

INTERNATIONAL JUSTICE AND INTERNATIONAL GOVERNANCE IN THE CONTEXT OF THE CRISIS OF MULTILATERALISM

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Let me begin by thanking Your Eminence, on behalf of the members of this Academy, for your presence with us today and for generously sharing your reflections on topics that are of such critical importance in today's turbulent world.

It also seems right and proper on this occasion to give thanks for the moral witness of the Holy See's diplomatic corps on the world stage. In recent decades, the Catholic Church has become the single most influential institutional voice for the voiceless in international settings, speaking out on behalf of the poor, the vulnerable and the marginalized.¹ Hers is also one of the very few voices reminding us that social justice will not be achieved if it is regarded merely as a matter of policies and programs. As Pope Benedict XVI forcefully put it in *Deus Caritas Est*, no political order is so just that it can do without charity (*DCE*, 29).

That is why the founder of this Academy instructed us at our very first meeting in 1994 to keep in mind that, 'Among the fundamental values of the Church's social doctrine, a special place should be reserved for charity, because this represents the first category of life in society; charity makes it possible to take into account the free and voluntary action that consists in loving one's neighbor as oneself. It is the virtue which will endure to the end of history and the duty on which moral life is based'.²

¹ How peculiar it is, therefore, that those who use the term 'international civil society' almost never include the Catholic Church in that concept!

² Pope John Paul II, Address to the Pontifical Academy of Social Sciences, 25 November 1994 (9).

In her social doctrine, the Church has always made a point of insisting – both as a normative and a practical matter – that the principle of subsidiarity must be respected in any effort to bring the virtues of charity and justice to life in the world around us (*DCE*, 29). That principle, of course, is central to the Church’s social teaching, though it remains subordinate to the virtues it aims to promote. Yet, as many have observed, the implications of subsidiarity for international relations remain relatively undeveloped. And even in other contexts, its meaning has often been misunderstood. Its practical implications under the actual conditions that prevail in diverse societies and in international settings have been little explored. There is still too little understanding of what social tasks are best carried out at what level, and under what circumstances. Those investigations will require well-informed technical and prudential judgments that in turn will depend on conditions that vary from time to time and place to place. In short, there is much work to be done by all the social sciences.

No doubt that is why the former Holy See Minister for Relations with States asked this Academy two years ago to explore the implications of the subsidiarity principle in the context of the challenges for Catholic social doctrine posed by globalization. To a great extent, the agenda of the present plenary session on ‘Charity and Justice in the Relations among Peoples and Nations’ was in response to that request. In the course of this session, we have endeavored to explore that theme through the illuminating perspective supplied by *Deus Caritas Est*, which is in an important sense a social encyclical.

As my contribution to today’s discussion of ‘International Justice and International Governance’, I would like to offer just a few observations about two areas where there seem to be some internal tensions in Catholic social doctrine, and where further thought and elaboration would be desirable.

First, let us consider the approach to poverty and development. Many Catholics, taking their bearings from *Centesimus Annus*, now speak routinely of the need to bring the poorest peoples of the world into ‘the circle of productivity and exchange’ (cf. *CA*, 34). But in an address to this Academy in 2001, John Paul II himself complicated that prescription by cautioning that ‘The market imposes its way of thinking and acting, and stamps its scale of values on behavior’.³ ‘Globalization’, he warned, often risks destroy-

³ Pope John Paul II, Address to the Pontifical Academy of Social Sciences, 27 April 2001 (3).

ing the carefully built structures of civil society 'by exacting the adoption of new styles of working, living and organizing communities'. Accordingly, he advised that globalization 'must respect the diversity of cultures which, within which the universal harmony of peoples, are life's interpretive keys. In particular it must not deprive the poor of what remains most precious to them, including their religious beliefs and practices...'

Similar concerns, coupled with a similar appreciation for globalization's potential benefits, have been expressed by a leading interpreter of globalization, Thomas Friedman, who has written that, 'You cannot build an emerging society...if you are simultaneously destroying the cultural foundations that cement your society...[W]ithout a sustainable culture there is no sustainable community and without a sustainable community there is no sustainable globalization'.⁴

So one of the greatest challenges of the globalization era will surely be whether and how it is possible to bring peoples into the circle of productivity and exchange without destroying the cultural environments where human beings fulfil their needs for roots, meaning, and stability.

International governance is another area where Catholic social thought seems to need further attention. The social teachings emphatically affirm the rights of peoples and nations. In fact, on the 50th anniversary of the United Nations, Pope John Paul II spoke at length of the need to develop protections for peoples and nations analogous to the rights of persons.⁵ At the same time, the Holy See has been one of the strongest supporters of the United Nations and other international institutions, recognizing that numerous problems cannot be addressed adequately at the national or local levels. The principle of subsidiarity is supposed to help resolve the tension between the need for international solutions to certain problems and the need to respect the integrity of nation states and other bodies of a lower order.

Thorny problems arise, however, when one tries to determine just how the subsidiarity principle can or should be implemented under specific circumstances. As the saying goes, the devil is in the details.

⁴ Thomas L. Friedman, *The Lexus and the Olive Tree* (rev. ed., 2000), 302.

⁵ Pope John Paul II, Address to the 50th General Assembly of the United Nations, 5 October 1995, 5-8. '[O]ne source of the respect which is due to every culture and every nation [is that] every culture is an effort to ponder the mystery of the world and in particular of the human person; it is a way of giving expression to the transcendent dimension of human life' (9). See also, *Centesimus Annus*, 16.

The situation is complicated by the emergence among international lawyers, international civil servants, and international NGOs of a professional culture that is indifferent at best and hostile at worst to the concept of a legitimate pluralism in implementing principles of freedom, charity, and justice. The idea of legitimate pluralism, so central to the thought of the founders of the United Nations,⁶ was strongly emphasized by Pope John Paul II in his 1995 United Nations address.⁷ But it is largely ignored by proponents of a form of international-*ism* that tends to place itself above sovereign states and civil society alike – an internationalism that formulates its objectives mainly in terms of its own dogmatic interpretations of human rights, and that often treats international law as a means to achieve results that have been rejected by national democratic political processes.

The subsidiarity principle, by contrast, affirms the value of international institutions, but avoids uncritical acceptance of internationalism. Just as the Church cannot regard the nation state as the final form of human political organization, she cannot assume that every body that labels itself international represents an advance for humanity.⁸ In that connection, a special challenge for the Holy See's posture toward international institutions arises from the fact that the record of existing international institutions is quite mixed, with notable deficiencies when it comes to protecting unborn human life and the integrity of the family, as well as in transparency and accountability, susceptibility to ideological biases, and co-option by special interests.⁹

Among the faithful, an inadequate understanding of these problems can aggravate the pick-and-choose attitudes that are already all too prevalent with respect to social justice issues. Recently, for example, the U.S. Bishops had to point out that while 'Catholics should eagerly involve themselves as advocates for the weak and marginalized', a failure to defend unborn life 'renders suspect any claims to the "rightness" of positions in other matters affecting the poorest and least powerful members of the human community'.¹⁰

⁶ Mary Ann Glendon, *A World Made New: Eleanor Roosevelt and the Universal Declaration of Human Rights* (2000).

⁷ Pope John Paul II, Address to the 50th General Assembly of the United Nations, 5 October 1995, 3.

⁸ George Weigel, 'World Order – What Catholics Forgot', *First Things*, May 2004.

⁹ See, regarding family policies, Mary Ann Glendon, 'International Organizations and the Defense of the Family', in *La Famiglia: Dono e Impegno, Speranza dell'Umanità* (Vatican City, 1999), 31-47.

¹⁰ U.S. Bishops, *Living the Gospel of Life* (23).

The time thus seems right for Catholic international relations theory to undertake a critical evaluation of its posture toward contemporary international law and international organizations. To what extent do they operate in accordance with the principle of subsidiarity, addressing only the kinds of problems that cannot reasonably be handled by separate entities at a lower level, intervening only to assist, not to replace, roles of national and smaller communities?¹¹ To what extent do they displace smaller structures that enable men and women to have a voice in setting the conditions under which they live, work, and raise their children? In their day-to-day activities, to what extent do they promote or impede charity, freedom, justice, security, and the pursuit of dignified living?

In an important article titled 'Subsidiarity as a Structural Principle of International Human Rights Law', Professor Paolo Carozza argues that subsidiarity, rightly understood, offers a promising way of bridging many of the impasses that currently afflict human rights and international law. Among its merits, he cites the fact that, 'It values the freedom and integrity of local cultures without reducing particularism to pure devolution..., and it affirms internationalism...without the temptation for a super-state or other centralized global authority'.¹² To the charge that the principle is too vague or soft, Professor Carozza sensibly replies that, 'The only sure way to address that challenge is to put subsidiarity to the test by seeking to apply it to concrete, "real world", problems'.

For that to happen, of course, would require no small degree of intellectual and political effort. One of the purposes of this Academy is to aid such efforts at both the practical and theoretical levels. In our studies of democracy as well as in our globalization project, we have sought to enrich and deepen ongoing debates about the most effective ways to promote 'charity and justice' in a world torn by conflict and injustice. In the months ahead, we expect to produce a report that will harvest the results of our previous studies and combine them with the insights gained in the present Plenary Session. In so doing, we hope to contribute to a better understanding of what can be done, concretely, to shift probabilities in favor of relations among peoples and nations that are grounded in prin-

¹¹ Paolo Carozza, *Universal Common Good and the Authority of International Law*, 8 *Logos* 28 (2006).

¹² Paolo Carozza, *Subsidiarity as a Structural Principle of International Human Rights Law*, 97 *American Journal of International Law* 38, 78 (2003).

ciples of charity, justice, and respect for human freedom and dignity. We will feel rewarded, Your Eminence, if the fruits of our work can be of some assistance to you and your co-workers, and we thank you for the encouragement that your presence here represents.