The Culture of Enterprise in the Market Economy: an Italian Reception of the Encyclical *Caritas in Veritate*

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1. The intention of this article is to offer an initial reading of the encyclical letter *Caritas in veritate* (hereinafter, for the sake of brevity, *CV*), set in relation to the individual research itineraries of the authors in the sphere of law and economics.[1] It also benefits from suggestions gathered in the course of a series of meetings that took place between November 2009 and the time at which this paper was drafted in the Faculty of Economics of the University of Florence. The underlying conviction is that the faculty of economics, which is home to the study and teaching of economics, business economics, law and quantitative disciplines, represents the ideal site for such reflections. Moreover, an "interdisciplinary dimension" – moving towards a broader synthesis that brings together faith, theology, metaphysics and science – is the *proprium* of the very social doctrine of the Church (nos. 31, 53).[2]

Given the plurality of methods and languages that derives from this, it would be inappropriate here to overemphasise a specialist approach, so as not to lose sight of the path of dialogue and the essential overall view (no. 51). Nevertheless, we shall inevitably have to concentrate on a specific subject, and hence risk belittling a document of much broader scope, which sets at the centre *CV*, that is, Charity in truth. This is the hermeneutic principle of a social encyclical that unfolds in a series of theological passages that are extremely sophisticated and thus difficult for an inexpert reader. However, as we can deduce from the opening page, the papal document is addressed to a broad circle, comprising both the lay faithful and all people of good will. This indicates the clear intention of entering the public debate at all levels. In particular, those who are engaged in seeking elements that indicate significant changes in the mode of "doing", and prior to this, "conceiving" business, however sensitive they may be to the upheavals taking place in the external environment that can affect business culture, cannot – despite all potential cultural resistance[3] – fail to take into consideration an encyclical that focuses the current need for a "*profoundly new way of understanding business enterprise*" (no. 40).

On the keynote of, as we said, an interdisciplinary reading that sees enterprise as the crossroads of multiple interests, it is not irrelevant to reconsider it as one of the social groupings in which human personality is expressed (to borrow a phrase from article 2 of the Constitution of the Italian Republic). The encyclical sets itself in a similar perspective:[4] the *caritas in veritate in re*

sociali is central, the truth of Love immersed in "human social life", in what are the principal manifestations of human relations. Here the family is not considered *ex professo* (no. 44), rather international society, political society and the economic societies come first.[5]

The social teaching of the Church has already expressed itself on the question of enterprise, focusing at different times on the right to economic initiative as a fundamental right of the human being, on the aims of enterprise and on enhancing the value of the labour acquired within the corporate organisation.[6] A definition which, to exploit legal terminology, focuses on the personal and community perspective that also characterises our Republican Charter, can be derived from the *Centesimus annus* (no. 43): "A business cannot be considered only as a 'society of capital goods'; it is also a 'society of persons' in which people participate in different ways and with specific responsibilities, whether they supply the necessary capital for the company's activities or take part in such activities through their labour." The subject of enterprise also emerges in several places in the pages of the *CV* (nos. 38, 40, 41, 46, 66), with various points that call for ulterior examination.

2. When the encyclical states that the present time, marked by phenomena such as growth in scale and territorial outsourcing, requires a "*profoundly new way of understanding business enterprise*" (no. 40), it does so on the one hand to point out that "one of the greatest risks for businesses is that they are almost exclusively answerable to their investors, thereby limiting their social value", and on the other, and as a consequence of this, to note that there is also "increasing awareness of the need for greater *social responsibility* on the part of business", and hence that "*business management cannot concern itself only with the interests of the proprietors, but must also assume responsibility for all the other stakeholders who contribute to the life of the business*: the workers, the clients, the suppliers of various elements of production, the community of reference." This is followed by a mention of the "new cosmopolitan class of *managers*", answerable only to a similarly delocalised and elusive group of shareholders, and to the "anonymous funds" that determine the remuneration of these technocrats. Reference is also made to the appeals previously made by Paul VI "to give serious attention to the damage that can be caused to one's home country by the transfer abroad of capital purely for personal advantage" and John Paul II who "taught that *investment always has moral, as well as economic significance*." The discourse of Benedict XVI continues, underscoring the need to avoid a "speculative *use of financial resources* that yields to the temptation of seeking only short-term profit, without regard for the long-term sustainability of the enterprise", a sustainability that elsewhere the teaching had already identified as economic sustainability – "when a firm makes a profit, this means that productive factors have been properly employed"(*Centesimus annus*, no. 35) – and that is declined here in terms of "benefit to the real

economy," and of "attention to the advancement [...] of further economic initiatives in countries in need of development", enabling definition of the requirements of a, so to speak, ethical outsourcing.

This is the first section of the encyclical that is of interest here.

The so-called social responsibility of the enterprise may be reduced to a mere list of good intentions unless the issue of the effective application of principles and rules is addressed. Deriving from this is the fundamental function of law in economic life that the teaching of the Church has always duly emphasised,[7] and which certainly does not escape Benedict XVI (*infra* § 5).

As regards the business interest as delineated above, this is no novelty either. Nowadays even the legal system implements the general interest in certain business models (cf., for example, the social co-operative pursuant to article 1 of Law no. 381 of 8 November 1991 and the social enterprise pursuant to article 1, subsection 1, of Legislative Decree no. 155 of 24 March 2006, no. 155). We can even come across regulations that make explicit reference to the "general interest of the system of enterprise"[8] which "is in line with the major trends of modern juridical culture that considers the interest of the enterprise as an entity which is not restricted to the interest of the businessman, but refers to the higher sphere of the interest of the enterprise in productive efficiency (the interest of the enterprise per se) or corresponds to the point of balance between conflicting interests."

In an even broader perspective, while by now "we cannot do without an analysis of the regulations and values of Community legislation, which domestic legislation must comply with and implement", it is increasingly necessary to acknowledge that the "Italo-Community legal system" aims both to "support enterprise" and also "to protect consumers, in the control of competition and the maintenance of the balance of exchange", and hence in "everything that contributes to the prevention and elimination of the so-called market defaults and the stimulation of competition with a view to fostering a harmonious, balanced and sustainable development of the local economic activities."[9] Hence, the "concept of market" that emerges is "that of a complexified place, enhanced by the participation and representation of the various interests that operate within it, or that are influenced by it. The scheduled integration of economic policies with those of the consumers and the environment within Community law […] consolidates this vision of the market as a place that the legal system itself wishes to be open to the effective participation of the various stakeholders and interests, fostering the consideration, comparison and balancing of the same."[10]

Evidently not everything is in harmony with such a prospect. It's not necessary to recall the theories on corporate social responsibility, in particular the well-known concept of the profit motive enterprise.[11] It is sufficient to call to mind what has happened over the last thirty years, in which "we move from a historical context dominated by the idea that enterprise can be 'multi-objective', that is

aimed at the pursuit of an economic goal and also at compliance with various restrictions of a social nature, to another in which business appears to be aimed solely at the short-term financial benefit of the shareholder, while 'the tangible and ideal interests of the employees, of the local communities, of the suppliers and the state of the environment have been eliminated from its decisional horizon'".[12] In those years what prevailed was the "aspiration to the private";[13] "what emerged and developed was a global enterprise that was 'substantially' socially irresponsible";[14] the "social interest"[15] is almost unequivocally declined in legal theory as the the short-term financial interest of the controlling shareholder and top management. This was the period of the privatisations, the years of the decline of solidarity, of the deregulation of the capital and labour markets, of Community restrictions and, in parallel, of the contraction of the Welfare State; years of immigration and globalisation; years in which the underlying causes of the great global crisis came to fruition. These are phenomena of epochal significance, which the encyclical must perforce address.

3. The vision of business interest delineated by the encyclical appears at least more circumstantiated if – like Benedict XVI – we consider the enterprise as an activity, as a sequence of co-ordinated actions, rather than as a *unicum* with a similarly singular result.

Certainly, breaking down the productive process into phases, even in terms of efficiency and efficacy, is another perspective that is anything but original: it is already present in the legislative texts, and undoubtedly "the social sciences and the direction taken by the contemporary economy point to the same conclusion" (no. 37). And in fact, "doing business signifies […] also co-ordinating a plurality of contracts, governing the rights of a multitude of stakeholders," so that "the optimal combination between freedom and law, between public and private, between rules and incentives, thus represents the long-term problem of economic policy as government of society." This is what the economist writes; and it also condenses "for the jurist the role that the business absolves and, at the same time, the 'problem' of the enterprise today."[16]

The *quid pluris* consists in this, that in every phase of economic activity, from the location of resources, to the financing, production and consumption, every business action inevitably has "moral implications" (no. 37). In the encyclical, the discussion regarding justice in economic relations is shifted to "how" to produce the profits and "how" to use them (no. 21). On the one hand this continues to involve the relationship between economics and law, and on the other it leads to a scrutiny of the individual phases in the economic cycle, while on yet another it contemplates the different organisational models set at the disposal of private entities by the legal system.

To the first issue, the complexity of the relations between law and economics, and the fact that one cannot disregard the other and vice versa, we shall return later (§ 5). What is certain is that, from the very first encyclicals, the social doctrine of the Church has always maintained that civil

power is not “a mere guardian of law and of good order” (*Quadragesimo anno*, no. 25) and it still prefigures a capitalist market economy circumscribed within a “strong juridical framework”.[17]

The latest encyclical too can be placed in the same groove already carved out (nos. 35, 36, 37), with an additional detail: relations between private entities must be based on conditions of fairness rather than corrective legal action (no. 37). This remark harks back to issues of contractual justice and European contract law. But the encyclical is also conscious of the decline of national sovereignty in the age of globalisation, so that there is “*urgent need of a true world political authority*” (no. 67), in a scenario that is otherwise dominated by vast private entities (multinationals) “in relation to which the individual is ‘weak’”,[18] characterised by a discipline of international trade that still features a “marked ‘imbalance’ in favour of mercantile logic to the detriment of public interest, social values and human rights.”[19]

As regards the individual phases of the economic cycle the *CV* devotes specific observations to the use of capital, as we have seen, but also to savings (no. 65) and even to consumption (no. 66), with a responsible exercise of both being enjoined. Consumption in particular, in current legal-economic thought, tends to free itself of the dogma of the sovereignty of the consumer, thus overcoming a strictly private dimension. In continuity with the traditional statements – “Justice is to be observed not only in the distribution of wealth, but also in regard to the conditions in which men are engaged in producing this wealth.” (*Mater et Magistra*, no. 82) – Benedict XVI too is concerned with the modes of production, and especially with the environmental consequences (nos. 48, 51). In the same way, to guarantee the right of the consumer (and the worker) to health and safety, the current legislation moulds the economic activity leading from production to consumption through a passage from the ethos to the norm that has already been largely achieved.[20]

Among the productive factors, labour is the traditionally most recurrent capital in the social teaching of the Church. There are clear resonances between what we read in the *CV*, and previously in the *Laborem exercens* (no. 8),[21] and then also in the *Centesimus annus* – it is “possible for the financial accounts to be in order, and yet for the people — who make up the firm's most valuable asset — to be humiliated and their dignity offended” (no. 35) – and what is written by certain jurists sensitive to constitutional legality.[22] No less evident, moreover, in theory and above all in practice, are conflicting statements and denials.

The *CV* critically reconsiders the role of the unions (no. 64), notes the impact of new phenomena, such as migrant flows (no. 62) and the deregulation-shattering of the employment contract (nos. 25, 32) in relation to the post-Fordist enterprise.[23] Benedict XVI insists on the subjective aspects of work, expressing himself on this point with the same strong language used by his predecessor, pondering the current meaning of the word “decent” in regard to work.

The answer consists of a list – introduced by the repetition seven times of the formula "work that...." (no. 63) – which indicates more the results to be pursued than the routes by which to achieve them.

They are nevertheless phrases that give us food for thought when connected with the current transition of labour law which, not without tension,[24] from a "marked inclination towards 'having' (stability, uniformity) […] appears to be shifting its pivot […] towards 'being', that is to the individual."

4. With regard to mission and corporate governance too, we can discern a close affinity between the social doctrine of the Church and several current legal and economic trends. Here I have in mind, for example, the design of the economic relations that can be derived from the Italian constitutional Charter (articles 41, 45 and 46 of the Constitution).

Mater et Magistra (nos. 72, 76) expressed a not dissimilar inclination in favour of the artisan enterprise, co-operation and the small agricultural enterprise. *CV* pursues a broader and more updated approach. It take in a principle of pluralism in models of enterprise, underscoring a "broad intermediate area" between profit and non profit, a "new composite reality embracing the private and public spheres, one which does not exclude profit, but instead considers it a means for achieving human and social ends" and stressing its consequent and well-defined finalism: "What is needed […] is a market that permits the free operation, in conditions of equal opportunity, of enterprises in pursuit of different institutional ends. […] It is from their reciprocal encounter in the marketplace that one may expect hybrid forms of commercial behaviour to emerge, and hence an attentiveness to ways of *civilizing the economy*. Charity in truth, in this case, requires that shape and structure be given to those types of economic initiative which, without rejecting profit, aim at a higher goal than the mere logic of the exchange of equivalents, of profit as an end in itself" (no. 38).

Correspondences with what is written in the *CV* are to be found in contemporary juridical thought. The plurality of the organisational models of enterprise is not even debated; clearly an appraisal is not made in the terms outlined above, but the point is nevertheless clear: "the organisation is neutral but it is not causal. The rules are generally devised on the basis of the scheduled outcome", so that "when the scheduled outcome changes, the organisational rules change too".[25] Accountability too tends to be shaped in consequence. At times the neutrality of the legal models for the running of business has been posited, and this can be true in the sense that they are interchangeable on the basis of individual decisions (cf., for example, art. 2500-*septies* and following of the Italian Civil Code). But in practice this is not the case: "There is a content corresponding to each form and it is not possible to separate form from content."[26]

Moreover, the legal status of the enterprise, while necessary, is not sufficient to obtain specific results.[27] The same could be said of many other institutions and norms of the private law of enterprise and possibly of law in general. Jurists of different extraction, at different times and on a range of arguments, have considered that juridical discourse indubitably offers "resources", while at the same time being hampered by equally undeniable "limitations".[28]

5. Despite this, the *CV* continues to entrust law with the role of '*regulating'* the constitution and operation of a world political authority – echoing moreover the hopes already expressed by Pope John XXIII in the encyclical *Pacem in Terris* – making it possible to effectively address the impact of the new "global" economic system on the now prevalently "local" protection of people's rights. Evidently, the proposed solution emerges from the consideration that the policies agreed at international level would appear to pursue an economic interdependence of political and constitutional implications, rather than a political and social integration that gives rise to the sharing of economic policies.[29] In effect, for Pope Benedict XVI, in the face of the relentless growth of global interdependence and in the presence of a similarly global recession, there is *inter alia* an urgent need for a *juridical* reform of the international economic and financial architecture: "*To manage the global economy; to revive economies hit by the crisis; to avoid any deterioration of the present crisis and the greater imbalances that would result* […]" (no. 67).

Hence the objective is the creation of "*a political, juridical and economic order which can increase and give direction to international cooperation for the development of all peoples in solidarity.*" (no. 67). With a view to achieving this objective, such a world political authority would need to be universally recognised by the national States and above all to be vested with effective power (no. 67).

Such a prospect sets before the jurist who wishes to approach an analysis of it, exploiting his customary methods, no few problems to address: from the most immediate, such as what the juridical nature of such an authority is to be and where its geographical location ought to be etc. through to more complex issues relating to the effectiveness of the law, or how such an authority can impose its decisions at "local" level.

Any such analysis would probably end up being conditioned by the dominant ideological framework and by *status quo*. For these reasons, it seems to us that the aspect of greatest interest is another for the jurist who, in the interim, wishes to explore the role that such a political authority ought to play in relation to the economic systems or, perhaps it would be better to say, the economic system represented by the global market. In this case too it is clear that the analysis cannot fail to be affected by the various theories postulating the type of relation that there should be between the law and the market. And here the jurist will necessarily have to interrupt his analysis, conscious of the

fact that such an approach could not contribute to the identification either of the new architecture of the economic and financial system or, still less, to the definition of the sphere of the political legitimisation of the powers of the world authority. In short we would find ourselves addressing a problem of ideological approach to market regulation activity that cannot be summarised in a single viewpoint.

In the *CV* this problem emerges when it is stated that "the market does not exist in the pure state. It is shaped by the cultural configurations which define it and give it direction" (no. 36). And that economy (I would add, hence also the market economy) and finance are instruments that man can "use badly" when motivated by purely selfish ends, since the "economic sphere is neither ethically neutral, nor inherently inhuman and opposed to society" (no. 36). As such, economic activity "must be structured and governed in an ethical manner" (no. 36). To this end, the global economy needs "*just laws* and *forms of redistribution* governed by politics" (no. 37) more than in the past when economic activities were prevalently circumscribed by territorial limits.

The idea, already present in the *Rerum Novarum*, that to sustain itself the civil order also needs the intervention of the State for purposes of redistribution cannot be reproposed *tout court* in a global economy: "Not only is this vision threatened today by the way in which markets and societies are opening up, but it is evidently insufficient to satisfy the demands of a fully humane economy" (no. 39). If the redistribution alone is insufficient to bring about the economic and social development of peoples, even those who are better off (*Populorum Progressio*, no. 44), then we have to ask ourselves what role the State can play in the economy to make the best possible contribution to guaranteeing the values upon which the encyclical focuses.

Elements for potential meditation are certainly not lacking in the *CV*.

In the encyclical Pope Benedict XVI declares that the State-market relationship is not exclusive, but must also take civil society into account. However – again according to Pope Benedict XVI – a fundamental inconvenience to be avoided is that this binary model may corrode society in the unresolved conflict between "*giving through duty*" and "*giving in order to acquire*" (no. 39).

A second point for reflection relates to the observation formulated by Benedict XVI apropos the State: the role of the State is not redundant, on the contrary, for the resolution of the financial crisis its role appears destined to grow, regaining many of its competences (no. 41). Where the State rests upon weak constitutional systems, it can be sustained by the "development of other political players, of a cultural, social, territorial or religious nature" (no. 41). Here the analysis becomes more complex, and would call for an appraisal that is beyond the scope and the purpose of this paper. Moreover an attempt at interpretation could prove not particularly useful in the end for the

prospected exploration that we are addressing here. On the other hand, concepts such as "State of law" and "democracy" are in fact easier to indicate than to identify.

Further, as has been observed, possibly with a touch of provocation, "for the first time in human history there is a single clearly dominant state form, the modern constitutional representative democratic republic."[30]

There emerges a third reflection connected with the previous: in post twentieth-century society, in these mediated forms of democracy a no longer marginal role comes to be played by the so-called intermediate bodies or, rather to update this expression to fit the times, the middle society, or in other words "that society that represents the world of work and of enterprise and the mutualism of the social subjects has given rise to free associations recognised and regulated in view of their social impact, such as the trade unions, the representative associations, the Chambers of Commerce and the NGOs".[31] Among these, in particular, among the representative associations emerge the consumers' associations which, in the *CV*, are identified along with those they represent – namely the consumers – as a "new political power" (no. 66), underlining as desirable for them, as long as they are not manipulated by associations that fail to genuinely represent them, a more incisive role as a factor in building economic democracy (no. 66).

This approach appears to imply acknowledgement of the fact that, in a context of market interconnection such as the present, the political dimension represented by the "national" parties is no longer the only benchmark for the "citizens". The reasons are manifold, but one appears to prevail over the others: the mystification of politics with the market. The acknowledgement by the political power of the market's status as an "order" in its own right. And the demonisation, in the name of an efficiency, technique and economy that are an end in themselves, of interest in its public dimension in favour of a private and individualist vision. The identification of the public interest with the *Leviathon* has ousted from the consciences of those engaged, for various reasons, in making decisions of a political and economic nature, the concept of social community and of the "common good" so frequently called up in this encyclical: "To desire the *common good* and strive towards it *is a requirement of justice and charity*" […] "to take a stand for the common good is on the one hand to be solicitous for, and on the other hand to avail oneself of, that complex of institutions that give structure to the life of society, juridically, civilly, politically and culturally» (no. 7).

The "common good" leads us to address the distinction of conceptual status between legal principles and values. Is the "common good" that is spoken of in the encyclical a legal principle or a value? The jurist cannot escape answering this question on pain of making a futile use of his instruments. It has been remarked that "law tends to make communal human life possible, that is, it

pursues the common good",[32] and that "the political common good, understood as the creation of conditions that enable individuals and groups to obtain certain goods in relation to which the State is not competent or is neutral, always implies choices and actions that cannot be made in the spirit of moral neutrality so dear to many liberal political philosophers. The State […] cannot be morally neutral, not even when it has to recognise, protect and foster rights that […] envisage a specific limitation of its competence".[33] The risk that we run is that of confusing a legal principle with a value for the promotion of the action that both call for. This risk can be avoided if we acknowledge that the legal principle expresses modal predicates whereas the value is extraneous to indications of content. In the absence of such distinction the "common good" can become a subject of dispute, in terms both of the manner in which it is pursued and of the ends pursued. In such a way, in effect, as to relegate it to the status of a value that society can disregard, void of meaning, as argued by Hayek with regard to "social justice", where he claims that "no-one has yet found even a single general rule from which we could deduce what is 'socially just' in all the specific cases that would fall within that given rule".[34]

In the *CV*, the distinction between values and legal principles is influenced by the more general formulation of the social doctrine of the Church which "has unceasingly highlighted the importance of *distributive justice* and *social justice* for the market economy, […]. *Without internal forms of solidarity and mutual trust, the market cannot completely fulfil its proper economic function*" (no. 35). Solidarity and mutual trust between those who "operate" in the market and those who are called upon to 'direct' it with a view to achieving the common good appear to be identified as instruments through which the prevalence in the juridical order of power logics conditioned by private interests can be avoided (no. 5). Solidarity is one of the constitutional principles contained in the Charter of the Italian Republic: it is expressed both in article 2 (*supra* § 1) and in article 119 of the Constitution. And trust? Is it a legal principle or a value? Or rather, a rule of behaviour which is functional to law. Law, in fact, can introduce rules aimed at safeguarding trust in the markets, as envisioned in Community law among the aims of the supervision of the authorities appointed to regulation of the financial sector. And so perhaps the problem that arises is how to guarantee the trust? What are the tools that the various judicial orders identify to guarantee trust in the financial markets, for example?

It is in following this path that we come to the central reflection, namely the problem of the regulation of the market in line with the teleological model delineated in the *CV*. Benedict XVI himself recalls that the Church has no technical solutions to offer, and nor does it presume to interfere in the politics of the States. The task of the Church is that of indicating to politics what it considers to be the path to be travelled in order to move, already in our earthly life, towards the

"City of God". This path assumes taking a step backwards with regard to our reason, and returning to the "fundamental values" that must guide the action of those who are called upon to play a social role. Can we speak of a plurality of values or of a single fundamental value? It is understood that were we to discover a plurality of fundamental values we would have to address the complex task of identifying a criterion of classification.

Notwithstanding this, in the encyclical it is not difficult to identify, as the fundamental value to which all the rest refer, the safeguarding and valuing of the human person in his or her integrity (no. 25). The very world political authority to which we referred earlier must "*make a commitment to securing authentic integral human development inspired by the values of charity in truth*" (no. 67). And one of the demands of charity and truth is that the traditional principles of social ethics find a place within normal economic activity. But how? Can law be an instrument functional to this end? Or is it too incapable of avoiding the limitations that are implicit in it by virtue of the fact that it is generated by the human institution?

The question of the relation between law and ethics has been amply debated by legal philosophers and sociologists, but less frequently among other jurists. As we know, even among economists the relations between ethics and economics have given rise to an extensive literature. The reason for this can intuitively be sought in the very concept of law which, unlike economics, we expect to be equipped with its own "inner morality".[35] It is only when law comes into conflict with values that are extraneous to the constitutional principles that ethics becomes a valuation criterion for both legislation and jurisprudence. Nevertheless, while the relation between law and ethics tends to be "conflictual" as regards human events – concerning issues such as the conception of life, birth control, abortion and divorce, the forms of cohabitation between people, scientific research and its limitations, the availability of life in its terminal stages – when we are dealing with juridical norms established to regulate the economic and financial system such opposition rarely takes shape. In this case, in fact, the traditional principles of social ethics are principles of law. Despite this, as we know, the "quasi" coincidence of *ethos* and *nomos* has not prevented either the so-called market defaults or the financial scandals.

The various systems of regulation that have been organised at State level to control the financial market have revealed themselves ineffective in guaranteeing the protection of the "common good"; they have become permeable by the amoral forces that drive the financial market, or that refute as invasive any type of control on the part of the public power in the name of a natural law little inclined to the service of the human person.

It scarcely seems incidental that the inefficacy of the juridical orders in the adequate regulation of the financial system has increased in frequency over the last two decades. Or that the

increase in the intensity of the phenomenon has involved political and economic systems with different institutional characteristics. Which immediately leads us to think of "globalisation" as the prime cause of financial risk, as moreover also emerges from the *CV*. The natural conclusion that derives from this would be that without globalisation we would not have risked a repetition of 1929. This is however probably a hasty conclusion, which fails to take into consideration the fact that globalisation has merely contributed to raising the veil on the growing incapacity of the democratic States to guarantee the bridge between constitutional rights and their effectiveness on the part of the legislative and judicial organs. Almost everywhere politics has sought to get around this breakdown by choosing to expand along a track outside that marked by public law which, as described above, has accompanied the process of democratisation of authoritarian liberalism and the passage from the State of law to the Welfare State, from the single-class State to the multi-class State.[36]

As has been observed, "a model in which the operators consider any move legitimate, in which there is a blind belief in the market's capacity for self-regulation, in which grievous embezzlement is common practice, in which the regulators of the market are weak or are prey to the regulated, where the remuneration of the top business managers is for the most part ethically intolerable, cannot be a model for the growth of the world."[37]

6. However, if the market and the principle of *laissez faire* cannot be considered self-sufficient, as consistently stated by the social doctrine of the Church, which has insisted upon the crucial role of law in economic life; and if law too is not exempt from failure, even in elaborating systems of control for business strategy: if this is the case then we must heed the recent warning of the Holy Father: "What man needs most cannot be guaranteed to him by law."[38] And again, from the encyclical: "*Charity goes beyond justice* […] but it never lacks justice […]. The *earthly city* is promoted not merely by relationships of rights and duties" (no. 6, but see also nos. 35, 36). Or, in lay language: "Contracts and laws […], while necessary, do not suffice to guarantee an advanced and civil social order".[39]

Since the intention is to seek the *quid pluris* that can still serve man and human coexistence, the authors of these comments cannot but refer to the reading of the encyclical. This is not to say that the social doctrine of the Church contains answers to all the possible questions. It can even disappoint those who seek therein technically exhaustive solutions (no. 9 and *Sollicitudo rei socialis*, no. 41), despite the fact that authoritative segments of the Church are beginning to discern the need to translate the principles into more detailed solutions. The encyclical tends, however, to offer value guidance; that is it aims to suggest and propose – certainly not impose – principles capable of being translated into implications in the various fields of social action, guidelines inspired by community personalism. This is based on the premise that the "driving force" behind a

"good" life and a "good" society, even a "good" enterprise, the engine of integral – not merely economic – development, consists in a "*new humanistic synthesis*" (no. 21), in a man "open to the Absolute" (nos. 16,74,78), possessing an original vision of the social reality: in short the *CV*.

These last statements, while on the one hand they reiterate the humanist postulate that is the constant weft of the social doctrine of the Church, and which appears as submerged in the broad consciousness as it is ever-present in all the fundamental nodes of contemporary life,[40] on the other they also bring into play the metaphysical prospect that, where not rejected a priori, engages the social scientist.[41] The transcendence may even sound like a "provocation". However, ignoring it would mean eluding the passage of the *CV* (no. 21) cited at the beginning of the presentation page of the Catalonia symposium.

[1] Sections 1 to 4 and 6 are by Andrea Bucelli, section 5 by Filippo Zatti.

[2] Paragraphs cited hereinunder without other specification refer to the encyclical *CV*.

[3] The difficulty of "dialogue between corporate disciplines and economic ethics" has been addressed by our colleague: PEZZOLI, S.: 1991, *Il principio di razionalità economica e l'etica economica*, in *Studi in onore di Ubaldo De Dominicis*, Ed. Liut, Trieste, I, p. 186.

[4] "the Church's social doctrine focuses especially *on man* [...] within modern societies" (*Centesimus annus*, no. 54).

[5] Distinction borrowed from CAFFARRA, C.: 2010, *La Carità nella verità produce il vero sviluppo*, in http://zenit.org/article-20529.

[6] For references see PONTIFICAL COUNCIL FOR JUSTICE AND PEACE: 2004, *Compendium of the social doctrine of the Church*, Libreria Editrice Vaticana, Città del Vaticano, p. 185 ff.

[7] With reference to the *Rerum Novarum*, to the *Quadragesimo anno* and to the *Mater Magistra*, cf. FERRARI TONIOLO, A.: 1961, *La funzione del diritto nella vita economica secondo l'insegnamento della Chiesa*, in *Iustitia*, Giuffrè, Milano, p. 339 ff.

[8] In article 1 of Law no. 580 of 29 December 1993, with the commentary on the same that follows in the text from GALGANO, F.: 1994, *Le nuove frontiere delle Camere di commercio*, in *Impresa e Stato*, Mondadori, Milano, p. 48.

[9] DI NELLA, L.: 2003, *Ruolo delle CCIAA e subfornitura nell'economia globalizzata*, in *Studi in memoria di Vincenzo Ernesto Cantelmo*, edited by R. Favale and B. Marucci, Esi, Napoli, 2003, I, pp. 649, 660, 663.

[10] PIZZOLATO, F.: 2009, *Autorità e consumo. Diritti dei consumatori e regolazione del consumo*, Giuffrè, Milano, pp. 216 f., 219, 221, 223.

[11] For all, cf. FRIEDMAN, M.: 1962, *Capitalism and Freedom*, Chicago University Press, Chicago.

[12] MATACENA, A.: 2008, *Responsabilità sociale delle imprese e accountability: alcune glosse*, p. 12 of the typescript and at http://amsacta.cib.unibo.it/2596/.

[13] ROSSI, GIAMP.: 1995, *Pubblico e privato nell'economia di fine secolo*, in *Le trasformazioni del diritto amministrativo. Scritti degli allievi per gli ottanta anni di Massimo Severo Giannini*, edited by S. Amorosino, Giuffrè, Milano, p. 230.

[14] MATACENA, op. cit., p. 12 of the typescript, where there are ample references to literature.

[15] ROSSI, G.: 2008, *Il mercato d'azzardo*, Adelphi, Milano, 2008, p. 54.

[16] Thus, respectively, SCANDIZZO P.L.: 2002, *Il mercato e l'impresa: le teorie e i fatti*, p. 2, and BUONOCORE, V.: 2002, *Presentazione*, in *Trattato di diritto commerciale* directed by V. Buonocore, I, 6, Giappichelli, Torino, p. XIV.

[17] Expression taken from *Centesimus annus*, no. 42.

[18] DONATI, A.: 2009, *I valori della codificazione civile*, Cedam, Padova, p. 197 f.

[19] D'ALBERTI M.: 2008, *Poteri pubblici, mercati e globalizzazione*, Il Mulino, Bologna, p. 37 f., 131 ff.

[20] PIZZOLATO F., op. cit., p. 2 ff., 158 ff.

[21] On which cf. MENGONI, L.: 1982, *L'enciclica Laborem excercens e la cultura delle relazioni industriali*, in *Giornale di diritto del lavoro e delle relazioni industriali*, Franco Angeli, Milano, no. 16, p. 595 ff.

[22] Cf. For example PERLINGIERI, P. and LONARDO, L.: 2005*, Istituzioni di diritto civile*, Esi, Napoli, 2005, 3ª ed., p. 101 f.

[23] Cf. PESSI R.: 2007, *I problemi del diritto del lavoro: prospettive per un inventario*, Cedam, Padova, p. 18 f., 33 ff.

[24] The reference is to the Italian experience: the words cited in the text were promounced just twleve days before he was killed by Red Brigade terrorists by D'ANTONA, M.: 1999, *Il diritto al lavoro nella costituzione e nell'ordinamento comunitario*, in *Rivista giuridica del lavoro*, Edizioni giuridiche del lavoro, Roma, II, p.22 f.

[25] SPADA, P.: 2004, *Diritto commerciale. I. Parte generale. Storia, Lessico e Istituti*, Cedam, Padova, 2004, p. 107.

[26] GALGANO, F.: 1988, *Oggetto dei consorzi*, in *Le nuove frontiere della mutualità nelle cooperative e nei consorzi*, Giuffrè, Milano, p. 59.

[27] Significantly, apropos the co-operative, which is one of the forms favoured by the social doctrine of the Church at a point in history certainly no less difficult than the present, when "after so many years of cannibalism" there emerged a "need for solidarity as for oxygen", Alberto Basevi – a name that has become part of the history of co-operation in Italy – wrote: «It is the moral yeast that is comprised in the co-operative concept which will come to save Italy, now that the dams of morality have burst and the rot of the most sordid egoism is swamping us from all sides; and this ideal force is not contained in a name or a legal formula, but in the substance of the daily work of the co-operatives, made of faith and of sacrifice." (Basevi, A.: 1953, *Cercasi cooperativa* …, in *Studi cooperativi*, La rivista della cooperazione, Roma, p. 183).

[28] Citing the words of ZATTI P., *Verso un diritto della bioetica: risorse e limiti del discorso giuridico*, in *Rivista di diritto civile*, Cedam, Padova, 1995, I, p. 43 ff. There are also interesting points in FERRANTI I.: 2002, in A. Palazzo and I. Ferranti, *Etica del diritto privato*, Cedam, Padova, II, p. 371 f.; SIMONCINI A.: 2010, *Oltre lo Stato. Una lettura della CV*, Firenze, 10 marzo 2010, p. 3 f. of the typescript: in no. 1 of the encyclical, "which encapsulates the entire Catholic-Christian anthropology", notes "an adequate explanation as to why the juridical phenomenon exists as such (structural)", an "explanation of why – at bottom – we accept and day after day obey (or violate) an infinite series of laws and rules", consequently rejecting "reductive explanations of a utilitarian or sanctionary stamp."

[29] RONCHETTI, L.: 2007, *Il nomos infranto*: *globalizzazione e costituzioni del limite come principio essenziale degli ordinamenti giuridici*, (Jovene, Napoli), pp. XV-XVI.

[30] DUNN, J.: 2000, *The cunning of unreason: making sense of politics*, (HarperCollins, London), p. 210.

[31] BONOMI, A.: 2005, 'Sussidiarietà, sviluppo e corpi intermedi della società', in *Federalismi.it* (11).

[32] COLOM, E.: 2001, 'La persona: tra antropologia e diritto', in M. R. Saulle (ed.), *Dalla tutela giuridica all'esercizio dei diritti umani*, *vol. II: I diritti dei singoli e delle collettività nel terzo millennio*, (Edizioni Scientifiche Italiane, Napoli), pp. 150-169.

[33] TOSO, M.: 2000, *Verso quale società?*, Las, Roma, 2000, p. 315.

[34] HAYEK, F. A: 1978, *Nuovi studi di filosofia, politica, economia e storia delle idee*, (Armando, Roma), p. 69.

[35] FULLER LON, L.: 1986, *La moralità del diritto*, (Giuffrè, Milano).

[36] LUCARELLI, A.: 2009, 'Crisi e ricostruzione del diritto pubblico', in A. Lucarelli (ed.), *Il diritto pubblico tra crisi e ricostruzione*, (La scuola di Pitagora editrice, Napoli), p. 40.

[37] DRAGHI, M.: 2009, *Non c'è vero sviluppo senza etica*, in *Identità cristiana*, in www.identitacristiana.it.

[38] Message of His Holiness Benedict XVI for Lent 2010.

[39] ZAMAGNI, S.: 2008, in the *Presentazione* della Relazione Annuale 2007 dell'Agenzia per le Onlus of 9 July 2008, the economist whose thought transpires clearly in several passages of the *CV.*

[40] The question of man and the anthropological issue are now omnipresent, according to POSSENTI, V.: 2009, *Introduction* to G. LA PIRA, *Il valore della persona umana*, edizioni Polistampa, Firenze, reprint, p. 5, who specifies: «Economics, law, politics, technique, bioethics and biopolitics depend on specific conceptions of man, [in play] are the major cruxes of contemporary life, in which the question of the human being is always at issue."

[41] ROGGI P.: 2010, *Address* at the Convention on *CV. Istruzioni per l'uso. Fraternità, gratuità, sviluppo economico, diritti della persona*, Florence 30 January 2010, p. 12 of the provisional version: "the instinct of the social scientist is to distance himself from metaphysical explanations but, on the other hand the entire Social Doctrine of the Church repeatedly confirms that without metaphysical reflection, without insertion in its non-empirical models, the social problems are destined to remain unresolved. This is a dilemma of no slight import: the social scientist who confesses his faith cannot be merely an economist or a sociologist; he must be something more, he must be a theologian.

In the history of economic thought there are no cases of economists who have declared themselves scientifically Catholic. Although perhaps I'm wrong there: in effect there was one. He was a French nineteenth-century economist who was a Napoleonic prefect in Spain. His name was Albano De Villenueve-Bargemont and he was a man of singular courage. He titled his treatise on political economy *Economie Politique Chrétienne*. But this was in the period of the Catholic Bourbon Restoration. Anyone doing that today would expose himself to ridicule. Criticism levelled by Villenueve's economist colleagues objected that *Political Economy cannot support adjective*s. At the time they prevailed over the ingenuous economist. But even now the dilemma has not yet been entirely resolved."