

THE CONCEPT OF THE 'COMMON HERITAGE OF MANKIND' IN THE CATHOLIC SOCIAL TRADITION

Emmanuel Agius

In his message for the World Day of Peace, 1 January 1990, Pope John Paul II addressed the ecological issue from the ethical perspective of the common heritage of mankind. It is noteworthy that this new year's message was the first papal pronouncement which literally contains all the key notions in Ambassador Pardo's famous 1967 motion at the United Nations.¹ Although there are some allusions to the common heritage principle scattered throughout recent church documents, none of these references is so direct and comprehensive as that contained in Pope John Paul II's message for the 1990 World Day of Peace. In his statement of November 1967, Arvid Pardo suggested that the concept of the common heritage incorporates the following characteristics: 1) non-appropriation of those resources which belong to the common heritage; 2) management of common resources on behalf of mankind; 3) sharing of benefits by all mankind; 4) use of resources for peaceful purposes only; and 5) conservation of resources for future generations.

In John Paul II's message, the concept of the common heritage of mankind is the main ethical principle underlying the discussions about the responsible use of the earth's resources, the urgency of safeguarding the integrity and order of creation, and the need for fostering a new sense of intergenerational solidarity. The Pope clearly stated that "the earth is ultimately a *common heritage*, the fruit

EMMANUEL AGIUS is a lecturer in Moral Theology and Philosophical Ethics at the University of Malta. He studied philosophy and theology at the University of Malta and at the Catholic University of Louvain, Belgium, from where he obtained an M.A. in philosophy and a doctorate degree in theology. He did his post-doctoral research in the field of bioethics at the University of Tübingen, Germany, at Georgetown University, Washington, D.C., and at the University of Notre Dame, Indiana. He was ordained priest in 1981.

1 In his motion, Arvid Pardo, who at that time was Malta's Ambassador, urged the United Nations to take action on the seabed issue and to pass a declaration that the seabed and the ocean floor beyond the limits of national jurisdiction are a common heritage of mankind. Cf. A. Pardo, "First Statement to the First Committee of the General Assembly, November 1st 1967", in the *Common Heritage. Selected Papers on Ocean and World Order: 1967-1974* (University of Malta Press; Malta 1975) 40-41.

of which are *for the benefit of all*.² Thus, it is an unjust situation that a privileged few accumulate excess goods, squandering available resources, while masses of people are living in conditions of misery at the very lowest level of subsistence. John Paul II continued to argue that "the concepts of an ordered universe and a common heritage both point to the necessity of a more internationally coordinated approach to *the management of the earth's goods*."³ The effects of ecological problems transcend national boundaries; hence their solution cannot be found solely on the national level. A supranational body is needed to regulate the use of the earth's resources. Moreover, the Pope observed that "unfortunately, modern science already has the capacity to change the environment for hostile purposes."⁴ In view of this, he stressed the urgent need of using the resources of the earth for peaceful purposes since "*peace with all creation* is inseparable from peace among all people."⁵ The building up of a peaceful society is linked with respect for the integrity of creation. The papal message has also insisted that the ecological crisis cannot be tackled adequately without seriously considering the "future generations issue." Political and socio-economic decisions and planning must give attention to what the earth and its atmosphere are telling us, "... namely, that there is an order in the universe which must be respected, and that the human person, endowed with the capacity of choosing freely, has a grave responsibility to preserve this order for *the well-being of future generations*."⁶ Indiscriminate application of the advances in science and technology "has led to the painful realization that we cannot interfere in one area of the ecosystem without paying due attention both to the consequences of such interference in other areas and to *the well-being of future generations*."⁷ Thus, the far-reaching effects of technology point to the urgent need of a deeper sense of responsibility for generations yet to be born.

The concept of the common heritage of mankind was introduced in international law in order to reconcile the human race and to put the law of solidarity and cooperation in place of the law of competi-

2 Pope JOHN PAUL II, "Peace with God the Creator, Peace with all of Creation", in *L'Osservatore Romano*, 18-26 Dec 1989, 2.

3 *Idem*.

4 *Idem*.

5 *Ibid.*, 3.

6 *Idem*.

7 *Ibid.*, 2

tion and self-interest. Undoubtedly, these are the objectives of the Pope's message which is inspired by the common heritage principle. John Paul II urged mankind to build a new sense of solidarity which offers "new opportunities for strengthening cooperation and peaceful relations among States."⁸ Moreover, the common heritage principle evolved in order to correct the injustices resulting from the greed and selfish attitudes of the technologically powerful. The papal message urges the world community to abandon these attitudes and to share the resources of the earth with all mankind.

The import of the papal reference to the common heritage of mankind principle cannot be fully comprehended unless situating it in the church's traditional teaching on property. The concept of the common heritage is not a theory of property since heritage focuses the mind on receiving something from others in order to pass it on to someone else. It is, however, to the concept of property and ownership that is necessary to hark back in order to understand its Christian roots. Beyond doubt, the central and most fundamental idea implied in the common heritage principle is *mankind's right to use* all those resources of the earth which are considered as part of the common heritage. This concept affirms that all mankind, that is, both present and future generations, has the right *not* to be excluded from access to common resources. All other notions implied in the concept of common heritage are subsidiary to the fundamental right of usage. The ethical principles of sharing and of responsibility to future generations aim to safeguard the right of all mankind to use the earth's resources. The idea of management, though a very important element in the common heritage of mankind principle, is subordinated to the fundamental right to use the common resources. Resources should be administered on behalf of present and future generations in order to guarantee the right of all members of the human species to use the earth's resources. Moreover, the aim of regulating the use of common goods is to conserve the heritage and thus avoid infringing the right of future generations to make use of those resources which belong to all mankind. Thus, it is quite clear that all the characteristics implied in the common heritage of mankind principle converge on one basic tenet: the universal right to use the earth's common resources should be safeguarded because material goods belong to all mankind.

This central concept of the common heritage of mankind is one of the long-established principles of the catholic social tradition. In

the tradition of the church, there are two main tenets with reference to the resources of the world. The first is that by nature, *all* earthly resources have a universal destination, that is, they are intended for the good of mankind as a whole. The material goods of the earth are common to all men and they are destined for the use of all men. The earth is given as a gift from God for the nurture and fulfilment of all, not for the benefit of a few. This implies that everyone has an inherent right to use the resources of the earth. Since the right of usage is primary in character, it ranks among the fundamental rights of man. The concept of the common heritage of mankind was introduced in international law precisely in order to safeguard this fundamental human right.

The second is that some modes of appropriation are allowable and, in certain cases, required, to a limited extent. In the catholic social tradition, only within the context of the universal right to use the resources of the earth can the concept of the right to private property be developed. Property is seen as the institutional actualization of man's fundamental right to use the material goods of the earth. Property should always be administered for the benefit of all. Though the right of property is important, the universal right to usage is prior to and conditions the right to private property. Since private property is a means to an end, it must always remain subordinate to its proper end, namely the universal right of usage.

This article attempts to trace the Christian roots of the ethical principles implied in the concept of the common heritage of mankind. A survey of the patristic, Thomistic and recent papal social teachings on the universal destination of created things and on property reveals the church's constant concern to defend man's fundamental right to use the goods of the earth.

The Patristic Tradition

The teachings of the early Fathers of the Church set forth a concept of property which dominated the Christian thought until the time of St. Thomas Aquinas. The early Fathers did not find in the New Testament a ready-made theory of property, but they did find an attitude toward wealth and its use with which any Christian theory of property had to conform.⁹ The theory of property developed by the Fathers was mainly influenced by the prevailing philosophical theories

9 R. SCHLATTER, *Private Property: History of an Idea* (Rutgers University Press; New Brunswick 1951) 33.

of the period. In their thought, the ethics of the Old and New Testament was blended with Stoic philosophy.

If one were to attempt to find a phrase which might represent the gist of the patristic theory of property, one might say that it lies in the distinction between nature and convention. In order to understand this distinction, one must bear in mind that, according to stoic thinking, nature meant the primitive or original form of a thing. This phrase was used to convey the suggestion that a primitive or original form has some continuing superiority over the conventional institution or custom which has grown out of it. According to the Stoics, in the original state of nature or the 'golden age', men were still happy and innocent and there was no need for private property, or the great conventional institutions of society. But as this innocence passed away, they found themselves compelled to organize society and to devise institutions which should regulate the ownership and use of the good things which men had once held in common. This is the philosophical theory from which the patristic concept of property is derived. The Fathers argued that common ownership and use were the natural condition; private property was a convention demanded from the sinfulness of man. By the institution of property, human society takes a right common to all and transforms it into an exclusive individual right. The conventions of positive laws which establish private property were justified only because human corruption made instruments of social domination necessary to preserve law and order. This whole idea about property is put quite succinctly by St. Ambrose as follows:

Our Lord intended the world to be the common possession of all men, and that it should produce its fruits for all. Avarice, however, has made distribution of property. It is just, therefore, that if you claim something for yourself as a private possession which was bestowed upon the human race, indeed even to all living beings, in common, you should at all events distribute some of it to the poor, so that you do not deny sustenance to those who ought to be fellow sharers of your possession.¹⁰

The early Christian theologians repeatedly emphasized that possessions and earthly goods are all from God; they were originally destined for all, and it is only due to sin and greed that they have drawn

10 *Commentary on Psalms, CXVII, 8. Quoted by C. AVILA, Ownership: Early Christian Teaching, (Sheed & Ward; London 1983) 74.*

into the present oppressive state of affairs in which there are such differences between the rich and the poor.¹¹ God created the earth for the common use and benefit of all mankind so that all should receive from it what they require. Everyone has therefore an equal right to use the resources of the earth. The universal destination of the earth's resources is explained by St. John Chrysostom as follows:

Mark the wise dispensation of God ... He has made certain things common, such as the sun, air, earth, and the water, the sky and the sea ... Their benefits are dispensed equally to all brethren ... And mark, that concerning things that remain in common there is no contention but all is peaceable. But when one attempts to possess himself of anything, to make it his own, then contention is introduced, as if nature herself were indignant.¹²

In the patristic tradition, though it was admitted that the earth's resources are destined for mankind as a whole, a threefold classification of goods emerges in terms of their relative appropriability. This classification always remained in subordination to the universal right of usage. First, the Church Fathers considered certain things that, because of their nature, *ought* to be individually appropriated and owned. But those are only such things as are most naturally thought of as extensions, or supplements of deficiencies, of the human body, essentially clothes, tools and a dwelling place. Clement of Alexandria used the following words to explain the limits of the right to ownership: "Just as the foot is the measure of a sandal, so the physical needs of each are the measure of what one should possess."¹³ By these words, Clement meant that there are natural limits beyond which the possession and use of material goods does not and cannot make sense. Just as it is absurd to try to use a pair of sandals that are too large for one's feet, since the purpose of a sandal is to fit and be useful for one's foot, so everyone should realize that the limits of essential needs are concrete and real. According to the early theologians of the church, private property should be limited to the absolute necessary minimum of existence; all that is superfluous must be given away.

11 E. TROELTSCH., *The Social Teaching of the Christian Churches*, vol. I (Harper & Brothers; New York 1960) 116.

12 *Commentary on St. Paul's First Letter to Timothy*. Quoted by AVILA, *Ownership*, 95.

13 "The Educator". Quoted by AVILA, *Ownership*, 42.

Secondly, according to the early Fathers of the church, there are other things that, because of their nature, *need not* to be appropriated or owned, but which, in dependence on the changing social context, may be appropriated and managed by individuals, groups or the State only because of the corruption of human nature. For instance, Clement of Alexandria permitted a certain amount of luxury within the limits of natural life. But all the Fathers of the church repeatedly stressed that ownership of these things "is not according to nature, for nature has brought forth all things in such a way that all things be possessed in common. Nature therefore is the mother of common right, usurpation of private property."¹⁴ Balance ought to be redressed as far as possible. According to St. Gregory the Great, "when we give necessities to the needy, we do not bestow upon them our goods; we return to them their own; we pay a debt, rather than fulfil a work of mercy."¹⁵

Thirdly, there are goods which *should not* be appropriated at all because of their nature. They are such that they can best be used to the common advantage if nobody, individual or collective, can make them his own. As St. John Chrysostom said:

But what is the meaning of "mine" and "not mine"? For, truly, the more accurately I weigh these words, the more they seem to me to be but words ... And not only in silver and gold, but also in bathing places, gardens, buildings, "mine" and "not mine" you will perceive to be but meaningless words. For the use is common to all. Those who seem to be owners have only more care of these things than those who are not. The former, after so much effort, obtain but just as much as those who have expended no effort.¹⁶

Accordingly, the central concept of the common heritage of mankind, namely the universal right of usage of earthly resources, can be traced back to the patristic era. The early Fathers of the church harshly attacked the idea of ownership as an exclusive and unlimited right of disposing of material goods. They attempted to develop an

14 "De Officiis Ministrorum". Quoted by AVILA, *Ownership*, 74

15 "Liber Regulae Pastoralis", Part II, 210. Quoted by F. GRACE, in *The Concept of Property in Modern Christian Thought* (University of Illinois Press; Urbana 1953) 20-21.

16 "De Virginitate". Quoted by AVILA, *Ownership* 85.

ethical perspective which aimed to safeguard those who were being deprived of their fundamental right to use the resources of the earth.

The Medieval Period

When we now turn to the medieval theory of property, we find that the patristic principles furnished much of its content. However, the recovery of the works of Aristotle in the thirteenth century had a considerable influence on the Thomistic theory of property. The canon lawyers and the scholastic philosophers, who systematized the social ideas of the medieval world, took over the theory of the Fathers that private property was conventional and the result of sin. Gratian's *Decretum*, the first great compilation of canon law, distinguished between the law of nature and custom, or positive law, in relation to property. By the law of nature, all things are common to all men.¹⁷ This does not mean, according to Gratian any more than in the Fathers, that private property is not lawful, but only that it is an accommodation to the imperfect or vicious character of human nature. If man were perfectly good, it would be unnecessary.

The patristic principles of property are related to, but to a certain extent modified, in the more developed treatment of the subject by St. Thomas Aquinas whose aim was both to explain the origin and justification of private property, and to determine more clearly its limitations. Aquinas amalgamated the social philosophy of Aristotle with revelation and with the patristic viewpoint. His theory is based on a distinction in the nature of property which he conceived to be fundamental; that is, the distinction between property regarded as *a right to acquire and distribute*, and property regarded as *a right to use* for one's self.¹⁸ He firmly established the right to private property, but he made it a relative right conditioned by the obligation of property to society. In this manner he achieved a balance between possession and use as well as a clear distinction between the individual and social character of property.¹⁹

17 GRATIAN, *Decretum*, D. viii, Part I.

18 It should be noted that this distinction is essentially the same as Aristotle's declaration that "it is better that property should be private, but the use of it common", *Politics*, B 5. 1263a, 37.

19 GRACE, *Concept of Property*, 24. Cf. also, CJ CZAJKOWSKI, *The Thomistic Concept of Private Property* (Notre Dame University; Indiana 1939) and J. DE CONCILIO, *The Doctrine of St. Thomas on the Right of Property and its Use* (F. Pustet & Co.; New York 1887).

In the first sense, Aquinas recognised property as legitimate and necessary for three reasons. Firstly, men are more diligent in labouring for that which is to belong to themselves than for that which is to belong to all. Secondly, human affairs will be better ordered if each has his own particular work to do in procuring things. Thirdly, human life will be more peaceable, for there are constant quarrels among those who hold things in common.²⁰ When he stated that man has a natural right to, or dominion, over nature, he meant that man has a right to consider material things as pure means (*bonum utile*) for his own good and utility.

In the second sense he refused to recognise a private right in property, for a man must hold material things, which are his, as for the common use; he must manage what he has to the needs of others: "In this respect a man ought not to hold exterior goods as exclusively his own, but as common possessions, so as readily to share them with others in their needs."²¹ Aquinas argued that private property is not a primary right, but a derived and secondary right.²² The material goods of this earth are common to all men and they are destined by their nature for the use of all men. It is therefore the common right of mankind to utilize the earth and its fruits. The right of private property, however, is a secondary right that is derived from the indefinite right which all men have to use the goods of the earth. Private property is simply a determination of the universal right of usage.²³ In short, individual possession is a secondary right; common use is a primary right.

Furthermore, Aquinas called the possession of property "common" in the sense that it must be used responsibly for the needs and necessities of all man.²⁴ Man holds his property not only for his own use, but as a trust for the good of the brotherhood. The Thomistic concept of sharing goods is governed by the law of love and the

20 *S. Th.* IIa - IIae, q.66, art 2.

21 *Idem.* In *S. Th.* II - II, q. 32, art 5, Aquinas wrote: "The temporal goods which God grants us, are ours as to the ownership, but as to the use of them they belong not to us alone but also to such others as we are able to succour out of what we have over and above our needs".

22 *S.Th.*IIa - IIae, q.57,art,art.2 & 3.

23 *S.Th.*Ia - IIae, q.94,art.5 Cf.J.KELLHER, *Private Ownership* (M.H. Gill & Son; Dublin 1911) 179.

24 *S.Th.*IIa - IIae, q.66,art.2; *S.Th.*IIa - IIae, art.I & 7.

solidarity of mankind. It is clear that in pressing need, all things become common, in spite of all conventions or laws of property.²⁵ This indicates the relative character of ownership rights. Ownership in the Thomistic sense is more good management; the right of property is given to take care of it and not to use it indiscriminately. The purpose of care is use, but use in common. This explains the reasoning behind A. Parel's argument that, according to Aquinas, "the ontological essence of property is common use."²⁶

Aquinas is, indeed, so much influenced by Aristotle's conception of nature and the state that he is no longer ready to admit that the great institutions of society are contrary to natural law. To him the state is a natural institution, for man is by nature a political animal, and this principle extends to a great institution like private property. Private property is not, indeed, an institution of the natural law, but it is not contrary to it. It is a thing added to the natural law by human reason.²⁷ According to Aquinas, the state is possessed with the power to make property laws that promote the welfare of the whole community. Such laws would certainly insure that everyone be provided with the necessities of life. At the same time, the state must work from the premise that "the common interest is to be preferred to private good."²⁸ Thus the state ought to regulate private property for the common good.

St. Thomas Aquinas' modification of the patristic theory is important. Speaking broadly, his adoption of the Aristotelian concept of nature and the state had little permanent influence, for the theory of the conventional nature of organised society was too firmly rooted to be shaken, even by his authority, and the patristic and stoic principle continued to dominate political theory till the end of the eighteenth century.²⁹

25 W.J. McDONALD, *The Social Value of Property according to St. Thomas Aquinas*, (Catholic University of America; Washington D.C. 1939) 39.

26 A. PAREL. "Aquinas's Theory of Property" in A. PAREL & T. FLANAGAN, *Theories of Property: Aristotle to the Present* (Wilfrid Larier University Press; Waterloo, Ont. 1979) 97.

27 S.Th. IIa - IIae. q.66. art.2.

28 S.Th. IIa - IIae. q.32. art.6.

29 A.J. CARLYLE, "The Theory of Property in Medieval Theology" in C. GORE et al., *Property: Its Duties and Rights* (MacMillan; New York 1922) 135

The Church's Social Teaching on the Fundamental Human Right to use Material Goods

The term "social teaching" of the church refers to that body of doctrine which has been built up progressively since the late nineteenth century. One of the social issues which has been discussed fully and systematically by all major social encyclicals since Leo XIII's *Rerum Novarum* (1891) concerns the problem of the relationship between the right to private property and the fundamental right of all men to use the resources of the earth. The Popes have constantly attempted to redefine the traditional principles concerning the common destination of earthly resources in relation to individual and state appropriation. Though different vocabulary was used by the Popes, their teaching on this issue is entirely consistent with the ancient tradition of catholic thought, which has anxiously sought for precision in examining the role and limits of property. In their social documents, the Popes based their views, implicitly and explicitly, on this tradition, and above all on the views of St. Thomas Aquinas. They have tried to apply this doctrine to the situations and institutions which have appeared as a consequence of recent political and socio-economic changes.

The history of the church's social teaching is characterized by a continuous effort to defend the weak members of society from those political and economic systems which, in some way or another, were threatening their fundamental rights. Both Liberalism, as expressed in selfish capitalism, and Collectivism, as manifested in the theory of Socialism, were strongly attacked because they both denied to many poor members of society their fundamental right to use the material goods of the earth. The Popes considered this denial as an infringement on the universal right which every person enjoys insofar as he is a member of the human species.

The papal social encyclicals reaffirm the Thomistic concept of the institution of property, namely, that it has both a social aspect (insofar as it ought to benefit the whole community) and an individual aspect (by enabling individuals to provide for themselves and their families). On the one hand, capitalism is condemned because it denies the social and public aspect of ownership insofar as it encourages the possession of the resources of the earth in the hands of a few and renders all others helplessly dependent upon them. On the other hand, collectivism is rejected because it denies the private and individual character of ownership by making the state the sole owner of resources. The social encyclicals emphasize that neither the state, nor a small

minority of the population should be in a position to own and manage all the earth's resources. The right of every man to use the goods of the earth must be safeguarded and remain open to all. Since socialistic and capitalistic concentration of ownership were a serious threat to the universal right to use the resources of the earth, the Popes have continuously pleaded for a wide diffusion of material goods. While maintaining that collectivism is unjust and does not safeguard the universal right of usage, the social documents equally insist upon an equitable distribution of material resources and are far from accepting the individualistic belief that the right of property is absolute and unconditional.

Leo XIII began the tradition of social documents which contain a constant reaffirmation that every human person born into the world has, in general with all mankind, a right to the earth, since it was created for all and is necessary for man's bodily existence. But that natural right which each man has in common with all others is obviously not a right to any definite and circumscribed portion of nature. Every person has a general and indefinite right to the possession of private property, but that must be made particular and definite in two ways: by labour and by the law. The law of nature giving to mankind in general a right to the earth would thus be made specific for any individual by the application of his labour. Using the established Thomistic terms, Leo XIII put this view thus:

God has given 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 has been assigned to anyone in particular, and that the limits of private possession have been left to be fixed by man's own industry, and by the laws of individual races. Moreover, the earth, even though apportioned among private owners, ceases not thereby to minister to the needs of all, inasmuch as there is no one who does not sustain life from what the land produces.³⁰

The fact that private property is a right does not make it an absolute one. The social encyclical letters stressed that private property is limited by the demands of the common good, and that it is the duty of the owner to use his property in the interest of the common good. On this particular point, Leo XIII's teaching on property, though affirming the universal right of usage of material goods, departed from the

Thomistic position. In *Rerum Novarum*, he asserted that property is legitimately controlled only by private individuals who have a right to use it for their private aims. Leo argued for this position by importing the doctrine of John Locke that private property is a natural right into catholic teaching.³¹ "Every man", the Pope wrote, "has by nature the right to possess property as his own."³² Leo XIII held that the duty to use property to meet social needs was only a duty of charity, not of justice, and was therefore subordinate to the moral rights of private ownership. Leo's encyclical, though extremely significant as the church's response to the poverty of the working class that the industrialization of Europe had brought about, was fundamentally conservative insofar as it accepted some of the Lockean premises that underlay the social problems it protested.³³

Quadragesimo Anno (1931), written by Pius XI to celebrate the fortieth anniversary of *Rerum Novarum* and to interpret its teachings in the changed condition of the early twentieth century, began the process of modifying the Lockean doctrine of Leo XIII. In *Quadragesimo Anno*, Pius XI subtly de-emphasized the private rights of ownership and stressed the social character of property. All property, Pius wrote, must be used to provide for the common good as well as for the individual.³⁴ Both individual and state appropriation of earthly resources have their own limits in view of the social character of owner-

31 In 1840, the doctrine of John Locke on private property was incorporated into the neo-Scholastic tradition by the Jesuit theologian Taparelli d'Azeglio and from there into the *Rerum Novarum*. Cf. C. CURRAN, "The Changing Anthropological Basis of Christian Social Ethics", in C. CURRAN & R. McCormick, *Official Catholic Social Teaching*, (Paulist Press; New York 1986) 204-209.

32 R.N. 5. It is interesting to note that in 1923, the economist John A. Ryan, the major figure in catholic social ethics in the United States in the first half of the twentieth century attempts to correct Leo XIII's position by refraining the primacy of the common use over individual rights: "...the primary right of property is not the right of exclusive control, but the right of use. In other words, the common right of use is superior to the private right of ownership. God created the goods of the earth for the sustenance of all people of the earth; consequently the common right of all to enjoy these goods takes precedence of the particular right of any individual to hold them as his exclusive possession. To deny this subordination of the private to the common right, is to assert in effect that nature and nature's God have discriminated against some individuals, and in favour of others," in the *Christian Doctrine of Property* (Paulist Press; New York 1923).

33 J. COLEMAN, "Development of Church Social Teaching", in C. CURRAN & R. MCCORMICK (eds.), *Official Catholic Social Teaching* (Paulist Press; New York 1986) 171-172.

34 Q.A. 47,49

ship. Since earthly goods have a universal purpose, property-systems are subject to state-control. From Pius XI onwards, the Popes have unequivocally affirmed that the state should adjust ownership rights in a manner necessary to meet the needs of the common good, the only restriction being that it must neither absorb the individual nor abolish private property. Leo XII's view that the duty to use property for the common good was not to be legally enforced was rejected by Pius XI in the following words: "the public authority, in virtue of the common good, may specify what is licit and illicit for property owners to meet the needs of the public good."³⁵ Thus, though Pius XI condemned state ownership and management of all resources of the earth, he did not reject state regulation of private property. The state has the duty to control the use of property and to bring it into harmony with the interests of the common good. Moreover, Pius XI raised another point: the public authorities must exclusively appropriate certain kinds of property which only the state with its great power can manage well. For if some individuals possess these items, the common good may be injured.³⁶

It is interesting to note the evolution of the church's social documents concerning the emphasis put on the priority of common use over private possession. Pope Pius XI, in line with the Thomistic tradition, held that the right of usage is prior to and conditions the right to private property. God has created man as a body and a soul, an incarnate being, and as such, man has a fundamental right to use the world's goods for the conservation of his life, the fruition of his talents, and the protection of his health. This right precedes the right of property which is only derivative, or an actualization, of the right of usage. The right to property exists so that an order might be established by which the right of usage is assured and guaranteed. The right of property is a means to an end, and it is therefore subordinate to the right of usage, the end itself. Since every means is relative, the doctrine of the absolute right of private property is a grave social aberration. Clearly, then private property must ultimately promote the right of usage. Since men are only stewards of the gifts which God bestows upon them, they must use

35 *Q.A.* 49. Pius XII, in his encyclical *Firmissimam Constantiam* (1937), stated: "Bear in mind that even while looking always to safeguard primordial and fundamental rights, such as the right of ownership, the common good sometimes demands the imposition of restrictions on these rights and recourse, more frequently than we have seen in the past, to the application of social justice". H.C. KOENIG, *Principles for Peace. Selection from Papal Documents: Leo XIII to Pius XII* (National Welfare Conference; Washington D.C. 1943) 536.

36 *Q.A.* 14.

them to help others as well as themselves. This view was confirmed by Pope Pius XII in his radio broadcast of Pentecost, 1941, on the occasion of the fiftieth anniversary of the encyclical *Rerum Novarum*. In his radio message, Pius XII strongly emphasized the social aspect of property as follows:

Every man, as a living being gifted with reason, has in fact from nature the fundamental right to make use of the material goods of the earth, while it is left to the will of man ... to arrange in greater detail the actuation of this right. This individual right cannot be suppressed, even by other clear and undisputed rights over material goods; undoubtedly the natural order, deriving from God, demands also private property. ... But all this remains subordinate to the natural scope of material goods and cannot emancipate itself from the first and fundamental right which concedes their use to all men.³⁷

Thus Pius XII insisted on the universal and fundamental aspect of man's right to use the resources of the earth. This right is universal and fundamental because it is deduced immediately from human nature. Every man, by virtue of his manhood is the holder and the beneficiary of this right: the right is an essential part of the legitimacy of the human person. This right is the simple expression of the connection of the person to the world, even prior to the interventions of the individual's free will and the institutions designed to make this right real in a concrete and determinate way. The words of Pius XII are clear, and Pope John XXIII simply made them his own. In *Mater et Magistra* (1961), he continued to move the church away from Leo's doctrine by emphatically subordinating the private and individual aspects of property to its social purpose:

Concerning the use of material goods, Our Predecessor declared that the right of every man to use them for his subsistence is prior to all other rights of an economic nature, even to the right of private ownership. It is certain, as Our Predecessor noted, that the right of private property is from the natural

37 Pope Pius XII, "On the Anniversary of *Rerum Novarum*", in V. Yzermans (ed) *The Major Addresses of Pius XII* (Minnesota St Paul's Press; 1961) 30-31. In this message, Pius XII quoted a passage from his Encyclical *Serum Ietitia* which states "that the good things which God has created for the benefit of all should find their way to all alike, according to the principles of justice and charity", in *Selected Letters and Addresses of Pius XII* (CTS Press; London 1947) 8. Cf. Pius XII's Radio Message, December 24, 1942.

right itself. Nevertheless, it is the will of God the Creator that this right to own property should in no way obstruct the flow of the "material goods created by God to meet the needs of all men, to all equitably, as justice and charity requires."³⁸

He also concluded that property owners may legally be made to put their property at the service of the community's needs, since "in the right of private property there is rooted a social responsibility."³⁹ *Mater et Magistra* also reminded the world community of their responsibility to share the goods of the earth with future generations. It stated that the common good demanded that "the benefits which make possible a more human way of life will be available not merely to the present generation but to the coming generations as well."⁴⁰

It was Pope John XXIII, in his encyclical *Pacem in Terris* (1963), who developed the full implications of the traditional principles concerning the common destination of earthly resources in relation to individual and state appropriation. The theme of the encyclical was that the changed context of the world situation requires us to think of the common good not primarily of our national community as the guiding principle of our political activities, but that of mankind as a whole. The Pope argued that what was always a truth, namely the solidarity of the human race, has now become a pragmatic reality. *Pacem in Terris* needs to be seen within the context of the sixties when the world was awakened to the awareness of the interrelatedness and interdependence of all reality. It became more and more evident that the individual states of the world are related to the world community as parts are to the whole: the parts are always subordinate to the common good of all men. The social document pointed out that, as a consequence, the moral order demands the formation of a world community which will promote the rights of all man on a universal scale.

Moreover, the encyclical letter suggested that the world situation at the time made it appear both possible and necessary that, despite of the ideological differences, common global actions and initiatives were possible on the basis of a universal acknowledgement of certain universal rights. The new sense of global solidarity requires that people do not close themselves behind national boundaries, but they

38 *M.M.* 43. CF. also *P.T.* 21 & 22.

39 *M.M.* 119.

40 *M.M.* 79.

must enter into mutual dialogue and cooperation. In order to make collaboration among nations more effective, Pope John XXIII appealed for the creation of a supranational power as a coordinating organ. The Pope stated quite clearly that the system of organization of his own times was quite inadequate and that the moral order demanded that there be a public authority able to operate in an effective manner on a world-wide basis. This was the reason behind Pope John XXIII's exhortations for collaboration by all and his appeal for a better organization of a public power charged with assuring the universal common good: "A public authority, having worldwide powers and endowed with the proper means for the effective pursuit of its objective, which is the universal common good in concrete form, must be set up by common accord and not imposed by force."⁴¹

One of the most interesting aspects of *Pacem in Terris* is the application of the traditional doctrine of the universal right of usage of the earth's resources on an international level. Pope John XXIII's sense of internationalism showed that not only individuals can be deprived from their right to use the earth's goods and resources, but also collectivities, such as a nation or even a continent. He reaffirmed that the world's resources have been created for all men, not for any particular segment of the world community, thus the patrimony of all mankind has to be enjoyed by all members of the human species. Not only do individuals have an obligation in strict justice to respect the rights of others to enjoy the earth's resources, but also developed nations are morally obliged to aid the underdeveloped countries and to respect their rights to have a free access to the earth's resources and goods. Just as the individual right of usage is limited by the common good of the nation, so also the right of a particular nation to possess earthly resources is restricted by the common good of all mankind. A nation cannot seek its own good without seriously considering the consequences of such actions on the universal common good. Since mankind is truly one family, individual human persons, nations, or continents have a moral obligation to share the goods of the earth with all those who are less fortunate and in a disadvantaged position.

It seems that both historically and theoretically, Pardo's motion about the common heritage of mankind at the United Nations and the subsequent discussions in international fora about the need of a supranational regime to manage certain resources of the earth can be seen as the acceptance of the principles implicit in the Pope's encycli-

cal and the effort to translate it into a judicial system capable of practical application in our times. Pope John XXIII's appeal for international cooperation among nations to safeguard the common good of all mankind has immensely contributed in the sixties to the building up of an atmosphere which helped the world community to be more receptive of Malta's proposal at the United Nations to declare certain resources of the earth as the common heritage of mankind. Pope John XXIII's recommendations to protect the right of collectivities to make use the earth's resources reminded the world community of another collectivity, namely, future generations. They also have the right to share the resources of the earth.

Vatican II, in *The Pastoral Constitution on the Church in the Modern World* ratified the view that the communal purpose of using earthly goods to meet the needs of all humanity takes priority over any private ownership claims. The traditional catholic social belief on the universal right of usage of material goods is summarized as follows:

God destined the earth and all it contains for all men and all peoples so that all created things would be shared fairly by all mankind under the guidance of justice tempered by charity. No matter what the structures of property are in different peoples, according to various and changing circumstances and adopted to the lawful institutions, we must never lose sight of the universal destination of earthly goods. In his use of things man should regard the external goods he legitimately owns not merely as exclusive to himself but common to others also, in the sense that they can benefit others as well as himself.⁴²

Thus, the Vatican Council began by underlining the basic starting-point of Christian reflection on the resources of the world, namely their common destination for all mankind by God. In the second place, the Council goes on to underline the fair share of these goods which is the birthright of every individual. *Gaudium et Spes* summarized the gradual shift in the catholic teaching from the Lockean views of Leo XIII, and back to the more socially oriented the Thomistic tradition that gave communal needs a priority over property rights. Although rights of private property are legitimate, they must be subordinate to the social needs of the community.⁴³ Article 71 of *Gaudium et*

42 G.S. 69

43 M. VALASQUEZ, "Gaudium et Spes' and the Development of Catholic Social Teaching", in J.A. DWYER (ed.), *Questions of Special Urgency* (Georgetown University Press; Washington D.C. 1986) 179.

Spes reaffirms the duty of the state to prevent anyone from abusing his property to the detriment of the common good. By its nature, ownership right has a social dimension which is based on the common destiny of earthly goods. Whenever this social aspect is forgotten, ownership can often become the source of greed and serious disorder.

The social teaching of the post-conciliar era is characterized by a deeper awareness of the unity of mankind and of the interdependence and interrelatedness of reality. Two novel and important elements were introduced in the papal social documents and speeches which express these characteristics. First, the environmental issue received more attention than before as a result of the ecological awareness awakened during the late sixties and early seventies. Never before has human experience shown that absolutely nothing exists in isolation. Everything affects everything else. Every action, decision and policy whatsoever has far-reaching consequences on the ecosystem. Secondly, the church became more interested in the "future generations issue." This was the result of the awareness of the potential threats which current political and socioeconomic decisions might have on the far-distant future. It became evident that recent advances in technology can not only negatively affect the global community, but they can also create future risks and burdens. This social problem has become one of the most urgent signs of our times. The importance given to these two characteristics, together with the reaffirmation of the traditional social belief on the universal destination of created things, are the main factors which indicate the church's gradual receptivity of the concept of the common heritage of mankind and its process of integration in the catholic social thought.

The 1971 Synod of Bishops discovered a new 'sign of the times', namely, that "men are beginning to grasp a new and more radical dimension of unity; for they perceive that the resources, as well as the precious treasures of air and water - without which there cannot be life - and the small delicate biosphere of the whole complex of all life on earth, are not infinite, but on the contrary must be saved and preserved as a unique patrimony belonging to all mankind."⁴⁴ The Synod observed this "new worldwide preoccupation which will be dealt with for the first-time in the conference on human environment to be held in Stockholm in June 1972. It is important to see what right the rich nations have to keep up their claim to increase their own material

44 "Justice in the World", in A. FLANNERY (ed.), *Vatican Council II. More Post Conciliar Documents*, Vol. II (Liturgical Press; Collegeville 1982) 696.

demands, if the consequence is either that others remain in misery or that the danger of destroying the very physical foundation of life on earth is precipitated. Those who are already rich are bound to accept a less material way of life, with less waste, in order to avoid the destruction of the heritage which they are obliged by absolute justice to share with all other members of the human race."⁴⁵

Then, in his message to the Stockholm Conference, Pope Paul VI insisted that "no one can take possession in an absolute and specific way of the environment, which is not a *res nullius* - something not belonging to anyone -, but a *res omnium* - the patrimony of mankind; consequently those possessing it - privately and publicly - must use it in a way that rebounds to everyone's real advantage."⁴⁶ The Pope pointed out that "our generation must energetically accept the challenge of going beyond particular, immediate objectives in order to prepare a hospitable earth for future generations."⁴⁷ Paul VI referred to the same issue in *Octogesima Adveniens* (1971), noting that "man is suddenly aware that by an ill-considered exploitation of nature he risks destroying it and becoming in turn the victim of his own degradation. Not only is the material environment becoming a permanent menace, ... but the human framework is no longer under man's control, thus creating an environment for tomorrow which may well be intolerable. This is wide-ranging social problem which concerns the entire human family."⁴⁸ The theme of Pope Paul VI's message for the occasion of the 1977 World Day of the Environment was on our responsibility to give future generations a healthy environment. The Pope appealed "for a universal sense of solidarity in which each person and every nation plays its proper and interdependent role to ensure an ecologically sound environment for people today, as well as for future generation. ... It is our earnest prayer ... that all people everywhere ... commit themselves to a fraternal sharing and protection of good environment, the common patrimony of mankind."⁴⁹

45 *Ibid.*, 709.

46 Pope PAUL VI, "Man's Stewardship of his Environment", in *The Pope Speaks* 17 (1972) 102.

47 *Ibid.*, 101

48 *O.A.* 21

49 Pope PAUL VI, "Give Future Generations a Healthy Environment" (Message on the Occasion of the Fifth World Day of the Environment, 5 June 1977), in *Paths to Peace* (Permanent Observer Mission of the Holy See to the United Nations), (Brookfield Liturgical Publications; Brookfield 1987) 468- 9. In his message to H.E. Mr Kurt Waldheim, the then Secretary-General of the United Nations, on the

In Laborem Exercens (1981), Pope John Paul II reaffirmed the priority of the universal right of usage of material goods. He stated that the church has always upheld the right of private property. But "the Christian tradition has never upheld this right as absolute and untouchable. On the contrary, it has always understood his right within the broad context of the right common to all to use the goods of the whole of creation: the right to private property is subordinate to the right to common use, to the fact that goods are meant for every one."⁵⁰ The Pope said that the church's position is radically different from the collectivism of Marxism. The church's position also differs from liberal capitalism. Rigid capitalism maintains the exclusive right to private ownership as an untouchable dogma. This position is unacceptable to the church. The only legitimate title to the possession of private property, whether private, public or collective, is that it should serve labour, and make possible the achievement of the first principle: the universal destination of goods and the right to their common use.

The future generations issue is coming more and more to the foreground of Pope Paul II's social documents and speeches. He made several allusions to unborn generations, reminding the present generation of its responsibility to be the guardian of the earth: "Is pointing out the problems for future generations enough to awaken a readiness to accept this responsibility?"⁵¹ In his address to the United Nations Centre for the Environment, in Nairobi, Pope John Paul II stated that "it is a requirement of our human dignity, and therefore a serious responsibility, to exercise dominion over creation in such a way that it truly serves the human family. Exploitation of the riches of nature must take place according to criteria that take into account not only the immediate needs of the people but also the needs of future generations. In this way, the stewardship over nature, entrusted by God to men, will not be guided by short-sightedness or selfish pursuit; rather, it will take into account the fact that created goods are directed to the good of all humanity. The use of natural resources must aim at serving the integral

occasion of the Special Session of the General Assembly, Paul VI stated: "Though the good will of all, the riches of this world must serve the true benefit of all - as they were indeed destined by the Creator who, in his bountiful providence, has put them at the disposal of the whole world of mankind", in *Ibid.*, 216.

50 *L.E.* 14.

51 Pope JOHN PAUL II, "Towards a True Ecology" (An address of Pope John Paul II to representatives of science, art and journalism 26 June 1988) in *The Pope Speaks* 33 (1988) 324-5.

development of present and future generations."⁵² To the participants in a Symposium on the Environment, held in Rome in December 1989, Pope John Paul II reminded his audience that "our generation has been blessed by having inherited from the industry of past generations the great wealth of material and spiritual goods which stand at the foundation of our society and its programme. Universal solidarity now demands that we consider it our grave duty to safeguard that inheritance for all our brothers and sisters and to assure that each and every member of the human family may enjoy its benefits."⁵³ For this reason, the Pope continued that "within this broad perspective man bears a grave responsibility for wisely managing the environment."⁵⁴

In *Sollicitudo Rei Socialis* (1987), John Paul II continued to develop the social teaching of Paul VI's encyclical *Populorum Progressio* (1967). Both encyclical letters deal with the moral dimensions of development. They both emphasize that development cannot be limited to mere economic growth. In order to be authentic, it must be complete and integral, that is, it has to promote the good of every person and of the whole person. Both Popes pointed out that development should never lead to the environmental destruction. After affirming the principle of the universal destiny of the goods of the earth, *Populorum Progressio* maintained that all other rights including that of private property are subordinate to this principle.⁵⁵ Paul VI remarked that private property is not an absolute right, indeed is no right at all when others are in need.⁵⁶ In *Sollicitudo Rei Socialis*, Pope John Paul II reaffirmed this position in the following words:

The dominion granted to man by the Creator is not an absolute power, nor can one speak of a freedom to "use and abuse", or to dispose of things as one pleases. The limitation imposed from the beginning by the Creator himself and expressed sym-

52 Pope JOHN PAUL II, "Environmental Programmes to Ensure Food and Settlement are Concrete Way for future Peace" (Address to the United Nations Centre for the Environment, Nairobi, 18 April 1985) in *Paths to Peace*, 55.

53 Pope JOHN PAUL II, "The Exploitation of the Environment" in *L'Osservatore Romano*, 8 January 1990, 10.

54 *Idem*.

55 *P.P.* 22.

56 *P.P.* 23, 24.

bologically by the prohibition not "to eat of the fruit of the tree" (cf. Gen 2: 16-17) shows clearly enough that, when it comes to the natural world, we are subject not only to biological laws but also to the moral ones, which cannot be violated with impunity."⁵⁷

In view of this, the Pope pointed out that "the usage of natural resources as if they were inexhaustible, with absolute dominion, seriously endanger their availability not only for the present generation but also for generations to come."⁵⁸

Conclusion

In the course of one hundred years of official social teaching, the catholic church has radically relativized the right to private property and called attention to the need to judge all property in accord with the universal destiny of the goods of creation to serve the needs of all mankind. Especially since Pius XI, the church in her social teaching continued to refer to the right of all to use the goods provided by nature and regarded it as a right that is more radical and basic than the right of ownership which is exercised by some. The universal good of all mankind restricts the right to ownership of individuals, nations or continents. Every member of the human species has the right to use the goods of the earth because these goods are by nature destined to all mankind. This is the most essential tenet of the common heritage principle. This is likewise the most basic and constant principle of the catholic social tradition.

Beyond doubt, there is truth in A. Dolman's statement that "today the catholic church is among the most evolved advocates of the common heritage concept."⁵⁹ Indeed, the common heritage of mankind has its roots in the catholic social tradition which for many centuries has defended constantly the universal right of all members of the human species to use the resources of the earth.

Faculty of Theology
University of Malta
Msida, Malta

57 *Soll. Rei Soc.* 34.

58 *Idem.*

59 A. DOLMAN, *Resources, Regimes, World* (Pergamon Press; New York 1981) 228.