidiarity in part because it is a term without many rival interpretations, at least in the United States.⁶² As such, it is easily understood on distinctly Catholic terms, and it is helpful in illuminating the moral grammar of Catholic social thought since it intersects with, orients, and helps develop other central concepts. Thus, if we develop an understanding of the principle of subsidiarity, it will help bring about the gestalt shift that is needed to understand the rest of the moral grammar used by Pope John Paul II.

A. Definition of "Subsidiarity"

It is helpful to start with a basic dictionary meaning of the term "subsidiarity." Even here, many Americans will find a challenge, since most dictionaries do not include the word "subsidiarity." In *The Oxford English Dictionary (OED)*, only the *Supplement* includes a definition of "subsidiarity": "the principle that a central authority should have a subsidiary function, performing only those tasks that cannot be performed effectively at a more immediate or local level."⁶³ The *OED* goes on to trace the etymology of the word to the 1931 papal encyclical,

62. The situation is quite different in Europe. For the last twenty years or so, subsidiarity has played a central part in debates over the development of the European Union. Because the notion of subsidiarity is now written into that body's constitution, many European debates involve subsidiarity. See Treaty Establishing a Constitution for Europe, Dec. 16, 2004, 2004 O.J. (C 310), available at <http://eur-lex.europa.eu/JOHtml.do?uri=OJ:C:2004:310:SOM:EN:HTML>. Of course, that is not to say that Europeans are any clearer than Americans on all of the implications and presuppositions of subsidiarity, particularly as used by the Catholic Church. However, it would not be uncommon in Europe to read an editorial or hear a political speech that employs the concept of subsidiarity. In contrast, public discourse in North America about subsidiarity is almost non-existent.

63. 4 A SUPPLEMENT TO THE OXFORD ENGLISH DICTIONARY (R.W. Burchfield ed., 1986).

Quadragesimo Anno, and makes mention of several authors writing in the area of Christian social doctrine who use the concept.⁶⁴ For example, Wogaman uses the term in his book *Christian Method of Moral Judgment*, explaining that “social problems should be dealt with at the most immediate (or local) level consistent with their solution.”⁶⁵

A simple example illustrates this idea. Imagine a meeting set in a rural county. At the head table are government officials and business leaders interested in building a nuclear power plant in a rural location. Attending the meeting are local residents. The locals ask various questions, sometimes with an angry tone, but as they lack professional expertise, both in public speaking and in the relevant sciences, the locals seem to be losing the argument. Finally, one of them asks, “Do any of you up there live nearby?” Not surprisingly, none of the experts on the panel lives within fifty miles of the proposed site of the nuclear power plant.

Like this example, the principle of subsidiarity calls attention to the importance of social leaders attending to local participation in the decision-making process. But this is only one aspect of the notion of subsidiarity. For a more subtle understanding of subsidiarity, let us turn to *Quadragesimo Anno*, the 1931 encyclical on social reform.

B. *Quadragesimo Anno*

The concept of subsidiarity is first articulated by the Church in paragraph 79 of *Quadragesimo Anno*:

Just as it is gravely wrong to take from individuals what they can accomplish by their own initiative and industry and give it to the community, so also it is an injustice and at the same time a grave evil and disturbance of right order to assign to a greater and higher association what lesser and subordinate organizations can do. For every social activity ought of its very nature to furnish help to the members of the body social, and never destroy and absorb them.⁶⁶

In this, the classic formulation of the principle of subsidiarity, it is possible to detect three essential components.

First, “it is gravely wrong to take from individuals what they can accomplish by their own initiative and industry and give it to

64. *Id.*

65. *Id.* (citing J. PHILIP WOGAMAN, A CHRISTIAN METHOD OF MORAL JUDGMENT 142 (1976)).

66. POPE PIUS XI, QUADRAGESIMO ANNO: ON RECONSTRUCTING THE SOCIAL ORDER para. 79 (1931).

the community.”⁶⁷ In other words, each person is endowed with the ability to make self-determining choices ordered to the common good. Through the choices one makes, one actualizes oneself, shaping one’s character and becoming more fully the person one is. As human persons, we perfect ourselves through the choices we make, and we realize ourselves through our actions. For example, the decision about one’s vocation in life, whether one is called to marriage or to be single or to live a religious life, is a decision to be made by the person so called. It would be gravely wrong for others to force such a decision upon a person. Social groups have the responsibility to allow individual human persons the space to make their own self-determining choices ordered toward the common good.

Second, “it is an injustice and at the same time a grave evil and disturbance of right order to assign to a greater and higher association what lesser and subordinate organizations can do.”⁶⁸ In other words, there is a gradation in social institutions, both with regard to size and with regard to formality. Smaller and less formal social institutions, such as the family, neighborhoods, parishes, and local associations, should be allowed to make their own self-determining choices ordered toward the common good. For example, decisions about how to educate one’s children, where to send them to school, and how to raise them in a way that promotes their development as persons in light of the common good, are decisions that are properly made at the level of the family, for example, by the husband and wife. A family is shaped by the way it makes those kinds of decisions and is perfected through the habits developed in living out those decisions. Hence, it is a disturbance of right order for a higher and larger social group, such as the state, to take from a smaller and lower social institution, such as the family, the ability to govern itself in a manner ordered toward the common good.

Third, “every social activity ought of its very nature to furnish help to the members of the body social, and never destroy and absorb them.”⁶⁹ In other words, the activities of higher and larger social institutions should be attentive to smaller and lower social institutions in such a way that interventions should be aimed at providing support for those goods internal to the smaller group. Higher and larger groups may sometimes need to intervene in the activities of smaller and lower groups, but that intervention should be aimed at helping the smaller group better

67. 4 A SUPPLEMENT TO THE OXFORD ENGLISH DICTIONARY, *supra* note 63.

68. *Id.*

69. *Id.*

pursue those goods appropriate to it in light of the common good.

To summarize, the principle of subsidiarity includes three essential components: (1) authorities and social leaders should respect the capacity of individual persons to make self-determining choices oriented towards the common good; (2) authorities and social leaders in higher and larger social institutions should be attentive to smaller groups, allowing them to make self-governing decisions within boundaries established by the common good; and (3) authorities and social leaders should offer assistance to individual persons or smaller groups, and when such persons or groups are failing to fulfill their functions, interventions should be limited to assistance that does not destroy or absorb the person or group involved.

The etymology of the term “subsidiarity” is itself illustrative of these principles. The word can be traced to ancient Rome. When Roman military leaders planned strategy, they relied frequently on a “*subsidium*,” a group that would sit behind in case extra support was needed. The role of the “*subsidium*” (literally, to sit behind) is to lend help and support in case of need. Similarly, according to the principle of subsidiarity, the role of the state and other higher social institutions is to “sit behind” smaller institutions and lend help and support only in case of need.

C. John Paul II on “Subsidiarity”

The notion of subsidiarity is widespread in the social encyclicals of modern Catholic social teaching. The idea is implicit in *Rerum Novarum*,⁷⁰ the 1891 magna carta of Catholic social thought on the condition of the working class, and then made explicit in the 1931 encyclical, *Quadragesimo Anno*, as mentioned.⁷¹ From that time to the present, the notion of subsidiarity continuously has played a central role in papal teaching. Building on that tradition, the habit of thinking about social questions in terms of the principle of subsidiarity permeated the statements of Pope John Paul II. In almost every case where he spoke out in defense of human dignity—from the workers in Eastern Europe to persecuted Tibetan monks, from the unborn and the infirm to the problems of consumerism and materialism—he emphasized that authorities and social leaders should respect the capacity of individual persons to make responsible self-determining choices oriented towards the common good. At

70. See POPE LEO XIII, *RERUM NOVARUM: ON THE CONDITION OF WORKERS* (1891) [hereinafter *RERUM NOVARUM*].

71. See *supra* note 66 and accompanying text.

the same time, the state should be attentive to smaller groups, allowing them to make self-governing decisions within boundaries established by the common good, intervening only when needed, but never in a way that destroys individual persons or smaller communities.

Pope John Paul II also wrote explicitly about the principle of subsidiarity. In his 1991 encyclical, *Centesimus Annus*, he provided his own reformulation of the principle of subsidiarity:

[A] community of a higher order should not interfere in the internal life of a community of a lower order, depriving the latter of its functions, but rather should support it in case of need and help to coordinate its activity with the activities of the rest of society, always with a view to the common good.⁷²

John Paul II's emphasis on the principle of subsidiarity, with its careful preservation of human freedom to pursue the common good, is helpful in beginning to understand the distinctive way that Pope John Paul II uses key terms such as "human person," "human dignity," and especially, "human freedom." For a fuller account, we will next examine three concepts related to subsidiarity that Pope John Paul II used in distinctive ways.

IV. THE MORAL GRAMMAR OF JOHN PAUL II

The principle of subsidiarity provides a helpful entrance into the moral grammar of Pope John Paul II by providing an implicit understanding of what he means by central moral terms, particularly "freedom" and "personhood." The next step is to build up our understanding of John Paul II's moral grammar by explicitly analyzing three key terms in the moral grammar of Pope John Paul II: "human rights," "human personhood," and "human freedom."

As Americans, we tend to have absorbed the grammar of individualism. In many ways, modern American life is the natural home for the terms we seek to understand. However, the American founders borrowed much of their understanding of these terms from English philosopher John Locke. To demonstrate how John Paul II has made each of these terms his own, developing a distinctive moral grammar out of terms already familiar to contemporary readers, we will understand these terms by glancing at the way John Locke used them and juxtaposing his

72. POPE JOHN PAUL II, *CENTESIMUS ANNUS: ON THE HUNDREDTH ANNIVERSARY OF RERUM NOVARUM* para. 48 (1991) [hereinafter *CENTESIMUS ANNUS*].

understanding with the way each is used in the moral grammar of Pope John Paul II.

A. *Human Rights*

What is a “right,” according to John Paul II? To make explicit the distinctive way that John Paul II uses the language of rights, we situate his use of rights language in the tradition of modern Catholic social teaching after contrasting it with the rights language of Lockean individualism.

As John Locke and countless other modern thinkers have understood the term, a right is a justified claim, either of immunity or entitlement, made against those in authority.⁷³ And how are rights justified? There has been a wide-ranging debate among modern human rights theorists, but virtually all have held, in one way or another, that rights are justified because we lack knowledge of the good.⁷⁴ Robert Kraynak provides this summary of the modern notion of human rights:

Rights are designed to prevent authorities of all kinds (political, religious, paternal) from interfering in one’s life in the name of superior wisdom and virtue or to assert their arbitrary power. “Don’t tread on me!” was the slogan of the Sons of Liberty during the American Revolution that expressed this view of rights. Such rights demand a zone of privacy that is off-limits to the state. They may even go further and demand goods and services from political authorities.⁷⁵

This understanding of human rights culminates in what Stanley Brubaker terms a “dogmatic doubt that we can ever know what is good for man and woman or that there even is such a thing as the human good.”⁷⁶

Although Pope John Paul II makes frequent use of the notion of a human right as a claim against political authorities, he has a very different understanding of the basis of human rights. Indeed, under the leadership of Pope John Paul II, the Vatican emerged as perhaps the world’s leading defender of human rights, including the rights of Polish workers, the right to

73. See KRAYNAK, *supra* note 61, at 16–38 (providing a helpful summary of modern rights theory).

74. *See id.*

75. *Id.* at 22.

76. Stanley C. Brubaker, *Tribe and the Transformation of American Constitutional Law*, 4 BENCHMARK 109, 122 (1990) (adopted from *Rewriting the Constitution*, COMMENTARY (1988)).

religious freedom in China, and the right to life for the unborn and aged in post-industrial secular societies.

In using rights language, John Paul II followed the development in doctrine advanced during the Second Vatican Council, especially in *Dignitatis Humanae*, the document on religious freedom.⁷⁷ The teaching of the Council is subtle but significant. *Dignitatis Humanae* affirms that there is a strong tendency in modernity to prize freedom, rights, and autonomy. The first line of *Dignitatis Humanae*, which John Paul II frequently quoted, states:

A sense of the dignity of the human person has been impressing itself more and more deeply on the consciousness of contemporary man, and the demand is increasingly made that men should act on their own judgment, enjoying and making use of a responsible freedom, not driven by coercion but motivated by a sense of duty.⁷⁸

Next, *Dignitatis Humanae* affirms that there is a right to religious freedom:

This Vatican Council declares that the human person has a right to religious freedom. This freedom means that all men are to be immune from coercion on the part of individuals or of social groups and of any human power, in such wise [sic] that in religious matters no one is to be forced to act in a manner contrary to his own conscience.⁷⁹

In other words, governments should not use the coercive power of the law to pressure citizens into particular religious beliefs or practices.

It might seem that the Council is merely affirming what moderns have known all along. Especially to Americans, the affirmation of a right to religious freedom in the late twentieth century might seem insignificant. Every American citizen knows that there is a right to religious freedom and that government has no business using its coercive power to force particular religious beliefs. Indeed, one might ask whether the Roman Catholic Church is actually a latecomer to the discussion of rights. If enlightened thinkers have endorsed the concept of rights, emphasizing especially the right to religious freedom, for almost two centuries, then the Church's affirmation of such a right is remarkable only because it comes very late in the history of rights language.

77. See generally *DIGNITATIS HUMANAЕ*, *supra* note 39.

78. *Id.* at prbl.

79. *Id.* at para. 2.

However, the Church's account of human rights is crucially different from the justification for rights advanced by most modern rights theorists. If a right is a justified claim against those in authority, what is the justification given? Why is it that each person is to be immune from coercion such that no one is to be forced to act in a manner contrary to his or her own beliefs? *Dignitatis Humanae* explains and defends the right to religious freedom by stating that this right "has its foundation not in the subjective disposition of the person, but in his very nature."⁸⁰ The right to religious freedom "has its foundation in the very dignity of the human person."⁸¹

George Weigel has called this development in rights theory the "Catholic human rights revolution."⁸² This development in Catholic doctrine is a "revolution" in a narrow sense. It is neither a reversal in Church teaching nor a wholesale endorsement of the modern theory of rights. Two things in particular are "revolutionary" about the Church's use of rights language. First, the Roman Catholic Church has shifted from nineteenth century suspicion about the use of rights language to a twenty-first century position where the Vatican is perhaps the world's most articulate advocate of human rights.⁸³

Second, the Church has shifted what is meant by a "right." The liberalism that made freedom of religion a cornerstone of democratic government was based on a philosophy of individualism.⁸⁴ In that outlook, each individual operates as a law unto himself, and society is merely a collection of autonomous individuals. Just as each individual is subject solely to self-law, society as a whole cannot be accountable to an imposed external standard.⁸⁵ Hence, the state must be agnostic or atheistic. In this view, religious freedom guarantees that the state will not be accountable to any standard other than the will of the people. Each individual is allowed to hold any religious beliefs, as long as they are kept private. The public square must remain naked, devoid of any religious beliefs under which the state could be challenged.⁸⁶

80. *Id.*

81. *Id.*

82. George Weigel, *The Catholic Human Rights Revolution*, *CRISIS*, July/Aug. 1996, at 36; see also GEORGE WEIGEL, *CATHOLICISM AND THE RENEWAL OF AMERICAN DEMOCRACY* 84, 98 (1989); Kenneth Grasso, *Liberalism, Democratic Capitalism, and the Catholic Human Rights Revolution*, 17 *FAITH & REASON* 413 (1991).

83. See Grasso, *supra* note 82.

84. See *id.*

85. See *id.* at 416–17.

86. *Id.*

This view contains a serious internal contradiction, however. Because it bases human rights on the claims that each individual is a law unto himself and that it is impossible to know what is good for anyone other than oneself, this view slides inevitably into relativism, and thereby undermines all possible grounds for justice.⁸⁷ What began as a desire to bring about a more just social order ends up in post-modern relativism.

Of course, this problem is a widely recognized feature of post-modern life. Richard Rorty captures this internal contradiction in modern liberalism, recognizing that it is impossible to give any objective justification for human rights according to the standards of enlightenment rationality. Rorty argues that democracy and human rights, which he strongly endorses, are ultimately a matter of personal preference.⁸⁸ Human rights turn out to be claims of immunity or entitlement made against those in authority and justified by mere personal preference. Why should we endorse the practices of those modern institutions that respect and defend human rights? Because we like them and they work.

In contrast, Pope John Paul II endorses and defends those modern institutions that defend human rights without endorsing skepticism about human nature and the modern tendency to think that the public square must be secular, naked, and devoid of religious substance. In the post-Vatican II moral grammar of John Paul II, human rights are grounded in the human person.⁸⁹

87. See *id.* at 418–20.

88. See generally RICHARD RORTY, *CONTINGENCY, IRONY, AND SOLIDARITY* (1989).

89. Cathleen Kaveny objects to John Paul II's endorsement of using the civil law to criminalize abortion and euthanasia, basing her criticism on his use of rights language. See M. Cathleen Kaveny, *The Limits of Ordinary Virtue: The Limits of the Criminal Law in Implementing Evangelium Vitae*, in *CHOOSING LIFE*, *supra* note 11, at 132. Kaveny argues that the criminal law should allow access to abortion without criminal penalty; further, she suggests that the way to reduce abortions is to increase government regulation and support of health care. See *id.* at 147.

Kaveny presents several arguments against using rights language, but her central claim is that rights language "is inadequate as a basis for public policy because it is underdetermined from a moral point of view" since every claim to a fundamental human right can be countered by someone else's claim to a different, conflicting right. *Id.* at 134. Kaveny states that rights language is an insufficient basis for civil law because it is merely "a sort of 'shorthand' for our unexpressed full-blown moral theory." *Id.* at 136. She argues that, in using the language of rights, John Paul II has failed to provide a robust account of what it is to flourish as a person. In fact, Kaveny goes so far as to fault John Paul II for hiding behind rights language rather than providing "the rich moral vision of human flourishing" that is needed to engage others and forge consensus. *Id.*

Each human being has rights because each human being is a person. John Paul II grounds this position in a highly developed account of what it means to be a human person.

B. *Human Personhood*

What is a human person, according to John Paul II? To make explicit the distinctive way that John Paul II uses the language of personhood, we draw attention to the Lockean notion of personhood and then contrast it with the way John Paul II understands human personhood.

In John Locke's philosophical writings, he focused on the notion of personhood to unravel several apparent puzzles about personal identity.⁹⁰ In particular, he aimed to integrate modern mechanistic physics with the received religious views of Christianity regarding immortality. To solve these puzzles, he followed the modern tendency to think of human beings as a composite of two distinct substances, one physical and the other immaterial.⁹¹ He identified personality solely with the immaterial.⁹²

In a famous thought experiment, Locke reasons as follows.⁹³ Imagine two creatures: one is a rational talking parrot and the other is a creature shaped as a human but which cannot engage in rational discourse. The one looks like a bird but acts like a person, able to talk and engage in philosophical discourse; the other looks like a human being but is completely unable to use language, think, discourse, and participate in those activities that we consider distinctive to persons. Locke thinks that this thought experiment shows that there is a difference between being a person and being a human. To sort out what makes

Kaveny's arguments fail to contextualize the distinct moral grammar of John Paul II and to distinguish his use of key terms, particularly "rights" and "person," from the way those terms are used by other modern thinkers. In characterizing John Paul II's view of rights and their interaction with the civil law, Kaveny focuses almost solely on Chapter 3 of *Evangelium Vitae*, rather than situating John Paul II's argument about abortion in that encyclical within the large corpus of both his life's work and the many Vatican statements about human rights, which began in earnest with Pope John XXIII. The charge that John Paul II does not provide a rich understanding of what it means to flourish as a "human person" cannot stand when considered against John Paul II's written work prior to and during his pontificate. John Paul II's nuanced account of human personhood is widely considered one of his great contributions to the intellectual life of the Church. See *infra* Part V.B.

90. See JOHN LOCKE, AN ESSAY CONCERNING HUMAN UNDERSTANDING (Kenneth P. Winkler ed., Hackett Publishing Co. 1996) (1689).

91. See *id.* at 138–44.

92. See *id.*

93. *Id.* at 138.

someone a person, he assumes the standard modern split between the mind and the body. The body is what makes us human, but the mind is what makes someone a person. Locke writes, "since consciousness always accompanies thinking, and 'tis that, that makes everyone to be, what he calls *self*; and thereby distinguishes himself from all other thinking things, in this alone consists *personal identity*, *i.e.*, the sameness of a rational being."⁹⁴

Thus, for Locke, a person is an intelligent thinking being that can know itself as itself, the same thinking thing, in different times and places.⁹⁵ On Locke's account, being a person is a subjective performance of rational reflection. Following Locke, one might say, "So long as I experience myself as a person and am able to connect my current subjective state with earlier memories, then my personhood is intact."

John Paul II's understanding of personhood is significantly different from this Lockean notion of personhood as a disembodied state of subjective consciousness. Fundamentally, John Paul II rejected the dualism of the mind-body split. He held that human personhood is embodied and inextricably interconnected with concrete existence.

In the moral grammar of John Paul II, two distinctive traditions are synthesized in the notion of personhood. On the one hand, he is retrieving the ancient and medieval emphasis on substance.⁹⁶ On the other hand, he is drawing from the modern turn to the subject and modernity's concern with personality, reflective consciousness, and intersubjective awareness.⁹⁷ He affirms the importance of reflective consciousness to perfect and fully realize human personhood, but John Paul II rejects the modern claim that personality consists in reflexive consciousness alone.

In his pre-pontifical writings, Karol Wojtyla mined the philosophical insights of Thomas Aquinas and creatively applied them to the human person. Following Thomas Aquinas, Wojtyla uses Boethius's classical philosophical definition of "person" as "an individual substance of a rational nature."⁹⁸ Thomas Aquinas employed that definition to examine in detail questions about

94. *Id.* (emphasis added).

95. *Id.*

96. See KAROL WOJTYLA, *Thomistic Personalism, in PERSON AND COMMUNITY* 165 (Theresa Sandok trans., 1993) [hereinafter *Thomistic Personalism*] (This is a pre-pontifical essay in which Karol Wojtyla traced the history of the concept of the "person.").

97. *See id.*

98. *Id.* at 167.

the personhood of the Trinity and the Incarnation.⁹⁹ St. Thomas's driving concerns are theological, but within his theological writing, he develops several profound philosophical insights about personhood.¹⁰⁰ In his essay, *Thomistic Personalism*, Wojtyła draws attention to an insight from the work of Thomas Aquinas: "A rational nature does not possess its own subsistence as a nature, but subsists in a person. The person is a subsistent subject of existence and action—which can in no way be said of a rational nature."¹⁰¹ Because the person is a subsistent subject of existence and action, rather than a Lockean free-floating pure consciousness, personhood is inextricably tied up with the substance of a person's being and with one's nature—that is, with the kind of being a thing is.¹⁰² Wojtyła holds that because the person is a subsistent subject of existence and action, human personhood subsists in our nature as human beings.¹⁰³ Our entire being is personal, including our bodies, our desires, our emotions, our relationships, our thoughts, our decisions, and our activities.¹⁰⁴

This account of the human person is developed most fully in Wojtyła's pre-pontifical philosophical magnum opus, *The Acting Person*.¹⁰⁵ His project is a phenomenological argument describ-

99. *See id.* at 166–69.

100. *See id.* at 168. In the writings of St. Thomas, these insights about personhood, being, and nature were all part of his theological discussion: the Divine Persons subsist in the Divine Being. *See id.* Wojtyła uses the philosophical features of this insight to focus on the human person. In fact, in Wojtyła's extensive pre-pontifical writings, he wrote almost exclusively about the human person.

101. *Id.* at 167.

102. *See Thomistic Personalism, supra* note 96, at 170.

103. *See id.* at 175.

104. Although it deserves fuller treatment, this subtle point of metaphysics is involved in John Paul II's view that every living human being is a person, even during the earliest and last stages of human life.

105. KAROL WOJTYŁA, *THE ACTING PERSON* (Andrzej Potocki trans., rev. ed. 1979). There is a wide range of helpful secondary literature on Wojtyła's philosophy of the human person. *See* GEORGE WEIGEL, *WITNESS TO HOPE: THE BIOGRAPHY OF POPE JOHN PAUL II* (1999) (situating Wojtyła's philosophy of the human person within the story of Wojtyła's life); ROCCO BUTTIGLIONE, *KAROL WOJTYŁA: THE THOUGHT OF THE MAN WHO BECAME POPE JOHN PAUL II* (Paolo Guietti & Francesca Murphy trans., 1997) (discussing Wojtyła's intellectual formation and philosophical concerns and a helpful exposition of *The Acting Person*); PETER SIMPSON, *ON KAROL WOJTYŁA* (2001) (presenting an overview of Wojtyła's philosophy); KENNETH L. SCHMITZ, *AT THE CENTER OF THE HUMAN DRAMA* 121–46 (1993) (giving a concise summary of Wojtyła's philosophy that situates his thought in the history of western philosophy); SAMUEL GREGG, *CHALLENGING THE MODERN WORLD: KAROL WOJTYŁA/JOHN PAUL II AND THE DEVELOPMENT OF CATHOLIC SOCIAL TEACHING* (1999) (examining carefully the

ing the personal structures of human action. Along the way, he examines human desires, emotions, thoughts, decisions, and relationships, showing in each case how concrete human activities are personal.

In the moral grammar of John Paul II, a person is an individual substance of a rational nature; as such, a human person is an embodied subject who is also a substance. Each human person is endowed with the capacity to use reason in order to understand the world and to direct his actions in light of his understanding of what is good and true, but personhood is not limited to reflexive consciousness. In human beings, our rational nature is what disposes us to consciousness and self-consciousness, but this consciousness is embodied; our personality subsists in our humanity.

Pope John Paul II has sometimes been charged with rejecting modernity. As the pre-pontifical writings of Wojtyła reveal, however, he did not advocate abandoning the modern turn to the subject and returning to the Aristotelian-Thomistic philosophy of substance. Rather, Wojtyła celebrated and used the modern, first-person approach to consciousness and self-reflexivity because it helped to uncover important insights into what it means to be a person. In particular, first-person self-reflection allows a special insight into the importance of personal freedom in the human journey toward self-realization. “[I]t is not enough to define a man as an individual of the species” because “there is something more to him, a particular richness and perfection in the manner of his being,” which “cannot be wholly contained within the concept ‘individual member of the species.’”¹⁰⁶ Each human being is a personal subject, unique and unrepeatable.¹⁰⁷ “This heightened sense of the dignity of the human person and of his or her uniqueness, and of the

connection between the pre-pontifical writings of Wojtyła and the social encyclicals of John Paul II); GREGORY R. BEABOUT ET AL., *BEYOND SELF-INTEREST: A PERSONALIST APPROACH TO HUMAN ACTION* 75–98 (2002) (describing Wojtyła’s personalism, especially his account of the person and human action in relation to Catholic social thought); JAROSLAW KUPCZAK, O.P., *DESTINED FOR LIBERTY: THE HUMAN PERSON IN THE PHILOSOPHY OF KAROL WOJTYŁA/JOHN PAUL II* (2000) (analyzing the relation between personhood and freedom).

106. KAROL WOJTYŁA, *LOVE AND RESPONSIBILITY* 22 (H.T. Willets trans., Ignatius Press 1993) (1960).

107. For a helpful account of Wojtyła’s emphasis on the unrepeatable and irreducible character of each person’s life, see JOHN F. CROSBY, *THE SELFHOOD OF THE HUMAN PERSON* (1996) and JOHN F. CROSBY, *PERSONALIST PAPERS* (2004). For a helpful account of John Paul II’s account of the person as it relates to the theme of human dignity, see Kenneth L. Grasso, *Saving Modernity from Itself: John Paul II on Human Dignity, “the Whole Truth About Man,” and the Modern Quest for Freedom*, in *IN DEFENSE OF HUMAN DIGNITY* 207 (Robert P. Kraynak & Glenn Tinder eds., 2003).

respect due to the journey of conscience, certainly represents one of the positive achievements of modern culture."¹⁰⁸ Human personhood is realized most fully in the personal exercise of human freedom.

C. *Human Freedom*

What is human freedom, according to John Paul II? To make explicit the distinctive way that John Paul II understands human freedom, we turn again to Locke and his notion of freedom. Then, we contrast it with the way John Paul II understands human freedom.

Locke, having completely separated personhood from the human body, is left with a series of puzzles about personal freedom.¹⁰⁹ How can an immaterial substance act? Does it have power over matter? What does it mean to say that persons are free? To think through these puzzles, Locke contrasts a human person with a mundane physical object:

A tennis ball, whether in motion by the stroke of a racket, or lying still at rest, is not by anyone taken to be a *free agent*. If we inquire into the reason, we shall find it is, because we conceive not a tennis ball to think, and consequently not to have any volition, or preference of motion to rest, or *vice versa*; and therefore has not *liberty*, is not a free agent¹¹⁰

On this Lockean view, freedom is tied up with unimpeded thought. While a tennis ball may be free to fall until its motion is redirected by the stroke of a racket, a person's freedom involves the power to think one's own thoughts in a manner that is unrestrained and unimpeded.

With regard to government authorities, Locke holds that personal freedom consists in being subject only to those laws to which one consents.¹¹¹ The purpose of government, for Locke, is to protect personal freedom, where freedom is understood as unrestraint.

Thus, in the individualistic grammar of Locke, each person is a disembodied, unencumbered self with the right to think his own thoughts and live his own life without interference from authorities, so long as he does not interfere with the rights, person, or freedom of others.¹¹² A person is free to the extent that

108. VERITATIS SPLENDOR, *supra* note 31, at para. 31.

109. *See supra* text accompanying notes 86–91.

110. LOCKE, *supra* note 90, at 96 (emphases added); *see also id.* at 93–114.

111. *See generally id.*

112. *See id.*

he can do whatever he wants. Politically, freedom means being subject solely to those laws to which one consents.

Like John Locke, Pope John Paul II was a great defender of freedom, but the Pope's understanding of human freedom differs greatly from that of Locke. Part of the difference between John Locke and John Paul II on freedom may be a function of their different historical contexts. Locke, writing in seventeenth century England, wanted to provide a language whereby a modern society could avoid Cromwellian tyrants. To do so, he developed the language of rights with his distinctive understanding of the person and his modern emphasis on individual freedom from tyrants. In contrast, John Paul II inherited the language of rights as a deep part of the modern world. Further, having lived through the dark night of modernity, including both the Nazi invasion of Poland and Soviet rule, John Paul II shared Locke's concern with being free from tyrants, but he also raised questions beyond what we should be "free from." There is no question, for John Paul II, about the desirability of being free from tyrannical governments. However, more pressing questions for Pope John Paul II were: "How do we become free persons?" and "What is freedom for?"

In his pre-pontifical writings, Karol Wojtyla's account of freedom begins with an emphasis on self-determination. Emphasizing the development of personhood, his aim is to help people act with personal self-determination. The freedom of self-determination is most obvious when one makes a choice to restrain oneself from acting on a desire. For example, one may have a desire for food and then make a self-determined choice to abstain from it. Perhaps one is on a special diet or a religious fast, or perhaps one holds a moral conviction that it is improper to eat certain kinds of food. In each of these cases, in order to carry out one's freedom, what is required is a special kind of determination and self-discipline.

In emphasizing freedom in this kind of self-restraint, Wojtyla retrieved a notion of "ordered liberty." On this view, authentic freedom is not only a state, but it is also a journey and a destination. Freedom is something one grows into when, through the responsible exercise of self-determination, one becomes a more excellent human person. This way of understanding freedom recognizes that there is an objective moral order, discoverable in part by each person. Freedom involves making self-determined

choices in accord with the moral order or in accord with goodness and truth.¹¹³

This grammar of ordered liberty is not entirely alien to American life. It is eloquently expressed, both in the Declaration of Independence's emphasis on self-governance in accord with the laws of nature and in Lincoln's Gettysburg Address: "This nation, under God, shall have a new birth of freedom."¹¹⁴ Likewise, the notion of ordered liberty is present in the verse from Katharine Lee Bates's *America the Beautiful*, "Confirm thy soul, in self-control, Thy liberty in law."¹¹⁵

Pope John Paul II recognized the deep similarity between his own understanding of authentic human freedom (developed in detail in his pre-pontifical writings on the free human person and expressed in countless speeches and writings) and the tradition of ordered liberty in the United States. On the occasion of receiving the Honorable Lindy Boggs as Ambassador to the Holy See, Pope John Paul II said:

The Founding Fathers of the United States asserted their claim to freedom and independence on the basis of certain "self-evident" truths about the human person: truths which could be discerned in human nature, built into it by "nature's God." Thus they meant to bring into being, not just an independent territory, but a great experiment in what George Washington called "ordered liberty": an experiment in which men and women would enjoy equality of rights and opportunities in the pursuit of happiness and in service to the common good. Reading the founding documents of the United States, one has to be impressed by the concept of freedom they enshrine: a freedom designed to enable people to fulfill their duties and responsibilities toward the family and toward the common good of the community. Their authors clearly understood that there could be no true freedom without moral responsibility and accountability¹¹⁶

113. For example, the choice to use an addictive substance may be free in the sense that it is not coerced, but repeated use of the substance is not good because it inhibits freedom; eventually, one may become enslaved to the substance. In contrast, the choice to maintain a disciplined diet may seem to restrict one's freedom to eat certain bad foods; but over time, this kind of self-determined restraint makes one's life better and healthier, thereby expanding personal freedom.

114. Abraham Lincoln, Gettysburg Address (Nov. 19, 1863).

115. KATHARINE LEE BATES, *America the Beautiful* (1893).

116. Pope John Paul II, Statement on the American Experiment (Dec. 16, 1997), in 82 *FIRST THINGS* 36, 36 (1998).

In the moral grammar of Pope John Paul II, human freedom means ordered liberty. It involves responsibly using one's personal self-determination to act in accord with the objective moral order. The relationship between human freedom and the objective moral order "is most deeply lived out in the 'heart' of the person," that is, in one's conscience.¹¹⁷ His or her social environment influences each human person, but we are not mere products of our environment. Human persons can develop the ability through reflection to gain a critical distance whereby we can glimpse an order that transcends us. Humans encounter this objective moral order most fully, not as an external imposition, but personally through one's heart, *i.e.*, in one's conscience. For that reason, John Paul II emphasizes the importance of "respect for conscience on its journey toward the truth."¹¹⁸

Of course, conscience may be in error. For that reason, each person has a responsibility to reflect, to listen and learn from critics; it is sometimes easier for others to see something that we ourselves may be unable to see without help. "There are faults which we fail to see but which nevertheless remain faults . . ." ¹¹⁹ As such, "freedom of conscience is never freedom 'from' the truth but always and only freedom 'in' the truth."¹²⁰ Authentic freedom, then, means freedom to make responsible choices in accord with the objective moral order as revealed by a conscience formed to an understanding of what is good and true in participation with others.

V. JOHN PAUL II ON THE RELATIONSHIP AMONG STATE, ECONOMY, AND CULTURE IN *CENTESIMUS ANNUS*

Understanding John Paul II's distinctive moral vocabulary (one which, as we have suggested, is illuminated by the principle of subsidiarity and characterized by a post-Lockean grammar of rights, personhood, and freedom) is crucial to understanding his teaching on the relationship between the moral law and the civil law. He lays out the "doctrine on the necessary *conformity of civil law with the moral law*" in *Evangelium Vitae*, in a passage that some have interpreted as supporting the widespread implementation of Catholic moral teaching through the political system.¹²¹ John Paul II's teaching in *Evangelium Vitae* cannot be properly understood, however, without an understanding of the theory of

117. VERITATIS SPLENDOR, *supra* note 31, at para. 54.

118. *Id.* at para. 31.

119. *Id.* at para. 63.

120. *Id.* at para. 64.

121. EVANGELIUM VITAE, *supra* note 7, at para. 72; *see also supra* Part I.

church, state, and society that underlies it. John Paul II most fully develops that theory in Chapters IV and V of John Paul II's 1991 encyclical *Centesimus Annus*.

Centesimus Annus is John Paul II's magnum opus in the sense that it marks his most significant contribution to the social teaching of the Church. *Centesimus Annus*'s release marked the one hundredth anniversary of Leo XIII's 1891 encyclical *Rerum Novarum*, which responded to the social conditions of the industrial revolution and is the founding document in the Church's contemporary social teaching.¹²² One hundred years later, John Paul II attempted to address the emerging social conditions of the late twentieth century, particularly the collapse of communism, the increasing value of human resources, and the marginalization of many human beings from the contemporary economy. He also addresses the excesses and weaknesses to which free societies are prone. *Centesimus Annus* diagnoses these problems as abuses of human rights and human freedom, employing those terms in the distinctive ways laid out above.

A. *Private Property and the Free Economy*

In Chapter IV of *Centesimus Annus*, the Pope addresses private property and the free economy. He affirms the Church's longstanding teaching on the right to private property and reminds readers that, like all human rights, the right to private property must be exercised in a manner consistent with human personhood and human freedom.¹²³ In the Pope's words, the right to private ownership carries with it an obligation to recognize "the universal destination of the earth's goods" which are "God's first gift[s] for the sustenance of human life."¹²⁴ Expanding on the right to private property, John Paul II expresses appreciation for the modern business economy and its basis of human freedom.¹²⁵

B. *Abuses of Economic Freedom*

Consistent with his overall understanding of freedom, however, the Pope notes that economic activity, "like every other sector [of human activity], includes the right to freedom, as well as the duty of making responsible use of freedom."¹²⁶ He spends much of Chapter IV diagnosing the consequences of the abuse of

122. See generally *RERUM NOVARUM*, *supra* note 70.

123. See, e.g., *CENTESIMUS ANNUS*, *supra* note 72, at para. 30.

124. *Id.* at para. 31 (emphasis added).

125. See *id.* at para. 32.

126. *Id.*

human freedom in the economic sphere, including: marginalization of populations and entire nations from the contemporary economy,¹²⁷ a culture of consumerism,¹²⁸ neglect of the natural environment,¹²⁹ and deterioration of institutions fundamental to an authentic human ecology, most notably the family.¹³⁰

Although the Pope comments on positive and negative aspects of contemporary economic life, he specifically denies that the Church's social teaching provides "models" for resolving the actual and potential evils that he notes.¹³¹ Instead, the Church's social teaching "recognizes the positive value of the market and of enterprise, but . . . at the same time points out that these need to be oriented toward the common good."¹³² As such, the Pope's reflection on economic freedom in Chapter IV is primarily concerned with instructing readers in an understanding of economic "freedom" that is properly oriented toward the truth of human personhood and human rights.

C. *The Rise of Democracy and Fall of Totalitarianism*

In Chapter V, John Paul II turns to examining the relationship of the state to the economic sphere and to culture, again emphasizing that each of these spheres exists for the purpose of preserving human rights and allowing the proper exercise of human freedom. John Paul II begins by expressing the Church's support for an "organization of society" that "reflects a realistic vision of man's social nature, which calls for legislation capable of protecting the freedom of all."¹³³ Such an organization would be ordered such that "each power [is] balanced by other powers and by other spheres of responsibility which keep it within proper bounds."¹³⁴

The Pope points out the contrast between such a society and the alternative raised by totalitarianism. Fundamental among the errors made by totalitarian systems, according to John Paul II, is "a denial of truth in the objective sense":

If there is no transcendent truth, in obedience to which man achieves his full identity, then there is no sure principle for guaranteeing just relations between people. . . . If one does not acknowledge transcendent truth, then the

127. See CENTESIMUS ANNUS, *supra* note 72, at para. 33.

128. See *id.* at para. 36.

129. See *id.* at para. 37.

130. See *id.* at paras. 38–39.

131. See *id.* at para. 43.

132. *Id.*

133. *Id.* at para. 44.

134. *Id.*

force of power takes over, and each person tends to make full use of the means at his disposal in order to impose his own interests or his own opinion, with no regard for the rights of others.¹³⁵

Thus, without a commitment to transcendent truth, totalitarian regimes cannot preserve human freedom, human personhood, and human rights.

D. *Democracy Oriented Toward the Truth of Human Personhood*

Particularly in light of these fundamental errors in totalitarian systems, the Church “values the democratic system” because it guarantees to citizens participation in the political process and the chance to hold leaders accountable.¹³⁶ However, the Pope notes that even democracy is at risk unless it is established “on the basis of a correct conception of the human person.”¹³⁷

John Paul II anticipates the objection that claims to absolute truth are inconsistent with democracy, which somehow requires the belief that “truth is determined by the majority, or that it is subject to variation according to different political trends.”¹³⁸ He responds that, without “ultimate truth,” democracy risks falling victim to the same evils that mark totalitarianism: “[I]f there is no ultimate truth to guide and direct political activity, then ideas and convictions can easily be manipulated for reasons of power.”¹³⁹

The Pope further anticipates the charge that claims to truth amount to “fanaticism or fundamentalism” and that those who claim to know the truth really “claim the right to impose on others their own concept of what is true and good.”¹⁴⁰ He distinguishes “*Christian truth*” from such ideologies by emphasizing that “Christian faith does not presume to imprison changing sociopolitical realities in a rigid schema” and by highlighting that “the Church’s method is always that of respect for freedom.”¹⁴¹ Of course, the Pope couches the Church’s support for “freedom,” as always, in the affirmation of the “transcendent dignity of the person,” which is a sharp contrast from understandings of “freedom” that rely on personal license or radical autonomy.¹⁴² The Pope again emphasizes that “freedom attains its full develop-

135. *CENTESIMUS ANNUS*, *supra* note 72, at para. 44.

136. *Id.* at para. 46.

137. *Id.*

138. *Id.*

139. *Id.*

140. *Id.*

141. *Id.*

142. *Id.*

ment only by accepting the truth. In a world without truth, freedom loses its foundation and man is exposed to the violence of passion and to manipulation, both open and hidden."¹⁴³

Given the Church's affirmation of the potential of the democratic system, the Pope notes with encouragement the rise, in the wake of communism, of "the democratic ideal, together with lively attention to and concern for human rights."¹⁴⁴ In keeping with his concerns about democracy without an orientation toward truth, he urges forming and reforming democracies to "give democracy an authentic and solid foundation through the explicit recognition of those rights."¹⁴⁵ However, he disclaims a role for the Church in "express[ing] preferences" among specific political solutions, affirming "*the legitimate autonomy of the democratic order.*"¹⁴⁶ Instead, he claims that the Church's contribution to political life is "her vision of the dignity of the person"¹⁴⁷

E. *Role of the State in the Economic Sector*

The state's role in protecting the rights and dignity of human persons extends into the economic sector, according to John Paul II. Although the economic sector is founded on the basis of free economic activity, such activity "presupposes sure guarantees of individual freedom and private property, as well as a stable currency and efficient public services. Hence the principal task of the State is to guarantee this security"¹⁴⁸

Moreover, John Paul II holds the state responsible for some oversight of the "exercise of human rights in the economic sector," though he reserves primary responsibility for safeguarding human rights "to individuals and to the various groups and associations which make up society."¹⁴⁹ Although it is not within the state's competence to guarantee the rights to work and to conduct economic activity to all members of society, it has a duty to support the exercise of economic freedom by "creating conditions which will ensure job opportunities, by stimulating [economic] activities where they are lacking or by supporting them in moments of crisis."¹⁵⁰

143. CENTESIMUS ANNUS, *supra* note 72, at para. 46.

144. *Id.* at para. 47.

145. *Id.*

146. *Id.* (emphasis added).

147. *Id.*

148. *Id.* at para. 48.

149. *Id.*

150. *Id.*

F. *Role of the State in Non-Economic Communities*

John Paul II notes that the state's responsibility even extends to emergency "supplementary interventions" into economic activity under exceptional circumstances.¹⁵¹ However, he warns that it is an excess of such interventions that has produced "the so-called 'Welfare State,'"¹⁵² whereby the state develops a habit of inappropriately "intervening directly and depriving society of its responsibility."¹⁵³ Such interventions by the state are frequently "dominated more by bureaucratic ways of thinking than by concern . . ."¹⁵⁴ These subvert the roles of subsidiary organizations, violating the principle of subsidiarity¹⁵⁵ and leading to "a loss of human energies."¹⁵⁶

Consistent with the principle of subsidiarity, smaller and more personal institutions have a primary role to play in meeting the needs of society; these include the Church, the family, and other communities.¹⁵⁷ The preservation and invigoration of such communities requires "*a concrete commitment to solidarity and charity*," according to John Paul II, beginning in the family.¹⁵⁸ Each of these communities "exercise[s] primary functions and give[s] life to specific networks of solidarity."¹⁵⁹ Moreover, they "personalize[]" society and keep people mindful "that life in society has neither the market nor the [s]tate as its final purpose, since life itself has a unique value which the [s]tate and the market must serve."¹⁶⁰ The value of these communities is such that the state must refrain from interfering with their functions, and instead, should play a "subsidiary," or supporting role, enabling them to serve the needs of human persons.

G. *Culture*

The complementary institutions he has just discussed allow human beings to create what John Paul II refers to as "*the culture of a nation*" by supporting human freedom to seek the truth.¹⁶¹ According to John Paul II, culture is an extension of the human person's exercise of self-determining freedom:

151. CENTESIMUS ANNUS, *supra* note 72, at para. 48.

152. *Id.*

153. *Id.*

154. *Id.*

155. *See supra* Part III.

156. CENTESIMUS ANNUS, *supra* note 72, at para. 48.

157. *See id.* at para. 49.

158. *Id.* (emphasis added).

159. *Id.*

160. *Id.*

161. *Id.* at para. 50.

All human activity takes place within a culture and interacts with culture. For an adequate formation of a culture, the involvement of the whole man is required, whereby he exercises his creativity, intelligence, and knowledge of the world and of people. Furthermore, he displays his capacity for self-control, personal sacrifice, solidarity and readiness to promote the common good. Thus the first and most important task is accomplished within man's heart.¹⁶²

According to John Paul II, it is at this level—the level of the human heart—that the Church makes a “*specific and decisive contribution to true culture . . . by preaching the truth about the creation of the world . . . and . . . about the Redemption.*”¹⁶³ That truth speaks of “an active commitment to our neighbor and demands of us a shared responsibility for all of humanity.”¹⁶⁴ This duty extends beyond our family and neighbors, particularly in a world made increasingly small by improved communications, to a shared responsibility for avoiding or resolving conditions that encourage war.¹⁶⁵ It also extends to “promoting development” on a worldwide basis, in order to preserve peace and provide “realistic opportunities” to the poor.¹⁶⁶ Finally, it extends to a shared responsibility as stewards of our “environmental and human resources.”¹⁶⁷

Centesimus Annus provides John Paul II's account of a society designed to serve the dignity of human persons by allowing them the freedom necessary to seek truth. That society is governed by a state supportive (and never subversive) of myriad smaller communities that encourage the human person's development in authentic freedom. Central among those communities are the economic community, the Church, and the family, each of which plays a distinct role in enhancing the dignity of the human person by enhancing freedom. In support of these institutions, the state plays only a “subsidiary”—or supportive—role, with the primary purpose of preserving the conditions that allow the exercise of freedom in these various communities.

162. CENTESIMUS ANNUS, *supra* note 72, at para. 51.

163. *Id.* (emphasis added).

164. *Id.*

165. *See id.*

166. *Id.* at para. 52.

167. *See id.*

VI. IS *EVANGELIUM VITAE*'S "DOCTRINE ON THE NECESSARY CONFORMITY OF CIVIL LAW WITH THE MORAL LAW" AN ANTI-DEMOCRATIC CALL FOR GOVERNMENT ENFORCEMENT OF THE CATHOLIC FAITH?

As we indicated in our introduction, some American critics have seen in John Paul II's encyclical *Evangelium Vitae* an anti-democratic effort to impose Catholicism through the power of government. We have argued that, on the contrary, *Evangelium Vitae* does not admit of such an interpretation when read against the backdrop of the theory of church, state, and society that John Paul II developed in *Centesimus Annus*. According to that theory, the state's task is to play a subsidiary role, helping to order society by protecting basic human rights, while providing freedom for the economic and cultural spheres and the various groups that make up society. The claim in *Evangelium Vitae* that "laws which legitimize the direct killing of innocent human beings through abortion or euthanasia are in complete opposition to the inviolable right to life proper to every individual"¹⁶⁸ is a specific application of the theory of state and culture set forth more generally in *Centesimus Annus*.

Why does John Paul II claim that laws that legitimize abortion or euthanasia are contrary to fundamental human rights? His answer is not only that such laws deny the fundamental right to life, but also, that such policies "deny the equality of everyone before the law."¹⁶⁹ Although *Evangelium Vitae* does not contain a theory of the state or an account of the need for "equality before the law," as we have shown, those topics are treated in *Centesimus Annus*. There, the Pope outlines the tasks of the state: to govern according to the "rule of law," providing "legislation capable of protecting the freedom of all."¹⁷⁰ The task of the state is to play a subsidiary role in society, helping to order social life in a manner that promotes human freedom by protecting basic human rights. Of course, the most basic human right is the right to life. "Consequently, a civil law authorizing abortion or euthanasia ceases by that very fact to be a true, morally binding civil law."¹⁷¹ Policies permitting abortion or euthanasia lack moral force because they are instances of the state disregarding its subsidiary

168. *EVANGELIUM VITAE*, *supra* note 7, at para. 72.

169. *Id.* Some might object that we have presumed, along with John Paul II, that the human fetus is a person. We touch on this question indirectly in Part IV.B. For a more detailed and direct treatment of this question, see JOHN F. KAVANAUGH, S.J., WHO COUNT AS PERSONS? HUMAN IDENTITY AND THE ETHICS OF KILLING 125–37 (2001).

170. *CENTESIMUS ANNUS*, *supra* note 72, at para. 44.

171. *EVANGELIUM VITAE*, *supra* note 7, at para. 72.

role in helping to promote a free society through the protection of basic human rights.

Someone might object that the teaching of *Evangelium Vitae* is inconsistent with *Centesimus Annus* because the 1995 doctrine on the necessary conformity of civil law with the moral law seems to call for an active state that aggressively interferes with individual freedom, while the 1991 criticisms of the welfare state seem to endorse a passive state that abstains from government interventions. This objection is misguided in several ways. First, “conformity of civil law with the moral law” does not mean that the state should seek to impose policy that mirrors every feature of the moral law. Nowhere does John Paul II teach that government policy should enforce every moral virtue. Rather, “conformity of civil law with the moral law” means that the state should carry out its task of protecting human freedom and basic human rights while governing according to the rule of law. Second, although John Paul II in *Centesimus Annus* criticizes the bureaucratic inefficiency and impersonalism of the “Welfare State” while calling for the use of responsible freedom in a market economy and a robust, creative, free cultural sphere, he did not advocate a laissez-faire state. Rather, in both *Evangelium Vitae* and *Centesimus Annus*, the teaching of John Paul II is consistent with the view that the state should play a subsidiary role in society, seeking merely to guarantee all persons and groups the freedom to exercise their own initiative and self-determination, or to exercise their freedom in the pursuit of truth.

Finally, someone might object that, in a pluralistic society, Catholic leaders should not seek to impose their beliefs on others, nor should they encourage their flock to impose Catholic beliefs on others. John Paul II was one of the foremost defenders of religious freedom. He spoke out in defense of the rights of both Christians and non-Christians, including, quite prominently, his outspoken defense of Buddhist monks in Tibet and Islamic citizens in Kosovo. Regarding the Catholic faith, he emphasized that Christianity is an invitation to a personal journey with a loving God and also that it is a violation of the dignity of the human person to impose religious practice through government coercion. So, it would be misguided to see his statements about abortion and euthanasia as an effort to impose his religious beliefs on others.

The impression that John Paul II seeks to impose “Catholic belief” through political means rests on an ambiguity in the phrase, “Catholic beliefs.” On the one hand, Catholic beliefs include aspects of the faith available through the gift of grace, especially one’s personal relation with the Divine. John Paul II’s

emphasis on religious freedom reflects his sensitivity to the rights of everyone to access religious truths without interference from the state.

However, there is another sense of the phrase, "Catholic beliefs." Catholic teaching includes confidence in reason's ability to discern basic norms needed to order social life, norms that transcend the self-interest of the powerful. Further, Catholicism includes the belief that the state should carry out its task of governing according to the rule of law, applying the law equally to protect human freedom and basic human rights for all citizens. These Catholic "beliefs," which are central to the issue at hand, are not based on the gift of grace and the virtue of faith, but are accessible through reason. Nor are they distinctively religious in character, but instead, they have implications for how to form a just society.

Critics who, in the name of "religious pluralism," would object to the Pope and other Catholics supporting policies that defend the basic human rights of the weak are, in fact, committed to a relativism that undermines democratic government and the rule of law. Hiding behind the masks of tolerance and pluralism, such critics tacitly endorse a society in which only those with the power to assert their rights-claims over others receive the security of state protection.

In conclusion, the doctrine of the "necessary conformity of the civil law with the moral law" is not an anti-democratic call for the civil enforcement of Catholicism. Rather, it is a call for the state to carry out its task of protecting human freedom and basic human rights while governing according to the rule of law, treating each human person equally. Because laws authorizing abortion or euthanasia do not fulfill this central purpose, John Paul II drew the conclusion that any such policy imposed by a government "ceases by that very fact to be a true, morally binding civil law."¹⁷²

172. EVANGELIUM VITAE, *supra* note 7, at para. 72.

