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### Property and Moral Responsibilities: Some Reflections on Modern Catholic Social Theory

Lucia A. Silecchia

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**PROPERTY AND MORAL RESPONSIBILITIES: SOME REFLECTIONS ON  
MODERN CATHOLIC SOCIAL THEORY**

*Lucia A. Silecchia*<sup>†</sup>

*Abstract*

*Professor Eric Claeys’s forthcoming book, Natural Property Rights, offers a deep perspective on property rights principles. However, while the law tends to focus—as I believe it must—on property **rights**, rights are inextricably intertwined with **duties** or **responsibilities**. The natural rights framework for property is, as Claeys says, “good enough for government work.” It reflects a principled way for the government to allocate property rights and use the law to protect them.*

*However, it is necessary to look beyond what is desirable for **government** to protect through law. Other sources propose parameters for reasoned use of property with an emphasis on duties. The Catholic social tradition offers a perspective on the **moral** duties and responsibilities that accompany property rights. This is not a substitute for natural property rights and their robust legal protection. Rather, it is a way to supplement legally defined rights with a moral perspective stressing the correlative duties and responsibilities that come with those rights. This paper argues that the more focus there is on a rights-based view of property from a **legal** perspective, the more important it is to look at **moral** frameworks to promote a healthy and holistic vision of property. Modern Catholic social theory offers just such a framework.*

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<sup>†</sup> Professor of Law, The Catholic University of America, The Columbus School of Law (Washington DC). I am deeply grateful to Professor Eric Claeys and the TEXAS A&M JOURNAL OF PROPERTY LAW for the opportunity to participate in this symposium. I am also grateful to Prof. Claeys and Prof. Adam Mossoff for their insightful comments on earlier versions of these thoughts as well as to my research assistants Kylee Kim and Eleni Moukas from the Columbus School of Law for their assistance and to my administrative assistant, Ms. Barbara McCoy, for her help.

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## I. INTRODUCTION

Professor Eric Claeys’s forthcoming book, *Natural Property Rights*,<sup>1</sup> provides an in-depth perspective on natural property rights and offers much to think about with respect to property rights principles that can often be taken as assumed.

However, there is a slightly different—but closely intertwined—perspective from which the nature of property can be approached. While the law tends to focus—as I believe it must—on property *rights*, rights are, of course, intertwined with *duties* or *responsibilities*. The natural rights framework for property is, as Claeys says, “good enough for government work.”<sup>2</sup> That is, it reflects a principled way for the government to do its work by allocating property rights and using the law to protect them.

However, a more comprehensive view of the property regime requires looking beyond what is necessary or desirable for *the government* to protect through law. There are other sources that propose parameters to define reasoned use of property with an emphasis on the duties or responsibilities that come with rights.

The Catholic social tradition offers a perspective on the *moral* duties and responsibilities that accompany the right to property. This is not a substitute for natural property rights or for a legal regime that robustly protects them. Rather, it is a way to supplement these legally defined rights with a moral perspective that stresses the importance of the correlative duties and responsibilities that come with those rights.

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1. Eric Claeys, *Natural Property Rights* 22 (Sept. 17, 2021) (unpublished manuscript) (on file with the Texas A&M Journal of Property Law); Eric R. Claeys, *Natural Property Rights: An Introduction*, 9 TEX. A&M J. PROP. L. 415 (2023) [hereinafter “Claeys, *Introduction*”].

2. Claeys, *supra* note 1, at 24 (“Natural law and natural rights are good enough for government work. . . . Natural law and natural rights supply authorities with substantial guidance when they choose policies for ongoing resource disputes.”).

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What follows is a reflection on these questions from the perspective of what modern Catholic social theory has to say. The paper argues that the more focus there is on a rights-based view of property from a *legal* perspective, the more important it is to look at *moral* frameworks outside the legal regime to promote a healthy and holistic vision of property. Modern Catholic social theory offers just such a framework.

## II. THE RIGHTS-BASED APPROACH DEVELOPED IN *NATURAL PROPERTY RIGHTS*

Claeys's book focuses on the "rights" part of the property equation and proposes a "rights-based theory of natural law."<sup>3</sup> In the main, this seems to be the proper approach. As he argues, it can be difficult for law to create a system that clearly and forcefully articulates the moral responsibilities and duties that come with property ownership. As he points out:

[A] theory with natural law metaethics can justify social and political theories that focus not on flourishing but instead on natural rights. Flourishing sets a direct standard for conduct when people reason about ethics, how they should behave in their own lives. But flourishing is an unworkable and even dangerous standard to apply in social morality or politics. Most of the things we do in our daily lives contribute to flourishing, but only very indirectly and gradually.<sup>4</sup>

Claeys asserts that, from a government perspective, "Governments should not pursue visions of the common good that require extensive sacrifice; they should promote the common good understood as securing to citizens the opportunities to acquire basic life goods."<sup>5</sup> He also raises practical reasons as to why the government is better suited for protecting a rights-based vision. These reasons include the importance

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3. *Id.* at 42; *see also id.* at 3 ("In law and political thought, property rights are often associated with natural law and rights."); *id.* ("[I]nherent rights' are natural rights, and the references to 'happiness' and 'safety' link the rights back to traditional principles of natural law."); *id.* at 16–17 ("The phrase 'natural law' can refer to moralities that ground human obligations in divine revelation, and also to moralities that ground obligations in universalizable (Kantian) propositions about the logical structure of morality. In a third family of moral theories, however, 'natural law' refers to views that ground morality in people's capacities to flourish as rational beings."); *id.* at 39 ("People are entitled to a natural right to property, and that right is structured consistent with general principles of natural law."); *see also* Claeys, *Introduction*, *supra* note 1, at 419–21.

4. *Id.* at 17; *but see id.* at 198 ("Property rights coordinate how people use things for survival or flourishing, consistent with the correlative interests that other people have in using similar things for their own projects for survival or flourishing.")

5. *Id.* at 75.

of the right to exclude,<sup>6</sup> the critical link between rights and autonomy,<sup>7</sup> the desirability of fostering philanthropy,<sup>8</sup> the importance of incentivizing productive use,<sup>9</sup> and the economic benefits that result from a well-reasoned system of property rights protection,<sup>10</sup> to name a few.

Claeys argues, persuasively, that a system based on property rights also creates a different mindset among the governed than a system based primarily on duties. He argues that:

- “Duty-talk subtly encourages people . . . to be meek, passive. Rights-talk encourages citizens to assert their rights . . . , to insist that they should not surrender their own life projects for community projects without convincing justifications;”<sup>11</sup> and
- “Rights-talk bolsters the character traits that liberal citizens should expect from one another;”<sup>12</sup> and
- “Rights also embolden citizens; they encourage citizens to stand up for themselves when governments and factions get aggressive.”<sup>13</sup>

This is an interesting perspective on the way in which a rights-based view of property can have a positive impact on the citizenry that extends beyond the realm of property law itself into other areas of public life, civil engagement, and personal initiative.

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6. *Id.* at 10 (“[D]ifferent property rights confer differing degrees of exclusivity. That is because all property rights are structured to serve interests that *all* people have in using resources. People are entitled to try to survive or to flourish, and people have rights to put ownable resources to uses that help them survive and flourish. But to say how rights should be structured in relation to particular resources, the authorities responsible for designing rights need to reason practically.”).

7. *Id.* at 11 (“When a government protects owners’ rights to be left alone on their lots, it empowers them to decide for themselves how to use their lots for their own chosen life goals.”); *id.* at 23 (“[The] connection—between rights, lawful uses, and harmful uses – also supplies baselines for legislation on property.”); *id.* at 205 (“Property can secure autonomy.”).

8. *Id.* at 324 (noting that people have an interest in “passing resources onto others for generous goals, the goals typically associated with testamentary and philanthropic dispositions.”).

9. *Id.* at 263 (warning, “safety-net policies should be tailored so as not to undermine the goals associated with the productive use requirement. ‘Productivity’ requires activity that is self-reliant, vigilant, industrious, and the result of intelligent planning; safety-net policies are thus unjust if they encourage learned helplessness.”).

10. *Id.* at 31 (“Property rights are often justified through law and economic analysis. Property rights give people incentives to invest in resources, to improve them, and to make them more productive. They also let owners exchange resources for other products they value more.”).

11. *Id.* at 74.

12. *Id.*

13. *Id.*

While it makes much sense from a legal perspective to protect and advance these components of natural rights to property, there are also affirmative duties or responsibilities that come with property ownership. This involves more than merely complying with the law or acquiescing to pulling some of the proverbial sticks out of the proverbial bundle of rights when law dictates that this must be done. Without a robust focus on responsibilities or duties as well as rights, the vision of our relationship to property (or, more accurately, the relationships we have with each other *vis a vis* the property that they or we might own)<sup>14</sup> is incomplete. Claeys recognizes this tension when he asks

Should social and political discourse focus primarily on members' natural rights, or should they focus instead on members' duties and responsibilities? Paradigmatic natural law theories make duties primary; some natural theories make rights primary. In the theory introduced here, the goods of communities build on individual goods, and it is better for discourse to focus on rights than on duties.<sup>15</sup>

Certainly, the law articulates some of the responsibilities inherent in property ownership. The public police powers are the source of the government's authority to impose restrictions and responsibilities of all kinds on property owners.<sup>16</sup> As Claeys also points out, the provisos embedded in property law set forth some limits on rights that function as "safety valves"<sup>17</sup> and give rise to responsibilities that override rights, particularly when the rights-based regime may cause harm for any of a number of reasons.<sup>18</sup>

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14. *Id.* at 104–05 (“[P]roperty focuses not on the authority of owners over things but the authority of people over other people. . . . Property rights implicate not only proprietors and things but also the many people who owe duties to respect property rights.”)

15. *Id.* at 43.

16. *Id.* at 7 The same natural law principles guide thinking not only about property rights but also about governments' just powers to regulate property rights. If a government is going to have legitimate authority to condemn and reassign land or mineral rights, the authority must come from the police powers, the power to regulate property; *see also id.* at 13 (“[T]he reordering must serve the interests of the parties bound by the regulation more effectively than those same interests would be served without such restrictions.”).

17. *Id.* at 22 (“Conventional property rights should be structured as seems likely to put resources to productive uses, and as seems likely to give everyone in the community who has rights and who holds obligations to respect rights in these resources. And the provisos, for necessity and sufficient, justify doctrines that operate as safety valves, vehicles to relieve pressure on property rights when they deny others just access to owned resources.”); *see also id.* at 259 (calling restrictions like necessity, adverse possession, etc. “safety valves” that also “relieve problems . . . when it seems likely that ownership will restrict the rights of non-owners to acquire or use valuable resources.”).

18. *Id.* at 34 (“If property rights are designed badly, they can contribute to

Specifically, Claeys notes that:

The “necessity” proviso covers scenarios in which one person needs to use someone else’s property to stave off a grave threat; the “sufficiency” proviso covers scenarios in which a proprietor has taken more of a resource than is sufficient for others to have equal opportunities to appropriate and use that same resource.<sup>19</sup>

Claeys does point out that “[t]o some, that priority seems troubling.”<sup>20</sup> In particular, he presents Mary Ann Glendon’s concern that “the ‘rhetoric of rights’ can encourage rights-claims to ‘trump . . . everything else in sight.’”<sup>21</sup> However, to Claeys, “[t]hese worries seem overwrought.”<sup>22</sup> In his view, “rights-critics need to do much more to explain why rights seem so threatening.”<sup>23</sup>

I agree with this assessment. When the focus is on the contours of what the *legal* regime should require, rights critics must have a greater burden. The legal regime’s unique power to curtail such rights can be dangerous and coercive if viewed too expansively.

Yet, it is precisely those who believe strongly in the importance of protecting such rights who must also care deeply about the morality of those rights. It is they who must discover principled frameworks for evaluating the responsibilities and duties that are correlative to property rights—or, for that matter, to rights of any kind.<sup>24</sup> Certainly, law grapples with these moral questions<sup>25</sup> and broader questions of

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significant inequalities in wealth. And since the phrase ‘property right’ focuses on a resource and a right-holder, it subtly discourages listeners from thinking about the people who stand to be excluded from the resource and to be bound by duties to leave it to others. Egalitarian critiques warn against inequality, and they warn people not to forget about any of the people whom property rights convert into obligees.”).

19. *Id.* at 19.

20. *Id.* at 73.

21. *Id.*

22. *Id.*

23. *Id.* at 74.

24. This is, of course, not inconsistent with the property rights project. *See, e.g., Id.* at 44 (“Natural law focuses moral reasoning on flourishing and on duties, while natural rights focus it on rights and interests. . . . But the rights vary in strength and scope, and each is bound up with one or more correlative duties and other correlative limits.”).

25. *See id.* at 81 (“[T]here are no settled and universally-accepted terms describing how people convert general prescriptions from a moral theory into specific social norms, laws or policies.”); *Id.* at 83 (“Since specification consists of reasoning from general moral principles to specific moral directives, it does *not* cover the phase of reasoning in which moral directives are converted into conventions—social norms, laws, or other government policies.”); *Id.* at 138 (“[N]atural rights lay moral foundations.”); *Id.* at 157 (“In everyday life, however, social concepts are very, very stable.”); and *Id.* at 309 (“[N]atural property rights do help lay the moral foundations by which component rights may be justified and evaluated.”).

justice.<sup>26</sup> However, the responsibilities and duties of property ownership may be more robustly developed in religious, philosophical, or moral frameworks.

### III. CATHOLIC SOCIAL THEORY ON THE RESPONSIBILITIES AND DUTIES OF PROPERTY

The vision of property proposed in modern Catholic social theory presents an expansive perspective on the duties and responsibilities that come with property rights. Catholic social theory on property also has deep roots in the soil of natural law. For purposes of this discussion, however, “modern” Catholic social theory will be confined to that body of documents comprising primarily papal encyclicals since Pope Leo XIII promulgated *Rerum Novarum* (“*Of New Things*”) in 1891.<sup>27</sup>

This is not intended to ignore the ancient principles on which this modern body of social theory rests or the rich academic commentary on them. However, this paper focuses on the primary sources of recent Catholic social theory in the form of papal encyclicals.<sup>28</sup> Although not “infallible” and, therefore, not the highest form of church teaching, encyclicals are authoritative letters from various popes that address issues of importance in the world from a Catholic theological perspective. The canon of Catholic social encyclicals through the last 130 years incorporates foundational doctrines and addresses those doctrines to the complex realities of modern property. Indeed, they address the complexities of many facets of daily public life.<sup>29</sup>

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26. *Id.* at 183 (“On the one hand, property rights should be uniform and settled. On the other hand, if the community is going to make people accept uniform property rights, those rights should be just.”); and *Id.* at 333 (“Property law can justly establish correlative duties because those duties help facilitate productive use. . . . Whenever the productive use requirement justifies a component property right, however, it also justifies duties correlative to those rights. So, whenever someone accepts a component right in a resource, it is only just that he accept correlative duties—to let other proprietors with correlative rights in that resource use it as they intend and expect.”).

27. Pope Leo XIII, *Rerum Novarum* (“*Of New Things*”) (May 15, 1891), [https://www.vatican.va/content/leo-xiii/en/encyclicals/documents/hf\\_l-xiii\\_enc\\_15051891\\_rerum-novarum.html](https://www.vatican.va/content/leo-xiii/en/encyclicals/documents/hf_l-xiii_enc_15051891_rerum-novarum.html) [<https://perma.cc/C2GC-HTDZ>] (as is traditional of papal encyclicals, the Latin titles are the first words of the document).

28. THE CATECHISM OF THE CATH. CHURCH (1993); PONTIFICAL COUNCIL FOR JUST. AND PEACE, THE COMPENDIUM OF THE SOC. DOCTRINE OF THE CHURCH (Reprint 2005) [*hereinafter* “COMPENDIUM”]. In particular, the CATECHISM is intended to present “an organic synthesis of the essential and fundamental contents of Catholic doctrine, as regards both faith and morals, in the light of the Second Vatican Council and the whole of the Church’s Tradition. Its principal sources are the Sacred Scriptures, the Fathers of the Church, the liturgy, and the Church’s Magisterium.” CATECHISM OF THE CATH. CHURCH, *supra*, ¶ 11.

29. The broad concern of the Church in the practical realities of human life was well



This is a body of thought that makes a strong case for private property rights, particularly since *Rerum Novarum* and much of its progeny was written in response to the rise of various forms of collectivism that were seen as direct threats to the well-being and freedom of workers, families, and individuals.<sup>30</sup> The ability to have and to hold private property, particularly as the fruit of one's own labor, is strongly and consistently asserted in this body of doctrine.<sup>31</sup> Indeed, it is proposed as an essential

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expressed in Pope John XXIII, *Mater et Magistra* ("Mother and Teacher") ¶ 3 (May 15, 1961), [https://www.vatican.va/content/john-xxiii/en/encyclicals/documents/hf\\_j-xxiii\\_enc\\_15051961\\_mater.html](https://www.vatican.va/content/john-xxiii/en/encyclicals/documents/hf_j-xxiii_enc_15051961_mater.html) [<https://perma.cc/J5FX-8NFW>] ("Hence, though the Church's first care must be for souls, how she can sanctify them and make them share in the gifts of heaven, she concerns herself too with the exigencies of man's daily life, with his livelihood and education, and his general, temporal welfare and prosperity.").

30. See *Rerum Novarum*, *supra* note 27, at ¶ 4 (criticizing the way "socialists, working on the poor man's envy of the rich, are striving to do away with private property, and contend that individual possessions should become the common property of all, to be administered by the State or by municipal bodies."); Pope Pius XI, *Quadragesimo Anno* ("Forty Years"), ¶ 44 (May 15, 1931), [https://www.vatican.va/content/pius-xi/en/encyclicals/documents/hf\\_p-xi\\_enc\\_19310515\\_quadragesimo-anno.html](https://www.vatican.va/content/pius-xi/en/encyclicals/documents/hf_p-xi_enc_19310515_quadragesimo-anno.html) [<https://perma.cc/FVY4-PK7B>] (praising Pope Leo XIII who "strongly defended the right of property . . . by showing that its abolition would result, not to the advantage of the working class, but to their extreme harm."); *id.* at ¶ 56 ("[T]he division of goods which results from private ownership was established by nature itself in order that created things may serve the needs of mankind in fixed and stable order.").

31. See, e.g., *Rerum Novarum*, *supra* note 27, ¶ 5 ("[I]f he lives sparingly, saves money, and for greater security, invests his savings in land, the land in such case, is only his wages under another form; and, consequently a working man's little estate thus purchased should be as completely at his full disposal as are the wages he receives from his labor."); *id.* ¶ 9 ("[W]hen man . . . turns the activity of his mind and the strength of his body toward procuring the fruits of nature, by such act he makes his own that portion of nature's field which he cultivates – that portion on which he leaves, as it were, the impress of his personality and it cannot but be just that he should possess that portion as his very own . . ."); *Quadragesimo Anno*, *supra*, ¶ 52 ("[N]o injury is done to any person when a thing is occupied that is available to all but belongs to no one; however, only that labor which a man performs in his own name and by virtue of which a new form of increase has been given to a thing grants him title to these fruits."); Pope John Paul II, *Centesimus Annus*, ¶ 31 (May 1, 1991), [https://www.vatican.va/content/john-paul-ii/en/encyclicals/documents/hf\\_jp-ii\\_enc\\_01051991\\_centesimus-annus.html](https://www.vatican.va/content/john-paul-ii/en/encyclicals/documents/hf_jp-ii_enc_01051991_centesimus-annus.html) [<https://perma.cc/J72P-QV8Z>] (explaining the way in which "he makes part of the earth one's own, precisely the part which one has acquired through work . . ."); Pope John Paul II, *Laborem Exercens* ("Through Work"), ¶ 12 (Sept. 14, 1981), [https://www.vatican.va/content/john-paul-ii/en/encyclicals/documents/hf\\_jp-ii\\_enc\\_14091981\\_laborem-exercens.html](https://www.vatican.va/content/john-paul-ii/en/encyclicals/documents/hf_jp-ii_enc_14091981_laborem-exercens.html) [<https://perma.cc/R5H2-95M4>] ("[T]he only means that man has for causing the resources hidden in nature to serve himself and others is his work. [T]o be able through his work to make these resources bear fruit, man takes over ownership of small parts of the various riches of nature . . . He takes all these things over by making them his workbench. He takes them over through work and for work."); *id.* ¶ 14 (explaining that "property is acquired first of all through work in order that it may serve work" and critiquing "the position that defends the exclusive right to private ownership of the means of production as an untouchable 'dogma' of economic life.").

component of human dignity and human rights.<sup>32</sup> The importance of a legal regime that robustly protects this right is also clearly stated in Catholic social teaching.<sup>33</sup> This is accompanied by the proposition that the law merely safeguards and defends such rights but does not create and is not the original, generative source of them.<sup>34</sup>

However, in both *Rerum Novarum* itself and in the years since, this body of doctrine has also articulated a comprehensive set of responsibilities or duties that those who own private property must bear. These responsibilities are grounded both in natural law and in the theological belief that all property is, at its source, a gift from God.<sup>35</sup> Thus, it is a gift

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32. See, e.g., Pope Pius XI, *Divini Redemptoris* (“Divine Redeemer”) ¶ 10 (March 19, 1937), [https://www.vatican.va/content/pius-xi/en/encyclicals/documents/hf\\_p-xi\\_enc\\_19370319\\_divini-redemptoris.html](https://www.vatican.va/content/pius-xi/en/encyclicals/documents/hf_p-xi_enc_19370319_divini-redemptoris.html) [<https://perma.cc/D9J5-KNQS>] (“Communism ... strips man of his liberty, robs human personality of all its dignity, and removes all the moral restraints that check the eruptions of blind impulse. There is no recognition of any right of the individual in his relations to the collectivity . . . . Nor is the individual granted any property rights over material goods or the means of production . . . .”); *Centesimus Annus*, *supra* note 31, ¶ 13 (“A person who is deprived of something he can call ‘his own,’ and of the possibility of earning a living through his own initiative, comes to depend on the social machine and on those who control it. This makes it much more difficult for him to recognize his dignity as a person . . . .”); Pope John Paul II, *Veritatis Splendor* (“Splendor of Truth”) ¶ 50 (Aug. 6, 1993), [https://www.vatican.va/content/john-paul-ii/en/encyclicals/documents/hf\\_jp-ii\\_enc\\_06081993\\_veritatis-splendor.html](https://www.vatican.va/content/john-paul-ii/en/encyclicals/documents/hf_jp-ii_enc_06081993_veritatis-splendor.html) [<https://perma.cc/SS5B-ABSZ>] (“The natural moral law expresses and lays down the purposes, rights and duties which are based upon the bodily and spiritual nature of the human person.”); and Pope John XXIII, *Pacem in Terris* (“Peace on Earth”) ¶ 21 (Apr. 11, 1963), [https://www.vatican.va/content/john-xxiii/en/encyclicals/documents/hf\\_j-xxiii\\_enc\\_11041963\\_pacem.html](https://www.vatican.va/content/john-xxiii/en/encyclicals/documents/hf_j-xxiii_enc_11041963_pacem.html) [<https://perma.cc/4FYG-8HCS>] (“As a further consequence of man’s nature, he has the right to the private ownership of property, including that of productive goods.”).

33. See, e.g., *Rerum Novarum*, *supra* note 27, ¶ 11 (“[T]he laws of nature, the foundations of the division of property, and the practice of all ages has consecrated the principle of private ownership as being pre-eminently in conformity with human nature. . . . The same principle is confirmed and enforced by the civil laws – laws which, so long as they are just, derive from the law of nature their binding force. The authority of the divine law adds its sanction, forbidding us in severest terms even to covet that which is another’s . . . .”); *id.* ¶ 38 (speaking of “the duty of safeguarding private property by legal enactment and protection.”); *id.* at ¶ 46 (“The law, therefore, should favor ownership, and its policy should be to induce as many as possible of the people to become owners.”); *Centesimus Annus*, *supra* note 31, ¶ 48 (noting that with respect to the State, there must be “sure guarantees of individual freedom and private property” and that “the principle task of the State is to guarantee this security, so that those who work and produce can enjoy the fruits of their labors . . . .”).

34. See, e.g., *Rerum Novarum*, *supra* note 27, ¶ 47 (“The right to possess private property is derived from nature, not from man, and the State has the right to control its use in the interests of the public good alone, but by no means to absorb it all together.”); *Centesimus Annus*, *supra* note 31, ¶ 11 (“[T]he individual, the family and society are prior to the State, and . . . the State exists in order to protect their rights and not stifle them.”).

35. See *Centesimus Annus*, *supra* note 31, ¶ 31 (“The original source of all that is

to be received with gratitude. This gratitude is reflected in both accepting the responsibilities that come with it and acknowledging that there ultimately must be an accounting to God for the way in which the benefits of property were used, misused, or abused.<sup>36</sup>

There are at least five broad moral responsibilities that surface repeatedly in these teachings. Some of them can, in part, be translated into law.<sup>37</sup> However, whether or not they are enshrined in law, these five principles form a comprehensive framework of moral responsibilities that goes hand in hand with rights.

#### *A. All Goods Have a “Universal Destination” and Bear a “Social Mortgage”*

First, the encyclicals consistently proclaim the responsibility to make property available to meet the needs of the poor, as God intended all things for the good of all.<sup>38</sup> This is often expressed as the “universal

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good is the very act of God who created both the earth and man, and gave the earth to man.”); *id.* ¶ 31 (“The earth, by reason of its fruitfulness and its capacity to satisfy human needs, is God’s first gift for the sustenance of human life.”); Pope Francis, *Laudato Si’*, ¶ 67 (“We are not God. The earth was here before us and it has been given to us.”) (May 24, 2015), [https://www.vatican.va/content/francesco/en/encyclicals/documents/papa-francesco\\_20150524\\_enciclica-laudato-si.html](https://www.vatican.va/content/francesco/en/encyclicals/documents/papa-francesco_20150524_enciclica-laudato-si.html) [<https://perma.cc/JK3K-66BG>].

36. See, e.g., *Divini Redemptoris*, *supra* note 32, ¶ 44 (“The rich should not place their happiness in things of earth and not spend their best efforts in the acquisition of them. Rather, considering themselves only as stewards of their earthly goods, let them be mindful of the account they must render of them to their Lord and Master, and value them as precious means that God has put into their hands for doing good.”).

37. Indeed, one of the open questions in Catholic social theory is how much of this could or should be translated into law, with Pope Francis, perhaps, advocating a more aggressive role for legal rules. Pope Francis, *Fratelli Tutti* (“*Brothers All*”) ¶ 168 (Oct. 3, 2020), [https://www.vatican.va/content/francesco/en/encyclicals/documents/papa-francesco\\_20201003\\_enciclica-fratelli-tutti.html](https://www.vatican.va/content/francesco/en/encyclicals/documents/papa-francesco_20201003_enciclica-fratelli-tutti.html) [<https://perma.cc/33EH-3UVF>] (“It is imperative to have a proactive economic policy.”).

38. COMPENDIUM, *supra* note 28, at 75 (“God gave the earth to the whole human race for the sustenance of all its members, without excluding or favoring anyone. This is the foundation of the universal destination of the earth’s goods.”); see also *Rerum Novarum*, *supra* note 27, ¶ 8 (“The fact that God has given the earth for the use and enjoyment of the whole human race can in no way be a bar to the owning of private property. For God has granted the earth to mankind in general, not in the sense that all without distinction can deal with it as they like, but rather that no part of it was assigned to any one in particular . . . Moreover, the earth, even though apportioned among private owners, ceases not thereby to minister to the needs of all, inasmuch as there is not one who dies not sustain life from what the land produces.”); see, e.g., *Fratelli Tutti*, *supra* note 37, ¶ 118 (“The world exists for everyone, because all of us were born with the same dignity.”); *id.* ¶ 120 (“The right to private property can only be considered a secondary natural right, derived from the universal declaration of created goods . . . Yet it often happens that secondary rights displace primary and overriding rights, in practice making them

destination of goods.”<sup>39</sup> Although this is proposed as a right of those who do not own property, it cannot be achieved without recognizing the responsibility of those who do.<sup>40</sup> Private property, “regardless of the concrete forms of the regulations and juridical norms relative to it is in its essence only an instrument for respecting the principle of the universal destination of goods; in the final analysis, it is not an end but a means.”<sup>41</sup>

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irrelevant.”); *id.* ¶ 123 (“The right to private property is always accompanied by the primary and prior principle of the subordination of all private property to the universal destination of the earth’s goods, and thus the right of all to their use.”); CATECHISM OF THE CATH. CHURCH, *supra* note 28, ¶ 2402 (“In the beginning God entrusted the earth and its resources to the common stewardship of mankind to take care of them, master them by labor, and enjoy their fruits. The goods of creation are destined for the whole human race. However, the earth is divided up among men to assure the security of their lives . . .”).

39. COMPENDIUM, *supra* note 28, ¶ 172 (“The universal right to use the goods of the earth is based on the principle of the universal destination of goods. Each person must have access to the level of well-being necessary for his full development.”); *Centesimus Annus*, *supra* note 31, ¶ 30 (“[T]he ‘use’ of goods, while marked with freedom, is subordinated to their original common destination as created goods, as well as to the will of Jesus Christ as expressed in the gospel.”); *id.*, ¶ 31 (“God gave the earth to the whole human race for the sustenance of all its members, without excluding or favoring anyone. This is the foundation of the universal destination of the earth’s goods.”); *Laborem Exercens*, *supra* note 31, ¶ 14 (“Christian tradition has never upheld this right [to private property] as absolute and untouchable. . . . [I]t has always understood this right within the broader context of the right common to all to use the goods of the whole of creation: the right to private property is subordinated to the right to common use, to the fact that goods are meant for everyone.”); *Laudato Si’*, *supra* note 35, ¶ 93 (“The principle of the subordination of private property to the universal destination of goods, and thus the right of everyone to their use, is a golden rule of social conduct . . .”); *id.* (“The Christian tradition has never recognized the right to private property as absolute or inviolable and has stressed the social purpose of all forms of private property.”); CATECHISM OF THE CATH. CHURCH *supra* note 28, ¶ 2403 (“The right to private property, acquired by work or received from others by inheritance or gift, does not do away with the original gift of the earth to the whole of mankind. The universal destination of goods remains primordial, even if the promotion of the common good requires respect for the right to private property and its exercise.”); see also Pope Paul VI, *Octogesima Adveniens (“Eighty Years”)* ¶ 23 (May 14, 1971), [https://www.vatican.va/content/paul-vi/en/apost\\_letters/documents/hf\\_p-vi\\_apl\\_19710514\\_octogesima-adveniens.html](https://www.vatican.va/content/paul-vi/en/apost_letters/documents/hf_p-vi_apl_19710514_octogesima-adveniens.html) [<https://perma.cc/TKW7-B5PV>] (framing this concept in the language of the preferential option for the poor, and noting “the preferential respect due to the poor and the special situation they have in society: the more fortunate should renounce some of their rights so as to place their goods more generously at the service of others.”).

40. See, e.g., *Rerum Novarum*, *supra* note 27, ¶ 22 (“Whoever has received from the divine bounty a large share of temporal blessings, whether they be external and material, or gifts of the mind, has received them for the purpose of using them for the perfecting of his own nature, and, at the same time, that he may employ them, as the steward of God’s providence, for the benefit of others.”).

41. COMPENDIUM, *supra* note 28, ¶ 177.

When private property is viewed in this way, there is a responsibility to ensure that the basic human needs of all are met.<sup>42</sup> Owners' responsible use of property is a critically important part of this.<sup>43</sup> This requires drawing a distinction between the ownership of property and the use of that property.<sup>44</sup> It also demands recognition of the obligation to use privately owned property to benefit others. Indeed, it is the purpose of using property for the good of others that, in a somewhat circular view, is a primary reason and justification for private ownership.<sup>45</sup> As expressed by Pope John XXIII, "as there is from nature a social aspect to property, he who uses his right in this regard must take into account not merely

42. Pope Benedict XVI, *Deus Caritas Est* ("God is Love") ¶ 20 (Dec. 25, 2005), [https://www.vatican.va/content/benedict-xvi/en/encyclicals/documents/hf\\_ben-xvi\\_enc\\_20051225\\_deus-caritas-est.html](https://www.vatican.va/content/benedict-xvi/en/encyclicals/documents/hf_ben-xvi_enc_20051225_deus-caritas-est.html) [<https://perma.cc/RRT8-S79P>] ("[W]ithin the community of believers there can never be room for a poverty that denies anyone what is needed for a dignified life."); Pope Paul VI, *Populorum Progresso* ("Development of Peoples") ¶ 23 (Mar. 26, 1967), [https://www.vatican.va/content/paul-vi/en/encyclicals/documents/hf\\_p-vi\\_enc\\_26031967\\_populorum.html](https://www.vatican.va/content/paul-vi/en/encyclicals/documents/hf_p-vi_enc_26031967_populorum.html) [<https://perma.cc/EB6W-9JVJ>] (Private property does not constitute for anyone an absolute and unconditioned right. No one is justified in keeping for his exclusive use what he does not need, when others lack necessities.); THE CATECHISM OF THE CATH. CHURCH, *supra* note 28, ¶ 1908 ("[I]t is the proper function of authority to arbitrate, in the name of the common good, between various particular interests; but it should make accessible to each what is needed to lead a truly human life: food, clothing, health, work, education and culture, suitable information, the right to establish a family, and so on.").

43. See, e.g., *Divini Redemptoris*, *supra* note 32, ¶ 51 ("[I]t is impossible to care for the social organism and the good of society as a unit unless each single part and each individual member – that is to say, each individual man in the dignity of his human personality – is supplied with all that is necessary for the exercise of his social functions."); *Rerum Novarum*, *supra* note 27, ¶ 22 ("[W]hen what necessity demands has been supplied, and one's standing fairly taken, it becomes a duty to give to the indigent out of what remains over."); Pope Pius XI, *Casti Connubii* ("Chaste Wedlock") ¶ 119 (Dec. 31, 1930), [https://www.vatican.va/content/pius-xi/en/encyclicals/documents/hf\\_p-xi\\_enc\\_19301231\\_casti-connubii.html](https://www.vatican.va/content/pius-xi/en/encyclicals/documents/hf_p-xi_enc_19301231_casti-connubii.html) [<https://perma.cc/MF8F-D4LB>] ("[I]t is incumbent on the rich to help the poor, so that, having an abundance of this world's goods, they may not expend them fruitlessly or completely squander them, but employ them for the support and well-being of those who lack the necessities of life."); *Quadragesimo Anno*, *supra* note 30, ¶ 45 ("[T]he Creator himself, has given man the right of private ownership not only that individuals may be able to provide for themselves and their families but also that the goods which the Creator destined for the entire family of mankind may through this institution truly serve this purpose."); *id.* ¶ 50 ("[A] person's superfluous income . . . which he does not need to sustain life fittingly and with dignity, is not left wholly to his own free determination. Rather . . . the rich are bound by a very grave precept to practice almsgiving, beneficence, and munificence.").

44. *Quadragesimo Anno*, *supra* note 30, ¶ 47 ("The right of property is distinct from its use.").

45. See, e.g., *Laudato Si'*, *supra* note 35, ¶ 95 ("If we make something our own, it is only to administer it for the good of all. If we do not, we burden our consciences with the weight of having denied the existence of others.").

his own welfare but that of others as well.”<sup>46</sup> Only one who understands this can fully comprehend the duties of property ownership.

At times, this concept is expressed in the language of a “social mortgage.”<sup>47</sup> One who has ownership of and title to property encumbered by a traditional monetary mortgage cannot use that property in a way that jeopardizes the obligations imposed by the mortgage and the obligation to repay the creditor. The theory of the social mortgage proposes, by analogy, that when one owns property and has title to it, there is a social mortgage that requires that the use of the property respects the responsibilities of the property owner to society at large, and those in need in particular.<sup>48</sup>

Because the notion of the “social mortgage” is not capable of precise definition, it poses two distinct burdens. First, it requires the property owner to discern what that mortgage is and how best to use privately owned property to foster the common good. Second, the property owner must also have the moral strength and will to use the property in that way.

This view also contemplates that there will be some specific types of property that “ought to be reserved to the State since they carry with them a dominating power so great that they cannot without danger to the general welfare be entrusted to private individuals.”<sup>49</sup> For example,

46. *Mater et Magistra*, *supra* note 29, ¶ 19; *see also id.* ¶ 30 (referencing the social function of privately owned property); Pope Paul VI, *Gaudium et Spes* (“Joy and Hope”) ¶ 69 (Dec. 7, 1965), [https://www.vatican.va/archive/hist\\_councils/ii\\_vatican\\_council/documents/vat-ii\\_const\\_19651207\\_gaudium-et-spes\\_en.html](https://www.vatican.va/archive/hist_councils/ii_vatican_council/documents/vat-ii_const_19651207_gaudium-et-spes_en.html) [<https://perma.cc/9L7U-8PY3>] (“Whatever the forms of ownership may be, as adapted to the legitimate institutions of peoples, according to diverse and changeable circumstances, attention must always be paid to this universal destination of earthly goods. In using them . . . [a] man should regard the external things that he legitimately possesses not only as his own but also as common in the sense that they should be able to benefit not only him but also others. . . . [M]en are obliged to come to the relief of the poor, and to do so not merely out of their superfluous goods. If one is in extreme necessity, he has the right to procure for himself what he needs out of the riches of others.”).

47. *See, e.g.*, Pope John Paul II, *Sollicitudo Rei Socialis* (“Social Concern”) ¶ 42 (Dec. 30, 1987), [https://www.vatican.va/content/john-paul-ii/en/encyclicals/documents/hf\\_jp-ii\\_enc\\_30121987\\_sollicitudo-rei-socialis.html](https://www.vatican.va/content/john-paul-ii/en/encyclicals/documents/hf_jp-ii_enc_30121987_sollicitudo-rei-socialis.html) [<https://perma.cc/DGG5-BM58>] (“[T]he goods of this world are originally meant for all. The right to private property is valid and necessary but it does not nullify the value of this principle. Private property, in fact, is under a ‘social mortgage,’ which means that it has an intrinsically social function, based upon and justified precisely by the principle of the universal destination of goods.”).

48. *See* COMPENDIUM, *supra* note 28, ¶ 258 (offering as a concrete example of this the ancient biblical tradition of the sabbatical. That tradition “entails the expropriation of the fruits of the earth on behalf of the poor and the suspension of the property rights of the landowners”).

49. *Quadragesimo Anno*, *supra* note 30, ¶ 114; *see also Centesimus Annus*, *supra* note

weapons systems, dangerous goods or essential medical supplies may fit this description. They could be harmful if left to individuals or harmful if not available for a well-coordinated response.<sup>50</sup>

In addition, there are certain types of property that, due to their cultural, natural, or historic value, should be kept by the State as a protector of the patrimony of a state or nation. For example, the system of national parks protects the natural heritage of a nation. Museums run by federal, state, and local governments own historical artifacts and important documents that are the human heritage of the nation.

Catholic tradition posits that there are also moral duties that apply to the government with respect to its ownership of property. Specifically, “goods can be transferred to the public domain only by the competent authority, according to the demands and within the limits of the common good, and with fair compensation.” It is a further right of the public authority to guard against the misuse of private property which injures the common good.<sup>51</sup>

Yet, the prevailing view is that those who own their property privately will accept it with gratitude, know their responsibilities to use it for the benefit of all, and hold it with the duties that come with a “social” mortgage. This has practical implications for the social order and human

31, ¶ 40 (acknowledging “[i]t is the task of the State to provide for the defence and preservation of common goods such as the natural and human environments, which cannot be safeguarded simply by market forces.”); *id.* (noting “there are collective and qualitative needs which cannot be satisfied by market mechanisms . . . important human needs which escape its logic.”).

50. In this sense, while the doctrine of adverse possession is typically thought to be applicable to real property, there are limited circumstances such as this where chattel property might also warrant state ownership. Catholic teaching acknowledges that there are times when this may be necessary and good:

[W]hen the State brings private ownership into harmony with the needs of the common good, it does not commit a hostile act against private owners but rather does them a friendly service; for it thereby effectively prevents the private possession of goods, which the Author of nature in His most wise providence ordained for the support of human life, from causing intolerable evils and thus rushing to its own destruction.; it does not destroy private possessions, but safeguards them; and it does not weaken private property rights but strengthens them.

*Quadragesimo Anno*, *supra* note 30, ¶ 49.

51. *Gaudium et Spes*, *supra* note 46, ¶ 71; *see also Id.* (“[W]henever . . . the common good requires expropriation, compensation must be . . . in equity after all the circumstances have been weighed.”); *see also Populorum Progressio*, *supra* note 42, ¶ 24 (noting that “[i]f certain landed estates impeded the general prosperity because they are extensive, unused, or poorly used, or because they bring hardship to peoples or are detrimental to the interests of the country, the common good sometimes demands their expropriation.”).

flourishing. However, it is also an obligation rooted in duty to God since, in the wisdom of God the Creator, the overall supply of good is assigned, first of all, so that all men may lead a decent life.<sup>52</sup> Such a broad obligation would be difficult to capture in law. However, it is amendable to a moral obligation and duty.

### B. *Property Must be Used in a Productive Way*

Second, there is a well-established duty not to commit waste and to use property for “productive activity.”<sup>53</sup> As more becomes known about the scarcity of resources and the duty to be good stewards, a modern understanding of what might constitute waste and the value of avoiding overproduction all change what “productive” may mean.<sup>54</sup> Indeed, there may be times when, ironically, conservation may be the long-term best use of a particular type of property.<sup>55</sup> In addition, as the nature of property itself changes, the understanding of productive use will change as well, depending on the circumstances.<sup>56</sup>

Yet, while its contours change,<sup>57</sup> the duty to be productive endures.<sup>58</sup> Those who have the gift of property should not squander it through

52. *Mater et Magistra*, *supra* note 29, ¶ 119.

53. COMPENDIUM, *supra* note 28, ¶ 178; *see also Centesimus Annus*, *supra* note 31, ¶ 43 (“Ownership of the means of production ... is just and legitimate if it serves useful work. It becomes illegitimate, however, when it is not utilized or when it seeks to impede the work of others. . . . Ownership of this kind has no justification.”).

54. *See Sollicitudo Rei Socialis*, *supra* note 47, ¶ 34 (recognizing that “natural resources are limited. . . . Using them as if they were inexhaustible, with absolute dominion, seriously endangers their availability not only for the present generation but above all for generations to come.”); *see also Laudato Si*, *supra* note 35, ¶ 19 (“We see increasing sensitivity to the environment and the need to protect nature, along with a growing concern, both genuine and distressing, for what is happening to our planet.”). This is in sharp contrast to earlier writings that referenced the “almost inexhaustible productive capacity” of the natural world; *see also Mater et Magistra*, *supra* note 29, ¶ 189.

55. COMPENDIUM, *supra* note 28, ¶ 24 (referring to the Old Testament sabbatical and jubilee years that require “land lie fallow.”).

56. *See Centesimus Annus*, *supra* note 31, ¶ 32 (acknowledging “the possession of know-how, technology and skill” and asserting that today “[t]he wealth of the industrialized nations is based much more on this kind of ownership than on natural resources.”).

57. *Quadragesimo Anno*, *supra* note 30, ¶ 49 (“[H]istory proves ownership, like other elements of social life, to be not absolutely unchanging.”); *Laborem Exercens*, *supra* note 31, ¶ 14 (recognizing the need for “various adaptations in the sphere of the right to ownership of the means of production”).

58. *Fratelli Tutti*, *supra* note 37, ¶ 143 (“I care for and cultivate something I possess, in such a way that it can contribute to the good of all.”); CATECHISM OF THE CATH. CHURCH, *supra* note 28, ¶ 2405 (“Goods of production - material or immaterial - such as land, factories, practical or artistic skills, oblige their possessors to employ them in ways that will benefit the greatest number.”).



what they do or fail to do with it. This obligation to use property in a fruitful way—whatever that may mean in specific contexts—is clearly expressed in moral terms:

[T]he Bible, from the first page on, teaches us that the whole of creation is for man, that it is his responsibility to develop it by intelligent effort and by means of his labor to perfect it, so to speak, for his use. If the world is made to furnish each individual with the means of livelihood and the instruments for his growth and progress, each man has therefore the right to find in the world what is necessary for himself.<sup>59</sup>

Just as one bears an obligation to use talents and other less tangible gifts at the service of God and others lest they be wasted, so too do these duties apply to the ownership of property. While it is taught that, as a legal matter, “it is [far] from the truth to hold that a right to property is destroyed or lost by reason of abuse or non-use,”<sup>60</sup> it is also taught that such misuse breaches the moral obligations that come with the “social character of ownership.”<sup>61</sup> This applies not only to real property but also to personal property, intellectual property, means of production, and other items of value and use.<sup>62</sup>

A key component of this is the duty to labor responsibly and “bring about a world of fairness and solidarity in which the creation of wealth can take on a positive function.”<sup>63</sup> Likewise, Catholic teaching expresses the hope that productive labor on property—particularly land—will create the opportunity to own that land, especially when another does not use it in a productive way.<sup>64</sup> In such a way, the worker will see the results of his labor and enjoy the benefits that come with the ownership of property.<sup>65</sup>

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59. *Populorum Progressio*, *supra* note 42, ¶ 22.

60. *Quadragesimo Anno*, *supra* note 30, ¶ 47.

61. *Id.* ¶ 49.

62. See CATECHISM OF THE CATH. CHURCH, *supra* note 28, ¶ 2405 (explaining that ownership of “[g]oods of production – material or immaterial – such as land, factories, practical or artistic skills, oblige their possessors to employ them in ways that will benefit the greatest number. Those who hold goods for use and consumption should use them with moderation, reserving the better part for guests, for the sick and the poor.”).

63. COMPENDIUM, *supra* note 28, at 76.

64. See, e.g., *Laborem Exercens*, *supra* note 31, ¶ 21 (decriing situations where “millions of people are forced to cultivate the land belonging to others and are exploited by the big landowners without any hope of ever being able to gain possession of even a small piece of land of their own”) (critiquing situations in which “[l]and which could be cultivated is left abandoned by the owners” and where “titles to possession of a small portion of land that someone has personally cultivated for years are disregarded or left defenseless against the ‘land hunger’ of more powerful individuals or groups”).

65. See *Mater et Magistra*, *supra* note 29, ¶ 112 (noting that through just remuneration “workers are able to save more and thus acquire a certain amount of property of

This duty of undertaking productive initiative with respect to property also plays an important function in advancing the character of society more broadly:

[W]here private initiative of individuals is lacking, political tyranny prevails. Moreover, much stagnation occurs in various sectors of the economy, and hence all sorts of consumer goods and services closely connected with needs of the body and more especially of the spirit, are in short supply. Beyond doubt, the attainment of such goods and services provides remarkable opportunity and stimulus for individuals to exercise initiative and industry.<sup>66</sup>

As with many of the moral obligations asserted in the Catholic tradition with respect to property rights, this obligation of productive use and avoidance of waste is not easily reduced to clear, concrete guidance on the specific application. Rather, it is a warning not to squander the riches with which one is blessed.

*C. The Impact of Property Use on Future Generations is to be Reflected in All Decisions About its Use*

Third, there is always the duty to consider the impact of property ownership and use on others. In a particular way, this obligation warns against using property “without considering the effects that this will have. . . . [Owners] must act in a way that benefits not only themselves and their family but also the common good.”<sup>67</sup> Property ownership and use “must be oriented to an economy of service to mankind.”<sup>68</sup>

This certainly and obviously pertains to obligations to contemporaries. However, Catholic social teaching extends these duties to those yet unborn who will be part of future generations. In many ways, civil law seems far better suited to regulating uses of property that may have a negative impact on others in the present. In a practical sense, this may be because contemporaries have political or legal power and a “seat at

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their own”).

66. *Id.* ¶ 57; see also *id.* ¶109 (“[I]n those political regimes which do not recognize the rights of private ownership of goods, productive included, the exercise of freedom in almost every other direction is suppressed or stifled . . . . [T]he exercise of freedom finds its guarantee and incentive in the right of [property].”); see also *Gaudium et Spes*, *supra* note 46, ¶ 71 (“Private property or some ownership of external goods confers on everyone a sphere wholly necessary for the autonomy of the person and the family, and it should be regarded as an extension of human freedom . . . . [S]ince it adds incentives for carrying on one’s function and [duty], it constitutes one of the conditions for civil liberties”).

67. *COMPENDIUM*, *supra* note 28, at 78.

68. *Id.* at 125.

the table” when it comes to making decisions about property use that will affect them in the here and now. This is not the case when it comes to unborn future generations. They often lack effective advocates for their interests.

Civil law is not particularly well suited to honor obligations to future generations. There are technical questions as to who has legal standing to represent those future interests. More importantly, there are complex questions that arise from the inability to foresee future events, the competition between blithe optimism and gloomy pessimism with respect to predictions, and difficult questions as to how *inter*generational responsibility can best coexist with competing *intra*generational obligations.

Despite the difficulty in incorporating intergenerational responsibility into civil property law, this theme of intergenerational solidarity is particularly strong in the Catholic social tradition on property. This posits that “[i]ntergenerational solidarity is not optional, but rather a basic question of justice, since the world we have received also belongs to those who will follow us.”<sup>69</sup> Catholic social theory speaks urgently about the duty to weigh the well-being of future generations in decisions about how private property is to be best used.

Such temporal equity is the most obvious when it comes to the use of land and natural resources. It has often been best articulated in the context of ecological degradation where the effects on those to come receive a good bit of attention. However, this concern applies to property and other resources of all kinds. A broad range of decisions about property use may have intergenerational impacts on the quality and quantity of resources left behind.<sup>70</sup>

Incorporating such a perspective requires that particular attention be paid to those resources and property that are finite, as well as that property that is unique or not easily replaceable. It should also offer the basis for a moral responsibility to conserve property of cultural and historical

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69. *Laudato Si'*, *supra* note 35, ¶ 159; *see also id.* (“The notion of the common good also extends to future generations.”); *see also* CATECHISM OF THE CATH. CHURCH, *supra* note 28, ¶2415 (“The seventh commandment enjoins respect for the integrity of creation. Animals, like plants and inanimate beings, are by nature destined for the common good of past, present, and future humanity. . . . Man’s dominion over inanimate and other living beings granted by the Creator is not absolute; it is limited by concern for the quality of life of his neighbor, including generations to come.”).

70. *See Mater et Magistra*, *supra* note 29, ¶ 115 (advocating for the private ownership of a wide variety of property including “durable goods, homes, gardens, tools” requisite for artisan enterprises and family-type farms, and investments in enterprises of medium or large size).

significance so that future generations are not deprived of that which is part of their common inheritance.

*D. Property Comes with a Duty to Support One's Family*

Fourth, Catholic social teaching repeatedly asserts that there is a duty to use property to support oneself and family dependents. In this way, property can be directed toward both the self-reliance and loving interdependence that arise from strong families—"without which no society can stand."<sup>71</sup> This duty is closely linked to the strong emphasis in Catholic teaching on the vital and irreplaceable role of the family as the foundational unit of the social order.<sup>72</sup>

The importance that the Catholic tradition attaches to the family cannot be overstated. In a detailed articulation of this vital role played by the family, Pope John Paul II wrote:

The first and fundamental structure for "human ecology" is the family, in which man receives his first formative ideas about truth and goodness and learns what it means to love and to be loved, and thus what it actually means to be a person. . . . It is necessary to go back to seeing the family as the *sanctuary of life*. The family is indeed sacred: it is the place in which life—the gift of God—can be properly welcomed and protected against the many attacks to which it is exposed and can develop in accordance with what constitutes authentic human growth. In the face of the so-called culture of death, the family is the heart of the culture of life.<sup>73</sup>

Given the importance of the family as the essential building block of society, the obligation to use property to build up family life and support one's dependents is not surprising. Consistently, encyclicals express the view that "[t]he right to property is closely connected with the existence of families, which protect themselves from need thanks also to savings and to the building up of family property."<sup>74</sup>

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71. See *Octogesima Adveniens*, *supra* note 39, ¶ 18.

72. This does not mean, however, that there are not occasions when extra-familial support is necessary and required. See CATECHISM OF THE CATH. CHURCH, *supra* note 28, ¶ 2208 ("The family should live in such a way that its members learn to care and take responsibility for the young, the old, the sick, the handicapped, and the poor. There are many families who are at times incapable of providing this help. It devolves then on other persons, other families, and, in a subsidiary way, society to provide for their needs."); see also *id.* ¶ 2209 ("When families cannot fulfill their responsibilities, their social bodies have the duty of helping them and of supporting the institution of the family.").

73. *Centesimus Annus*, *supra* note 31, ¶ 39.

74. See COMPENDIUM, *supra* note 28, at 113; see also CATECHISM OF THE CATH. CHURCH, *supra* note 28, ¶ 2404 ("[O]wnership of any property makes its holder a steward of

Ownership of property—particularly a family home<sup>75</sup>—and its prudent use is seen as a means through which one can support those entrusted to his or her care. It is also viewed as a way to avoid state intrusion into family life unless such intrusion is urgently required. Familial support is a primary duty that flows from property ownership. Indeed, “private ownership of material goods helps to safeguard and develop family life.”<sup>76</sup> Furthermore, the importance of inheritance and the ability to provide for one’s family after death and leave a legacy to one’s survivors are also intertwined with this duty.<sup>77</sup>

Certainly, there are various ways in which a civil legal regime imposes legal obligations to support one’s minor children, spouse, and in some instances, other dependent persons. Yet, these legal obligations do not stem from the same comprehensive anthropology of family life that undergirds the Catholic tradition of family support obligations. The Catholic vision of the obligation to provide for the well-being of family entails providing for their spiritual, social, physical, and economic well-being. To the extent that meeting this obligation requires property, it is a primary duty for those blessed to own material goods. It is also a way to grow in the virtues of generous selflessness that come from fulfilling those sacred family obligations.

*E. Duty to Understand the Limits of Property and the Danger it Can Pose to Holiness*

Finally, unlike law, religion concerns itself with things not of this world.<sup>78</sup> Thus, Catholic social theory also urges those with property to

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Providence, with the task of making it fruitful and communicating its benefits to others, first of all his family.”).

75. See *Laudato Si'*, *supra* note 35, ¶ 152 (“Having a home has much to do with a sense of personal dignity and the growth of families.”).

76. *Mater et Magistra*, *supra* note 29, ¶ 45; see also *id.* ¶ 55 (referencing the “right and duty to be primarily responsible for his own upkeep and that of his family”); *id.* ¶ 112 (noting that property ownership is “and an element of solidity and security for family life and of greater peace and prosperity in the State”); CATECHISM OF THE CATH. CHURCH, *supra* note 28, ¶ 2402 (noting that “appropriation of property is legitimate for guaranteeing the freedom and dignity of persons and for helping each of them to meet his basic needs and the needs of those in his charge.”); *id.* ¶ 2404 (“The ownership of any property makes its holder a steward of Providence, with the task of making it fruitful and communicating its benefits to others, first of all his family.”).

77. See *Quadragesimo Anno*, *supra* note 30, ¶ 49 (“The natural right itself of both owning goods privately and passing them on by inheritance ought always to remain intact and inviolate, since this indeed is a right that the State cannot take away . . .”); see also *id.* ¶ 61 (speaking of the importance of “assurance that when [workers’] lives are ended they will provide in some measure for those they leave after them”).

78. *Rerum Novarum*, *supra* note 27, ¶ 40 (“Life on earth, however good and desirable

keep it in a proper perspective such that it does not become an unhealthy priority.<sup>79</sup> As a theological question, the question of property obligations “becomes a question of fidelity to the Creator, since God created the world for everyone.”<sup>80</sup> This imposes, first, the duty to maintain a healthy detachment from material goods so that they—or the pursuit of them—do not interfere with a life that is genuinely happy<sup>81</sup> and holy<sup>82</sup>

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in itself, is not the final purpose for which man is created.”); *Quadragesimo Anno*, *supra* note 30, ¶ 43 (noting that the moral law “commands us to seek our supreme and last end in the whole scheme of our activity”). Nevertheless, simply because the Church is oriented toward the eternal does not mean a lack of concern for life in the world. Rather, “the Church is concerned with the temporal aspects of the common good because they are ordered to the sovereign God, our ultimate end.” CATECHISM OF THE CATH. CHURCH, *supra* note 28, ¶ 2420.

79. See, e.g., *Rerum Novarum*, *supra* note 27, ¶ 21 (“The things of earth cannot be understood or valued aright without taking into consideration the life to come, the life that will know no death. ... God has not created us for the perishable and transitory things of earth but for things heavenly and everlasting. ... As for riches... whether we have them in abundance, or are lacking in them – so far as eternal happiness is concerned – it makes no difference.”); *Quadragesimo Anno*, *supra* note 30, ¶ 136 (claiming “the sordid love of wealth” to be “the shame and great sin of our age”); *Sollicitudo Rei Socialis*, *supra* note 47, ¶ 28 (“[U]nless all the considerable body of resources and potential at man’s disposal is guided by a moral understanding and by an orientation toward the true good of the human race, it easily turns against man to oppress him.”); *Sollicitudo Rei Socialis*, *supra* note 47, ¶ 28 (decrying “super-development, which consists in an excessive availability of every kind of material goods,” arguing that this “easily makes people slaves of ‘possession’ and of immediate gratification”); *Id.* (“To have objects and goods does not in and of itself perfect the human subject, unless it contributes to the maturing and enrichment of that subject’s being”); CATECHISM OF THE CATH. CHURCH, *supra* note 28, ¶ 2407 (warning that “respect for human dignity requires the practice of the virtue of temperance, so as to moderate attachment to this world’s goods.”); and *Laudato Si’*, *supra* note 35, ¶ 90 (lamenting the fact that while “some are mired in desperate and degrading poverty with no way out,” there are also those who “have not the faintest idea of what to do with their possessions, vainly showing off their supposed superiority and leaving behind them so much waste”).

80. *Laudato Si’*, *supra* note 35, ¶ 93.

81. See, e.g., *Sollicitudo Rei Socialis*, *supra* note 47, ¶ 28 (“[M]ere accumulation of goods and serves, even for the benefit of the majority, is not enough for the realization of human happiness.”); *Laudato Si’*, *supra* note 35, ¶ 204 (observing that “[t]he emptier a person’s heart is, the more he or she needs things to buy, own, and consume.”).

82. See, e.g., *Mater et Magistra*, *supra* note 29, ¶ 235 (warning against a view of material goods that can foster a situation in which ‘very many souls are preoccupied with an inordinate desire for pleasure. Such persons see nothing more important in the whole of life than to seek pleasure, to quench the thirst for pleasure. Beyond doubt, grave ills to both soul and body proceed therefrom.”); Pope Leo XIII, *Graves De Communi Re* (“*Grave Discussions*”) ¶ 16 (Jan. 18, 1901), [https://www.vatican.va/content/leo-xiii/en/encyclicals/documents/hf\\_l-xiii\\_enc\\_18011901\\_graves-de-communi-re.html](https://www.vatican.va/content/leo-xiii/en/encyclicals/documents/hf_l-xiii_enc_18011901_graves-de-communi-re.html) [<https://perma.cc/Y5U3-LJJE>] (“No one is so rich that he does not need another’s help; no one so poor as not be useful in some way to his fellow man; and the disposition to ask assistance from others with confidence and to grant it with kindness is part of our very nature.”); Pope Leo XXIII, *Laetitiae Sanctae* (“*Sacred Joy*”) ¶ 12 (Sept. 8, 1893),

or pose “an obstacle to individual fulfillment and to man’s true greatness.”<sup>83</sup>

Second, and in a more positive light, there is also a duty to use property for one’s spiritual well-being—not merely temporal security. Pope John XXIII alluded to the possibility of this when he noted, “the right of private ownership is clearly evident in the Gospels, which reveal Jesus Christ ordering the rich to share their goods with the poor so as to turn them into spiritual possessions.”<sup>84</sup> The ancient tradition of the tithe is a simple and well-known example of this.

Certainly, this is not a use for property that civil law can take into account. However, from a Catholic perspective, when the ultimate goal of life in this world is eternal life in the next, there is a duty to use the goods of this life in a way consistent with attaining eternal life. Otherwise, “acquiring of temporal goods can lead to greed to the insatiable desire for more and can make increased power a tempting objective. Individuals, families, and nations can be overcome by avarice, be they poor or rich.”<sup>85</sup>

Catholic teaching warns against envy toward others who have different amounts of property. It offers the perspective that different endowments of property and other goods can serve as a catalyst in the development of virtues. As explained in a way that civil law can never do:

Differences belong to God’s plan, who wills that each receive what he needs from others, and that those endowed with particular ‘talents’ share the benefits with those who need them. These differences encourage and often oblige people to practice generosity, kindness, and sharing of goods; they foster the mutual enrichment of cultures.<sup>86</sup>

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[https://www.vatican.va/content/leo-xiii/en/encyclicals/documents/hf\\_l-xiii\\_enc\\_08091893\\_laetitiae-sanctae.html](https://www.vatican.va/content/leo-xiii/en/encyclicals/documents/hf_l-xiii_enc_08091893_laetitiae-sanctae.html) [https://perma.cc/8D55-4EAP] (“[T]he use of the goods of the present life, and the righteous enjoyment which they furnish, may serve both to strengthen virtue and to reward it. The splendor and beauty of our earthly habitation, by which human society is emboldened, may mirror the splendor and beauty of our dwelling which is above.”); *Rerum Novarum*, *supra* note 27, ¶ 22 (warning that “riches do not bring freedom from sorrow and are of no avail for eternal happiness, but rather are obstacles that the rich should tremble at the threatenings of Jesus Christ.”); and *Sollicitudo Rei Socialis*, *supra* note 47, ¶ 28 (“[E]vil does not consist in ‘having’ as such, but in possessing without regard for the quality and ordered hierarchy of the goods one has.”).

83. *Populorum Progressio*, *supra* note 42, ¶ 19.

84. *Mater et Magistra*, *supra* note 29, ¶ 121; see also CATECHISM OF THE CATHOLIC CHURCH, *supra* note 28, ¶ 2445 (“Love for the poor is incompatible with immoderate love of riches or their selfish use.”).

85. *Populorum Progressio*, *supra* note 42, ¶ 18; see also *id.* ¶ 49 (warning of the consequences to those whose continued greed will call down upon them the judgement of God and the wrath of the poor, with consequences no one can foretell).

86. CATECHISM OF THE CATH. CHURCH, *supra* note 28, ¶ 1937.

It is also acknowledging that taken to the extreme, “[t]here exist also sinful inequalities that affect millions of men and women.”<sup>87</sup> This makes clear that there are times when failing to use property responsibility can result in something that is not only unjust but, in the moral realm, can be sinful.

Catholic teaching also imposes a particular obligation on Catholics who own property, noting that “[t]he faithful also have the duty of providing for the material needs of the Church, each according to his abilities.”<sup>88</sup> This is believed to be a moral good and an obligation to use property to support the spiritual and material works of the Church.

As part of this, the Church has staunchly defended the ability of the Church to hold property without the interference of the State. This is, in part, analogous to the right of property ownership enjoyed by others under the law. However, part of this defense is based on the view that such ownership of private property also enables the Church to use it in a unique way for the spiritual well-being of the community.<sup>89</sup> As noted

87. *Id.* ¶ 1938.

88. *Id.* ¶ 2043.

89. On numerous occasions, when the Church’s ability to hold property was suspended or denied, papal encyclicals consistently reiterated the right of the Church to hold property, and the dangers that would arise when this right was denied. *See generally* Pope Pius XI, *Iniquos Afflictisque* (“*Heavy Burden*”) ¶ 8 (Nov. 18, 1926), [https://www.vatican.va/content/pius-xi/en/encyclicals/documents/hf\\_p-xi\\_enc\\_18111926\\_iniquis-afflictisque.html](https://www.vatican.va/content/pius-xi/en/encyclicals/documents/hf_p-xi_enc_18111926_iniquis-afflictisque.html) [<https://perma.cc/7M73-FYKW>] (condemning the taking of Church property in Mexico where, after 1917, “[a]ll church buildings have been declared the property of the state . . . [T]he Church can no longer own property of any kind. Everything that it possessed . . . the property of the state . . . [T]he Church can no longer own property of any kind. Everything that it possessed . . . has now become the property of eth state. Every citizen . . . has the right to denounce before the law any person whom he thinks is holding in his own name property for the Church . . . Priests are not allowed by law to inherit property of any kind except it be from persons closely related to them by blood.”); Pope Pius XI, *Dilectissima Nobis* (“*On Oppression of the Church in Spain*”) ¶ 9 (June 3, 1933), [https://www.vatican.va/content/pius-xi/en/encyclicals/documents/hf\\_p-xi\\_enc\\_03061933\\_dilectissima-nobis.html](https://www.vatican.va/content/pius-xi/en/encyclicals/documents/hf_p-xi_enc_03061933_dilectissima-nobis.html) [<https://perma.cc/CAM2-4WW3>] (decrying provisions in the Spanish Constitution that deprived the Church of all title to property); Pope Pius X, *Une Fois Encore* (“*Once More*”) ¶ 11 (Jan. 6, 1907), [https://www.vatican.va/content/pius-x/en/encyclicals/documents/hf\\_p-x\\_enc\\_06011907\\_une-fois-encore.html](https://www.vatican.va/content/pius-x/en/encyclicals/documents/hf_p-x_enc_06011907_une-fois-encore.html) [<https://perma.cc/4GYR-SKLW>] (condemning situation in France in which the Church’s property “has been wrested from her”); Pope Pius X, *Iamdudum* (“*For a Long Time*”) ¶ 4 (May 24, 1911), [https://www.vatican.va/content/pius-x/en/encyclicals/documents/hf\\_p-x\\_enc\\_24051911\\_iamdudum.html](https://www.vatican.va/content/pius-x/en/encyclicals/documents/hf_p-x_enc_24051911_iamdudum.html) [<https://perma.cc/9BUG-RFXJ>] (decrying new legal regime in Portugal whereby “not only is the Church despoiled of all the property, whether real or movable which she holds by the strongest of titles, but she is deprived of all power of acquiring anything for the future.”); Pope Pius X, *Vehementer Nos* (“*Strongly*”) ¶ 10 (Feb. 11, 1906), [https://www.vatican.va/content/pius-x/en/encyclicals/documents/hf\\_p-x\\_enc\\_11021906\\_vehementer-nos.html](https://www.vatican.va/content/pius-x/en/encyclicals/documents/hf_p-x_enc_11021906_vehementer-nos.html) [<https://perma.cc/9W64-CYSV>] (lamenting



by Pope Pius XI, in such deprivations, “no account is taken of the spiritual and holy ends connected with such properties.”<sup>90</sup>

#### IV. CONCLUSION

In his text, Claeys warns that “[T]here really are strong practical reasons for laws and administrative policies not to get too detailed.”<sup>91</sup> This is certainly true. Thus, it is critically important to look beyond the narrow structures of the law for a more comprehensive framework that sets forth the moral duties of property ownership in such a way that they make it possible to enjoy the legal rights of such ownership.

This link between rights and duties undergirds the focus of the Catholic tradition on duties as well:

For every fundamental human right draws its indestructible moral force from the natural law, which in granting it imposes a corresponding obligation. Those, therefore, who claim their own rights, yet altogether forget to neglect to carry out their respective duties, are people who build with one hand and destroy with the other.<sup>92</sup>

Civil law does well to protect property rights in such a way that allows for building. The Catholic tradition on the duties that accompany those rights can help ensure that what is built is not easily destroyed.

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French Law of Separation that “violates and tramples underfoot the rights of property of the Church.”).

90. *Dilectissima Nobis*, *supra* note 89, ¶ 9; *see also id.* ¶ 12 (further condemning the taking of “vestments, statues, pictures, vases, gems and similar objects expressly and permanently destined to Catholic worship”).

91. Claeys, *supra* note 1, at 395.

92. *Pacem in Terris*, *supra* note 32, ¶ 30; *see also id.* ¶ 44 (“[I]f a man becomes conscious of his rights, he must become equally aware of his duties.”).