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## The Devil in the Details: How Specific Should Catholic Social Thought Teaching Be?

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# The Devil in the Details: How Specific Should Catholic Social Thought Teaching Be?

Michele R. Pistone

## **Abstract**

The article explores Catholic social teaching's tradition of generality, and assesses the wisdom of, and potential for, change to a more specific orientation. The article enlightens the reader as to reasons for the traditional approach to Catholic social teaching, what might be gained by the articulation of a more concrete social teaching, the assertion that a more specific social teaching will require greater lay input, a suggestion for a possible mechanism for accomplishing this, and the benefits of greater lay input, particularly via the aforementioned mechanism. The article also makes some recommendations as to when, how, and to what degree the Church should aspire to a more detailed formation of its social teaching.

# The Devil in the Details: How Specific Should Catholic Social Thought Teaching Be?

Michele R. Pistone\*

An introductory text to Catholicism states that “Catholic social teaching rarely if ever gets very concrete and specific.”<sup>1</sup> Few who have read much Catholic social teaching would disagree with this conclusion.

More controversial is the issue of whether this state of affairs is a desirable one. Thus, one commentator, while agreeing with the description of Catholic social teaching as normally quite general, questions whether this orientation is normatively ideal:

[In Catholic social teaching,] [t]he question is always general; so is the response. Whatever the question, the answer is usually framed in a few general principles accompanied by several guidelines for programs consistent with the principles. For a universal teaching church, this is the way it has to be, I suppose. When it comes, however, to the future of Catholic social teaching, I cannot help but wonder whether the times might not require more precision of the Church and its teachers, if Catholic social thought is to have greater, even decisive impact.<sup>2</sup>

This Article will explore Catholic social teaching’s tradition of generality, and assess the wisdom of, and potential for, change to a more specific orientation. Toward this end, Part I outlines the reasons for the traditional approach. Part II discusses what might be gained by the articulation of a more concrete social teaching. Part III asserts that a more specific social teaching will require greater lay input, and suggests a possible mechanism for accomplishing this. Part IV elaborates upon the benefits of greater lay input, particularly via the mechanism suggested in Part III. Finally, considering both the potential advantages and disadvantages, Part V makes some recommendations as to when, how, and to what degree the Church should aspire to a more detailed formation of its social teaching.

## I. The Case for Generality in the Church’s Social Teaching

There are certainly many weighty reasons for the Church to eschew detail in its social teaching. The reasons are mainly practical and prudential, and arise from two main realizations. First, the resources of the Church, while substantial, are limited. Second, the articulation of specific policy, taking into account the many permutations reality can take and the ever-present possibility of unintended consequences is extremely difficult. In his or her own field everyone is keenly aware of this truth. Indeed, in my own field of law, all one need to do is to walk into a

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<sup>1</sup> DENNIS M. DOYLE, *THE CHURCH EMERGING FROM VATICAN II: A POPULAR APPROACH TO CONTEMPORARY CATHOLICISM* 285 (rev. ed. 2002).

<sup>2</sup> William J. Bryon, S.J., *The Future of Catholic Social Thought*, 42 *CATH. U. L. REV.* 557, 558 (1993).

law library - the thousands of volumes of case law and the thousands of volumes of law reviews commenting on the case law attest loudly that the devil really is in the details.

Given these realizations, it becomes incumbent on the Church to utilize its teaching resources with an awareness of the limitations of those resources. As a practical matter, this means, at a minimum, that the Church is likely to avoid, for the most part, matters upon which it finds itself largely in agreement with the status quo and matters upon which there is already ample debate, with the Church's presumed point of view adequately represented by other public actors. It also means the Church is likely to avoid even important issues when they simply, for whatever reason, do not resonate with or interest the magisterium.<sup>3</sup>

As to this last point, we might distinguish among several types of disinterest. There is first what we might call "positive disinterest." By this term I mean a robust, self-satisfied, disinterest; the type of disinterest where you not only do not know about something, but you do not even care to know. Although it is not a particularly admirable trait, all people experience the feeling. Teachers and parents experience it regularly, as do, from the other end, their students and children. Think, for example, of the blank stares that might greet a high school teacher's lecture on Shakespeare<sup>4</sup> or the interest parents might have in hearing the songs of their child's favorite musicians. And as teachers know perhaps better than anybody, all things considered, it is probably for the best that the magisterium feels no compulsion to write on matters about which it is thus positively disinterested.

Another type of disinterest, however, must be recognized, in which there is not general disinterest in a topic, but rather mere disinterest in writing about it as a subject of Catholic social teaching. Trivial matters might constitute topics of this type, but not exclusively -- so too will many extremely important issues.

In addition to concerns about the limits of Church resources, there are at least two other, somewhat related, reasons why the Church might hesitate to address some important issues in which it has a general interest. First, crucial facts might be unclear, and, when they are, any assertions dependent on those facts carry an increased risk of error. Accordingly, when complex and specific issues demand independent analysis of factual and scientific data, "there can be no single Catholic approach or answer."<sup>5</sup> Indeed, the Church has long insisted that it "does not have teaching competence in political, economic, and social issues as such."<sup>6</sup> Taking Catholic social

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<sup>3</sup> "When the bishops are referred to specifically in regard to their teaching authority, . . . taken together with the pope, they are known as the magisterium. The magisterium, then, is the authority exercised by those responsible for the official teaching of the church. . . . Magisterial teaching is . . . found when there is fundamental agreement of the bishops even when not gathered in council, in the teachings of synods that are representative of the bishops, and in documents issued by Vatican offices that receive approval by the pope." DOYLE, *supra* note 1, at 285.

<sup>4</sup> As a law professor, I might have taken an example from law school, but my own field of immigration law is so endlessly fascinating that nobody is ever bored in class, even for a moment.

<sup>5</sup> CHARLES E. CURRAN, CATHOLIC SOCIAL TEACHING 1891-PRESENT: A HISTORICAL, THEOLOGICAL AND ETHICAL ANALYSIS 112 (2002).

<sup>6</sup> *Id.* at 109. *See, e.g.*, POPE JOHN PAUL II, SOLLICITUDO REI SOCIALIS ¶ 41 (1987) (noting that "[t]he Church does not have *technical revolutions* to offer for the problem of underdevelopment as such [nor does it] propose economic and political systems" [emphasis added]).

teaching seriously means requiring discipline in its exercise, to minimize the risk of inadvertent error in such matters.

This increased possibility of error also implicates the second reason the Church might avoid some issues of undoubted importance. When the Church errs, not only is the assertion of error by the Church a harm in itself, but it also can do damage to the teaching authority of the Church. As an authoritative teaching of the Church, Catholic social teaching is, at least to some extent, binding on Catholics.<sup>7</sup> Certainly, “Roman Catholics are obliged to consider [the social teachings] seriously in the formation of their consciences.”<sup>8</sup> Should the Church speak prematurely on an issue, or without a full understanding of the facts, it risks undermining the authority it claims. This is a serious concern; the Church, being without military or formal civil power (the narrow confines of Vatican City excepted), is entirely dependent for its influence upon the maintenance of its credibility. Therefore, it must take the utmost care when it speaks, even to the point of remaining silent on some matters of intense public interest.<sup>9</sup>

Moreover, a loophole of sorts exists which allows the Church to voice its opinion on many matters – even matters of great particularity – without needing to articulate its positions in formally promulgated documents of Catholic social teaching. It is well known that the Church is a powerful voice on a host of numerous issues in legislative bodies across the United States and indeed the world. In the U.S., that voice resonates particularly loudly on issues that the Church is known to have had long experience with, such as health care and immigration.<sup>10</sup> In the course of making its voice heard in such arenas, Church-supported organizations often take positions on very detailed statutory issues of the kind that almost never surface in the formal social teaching.<sup>11</sup>

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<sup>7</sup> CURRAN, *supra* note 5, at 112.

<sup>8</sup> MICHAEL A. EVANS, AN ANALYSIS OF U.N. REFUGEE POLICY IN LIGHT OF ROMAN CATHOLIC SOCIAL TEACHING AND THE PHENOMENA OF CREATING REFUGEES 77 (1991).

<sup>9</sup> For an excellent example of the Church’s sensitivity to this issue, see PETER STEINFELS, A PEOPLE ADRIFT: THE CRISIS OF THE ROMAN CATHOLIC CHURCH IN AMERICA 24 (2003) (describing Cardinal Bernadin’s determination to prevent his “Common Ground Initiative” from becoming an official Episcopal project because if it were so perceived, the Church’s teaching authority would be implicated, and then the initiative would either have to simply reiterate established teaching or make it difficult for the clergy to remain as part of the project).

<sup>10</sup> Regarding health care, “[a]long with hundreds of nursing homes and other Catholic health care facilities,” there are additionally “six hundred Catholic hospitals – the nation’s largest group of not-for-profit hospitals – [which] care for 90 million inpatients and outpatients annually.” STEINFELS, *supra* note 9, at 104. Regarding immigration, the American Catholic Church initially implemented “a sweeping program of immigrant uplift” in the 19<sup>th</sup> century and the Church today remains highly engaged with immigrant communities. CHARLES R. MORRIS, AMERICAN CATHOLIC: THE SAINTS AND SINNERS WHO BUILT AMERICA’S MOST POWERFUL CHURCH 110 (1997). One example might suffice to illustrate the extent of the Church’s continuing strong involvement with immigrants: “[s]ince the passage of the Refugee Act of 1980, the Office of Migration and Refugee Services of the U.S. Catholic Conference has resettled some 650,000 refugees – nearly 32 percent of the total number . . . – and more than any other single agency.” Terry Coonan, *There Are No Strangers Among Us: Catholic Social Teaching and U.S. Immigration Law*, 40 CATH. LAW. 105, 161 n.187 (2000).

<sup>11</sup> The Office of Social Development and World Peace is one of many offices of the United States Conference of Catholic Bishops that regularly provides specific commentary on legislative matters pending before the U.S. Congress. For example, in a letter to the Chairman of the Senate Committee on Appropriations this Office urged the Chairman to “assure that the conference report [for the Foreign Operations Appropriations bill] include[] the Senate-approved amounts for HIV/AIDS and at least \$1 billion” for the Millennium Challenge Account instead of adopting the version passed by the House of Representatives, which provided significantly less funding for both projects. See Letter from Most Reverend John H. Richard, Chairman, Committee on International Policy of the United States Conference of Catholic Bishops, & Ken Hackett, President, Catholic Relief Services, to The Honorable Ted Stevens,

An example from my personal experience might suffice to clarify the point. In 1995-96, I acted as the Legal Director of the Lawyers' Committee for Human Rights, in Washington, D.C. My tenure in this position coincided with a major effort on Capitol Hill to overhaul immigration law;<sup>12</sup> as a result, I found myself chairing an *ad hoc* organization, the Committee to Preserve Asylum, formed for the purpose of influencing certain provisions of the proposed legislation.<sup>13</sup> The Committee was primarily concerned with two particular proposals that, to the Committee, seemed likely to unduly adversely impact the ability of legitimate asylum seekers to pursue refuge in the United States. The first proposal would have required newly arriving refugees to file their applications for asylum protection within thirty days of their arrival.<sup>14</sup> The second proposal called for the imposition of a new summary removal process authorizing immigration inspectors at U.S. borders, airports and other ports of entry to deport – without further administrative review, hearing or judicial oversight – individuals who arrived without proper entry or travel documentation.<sup>15</sup>

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Chairman Senate Committee on Appropriations 1 (Nov. 10, 2003), *available at* [www.usccb.org/sdwp/international/fa1103s.htm](http://www.usccb.org/sdwp/international/fa1103s.htm). Similarly, the Office of Social Development and World Peace also works on domestic issues pending before the U.S. Congress. A recent policy analysis of proposed changes in the tax laws called upon Congress to “adjust the measures which make the [Child Tax Credit] refundable to help low income families who would otherwise not benefit from the increase” proposed in the legislation. *See* U.S. CONF. OF CATHOLIC BISHOPS, OFFICE OF SOCIAL DEVELOPMENT AND WORLD PEACE, TAX RELIEF FOR LOW INCOME FAMILIES *available at* [www.usccb.org/sdwp/hilltaxrelief03.htm](http://www.usccb.org/sdwp/hilltaxrelief03.htm) (Feb 2003). The legislation as drafted when the policy paper was released would have increased the Child Tax Credit benefit to \$1000, but that benefit would not have been available to poor families “who pay payroll taxes but little or no income tax.” *Id.* The Office of Social Development and World Peace sought to address that specific omission in the legislation.

<sup>12</sup> Early versions of the legislation were quite ambitious, intending to restrict immigration on a number of fronts. Indeed, early drafts included restrictions not only on illegal immigration and entry by refugees, but also included, among many other provisions, reductions on quotas for legal immigration by relatives of people legally living in the United States, *see* PHILIP SCHRAG, A WELL-FOUND FEAR: THE CONGRESSIONAL BATTLE TO SAVE POLITICAL ASYLUM IN AMERICA 1, 74-75, 88 (2000), restrictions on the rights of children of illegal immigrants to attend public school, *id.* at 141-44; limitations on welfare benefits to immigrants, *id.* at 1; and on the number of refugees who could lawfully be processed for entry into the country while overseas, *id.* at 88; the creation of a national identification card, *id.* at 75; and the imposition of greater controls on the southern border with Mexico. *Id.* at 1. The “legal migration” portions of the legislation were eventually split out of the bill. *Id.* at 140-41. What eventually emerged was a bill that was more limited in scope but that nonetheless had a large impact on asylum law. *See generally* Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA), Pub. L. No. 104-208, 110 Stat. 3009 (1997).

<sup>13</sup> *See generally* SCHRAG, *supra* note 12, at 107-08, 113, 118 (discussing the formation and legislative efforts and activities of the Committee to Preserve Asylum).

<sup>14</sup> A more favorable version of this proposal was eventually adopted into law. Current immigration laws require asylum seekers to file their applications for asylum protection with the U.S. government within one year of their last arrival in the United States. Those who apply after the one-year deadline are statutorily barred from asylum protection unless they can establish that they satisfy one of two exceptions. The law exempts those applicants from the one year filing deadline who can prove that their failure to file earlier was due to either changed circumstances that materially impact the applicant’s eligibility for asylum protection or extraordinary circumstances relating to the delay in filing an application within the relevant time period. 8 C.F.R. § 208(a)(2)(D). Changed circumstances include changes in the conditions in the applicant’s country of nationality or changes in the applicant’s circumstances that materially affect eligibility for asylum. 8 C.F.R. § 208.4(a)(4). Extraordinary circumstances include serious illness or mental or physical disability, ineffective assistance of counsel and legal disability. 8 C.F.R. § 208.4(a)(5). Compliance with the one-year deadline must be demonstrated by clear and convincing evidence. 8 C.F.R. § 208.4(a)(2)(i)(A).

<sup>15</sup> A version of this proposal was also adopted into law. 8 C.F.R. § 235(b)(1)(A). The law, however, requires the U.S. government to prescreen all applicants for admission to determine whether they intend to apply for asylum or

In connection with my efforts to defeat these proposed provisions, I regularly came into contact with staff members of the U.S. Catholic Conference's Committee on Migration and Refugee Services, the group charged with carrying out the church's pastoral and social policy on immigration issues. Within the Committee of Migrant and Refugee Services, the Office for the Pastoral Care of Migrants and Refugees responds to the spiritual needs of migrants and refugees; the Office of Migration and Refugee Policy advocates for fair and just public policy towards immigrants; and the Office for Refugee Programs administers programs of welcome and service to refugees resettled in the United States by the Church.<sup>16</sup>

My experiences saw members of these offices, and on occasion individual bishops themselves, actively pursuing efforts to influence the pending immigration legislation, even on narrow immigration issues not specifically addressed by Catholic social thought. Indeed, were one to seek a papal or bishops' conference statement on, for example, the specific deadline appropriate for asylum applications, one would forever search in vain. Yet on this precise issue (and others equally specific), the U.S Catholic Conference proved to be an important ally to those seeking to ameliorate the perceived harshness of proposed immigration restrictions during the 1995-1996 legislative debate. The existence and utilization in this way of organizations such as the Committee on Migration and Refugee Services in effect allows the Church to have its cake and eat it too, as the Church can maintain the generality of its formal teaching without abandoning the opportunity to influence the details of particular legislation.

Taking all the practical and prudential concerns noted above into consideration, then, and additionally the existence of alternative vehicles for addressing concrete questions of social policy, it is understandable that the Church's formal social teaching maintains a general character. Perhaps, as Father Bryan, in the block quote at the beginning of this Article, reluctantly notes the generality of the teaching may "be the way it has to be."<sup>17</sup> Certainly at the highest levels of the universal Church it *is* difficult to conclude that, in the normal course of events, it could be very different. And yet, as Father Bryan also wondered, perhaps it should be somewhat different, at least on some levels of the Church's social teaching. The next section addresses this question as it explores the potential benefits of a more precise social teaching.

## II. The Case for a More Specific Social Teaching

The potential advantages of developing a more concrete formal social teaching fall into two categories: (1) substantive and (2) structural. The substantive advantage is self-evident, i.e., by identifying and advocating for concrete change on assorted issues on the express and formally articulated basis of Catholic social teaching, the Church could better help to bring about such

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fear persecution if returned home. 8 C.F.R. § 235(b)(1)(A)(ii). Those persons who do not indicate a fear of returning remain subject to being summarily removed back to their home countries. 8 C.F.R. § 235(b)(1)(A).

<sup>16</sup> See U.S. CATHOLIC BISHOPS – OFFICE OF MIGRATION AD REFUGEE SERVICES at <http://www.usccb.org/mrs/index.htm>. In addition to MRS, the Catholic Bishops also established the Catholic Legal Immigration Network, which trains lawyers around the country to assist immigrants with their legal needs, provides direct legal representation to immigrants who are held in the custody of the U.S. immigration authorities, and advocates for fair immigration policies. See CATHOLIC LEGAL IMMIGRATION NETWORK, INC. at <http://www.cliniclegal.org/>.

<sup>17</sup> See *supra* text accompanying note 2. See also CURRAN, *supra* note 5, at 112 (noting that Catholic social teaching "by its very nature must be somewhat general and cannot be specific").

change. In any pluralistic society, the framing of particular issues in terms of Catholic social teaching would not, of course, guarantee any particular desired change, but it would increase the probability of action.

The potential structural advantages would be no less real. As Catholic social teaching gains in concreteness, by necessity its development will require greater interaction with the laity of the Church, and indeed, with all persons of good will. This is true, first, with regard to identification of issues. The “‘needs of the present time’ . . . emerge from changes in the fields of science, technology and economics, from political innovations, and from worldwide political and economic independence.”<sup>18</sup> Those who work most directly or most extensively in those fields will often be the first to identify new issues that could benefit from a Catholic social teaching analysis. If the Church’s social teaching is to provide more specific answers, it will first have to ask more specific questions. And if it is to do this in the most productive manner, it will have to ask the questions in a timely manner. Increasing engagement with those persons best positioned to read “the signs of the times”<sup>19</sup> in the areas from which the needs of the time emerge seems a prerequisite for accomplishing this aim.

Moreover, once the questions are defined, devising appropriately concrete answers will require a continued reaching out by the magisterium. The benefits of doing this in an increased way are two-fold. First, the immediate results, i.e., the formation of more specific teaching, are likely to be improved by the process of outside consultation; indeed, the more specific the teaching is the more difficult, even impossible, it will be to develop without such consultation.<sup>20</sup>

Second, as it becomes more apparent that the Church is reaching out, the increased level of engagement would likely increase enthusiasm for Catholic social teaching among those who can provide the Church advice for concretely addressing the needs of the times. As Father Bryon has stated, “[a] teaching Church, not simply content with, but committed to, listening and learning before it speaks out on social issues would stimulate great intellectual activity in Catholic circles by inviting Catholic [and other] scholars to reflect upon and articulate the significant social questions in the areas of their competence.”<sup>21</sup> The net result should be the development of a virtuous circle of engagement stimulating enthusiasm stimulating better ideas stimulating further engagement stimulating still more enthusiasm and on and on and on.

Furthermore, in the process of developing a more concrete social policy, the phenomenon of increased engagement with Catholic social teaching is not likely to be limited to elites called upon to help shape that teaching. Rather, it is likely to extend, to some increased degree, even to the public at large. This would be a substantial benefit – Catholic social teaching has too long been, as it often has been called, the Church’s “best kept secret.”<sup>22</sup>

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<sup>18</sup> Bryon, S.J., *supra* note 2, at 561, quoting JOHN XXIII, MATER ET MAGISTRA ¶ 50 (1961), reprinted in SOCIAL JUSTICE 205 (Rev. Vincent P. Mainelli ed., 1978).

<sup>19</sup> POPE PAUL VI, GAUDIUM ET SPES ¶4 (1965).

<sup>20</sup> See, e.g., Robert A. Destro, *Work: The Human Environment*, in BUILDING THE FREE SOCIETY: DEMOCRACY, CAPITALISM, AND CATHOLIC SOCIAL TEACHING 163, 186 (George Weigel & Robert Royal eds., 1993) (noting “legitimate moral criticism of specific programs must be based on some knowledge of their goals and actual operating record”).

<sup>21</sup> *Id.* at 560.

<sup>22</sup> THOMAS MASSARO, S.J., LIVING JUSTICE: CATHOLIC SOCIAL TEACHING IN ACTION 13 (2000).

Both the change to a more concrete social policy and the larger engagement necessary to implement that change successfully would, I believe, contribute to the revealing of the “secret” in the larger society. An increased specificity of the social teaching is likely to have this effect because it would naturally resonate more than more abstract discussions of human dignity, both with members of the public who would be directly affected by a concrete proposal and with members of the news media who are constitutionally more disposed toward discussing concrete proposals – who, what, when, where, why -- than more rarefied topics. Indeed, recent events have shown the receptivity of the public to the type of careful distinctions characteristic of Catholic social theory when policy choices are made concrete. Thus, in the build-up to the recent war with Iraq, “nearly everyone deploy[ed] the vocabulary and categories of just war” theory, the Augustine-derived theory of war limiting war’s use to certain authorities for certain ends, in certain circumstances and by certain means.<sup>23</sup> Admittedly, the high stakes and the starkness of the choice make the declaration of war an event unusually capable of capturing public attention, but that does not mean the public is inherently unreceptive to carefully wrought distinctions made on other topics when the issues are made similarly concrete.

An opening up of the process of developing Catholic social teaching is likely to have a similar effect. Reason suggests this – by widening the circle of involvement one also widens the circle of those interested in the result. And history suggests it, too. It probably is no coincidence that the Catholic social teaching document that has garnered the most attention in the United States -- the U.S. Catholic Bishops’ 1986 pastoral letter, *Economic Justice for All* -- is also the document drafted in the most open process. (The process followed in the development of *Economic Justice for All* is discussed in some detail, *infra*, in Part III).

It is worth noting that once the Church develops the habit of forming a more specific social teaching utilizing a more open process, it will be difficult to return to the former status quo of a more general social teaching utilizing a less open process. There are two reasons for this. The first has to do with the human tendencies toward inertia and against perceived loss. In this case, once firmly established, a more open process will become the process supported not only by those who favor such a process on the merits, but also by those who do not care about process, those who care but have other, bigger, more substantive “fish to fry,” and those who lack the energy to engage in a fight over the issue. On the other hand, those most likely to be energized by the prospect of reverting back to the old ways would be those persons who would most keenly feel the loss of their influence, i.e., the wider Catholic community. Hence, once a new process gains acceptance, it will be difficult to eliminate.

Once established, the genie of a more open process will be particularly hard to put back into the bottle because, by their nature, more concrete social teachings will require periodic monitoring to ensure against their obsolescence. As the level of abstraction declines, the level of attention given to changes in details must increase. An apt analogy from the political world might be to the relatively infrequent need for constitutional change, on the one hand, and the relatively frequent need for change at the more specific level of ordinary statutory law, on the other. Catholic social teaching, at its highest level of abstraction – Pope John Paul II’s

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<sup>23</sup> Christopher Lynch, *Making War: The Triumph of Just-War Theory*, THE WEEKLY STANDARD, Nov. 3, 2003.

philosophical exploration of *The Splendor of Truth*<sup>24</sup> is a good example -- will rarely if ever need updating, but more specific and time-bound social teachings often will, even when drawn with care and insight, if for no other reason than a change in circumstances.

As a result, it will be necessary to maintain some sort of administrative apparatus, or at least process, designed to sound the alarm about the potential obsolescence of the more specific social teachings, i.e., cracks in the concrete, as it were. The Second Vatican Council warned that “deficiencies . . . in the way church teaching has been formulated . . . can and should be set right at the opportune moment”<sup>25</sup> – a necessary corollary of this obligation would seem to be a requirement that care be taken to identify deficiencies as soon as reasonably possible. Inviting in some fashion continued input from experts in the subject matter of the more concrete social teachings – which teachings could reasonably be expected to undergo periodic change -- would seem both to satisfy this obligation and perhaps even be necessary to satisfy it. The latter point might depend upon the subject matter of a particular social teaching, but in almost all cases reliance on the volunteer labor of experts in the wider Catholic community would probably be the most cost-effective way to monitor the appropriateness of past teachings, and thus in most cases the wisest course. Of course, the ultimate responsibility for revising or updating past teachings will remain at all times with the magisterium; my only point is that, in certain cases, this duty might best be performed by delegating to others, in a non-exclusive fashion, the responsibility for assessing grounds for reassessment when appropriate.

One final point in making the case for a more specific Catholic social teaching might be noted. It will be remembered that, in articulating the case for generality in Catholic social teaching, Part I of this Article identified a loophole of sorts, in that advocacy efforts by Church organizations can provide an alternative means of filling in the specifics left unvoiced by Catholic social teaching. As a practical matter, such lobbying might achieve some of the same ends as a more detailed social teaching. However, it must be said, from the standpoint of one trying to understand Catholic social teaching, the situation is less than ideal. An apt comparison might be to the frustration lawyers might feel if the U.S. Supreme Court, rather than issuing detailed opinions on particular cases, issued one-word opinions/judgments – “Affirmed,” for example, or “Reversed” – along with the occasional treatise. As welcome as such a treatise might be, lawyers likely would agree that detailed explanations of specific cases provide irreplaceable insight. So too might a more detailed Catholic social teaching.

### **III. The Details of Consultation**

In the previous section, I suggested that the establishment of an apparatus of outside consultation might be necessary to establish and support a more detailed social teaching. Given the nature of this Article, it is probably incumbent upon me to explore in more detail what form such an apparatus might take. In this section, I will do so, in the context of the development of Catholic social teaching by the U.S. bishops.

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<sup>24</sup> POPE JOHN PAUL II, VERITATIS SPLENDOR (1993), available at [http://www.vatican.va/holy\\_father/john\\_paul\\_ii/encyclicals/documents/hf\\_jp-ii\\_enc\\_06081993\\_veritatis-splendor\\_en.html](http://www.vatican.va/holy_father/john_paul_ii/encyclicals/documents/hf_jp-ii_enc_06081993_veritatis-splendor_en.html).

<sup>25</sup> SECOND VATICAN COUNCIL, DECREE ON ECUMENISM, UNITATIS REDINTEGRATIO ¶ 6 (1964).

As a preliminary matter, however, it must be acknowledged that the development of Catholic social teaching in the United States already has provided substantial opportunities on some occasions for lay influence over Catholic social teaching. The most notable example is in the drafting by the U.S. Bishops of their 1986 pastoral letter, *Economic Justice for All*. In the process of writing that letter, the bishops invited numerous experts, including economists, business leaders, government officials and people who work with the poor to hearings at which these and other experts were asked to provide advice and insight on various issues of the economy.<sup>26</sup> Four drafts of the letter were released for public comment before final approval was given; sixteen hearings were held even before the first draft was written.<sup>27</sup> A similar process had been used by the bishops a few years before as well, for the drafting of *The Challenge of Peace*, the 1983 pastoral letter on war and peace in the nuclear age.<sup>28</sup>

Other examples of extensive outreach can be found in teachings on matters recognized by the magisterium as involving highly technical issues outside the magisterium's usual range of expertise. For example, the U.S. Conference of Catholic Bishops' Committee on Science and Human Values defines its mission largely in terms of dialogue with outside experts:

The Committee . . . conducts dialogues among bishops, theologians, and scientists to explore the relevance of Catholic moral teaching to scientific and technological advances. Consultants assist the committee in planning the sessions and choosing the scientist participants. . . .

The Committee [issues] reports from dialogues between scientists and Catholic bishops. . . .

The Committee . . . also cooperates with outside organizations that pursue related interests, especially the Program of Dialogue on Science, Ethics and Religion of the American Association for the Advancement of Science (AAAS).<sup>29</sup>

Of course, notwithstanding the noteworthy examples of *Economic Justice for All*, *The Challenge of Peace* and the Committee on Science and Human Values, more restricted consultative patterns are followed in other cases. My primary focus here, however, concerns not which alternative approach is most appropriate for purposes of formulating the general Catholic social teaching of the present; rather, it concerns what approach might work best in formulating and supporting a more detailed social teaching in and for the future.

As to that question, my view is that, first, only a slight variant of the current system would be sufficient as far as the *formulation* – that is, the drafting -- of a more detailed social teaching is concerned. Currently, the relevant actors are the bishops, the staff of the U.S. Conference of Catholic Bishops, and an *ad hoc* and ever-shifting collection of outside advisors. The formulation of a more detailed social teaching would not require anything different, except that the role and perhaps the number of outside advisors would probably need to be increased.

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<sup>26</sup> MARVIN L. KRIER MICH, CATHOLIC SOCIAL TEACHING AND MOVEMENTS 315 (1998).

<sup>27</sup> *Id.*

<sup>28</sup> *Id.* at 278.

<sup>29</sup> See United States Conf. of Catholic Bishops, Committee on Science and Human Values available at <http://www.usccb.org/shv/about.htm>. See also United States Conf. of Catholic Bishops, Committee on Science and Human Values available at <http://www.usccb.org/shv/mission.htm> (noting recent dialogues organized by the committee have covered topics such as cloning, stem cell research, genetic modification in plants, evolution, and genetic enhancement).

However, the drafting of particular policy is only part of the charge of those entrusted with the development and safeguarding of Catholic social teaching. Two other distinct obligations exist: (1) to prioritize among numerous subject matters that might appropriately be treated as topics of Catholic social teaching; and (2) to review prior teaching and identify what parts of it, if any, are in need of updating or clarification. These latter two obligations can be characterized, in the parlance of law school testing, as issue identification or issue “spotting” tasks as opposed, to the analysis required to formulate Catholic social teaching.

The more detailed Catholic social teaching becomes, the larger the issue identification obligations will loom. This is because, first, while the larger, general questions of life, e.g., what is truth?, possess an unquestionably timeless relevance, the relevance of more specific matters may be fleeting or only ostensibly substantial. In this sense, a Catholic social teaching focused only on the largest, most general questions of life need not concern itself much with being able to distinguish the wheat from the chaff; it may rightly assume that the experiences of many prior generations have already successfully made that division. No such assumption is appropriate when dealing with narrow issues and specific solutions, however; thus, in such cases, the ability to separate the more important from the less important will be crucial to avoiding a trivialization of the social teaching.<sup>30</sup>

Moreover, the related obligation to identify archaic elements of past teaching also will become of increasingly heightened importance as the teaching increases in detail. This is because specific solutions tend to be more time-bound; thus, as time passes, in order to preserve the authority of its teaching and avoid the propagation of error, Catholic social teaching would have to be increasingly alert to changes in circumstance that rendered prior positions questionable or even obsolete.

In my view, the importance and difficulty of these issue identification tasks make it imperative that any substantial move toward a more concrete social teaching be accompanied by institutional changes supportive of the successful accomplishment of these tasks. In particular, if a more concrete social teaching was deemed an appropriate goal, it would be desirable to create several formal advisory boards composed of lay experts in various subjects, and task them with periodically identifying issues that would most fruitfully benefit from undergoing a Catholic social teaching analysis, as well as to charge them with reviewing past teachings for assertions made unreliable by subsequent developments. Each standing committee would be required to issue a report of its assessment of these matters. In no case should the reports aspire to create a revised social teaching; rather, they should simply highlight issues, solutions, facts or other developments deemed important in a particular context and worthy of further study and reflection.

The magisterium would be under no obligation to act on any suggestion of a committee. That being the case, one might object that the proposed committees would likely prove more wasteful than useful. I consider, and reject, this possibility in the next section of this Article.

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<sup>30</sup> See Destro, *supra* note 20, at 185-86 (stating that when the Church delves into specific policy matters, its message “will not be transcendent” and could “be ‘old news’ – or irrelevant – by the time it is published”).

#### IV. The Benefits of Consultation

In assessing the overall wisdom of the previous section's recommendation that, if Catholic social teaching should adopt a less general orientation, committees of lay experts should be appointed to assess periodically questions impacting the possible continued utility of particular past teachings and to identify specific areas most appropriate for future teaching, it is useful to keep in mind the axiom that the standard against which a particular course of action should be measured is not perfection, rather, the standard is the alternative. In this case, the alternative is basically an *ad hoc* system, even for major documents. Regarding the initial identification of issues, *Economic Justice for All*, for example, has its origin in chance comments by two French priests to their former classmate, Peter Rosazza, who happened to be an auxiliary bishop of Hartford, Connecticut.<sup>31</sup> Regarding the assessment of past teachings, it is true of the U.S. bishops' social teaching generally, as Charles Curran has said of papal teachings, that "[t]he emphasis . . . is on continuity, not discontinuity."<sup>32</sup> There is no formal mechanism for conducting regularly reassessments of past teachings, although occasionally a formal vote of reaffirmation may be taken.<sup>33</sup> To the extent disagreements emerge over time, they tend to be dealt with *sub rosa*, through omission, qualification, and changing emphasis, rather than through direct rebuttal.<sup>34</sup>

Against this standard, a formal committee system would offer several new benefits. First, it would accomplish in a small way what is regarded by some as the primary benefit of a consultative orientation, namely that "beyond the perfecting of a [particular] text [it is] a catalyst

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<sup>31</sup> MICH, *supra* note 26, at 314.

<sup>32</sup> CURRAN, *supra* note 5, at 30.

<sup>33</sup> Thus, the U.S. bishops reaffirmed *Economic Justice for All* in November 1995, as they "called on Catholics in the United States to mark" the pastoral letter's tenth anniversary. Daniel P. Reilly & William S. Skylstad, *Introduction*, in UNITED STATES CATHOLIC CONF., TENTH ANNIVERSARY EDITION OF ECONOMIC JUSTICE FOR ALL (1997) [hereinafter ANNIVERSARY EDITION OF ECONOMIC JUSTICE FOR ALL].

<sup>34</sup> For example, one criticism of *Economic Justice for All* at the time of its debate was that it put "excessive trust in the state and its officials." MICH, *supra* note 26, at 324 (*citing* William E. Simon & Michael Novak, *Liberty and Justice for All*, in PRIVATE VIRTUE AND PUBLIC POLICY: CATHOLIC THOUGHT AND NATIONAL LIFE 1-28 (James Finn ed., 1990)). Such critics claimed vindication after Pope John Paul II's 1991 encyclical, *Centesimus Annus*, which included statements, such as the following, critical of the welfare state:

By intervening directly and depriving society of its responsibility, the social assistance state leads to a loss of human energies and an inordinate increase in public agencies, which are more dominated by bureaucratic ways of thinking than by concern for serving their clients, and which are accompanied by an enormous increase in spending.

POPE JOHN PAUL II, CENTESIMUS ANNUS ¶ 48 (1991). Sentences such as this led some to regard *Centesimus Annus* as "striking a considerably different tone from that of the U.S. bishops in their 1986 statement on the economy [which stressed] increasing the role of the government to remedy social problems." Robert A. Sirico, *Catholicism's Developing Social Teaching* 24 (1992). The U.S. bishops' 1995 reaffirmation of *Economic Justice for All* does not expressly acknowledge any conflict with *Centesimus Annus*, although it does note, without elaboration, the latter's "develop[ment] of new themes." National Conf. of Catholic Bishops, *A Decade After "Economic Justice for All": Continuing Principles, Changing Context, New Challenges*, in ANNIVERSARY EDITION OF ECONOMIC JUSTICE FOR ALL, *supra* note 33, 3, 6. Implicitly echoing one of these themes, the bishops' 1995 statement "warn[s] against the bureaucratic excesses of the 'social assistance' state" (thereby utilizing in a pointed but unattributed reference a signature term of *Centesimus Annus* – the social assistance state – that never appears in *Economic Justice for All*), and notes that "poverty and economic injustice [can] result from . . . the unresponsive behavior of the public sector." *Id.* at 7, 9. The subtlety is impressive; only those with a firm background in the matter are likely to regard such warnings as having anything at all to do with any controversy arising from *Economic Justice for All*.

for a larger process of ‘forming church.’”<sup>35</sup> A new collegiality is encouraged by processes that are more “broadly consultative, questioning, critical, open, [and] appropriately tentative.”<sup>36</sup> Further, in addition to making, by itself, a small contribution to the “larger process of ‘forming church,’” it would provide a noteworthy model for further change along the same lines. This contribution might be especially important today when, as one writer has commented, “[t]he climate of the times suggests that Catholics, ordained and lay, will have to exercise responsibility for the vigor of Catholicism within their own sector of activity.”<sup>37</sup> (Few, I think, would argue that providing a formal mechanism for the input of lay experts on matters of Catholic social teaching in the experts’ own areas of expertise would violate the bounds of the laity’s appropriate “sector of activity”).

Another expected benefit of a formal committee structure, with committees formally charged with producing written reports, is that – even though ultimately only hortatory in character – the reports would generally be likely to receive more serious attention than unsolicited written comments from laity or informally delivered assertions from a committee. As a matter of human nature, it is much easier to be dismissive or forgetful of the latter two types of communication than it is to dismiss or forget a formal report formally requested. In all organizations, people are busy and often invested in the status quo; accordingly, they sometimes resist messages that, if “heard,” would require time-consuming responses perhaps disruptive of the status quo. Hence, even in the face of warnings of various kinds, governments will delay forcing bureaucratic change until catastrophe strikes and corporations will ignore signs of trouble until lawsuits strike; a church heavily invested in a detailed Catholic social teaching likewise could be susceptible to ignoring circumstances that render its detailed teaching unpersuasive. In the context of developing a mechanism to reassess periodically the appropriateness of established teaching, formal reports of the type discussed herein may be the gentlest way of effectively overcoming this human tendency. Could the reports still be ignored? Of course. But they will be harder to ignore than less formal communications, and thus may reasonably be assumed more likely to overcome bureaucratic inertia than any other alternative. Moreover, in all events, less systematic mechanisms for identifying problem issues, such as informal communications of all kinds, will still remain, so the formal reports will not detract from the current system’s efficacy, but only add to it.

A final argument favoring a formal committee system is that the benefits of such a system are unlikely to be limited to detailed Catholic social teachings of the future, but also could benefit the teachings as they exist right now, especially if one could appropriately assume that existing teaching is itself at least occasionally as reliant as any future detailed teaching might be on unexplored factual foundations highly susceptible to change. Indeed, to the extent and to the degree that this assumption is accurate, institutional changes that at first might have seemed entirely discretionary and perhaps too troublesome might now be seen in a new light as both urgent and necessary.

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<sup>35</sup> MICH, *supra* note 26, at 279 (quoting Archbishop Rembert G. Weakland, who chaired the committee responsible for drafting *Economic Justice for All*).

<sup>36</sup> See RICHARD MCCORMICK, *THE CRITICAL CALLING: REFLECTIONS ON MORAL DILEMMAS SINCE VATICAN II* 38 (1989).

<sup>37</sup> STEINFELS, *supra* note 9, at 358.

It probably would be most prudent for me to examine this possibility through the prism of an issue with which I already have some familiarity. Our working hypothesis, after all, is that even in its current general orientation, Catholic social teaching might be fact-dependent in unexpected ways and thus could benefit from the increased involvement of lay experts capable of identifying difficulties and pointing to solutions that generalists, including the magisterium, might overlook. Given this hypothesis, it would be pointless for me to employ as an example an issue with which I had no previous familiarity. Under such circumstances, a suggestion of possible error might appropriately be regarded with skepticism, as perhaps an act of mere hubris. On the other hand, a suggestion in comparable circumstances that there was no error at all would accomplish nothing in the way of testing the hypothesis; at best, it would merely confirm (and rather weakly) the premise that generalists are less likely to identify error. I will stick to my knitting, therefore, and for me that means exploring the topic of immigration.

The particular illustrative issue we might productively examine is the phenomenon of highly skilled and educated migration from developing to developed countries. This issue is widely referred to by the loaded term “brain drain.”<sup>38</sup> In one sense, the issue is an extremely appropriate one for a worldwide church to comment upon for, one way or another, the movement of highly skilled and educated persons affects almost every nation in the world. In another sense, however, the issue presents special difficulties that complicate the formation of a universal policy, namely, that the impact of highly skilled immigration is not uniform across countries, but rather varies widely among countries. Some countries, for example, are mainly “receiving” countries, some are mainly “sending” countries, and some see substantial flows in both directions -- different effects flow from each of these states. Differing stages of economic development and differing economic policies among countries are only two of the many other factors that work to complicate the task of those seeking to develop an international consensus in this area.

Nonetheless, in this instance, these formidable obstacles have not deterred the Catholic Church from articulating a resoundingly clear social teaching that, in its essentials, has been reiterated again and again over the course of many years. The following sample of statements taken from various authoritative Church documents plainly conveys the Church’s position on the migration of highly skilled persons from developing to developed countries:

Even though they have a right of emigrating, citizens are held to remember that they have the right and the duty . . . to contribute according to their ability to the true progress of their own community. Especially in underdeveloped areas where all resources must be put to urgent use, those men gravely endanger the public good, who, particularly possessing mental powers and wealth, are enticed by greed and temptation to emigrate. They deprive their community of the material and spiritual aid it needs.<sup>39</sup>

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<sup>38</sup> The term “brain drain” has long been recognized as a loaded one, especially by scholars disinclined to view the phenomenon as a negative one, because it “conveys a strong implication of serious loss.” See, e.g., Harry G. Johnson, *The Economics of the “Brain Drain”: The Canadian Case*, 3 MINERVA 299, 299-300 (1965). The term also is disfavored by some persons holding opposite view of the phenomenon, on the ground that “brain drain” inappropriately disparages other classes of emigrants. D. Chongo Mundende, *The Brain Drain and Developing Countries*, in THE IMPACT OF INTERNATIONAL MIGRATION ON DEVELOPING COUNTRIES 183 (Reginald Appleyard ed., 1989).

<sup>39</sup> SACRED CONGREGATION FOR BISHOPS, INSTRUCTION ON THE PASTORAL CARE OF PEOPLE WHO MIGRATE ¶ 8 (Aug. 22, 1969) (citations and internal quotation marks omitted), reprinted in PEOPLE ON THE MOVE, A COMPENDIUM OF CHURCH DOCUMENTS ON THE PASTORAL CONCERN OF MIGRANTS AND REFUGEES 85 (1988).

Catholic social teaching . . . is clearly in opposition to policies that explicitly and intentionally tap the third world's reservoir of trained, educated individuals in pursuit of selfish interests.<sup>40</sup>

[T]he special preference afforded by the U.S. to highly skilled persons should be restricted. Our immigration policy should not encourage a flow of educated persons needed for development in other countries . . . It does not make good sense to direct foreign aid to developing countries and at the same time receive reverse foreign aid in the form of professional persons whose talents are badly needed in the same countries.<sup>41</sup>

[Laws allowing highly skilled immigration] in effect bleed a nation troubled with population problems of its best citizens, leaving behind those who can contribute least to national prosperity. Such ungenerous laws seem to bespeak a spirit of selfishness rather than a genuine desire by a privileged people to help those in need.<sup>42</sup>

[T]he emigration of talented and trained individuals from the poorer countries represents a profound loss to those countries.<sup>43</sup>

In sum, as the quoted statements make clear, Catholic social teaching opposes the migration of highly skilled and educated persons from developing to developed countries.

The basis for the Church's position rests on considerations of human dignity and of the common good -- the twin foundations of Catholic social teaching -- and the intertwined set of rights and duties these considerations imply. In very brief summary,<sup>44</sup> the Church sees restrictions on highly skilled immigration as (1) not substantially infringing on human dignity because the restrictions are meant to apply only to those presumed to be the elite of the sending society; and (2) presenting a serious case of failure of duty to act in the common good by both receiving countries and the immigrants themselves, both of whom are regarded as acting in greed at the expense of poorer and worse off populations. In conversing with many individuals familiar with Catholic social teaching generally, although perhaps not with the immigration teachings in particular, I have found that the Church's policy and rationale on this issue often resonates with people -- it seems, to many, to be intuitively correct.

In truth, under some economic and social understandings of the world, the Church's position might have much to recommend it, especially as it is intended to benefit the world's poor. However, beyond its broad intuitive appeal, one might wonder if the policy's economic and social underpinnings reflect current reality. One might ask, for example, questions such as the following:

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<sup>40</sup> U.S. BISHOPS' COMMITTEE ON MIGRATION, ONE FAMILY UNDER GOD 12-13 (1995).

<sup>41</sup> NATIONAL CONF. OF CATHOLIC BISHOPS, THE PASTORAL CONCERN OF THE CHURCH FOR THE PEOPLE ON THE MOVE 14 (1976).

<sup>42</sup> NATIONAL CATHOLIC WELFARE CONF. ADMINISTRATIVE BOARD IN THE NAME OF THE BISHOPS OF THE UNITED STATES, WORLD REFUGEE YEAR AND MIGRATION ¶ 31 (Nov. 19, 1959) *in* PEOPLE ON THE MOVE, A COMPENDIUM OF CHURCH DOCUMENTS ON THE PASTORAL CONCERN OF MIGRANTS AND REFUGEES 19 (1988).

<sup>43</sup> U.S. CATHOLIC BISHOPS, WELCOMING THE STRANGER AMONG US 8 (2000).

<sup>44</sup> For the information of those eager to explore this matter in greater detail, in the next year I expect to publish a much more extensive treatment of the philosophical and historical bases for the Catholic Church's position on highly skilled immigration.

What if new developments in technology and communications enabled highly skilled immigrants to contribute to the growth of their home countries even while abroad? What if, given the new developments, the Church's view that the migrant crosses "an unbridgeable gulf, cutting himself off completely from his homeland, unable and unwilling to contribute to its economic life"<sup>45</sup> no longer is true? Surely such a fact, at the very least, might undermine the foundational belief that elite migration necessarily causes a failure of duty to the home country and its people.

Similarly, what if an imperative of economic growth is increased integration with the global economy? In that case, some migration of its highly skilled workers might be an advantage for a developing country, rather than a disadvantage, as such migrants could foster economic integration in numerous ways – for example, by making or influencing direct foreign investment and through transnational transfers of knowledge -- much more easily than non-migrants might.

Consider also this possibility, which again implicates the question of duty. What if it appears that technology-minded immigrants make special efforts to develop technologies that could not be developed at home and that are of special benefit to their home countries? Surely the American Catholic Church's sensitivity to and responses toward the problems of people of other nations is favorably advanced by the special efforts of the ten percent of its bishops<sup>46</sup> and the large numbers of its clergy who are immigrants – is it reasonable to assume that immigrants of a scientific and technical bent are less inclined to use their talents to help address the problems of their home countries?

Numerous other questions might be asked as well. Are the lessons of the past clear in showing that historically a high rate of emigration impedes development? Does the money sent as remittances by migrants to their family and friends who remain back home stimulate the national economic growth of the home countries in addition to increasing the standard of living of the individual recipients? Might the (often unacted upon) possibility of migration create an increased incentive for people in less developed countries to pursue higher educational opportunities that they would not otherwise pursue? And is the phenomenon of return migration by skilled and educated individuals much more prevalent than originally contemplated?

I do not ask any of these questions idly. For each and every one of them, there is substantial evidence suggesting that the soundest answer is one that calls into question the old Catholic social teaching paradigm, i.e., that emigration equals failure of duty and the enrichment of the wealthy at the expense of the poor.<sup>47</sup> Perhaps additional evidence could be mustered in

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<sup>45</sup> Andrew M. Yuengert, *Catholic Social Teaching on the Economics of Immigration* available at [www.acton.org/publicat/m\\_and\\_m/2000\\_spring/yuengert.html](http://www.acton.org/publicat/m_and_m/2000_spring/yuengert.html) (Spring 2000).

<sup>46</sup> Catholic News Service, *Growing Number of U.S. Bishops Were Born Abroad* (July 9, 2003), available at [www.catholicnews.com/date/briefs/cns/20030709.htm](http://www.catholicnews.com/date/briefs/cns/20030709.htm). (reporting that approximately "one-tenth of the membership on the U.S. Conference of Catholic Bishops" is comprised of priests who were born abroad).

<sup>47</sup> See, e.g., UNITED NATIONS DEVELOPMENT PROGRAMME, HUMAN DEVELOPMENT REPORT 2001 30 (2001) (noting that technological changes "radically alter[] access to information and the structure of communication – extending the networked reach to all corners of the world"); B. Lindsay Lowell, *International Migration Papers 46: Some Developmental Effects of the International Migration of Highly Skilled Persons* 22 (International Labor Office 2002) (noting that migration of highly skilled can "yield a flow back of new

defense of the old paradigm, but it would be cavalier in the extreme to assume that no reflection and reconsideration is necessary even in the face of much contrary evidence.

That being so, it seems inescapable that Catholic social teaching even now might benefit from the implementation of some sort of apparatus to ensure historical developments, such as the ones noted above involving highly skilled migration, do not catch the teaching unawares and render it obsolete (or worse) without other teaching taking notice. The present norm of generality, in other words, does not obviate the need for eternal vigilance in assessing the continued viability of established teaching. How is the Church to exercise such vigilance? An increased and regularized reliance on lay input seems the only practical answer. As suggested in the beginning of this Part, an articulation of a more detailed social teaching also would seem to require an increased and regularized reliance on lay input. This coincidence of solutions is a happy one for those who would favor greater and more formalized lay input to accompany a turn

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technologies that can boost” the growth of the sending country); *Id.* (explaining that “especially in developing countries, expatriates themselves organize networks that stimulate return flows of knowledge and lead to collaborative ventures between home-country academics and expatriate researchers”); AnnaLee Saxenian, *How High-Skilled Immigration Makes Everyone Better Off*, Winter 2000 BROOKINGS REVIEW 28, 30 (2002) (explaining how “transnational communities provide the shared information, contacts and trust that allow local producers to participate in an increasingly global economy”). ANNALEE SAXENIAN, LOCAL AND GLOBAL NETWORKS OF IMMIGRANT PROFESSIONALS IN SILICON VALLEY 26-27 (2002) (reporting that twenty-seven percent of a focus group of highly skilled immigrants in the United States served as consultants or advisors to companies in their native countries); *Id.* at 29, 37 (indicating that the foreign-born entrepreneurs in California’s Silicon Valley participate in several forms of direct foreign investment in their home countries, noting, in particular, that half of them “have set up subsidiaries, joint ventures, subcontracting or other business opportunities” in their home countries and that eighteen percent have invested in either start-up businesses or venture capital funds in their home countries); MANUEL OROZCO, WORKER REMITTANCES IN AN INTERNATIONAL SCOPE 1 (Working Paper 2003) (noting that “annual remittances may amount to more than one hundred billion dollars [worldwide], primarily sent from the industrial to the developing world”); Kathleen Newland, *Migration as a Factor in Development and Poverty Reduction*, MIGRATION INFORMATION SOURCE MIGRATION POLICY INSTITUTE available at [www.migrationinformation.org](http://www.migrationinformation.org) (June 1, 2003) (suggesting that while official development aid is on the decline, trends indicate that total remittances will continue to grow over time); *Health, Ebola Cure Hope*, BBC NEWS, ONLINE NETWORK (Apr. 11, 2003), available at <http://news.bbc.co.uk/1/hi/health/411030.stm>; *Scientists Say W. African Plant May be Ebola Cure*, REUTERS LIMITED, Aug. 4, 1999. (reporting on the work of Dr. Iwu, a migrant from Nigeria to the United States, who is the leader of the research team that discovered a plant that may halt the deadly Ebola virus that has killed hundreds of Africans); B. Lindsay Lowell, *Skilled Migration Abroad or Human Capital Flight?*, MIGRATION INFORMATION SOURCE, at 2 MIGRATION POLICY INSTITUTE available at [www.migrationinformation.org](http://www.migrationinformation.org) (June 1, 2003) (page number not in text; based on print out of document) (noting “support for the notion [called ‘optimal brain drain’ theory] that the possibility of emigration for higher wages induces more students in the sending country to pursue higher education”); G. Jasso and M.R. Rosenzweig, *How Well Do U.S. Immigrants Do? Vintage Effects, Emigration Selectivity and Occupational Mobility of Immigrants*, in RESEARCH OF POPULATIONS ECONOMICS 229-253 (P.T. Schultz ed., 1988) (finding that skilled immigrants have a higher probability of return migration); ANNE MARIE GAILLARD & JACQUES GAILLARD, INTERNATIONAL MIGRATION OF THE HIGHLY QUALIFIED: A BIBLIOGRAPHIC AND CONCEPTUAL ITINERARY 27 & n.30 (1998) (noting that large numbers of South Koreans began to return home in the 1980s, and that to the extent there is a “brain drain” of South Koreans today, it mainly involves students, not qualified graduates). *See also* Walter Adams, *Introduction*, in THE BRAIN DRAIN 1 (Walter Adams ed., 1968) (noting that as of the late 1960s the “drain from Asian nations, particularly Taiwan and [South] Korea, [was] most serious”) and Lawrence Lau, *Taiwan as a Model of Economic Development* (2002) (explaining that the real gross domestic product in Taiwan grew fifty times, from approximately \$6 billion a year in the 1950s to \$300 billion a year in the 1990s); Jong-Wha Lee, *Economic Growth and Human Development in the Republic of Korea, 1945-1992*, Occasional Paper 24 (reporting that South Korea recently emerged as the “fastest growing economy in the world”).

toward a more detailed social teaching, as it indicates a broadening of the benefits that could flow from such a development and hence strengthens the case for change.

Of course, it is possible that the suggestion for formalized lay input via a committee structure in case of a move toward a more concrete social teaching may be a good idea and yet the overall argument against a more specific approach may still be a compelling one; the proposed committee system, in other words, may merely make the best out of what would be a bad situation. The next and final section of this Article weighs the competing arguments on this Article's ultimate question.

## **V. So, How Specific Should Catholic Social Teaching Be?**

There can be no doubt that a more specific, more concrete, and more detailed social teaching could risk exacerbating certain problems for the Church. It could create grounds for disunity, harm the Church's credibility, call into question its authority and diminish its status.

All this is true -- and yet, so too is the opposite position true. Through the process of forming a more detailed social teaching, as well as through the content of the teaching itself, a heightened attachment to the Church could be created. By speaking out on concrete issues of widespread concern, even against powerful and entrenched interests (perhaps even, in a narrow sense, its own), credibility could be gained, not lost. By establishing a record of speaking out with care, but without fear or hope of favor, its persuasive authority could increase. And, clearly, should the Church accomplish these ends, there is no doubt that its status would be enhanced.

In the face of these competing truths, how should the Church and its members proceed? I have three recommendations.

*First*, while it is true that any road that might be taken contains dangers of its own, surely the circumstance of greatest peril is for persons on either side of the debate to deny completely the concerns of the other side. To do so effectively forecloses the search for common ground and heightens the risk that undesirable consequences will occur. It is one thing to choose Road X over the concerns of Road Y advocates, who assert Road X contains too many dangerous curves; although drunk drivers and many teenagers might disagree, it is another thing entirely to speed along on Road X in complete disregard of the asserted dangers.

A closed mind committed to action, in other words, is a most dangerous thing. The surest way to avoid the dangers inherent to any course of action is to foster the quality of open-mindedness so that a respectful exchange and intermingling of ideas can take place. In this effort, forums such as, for example, this journal are invaluable, which is why I was so pleased to see it recently established. Many other formal and informal forums exist as well, and all might be used productively to maximize the benefits and minimize the costs of the Church's social teaching. The key, as noted, is to welcome contrary views and to remain open to changing one's own.

Of course, this approach is not an easy one, especially for those who can imagine only the outcomes of perpetual stalemate or eventual capitulation. Humbling though it may be for us to realize, however, other outcomes can emerge; indeed, it is the hard-won experience of the

Church that common ground can many times be found in unexpected places. As the Galileo Commission noted in 1992, for example, “[i]t often happens that, beyond two partial points of view which are in contrast, there exists a wider view of things which embraces them both and integrates them.”<sup>48</sup> If the wider view of things has not yet appeared, perhaps it is because we haven’t traveled far enough down the road; perhaps, just over the horizon, there will appear a Road Z that will allow us that wider view. History counsels we admit the possibility – and that possibility’s existence suggests that proceeding in good faith with a certain sense of humility is not only the most prudent but also, perhaps, the wisest course.

My *second* recommendation advises against any abrupt change in the status quo and for the continuation of certain “jurisdictional” trends relevant to the development of a detailed social teaching. Two aspects of this point deserve particular mention. First, there has emerged a division of labor in the Church whereby the popes and Vatican focus on the most general and universal aspects of Catholic social teaching, while national and sometimes regional organizations of bishops focus more often on at least slightly more particular matters. Indeed, in *Octogesima Adveniens*, Pope Paul VI specifically endorsed this state of affairs:

In the face of . . . widely varying situations it is difficult for us to utter a unified message and to put forth a solution which has universal validity. Such is not our ambition, nor is it our mission. It is up to the Christian communities to analyze with objectivity the situation which is proper to their own country, to shed on it the light of the Gospel’s unalterable words and to draw principles of reflection, norms of judgment and directives for action from the social teaching of the church.<sup>49</sup>

In my view, this division of labor has much to recommend it. Not only is the search for universal solutions to practical problems exceedingly difficult, but papal and Vatican endorsement of such solutions would put the prestige, credibility and authority of the Church and Catholic social teaching at greatest risk. This combination of facts counsels prudence; thus, I think it is wise for the Church to resist calls for a detailed social teaching to emerge from the seat of the Church.

On the other hand, the possible benefits of a more detailed social teaching are substantial; indeed, in my view, substantial enough that local churches should pursue them, albeit with great prudence and appropriate selectivity. My earlier suggestion of a committee system of some sort represents an attempt to ensure that the reality of a detailed social teaching matches its theoretical benefits.<sup>50</sup> Even assuming the utilization of such an apparatus, however, the question of how detailed Catholic social teaching should be is not without difficulty, as the concerns of those holding an opposing view are far from groundless. In the end, though, I am persuaded by Catholic social teaching’s unique promise to further, as it becomes more specific, understanding of three larger historical developments in the Church: (1) Vatican II’s affirmation “that church teaching can indeed grow and change”;<sup>51</sup> (2) Vatican II’s determination that the Church should increase engagement with the world and place new emphasis on “witnessing to God’s love and compassion by striving to bring justice and healing to the world right here”;<sup>52</sup> and (3) the need, at

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<sup>48</sup> Report of the Galileo Commission (1992).

<sup>49</sup> POPE PAUL VI, OCTOGESIMA ADVENIENS ¶4 (1971).

<sup>50</sup> See *supra* Part III text.

<sup>51</sup> DOYLE, *supra* note 1, at 198.

<sup>52</sup> STEINFELS, *supra* note 9, at 74.

least in the U.S. church, to “incorporate laypeople, broad consultation, and open debate into the process of articulating Catholic positions on public issues.”<sup>53</sup> These developments are all of relatively recent vintage; Catholic social teaching is ideally positioned to accelerate our understanding of all three. Additionally, because an increased engagement with the world is a prerequisite to exercising responsibly the authority to promulgate a detailed social teaching, the Church, in order to teach in a more detailed way, must first determine to learn. Such an incentive, for institutions as well as individuals, is almost always a good thing.

My *third* and final recommendation concerns the question of what subject matters a more detailed social teaching might explore. Potentially, almost anything could be an appropriate subject matter. However, in my view, serious consideration should be given to favoring topics which would allow the Church to best leverage several institutional strengths it possesses in unique abundance. In particular, the Church’s international reach and the Church’s status as the world’s largest non-governmental provider of social services provides an ideal vantage point from which it could generate rigorous analyses of many social issues, e.g., immigration. Such work not only might be non-duplicative of any prior work, it might be non-duplicable by any other party. Rigorously done work of this kind surely would represent a great contribution to society and add immensely to the prestige, value and exposure of Catholic social teaching.

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*This Article has noted the typically general nature of Catholic social teaching, and explored the advantages and disadvantages of the social teaching adopting a more detailed orientation. The Article also has explored what innovations in process might be necessary in order to ensure that the advantages of a change in orientation are maximized and the disadvantages minimized. While acknowledging that the issue is a complicated one on which reasonable minds can differ, the Article concludes that a limited and careful turn toward a more detailed orientation would be a welcome development, especially if it successfully leveraged the unique store of knowledge residing in, and the unique international reach of, the Catholic Church.*

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<sup>53</sup> *Id.* at 102.