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Religious Symbols and Religious Garb in the Courtroom: A Catholic Lawyer and the Church's Social Teaching

F. Giba-Matthews

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A CATHOLIC LAWYER AND THE CHURCH’S SOCIAL TEACHING

F. Giba-Matthews, ofm*

“Faith Apart from Works is Barren”

James 2:24

I. THE RELEVANCE OF FAITH TO A CATHOLIC ATTORNEY’S WORK

In previous scholarly works, the relevance of a lawyer’s Catholic faith to her work often focused on personal issues such as abortion, the death penalty, or defending an adulterer. This focus exempted many lawyers from difficult, faith-based decisions. As more lawyers apply their faith to their work, it is appropriate to consider the role that a lawyer’s Catholic faith plays in her work.

This essay addresses the challenges that the poor present to a Catholic attorney. The Catholic Church’s teachings on the poor are quite relevant to the Roman Catholic attorney’s work because the Church professes some of the strongest and oldest social doctrines on the

* For Rosebaldo Guiteriez de Viacha, who through his life, death, and commitment to the poor furthered Christ’s work.


2. See, e.g., Muise, supra note 1, at 794 (maintaining that there are few cases where a Catholic prosecutor should seek the death penalty).

3. See id. at 789-90 (asserting that a Catholic lawyer who assists a Catholic client’s divorce so that she may remarry is committing an immoral act).


5. This emphasis on the poor has been the consistent teaching of the Church through the four Gospels, the desert fathers and mothers, the Doctors and Saints of the Church, and the Ecumenical Councils through to the current United States and Papal hierarchies. See infra note 6.

6. A cursory look at the titles and dates of the unbroken line of Catholic encyclicals and papal letters reveals the consistency of Church social teaching: Pope Leo XIII, Rerum Novarum (N.C.W.C. trans., Daughters of St. Paul 1942) (1891); Economic Justice For All: Catholic Social Teaching and the U.S. Economy (1986) [hereinafter Economic Justice For All]. Other Church teachings expressing concern for the poor are collected in Proclaiming Justice and Peace (Michael Walsh & Brian Davies eds., 1984): Mater et Magistra (1961); Pacem in Terris (1963); Gaudium et Spes (1965);
impact of faith in the work place. The doctrine, called the Church's Social Doctrine ("Social Doctrine"), is designed to put soul into a person's work. The origins of the Social Doctrine lie in Jesus's question to a rich young man: "What will it profit them if they gain the whole world but forfeit their life?" Jesus's question established the standard by which Catholic lawyers should reflect on the relevance of faith to their legal work.

Some scholars forcefully argue that religion should not influence a lawyer's work. The basis for the contention that faith must be divorced from work is the prohibition on personal interests influencing a lawyer's work in the Model Code of Professional Responsibility ("Model Code"). Proponents of this perspective argue that the lawyer becomes the client's "legal voice" and should advise the client on the basis of the client's, and not the attorney's, moral beliefs. According to this view, the client should be free to define her own interests without the interference of her lawyer's religious beliefs.

While an attorney may identify with the client's cause, this identification must end when representation calls for actions that are inconsistent with either the goals of the client or the American legal tradition. Further, the notion that faith must be divorced from work

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7. Rerum Novarum, supra note 6 (expressing Social Doctrine as including priority for the poor, the rights of workers, the duties of employers, and the limitation of private property).


9. See Bruce A. Green, The Role of Personal Values in Professional Decisionmaking, 11 Geo. J. Legal Ethics 1 (1997); Marc D. Stern, The Attorney as Advocate and Adherent: Conflicting Obligations of Zealousness, 27 Tex. Tech. L. Rev. 1363, 1370-71 (1996) (arguing that a religious lawyer must "separate his wishes as a member of a religious community from his role as a dispassionate advocate for a client").


11. See, e.g., Developments in the Law: Conflicts of Interest in the Legal Profession, 94 Harv. L. Rev. 1244, 1254 (1981) ("The lawyer should always take that action which is best calculated to advance the client's interests, as the client defines them.").

12. See supra note 9.


relies upon a narrow and incomplete reading of the Model Code. The Model Code's prohibition on personal interests is designed to prevent a conflict of interest in representation, not the application of ethics to legal practice.\textsuperscript{15} Additionally, the attorney’s application of ethical beliefs to the practice of law could arguably fulfill the Model Code’s command to counsel and provide non-legal assistance to clients.\textsuperscript{16} By allowing a lawyer to raise ethical issues—such as concern for the poor—society’s interests are furthered through the practice of law.\textsuperscript{17} Ideally, a Catholic lawyer raises ethical concern in favor of the poor by, first, by recognizing the legitimacy of the client’s interest and, second, by advocating the common good.\textsuperscript{18}

Applying one’s religious beliefs to the practice of law may lead a lawyer to withdraw as counsel in a particular case. Before withdrawing from a case because of deeply held religious beliefs, however, the lawyer must consider two ethical principles: first, that a lawyer must remain neutral concerning the client’s purposes;\textsuperscript{19} and second, a lawyer should zealously advance the client’s goals, subject to the limitations imposed by law.\textsuperscript{20} For a Catholic lawyer, \textit{the law} includes not only secular law, but also divine law.\textsuperscript{21}

The separation of faith from work, which could arguably prevent a Catholic lawyer from raising ethical concerns in favor of the poor, is untenable on professional, philosophical, and theological levels. Professionally, a divorce of faith from work forces a disagreeable dichotomy between what a lawyer would do for herself and what a lawyer

\begin{thebibliography}{99}
\bibitem{15} See David A. Binder et al., Lawyers as Counselors: A Client Centered Approach 282-84 (1991) (arguing that an attorney does not completely surrender his values by becoming a lawyer); see also Model Code, \textit{supra} note 10, EC 7-8 (stating that many clients may appreciate knowing that their values conflict with your own).

\bibitem{16} See, e.g., Model Code, \textit{supra} note 10, EC 3-3, 7-5; Model Rules of Professional Conduct Preamble (1995) [hereinafter Model Rules] (allowing lawyers “professional discretion . . . [in resolv[ing]] . . . sensitive professional and moral judgment[s] guided by the basic principles underlying the Rules”).

\bibitem{17} Binder, \textit{supra} note 15, at 282-84 (arguing that when a client has immoral preference, the lawyer should voice moral concerns).

\bibitem{18} See id. at 284 (arguing that if the client rejects this social position a lawyer should either allow the client to prevail, ask the client to seek other counsel, or withdraw if the ethical rules permit).

\bibitem{19} See supra note 9 and accompanying text. \textit{But see} Model Rules, \textit{supra} note 16 1.16(b)(3) (permitting a lawyer to withdraw from representation if the “client insists upon pursuing an objective that the lawyer considers repugnant or imprudent”); \textit{id.} Rule 2.1 (stating that a lawyer can refer to moral considerations that are relevant to a client’s situation when rendering advice); Model Code, \textit{supra} note 10 EC 7-8 (discussing a lawyer’s duty to inform the client of relevant legal and moral considerations).

\bibitem{20} See Stern, \textit{supra} note 9, at 1364-66 (identifying the “duty to advance the client’s interests”).

\bibitem{21} See \textit{The Code of Canon Law: A Text And Commentary} Canon 22 (James A. Coriden et al. eds., 1985) [hereinafter Canon Code] (mandating that “[c]ivil laws to which the law of the Church defers should be observed in canon law with the same effects, insofar as they are not contrary to divine law . . . .”); \textit{id.} cmt. (1) (observing that when civil law contradicts divine law, civil law is ineffective).
\end{thebibliography}
Philosophically, a faith-work separation is untenable when personal knowledge conflicts with legal realities. Because both the professional and philosophical levels have been fully discussed in previous works, the following discussion will consider more fully the theological level of a faith-informed work ethic.

Theologically, the notion that faith can be divorced from work violates Catholic doctrine. The Roman Catholic Church maintains that a Catholic's faith must influence her work. For a Catholic, work is both toil and redemption. By virtue of baptism through work, Catholics find the beginnings of the new heaven and the new earth: the Kingdom of God. Through work a Catholic shares in the redemption won by Christ on the cross. In biblical terms, Christ's redemption is known as the Kingdom of God. The principal characteristic of the Kingdom of God is a grand reversal. In Greek, this grand reversal process is known as *kenosis*.

On the social level,

22. See John T. Noonan, Jr., *Distinguished Alumni Lecture—Other People's Morals: The Lawyer's Conscience*, 48 Tenn. L. Rev. 227, 228-32 (1981). Noonan explained the problem posed by vicarious actions with three examples. Hoyt Moore, of the law firm Cravath, Swaine and Moore, bribed a federal judge for his client, Bethlehem Steel. *Id.* at 229. He and the firm then advertised that, "no lawyer ever unreservedly gave more of himself to a client than Hoyt Moore has given to Bethlehem [Steel]." *Id.* at 229-30. Another example Noonan gives is Winston Churchill, the Prime Minister of Great Britain during World War II. *Id.* at 232. While personally charitable, Mr. Churchill ordered the fire bombing Dresden, a German city crowded with refugees. *Id.* Finally, Noonan described bureaucrats in the former Soviet Union who loved their families, yet served the immoral interests of the Soviet state. *See id.*

23. *See id.* at 237-40 (providing two examples of personal knowledge conflicting with legal realities: a judge who must rule against a poor woman assaulted by a rich politico because the defendant was capable of keeping evidence in favor of the woman out of the record; and St. Thomas More, who could not allow the King of England to be the spokesman for his conscience).

24. *See supra* notes 22-23.

25. *See Gaudium et Spes*, supra note 6, para. 67, at 122. The Church's position is eloquently expressed therein:

Human labour... comes immediately from the person, who as it were stamps the things of nature with his seal and subdues them to his will. By his labor a man ordinarily supports himself and his family, is joined to his fellow men and serves them, and can exercise genuine charity and be a partner in the work of bringing divine creation to perfection. Indeed, we hold that through labour offered to God man is associated with the redemptive work of Jesus Christ, who conferred an eminent dignity on labor when he worked with his own hands.

26. *Id.; see Romans* 8:21.


28. *See Laborem Exercens*, supra note 6, para. 0, at 274; *see also* Allegretti, *supra* note 14, at 965-66 (treating even secular work as a divine calling); Samuel J. Levine, *The Broad Life of the Jewish Lawyer: Integrating Spirituality, Scholarship and Profession*, 27 Tex. Tech L. Rev. 1199, 1205 (relating the discovery that through his legal career a Jewish lawyer could serve God).

29. *See Philippians* 2:5-11 (giving a Biblical example of *kenosis*); *see also* Brendan Byrne, *The Letter to the Philippians*, in *The New Jerome Biblical Commentary* 794-95 (Raymond E. Brown et al. eds., 1990) [hereinafter *Letter to the Philippians*] (describing the concept of *kenosis*).
kenosis is where the hungry are fed, the prisoners are freed, the poor are made rich, and the rich are sent away empty. For a Catholic, this grand reversal was initiated on the cross. On the cross, Christ the all powerful became the weakest. Christ the creator was destroyed. Christ, the Son of God, became destitute. Thus, for Catholics who follow the crucified God, the road to salvation was established on the cross—kenosis—and is the spiritual journey of every Catholic. The modern day poor are icons of Christ and thus, leaders in the kenotic journey.

One set of teachings where the Church asserts influence on a Catholic's work is in the Social Doctrine. The Church's modern Social Doctrine, the "Preferential Option for the Poor," began in 1891 with

30. See Luke 1:46-54 (citing another example of the kenotic process).
32. See Letter to the Philippians, supra note 29, at 794-95 (describing the Greek word kenosis as "he emptied himself," the rough equivalent of entire theology).
33. See Matthew 16:24.
35. Jesus Christ is the source of these teachings, through His life and His many parables on the themes of wealth and poverty. For example, in the Sermon on the Mount, Christ pronounced: "Blessed are the poor in spirit, for theirs is the kingdom of heaven." Matthew 5:3. In another, Jesus recites the story of a blessed widow giving her last few coins to the Temple. Although Jesus had watched many people donate, and many rich people had given large sums, Jesus exclaimed to his disciples, "[t]ruly I tell you, this poor widow has put in more than all those who are contributing to the treasury. For all of them have contributed out of their abundance; but she out of her poverty has put in everything she had, all that she had to live on." Mark 12:41-44; see also Matthew 21:12 (claiming that "it is easier for a camel to go through the eye of a needle than for someone who is rich to enter the kingdom of God").

In the social justice encyclicals of the modern Papacy, the fetishisms and pathologies of gross materialism are uniformly and severely criticized, and solidarity with the poor is powerfully urged. Pope John Paul II's consistent exhortations against materialism and for the poor are grounded in the first great social encyclical of Pope Leo XIII, Rerum Novarum. Pope Leo wrote, "the favor of God Himself seems to incline more toward the unfortunate as a class . . . ." Rerum Novarum, supra note 6, para. 37, at 23. In 1971, the third synod of bishops echoed this theme: "Action on behalf of justice and participation in the transformation of the world fully appear to us as a constitutive dimension of the preaching of the gospel . . . ." Justice in the World, supra note 6, at 190. This theme is repeatedly articulated and affirmed by the Catholic Bishops of the United States in their pastoral letter, Economic Justice for All. See Economic Justice For All, supra note 6. The U.S. bishops' notion of "option for the poor" is primarily an ethical principle which governs Christian conduct, based on human dignity, and calls for economic rights similar to the human rights won at the founding of the United States. Id. paras. 86-94, at 25-27. Pope John Paul II continues to articulate these themes in his social encyclicals. See, e.g., Laborem Exercens, supra note 6; see also David L. Gregory, Catholic Labor Theory and the Transformation of Work, 45 Wash. & Lee L. Rev. 119 (1988) (analyzing the Catholic theology of work, including Laborem Exercens). In addition to the Papal encyclicals and the Bishops' Pastoral Letters, there exists a huge body of supporting commentary and analysis of these social justice themes. See, e.g., Jean-Yves Calvez & Jacques Perrin, The Church
Pope Leo XIII's encyclical *Rerum Novarum*. Leo XIII's was convinced that the poor were being handed over to inhumane employers and greedy competitors. The Catholic work ethic defined by *Rerum Novarum* required that a person work thoroughly and conscientiously. Work should not, however, be used to oppress the needy for profit. Pope Leo XIII then listed those conditions that violate these principles including: the treatment of the worker as a commodity; the concentration of wealth among the few while leaving the many in slave-like conditions; and the excesses of the unregulated free market. *Rerum Novarum* concluded that submitting a poor person to forced labor was the hallmark of injustice. Leo XIII's work not only provided the foundations for modern Social Doctrine, but also has been maintained and expanded by subsequent Church teachings.

Analysis of the contents of Social Doctrine reveals four broad categories: 1) the poor must be given priority; 2) the common good, and not the amassing of wealth, must be the goal of all Catholics' work; 3) justice is established by right, reason, and authority from God; and 4) human dignity must be paramount to all other values. The Second Vatican Council and the national and international synods of bishops have maintained and proclaimed all of these categories.

Social Doctrine applies the commandment “love your neighbor” to social issues. A Catholic lawyer's motivation for her work should be the love of her neighbor. Loving your neighbor is the antidote to an attorney's occupational hazard of developing an encompassing desire for profit, often at the expense of others. The Church teaches that these practices undermine an ethical life. The Church gives a test

37. *Id.*
38. *Id.*
39. See supra note 6.
40. See *Dogma*, in 2 Sacramentum Mundi 95-97 (Karl Rahner et al. eds., 1968) (requiring that dogma be set forth by the Church explicitly and definitively as a revealed truth and that it belong to divine, public, and official Christian revelation).
41. See *Matthew* 19:19.
42. See infra notes 46-48 and accompanying text.
for love of one's neighbor: revere and love one's enemies,\textsuperscript{43} including respect for those people who think or act differently than we do in social, political, and religious matters.\textsuperscript{44} In applying "love your neighbor" to one's work, the biblical question arises: Who is my neighbor?\textsuperscript{45} Jesus answers the question with a parable: Your neighbor is the mugged foreigner lying in a ditch when you have a pressing engagement.\textsuperscript{46} Expressed in modern terms, a Catholic's neighbors include the homeless, the economically disadvantaged, and the outcast. A Catholic's love of neighbor is reflected in a commitment to social issues. When a Catholic neglects her obligations to social issues, she commits a social sin.

In order to avoid social sin, a Catholic must reflect on her work from another perspective. While sin is generally associated with individual willfulness or selfishness,\textsuperscript{47} social sin questions the larger social issues that motivate a person's willfulness and selfishness. Perceived as a function of societal structure, social sin is present in human institutions generally\textsuperscript{48} and legal institutions in particular. Thus, law firms, courts, judges, and governments are instruments of social sin. It is important to note that this institutional inertia does not force a person to sin, but rather fosters circumstances where sin is more appealing than justice.\textsuperscript{49} When the social structures that foster sin are internalized by the individual, authentic self-transcendence is blocked. Blocked self-transcendence, such as prolonged selfishness, is a sinful condition. The only way to overcome the morally dulling effects of social sin is to apply one's faith in one's work—in a word, \textit{kenosis}.\textsuperscript{50} Rather than lessen an individual's self worth, Catholic teaching on freedom from sin allows a person to fully develop her humanity and become divine, despite the morally anesthesizing effects of modern society. This \textit{kenosis} is informed by the Church's Social Doctrine.

Recently the Church codified its Social Doctrine in Canon 222 § 2. This canon condenses the teachings on the poor by the Second Vatican Council.\textsuperscript{51} Canon 222 § 2 obligates all Catholics to promote social

\textsuperscript{43} See Matthew 5:44.
\textsuperscript{44} See Luke 10:29.
\textsuperscript{46} See Luke 10:30-37.
\textsuperscript{47} See, e.g., John Paul II, Catechism of the Catholic Church § 1866 (1994) [hereinafter Catechism] (listing pride, avarice, envy, wrath, lust, gluttony, and sloth as capital sins which engender others).
\textsuperscript{48} See generally Patrick McCormick, Sin as Addiction 158-60 (1989) (discussing sin's various social manifestations).
\textsuperscript{49} See Justice in the World, supra note 6, at 189-91.
\textsuperscript{50} See supra note 29 and accompanying text; Mark O'Keefe, What Are They Saying About Social Sin? 80 (1990).
\textsuperscript{51} See Canon Code, supra note 21, c. 222 § 2 (stating that “[Christ’s faithful] are also obliged to promote social justice and, mindful of the precept of the Lord, to assist the poor from their own resources.”). Pope John Paul I added this canon to the Code of Canon Law in 1981 to reflect the Social Doctrine of the Second Vatican Council.
justice by both addressing systemic injustices and assisting the poor in an individual capacity.\textsuperscript{52}

A Catholic may implement Canon 222 § 2 in three ways. Social Doctrine may serve as a basis for reflection, a criterion for judgment, or as a framework for action.\textsuperscript{53} As a basis for reflection, Canon 222 §2 provides a global perspective on the mechanisms that impede development of the poor.\textsuperscript{54} These mechanisms include those social institutions that, for example, permit the excessive aggregation of wealth or the use of child labor.\textsuperscript{55} As a criterion for judgment, Canon 222 § 2 rejects the absolute primacy of the free market.\textsuperscript{56} As a framework for action, Canon 222 § 2 teaches that the market must be reasonably regulated in order to reflect a just hierarchy of values and to promote the common good.\textsuperscript{57}

If a Catholic lawyer's work does not show concern for the poor and, in fact, harms the poor, a Catholic lawyer's offering to God is not the redemption begun by Christ, but rather destruction. How a Catholic lawyer can further Christ's redemption requires that she reflect on both the goal of her labor and the influence of the Social Doctrine on decisions made in furtherance of that goal. This reflection occurs in the confines of a Catholic lawyer's informed conscience.\textsuperscript{58} For a Catholic lawyer, the use of her conscience is particularly important because it is through her conscience that she encounters God, and thus can

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  \item Commentary on Canon 222 § 2 provides clarification of its purpose and meaning. The official commentary states that the promotion of the interests of the poor has been a hallmark of Christianity since its founding. Though the institutional Church has organized the distribution of alms in every age, this was not meant to relieve individual Catholics of their duty to respond to the needs of the poor. See also Larry Cata Backer, Medieval Poor Law in Twentieth Century America: Looking Back Towards a General Theory of Modern American Poor Relief, 44 Case W. Res. L. Rev. 871, 939-40 n.195 (1995). Professor Backer recognized that the Roman Catholic Church, since the fall of the Roman Empire, has asserted jurisdiction over care and protection of the poor. The Pope and Ecumenical Councils have also imposed obligations on the Church's faithful to make provisions for the poor.
  \item See Canon Code, supra note 21, c. 222 § 2 (referring to Second Vatican Council's call for the transformation of international social order to favor the poor). The official commentary noted that Canon 222 § 2's requirement that all Catholics have concern for the poor is derived from the biblical pronouncement that how one treats the least of the poor is the equivalent of how one treats Christ. See Matthew 25:34-45.
  \item See Catechism, supra note 47, § 2423.
  \item Id. §§ 2438-44.
  \item See infra notes 62-77 and accompanying text.
  \item See Catechism, supra note 47, § 2423; see also Gaudium et Spes, supra note 6, para. 63, at 120 (establishing that respect for human dignity must flow through "the welfare of society as a whole").
  \item See Catechism, supra note 47, § 2425.
  \item See Muise, supra note 1, at 771-72 (explaining that a Catholic's informed conscience is his or her "ethical compass"); see also Gaudium et Spes, supra note 6, para. 16, at 88 (establishing that a person's conscience is the central element of understanding).
\end{itemize}
work towards God's justice. God's justice is invariably justice for the poor.

II. THE PRACTICAL IMPLICATIONS OF PUTTING ONE'S CATHOLIC FAITH TO WORK

Employing the Church's social teachings, a Catholic lawyer may choose to fulfill her obligation to the poor in three manners: recommendations for action, judgment, and reflection. What follows is a hypothetical that demonstrates the principles of the Catholic faith in action.

A. General Scenario

Catholic Lawyer, Abel, works for a firm that has a large retailing chain, LRC, Inc. as a client. LRC is negotiating a contract with various shirt manufacturers in Thailand that produce quality shirts far below the costs of LRC, Inc.'s present manufacturer. Thai Shirt Manufacturer employs children over the age of thirteen but below the age of sixteen to sew some of the finer sections of the shirts like the collar and sleeve buttons. The child laborers are paid five cents an hour. If successful at this task, upon reaching sixteen the child laborers are then promoted to general sewing for which they are paid fifty cents an hour. The poverty in the area of the shirt factory is extreme and unemployment is high.

B. Catholic Guidance

The U.S. Catholic Bishops have developed a sophisticated policy concerning child labor. In the 1800's, Catholic organizations were among the most active opponents of child labor laws because Catholics viewed these laws as both a threat to parochial education and an encroachment of state power on parental rights. Over time, the bishops' concern that child labor laws would serve to undermine

59. See Pope Paul VI, The Lawyer's Role: Address of Pope Paul VI to Representatives of the International Association of Lawyers, in 10 The Pope Speaks 294, 295 (1964-65). The Pope explained:
   All the lawyer's art and skill ultimately serve justice. He is a man who defends justice and sees that it triumphs—insofar as he can. And not only the justice that is set down by men in codified laws. This justice serves as a point of departure, certainly; but the lawyer uses it in order to reach the lofty justice set down by God in the heart of man. And when he has sounded its depths, he reconsiders the justice of codes.

Id. at 295

60. See Ecclesiastes 5:8; Exodus 23:6, 140:12; Isaiah 10:2-4; Matthew 11:4; Psalms 72:2.

61. See Deborah Leipziger and Pia Sabharwal, Companies that Play Hide and Seek with Child Labor, 95 Bus. & Soc'y Rev. 11 (1995) (giving the example upon which this hypothetical is based).

parochial education and parental autonomy has been mitigated by the fact that Catholics have gone from being a disliked minority to a powerful constituency. Currently, the Catholic bishops have published a call to action to put children first, a position that includes the strengthening of child labor laws. The bishops' goal is to consistently promote the best interests of children within the child's community. The bishops' position is nuanced, however, by a family's economic circumstances. If these warrant the child working, and such work is performed under safe, humane, and legal conditions, then the child's labor is allowed. Of course, to the extent that a family does not need the child to work, or the conditions under which the child works are objectionable, then the bishops' approbation of the practice increases. Thus, in order to fulfill Christ's commandment to help the poor, the Church's position on the issue of child labor varies from total prohibition to qualified acceptance depending upon the circumstances at hand.

C. Abel's Application of Catholic Faith to his Work

As a Catholic, Abel should judge his work according to whether or not it advances the redemption won on the cross by Christ. Abel's work must advance the liberating spirit given to him at his baptism by offering an honest, well-reasoned work product to his employer, LRC, Inc. Moreover, the Church requires Abel to counsel LRC, Inc. on child labor through consultation with his informed conscience. In particular, Abel should apply his religious belief that he must help the poor in one of three ways: action, judgment, or reflection.

1. Action

Abel could advise LRC, Inc. either not to employ child labor in its business, or to employ children only under safe, humane conditions. Such advice conforms with the teaching of the Social Doctrine to

63. See The Oxford Dictionary of the Christian Church 1393-95 (F.L. Cross ed. 1957) (citing the entry United States of America, Christianity in, reporting that up until the time of the Second World War, Catholics were viewed as having their loyalties divided between the Church and their country).
65. Matthew Bazzano has eloquently explained the connection between education and child labor about which the Catholic Bishops are concerned: "While the education system remains weak, child labor flourishes ... If the ... goal is to help develop the economies of other nations, it would seem appropriate to enhance education systems." See Matthew C. Bazzano, Note, Child Labor: What the United States and Its Corporations Can Do To Eliminate Its Use, 18 Hamline J. Pub. L. & Pol'y 200, 209 (1996).
66. See supra note 33 and accompanying text.
67. See supra note 26 and accompanying text.
68. See supra note 58 and accompanying text.
transform systemic injustices. Abel could, for example, advise LRC, Inc., that if it uses child labor it should provide primary education for the children. This primary education could include physical education to ensure that the children’s work does not permanently disable them. This advice would embody Abel’s Catholic faith insofar as he would be advancing the interests of the poor in the context of his professional advice to his employer. It would also be prudent business advice. By voicing his moral concerns about child labor, and offering humane alternatives to LRC, Inc., he could counsel the corporation to pursue a course that could ultimately prevent the imposition of government regulations in response to exploitive trade practices.

Any corporate structure that promotes government regulation is obviously not in LRC, Inc.’s best interest. Thus, in advising his client in a manner consistent with his faith, Abel is performing not only a valuable service to the company, he is also encouraging it to help children and advance the interests of the poor. The foregoing analysis demonstrates that it is possible for Abel to embody Catholic principles in counseling LRC, Inc.

The most recent position of the U.S. Catholic bishops provides support for Abel to counsel for a complete ban on the use of child labor by LRC, Inc., or its subcontractors. Advice to avoid contracts with a subcontractor who employs child laborers would be in order if, for example, the children are forced to work under brutal conditions resulting in significant permanent injury and even death. Abel should, because of his religious beliefs, consider resigning as counsel for LRC, Inc., if the company will not insist upon minimal safety precautions for the children who work in the factory. Although resigning from his job may seem severe, the Church’s teachings on the sacredness of life and the common good offer few alternatives.

In defense of LRC, Inc., it could be argued that a dangerous job for the Thai child laborers is better than no job at all. An effective response to that contention is, however, provided by principles of the common good. Specifically, the principle of equitable proportion teaches that it is not fair that children could suffer the loss of life and limb while LRC, Inc. profits from their jeopardy. The Church’s prohibition on an unfettered market economy would forbid the use of child labor when the child is faced with serious bodily harm.

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69. See supra note 52 and accompanying text.


71. See, e.g., Companies and their Consciences, The Economist, July 20-26, 1996, at 15-16 (reporting that corporations, taking moral issues more seriously, are, consequently, implementing ethics committees as part of their corporate planning).

72. Thomas Aquinas, Summa Theologica I-II, Q. 96.4 (Fathers of the English Dominican Province trans. 1947)

73. See supra note 56 and accompanying text.
2. Judgment

Abel could also recommend that LRC, Inc. make a judgment concerning its own policies in light of American child labor laws or international law. U.S. child labor laws are particularly relevant because they are periodically considered by Congress to be applicable to non-territorial violations. A violation of these laws by a domestic corporation, even one committed overseas, might make LRC, Inc. the target of a consumer boycott. Abel might also counsel his company that the Corporate Domestic Codes of Conduct prohibit the use of child labor. While violating the Domestic Code overseas might not technically fall within the scope of the Domestic Code, Abel could inform LRC's management that such conduct would nevertheless violate the spirit of the agreement. The ramifications of violating the spirit of the agreement might include consumer boycotts, intra-industry censure, and eventually a tightening of restrictions that could ultimately prove adverse to LRC, Inc. Finally, international law also provides indirect guidance regarding the employment of child labor under hazardous conditions. International law, while not conclusively binding on LRC, might still provide


75. See Diane F. Orentlicher & Timothy A. Gelatt, Public Law, Private Actors: The Impact of Human Rights on Business Investors in China, 14 NW. J. Int'l L. & Bus. 66, 82-85 (1993). In the article, the authors explain that Levi Strauss' Terms of Engagement define a child "as less than 14 years of age or younger than the compulsory age to be in school." Id. at 125-26. Reebok's Standards state that the term "child" generally refers to one less than 14 years of age, or younger than the compulsory school age, "if that age is higher than 14." Id. at 128. Reebok uses a higher age in countries where the law sets a higher age. Id. ILO standards state that "the minimum age for employment 'shall not be less than the age of completion of compulsory schooling and, in any case, shall not be less than 15 years' [except that underdeveloped nations] may, after consulting with the ILO, initially set the minimum age at 14." Id. at 114 (quoting ILO Convention No. 138, Minimum Age Convention).


Though it is long since we had child labor abuses in America, we cannot escape the charge of complicity in connection with global cases on this score . . . . We import the method of production and the method of distribution as well as the item itself, which means that a clean-looking pair of sneakers or a fine silk dress or an ornately woven Oriental rug are all stained with the scars of brutality and inhumanity if they are made in a country where child labor is tolerated . . . . If we buy it, we perpetuate the abuse, and we're just as guilty as the bandit who waits in the getaway car while his pal guns down the bank teller.

firm ground upon which Abel could counsel that a self-imposed restriction on child labor is sound corporate practice.

3. Reflection

As applied to the facts of the above hypothetical, Abel should begin by investigating the subcontractor that uses child labor. This investigation is the first step in reflecting on the problem that Abel must take in order to avoid social sin.\textsuperscript{78}

Abel may also pursue other options consistent with his faith. In order to fulfill his Catholic duty to help the poor, Abel’s reflection might lead him to have a private conversation with the chief executive officer concerning the child laborers. In this way, Abel could separate his legal counsel from his counsel of conscience.

Another manner in which Abel may opt to reconcile his faith’s command not to exploit child labor with his professional duty to properly represent his client\textsuperscript{79} is to reflect on the problem with his faith community. Civil law, which provides the priest/confessor privilege, allows Abel to undertake just this type of discussion. Abel might choose to utilize the Church’s principle of double effect\textsuperscript{80} for this type of ethical problem. In this example, Abel could reflect on the good effect of maximizing profits for LRC, Inc. by using child labor in Thailand, irrespective of any moral qualms he might have with the practice. In providing this limited advice, Abel may arguably fulfill his duty to provide LRC, Inc. competent counsel. On the other hand, if Abel chooses not to air his ethical qualms over the use of child labor, his omission may abet the scourge of child labor. Abel must consider the Church’s teachings against unrestrained profits\textsuperscript{81} in his calculus. In making this determination, Abel must use his informed conscience to determine whether the teachings against unrestrained profits are applicable solely to the corporation, or if they apply to Abel as well.

Because it is often the case that multinational corporations like LRC, Inc. have gross economic outputs that exceed the economic output of many small and mid-sized nations,\textsuperscript{82} Abel’s advice has the potential to do a tremendous amount of good. He has the power to counsel a client in a manner that can alleviate the suffering of those children who labor under inhumane conditions. By advising LRC, Inc. to either refrain from employing the subcontractor, or to do so

\textsuperscript{78} See supra note 49 and accompanying text.

\textsuperscript{79} See supra note 10 and accompanying text.

\textsuperscript{80} The principal of double effect is, simply stated, that some actions have one good and one bad effect. See, e.g., James F. Keenan, \textit{Principle of Double Effect}, in The New Dictionary of Catholic Social Thought 300 (Judith A. Dwyer ed., 1994).

\textsuperscript{81} See supra note 38 and accompanying text.

only under conditions that respect and help the children in the factory, Abel provides testimony to his belief that the Savior is embodied in the poor. Consequently, Abel’s advice to LRC allows it to maintain its financial vigor while still embodying the principles of grace and humanity.

D. Should Abel Dissent?

While Catholic magisterial authority is consistent in its teaching to protect the poor, not all Catholic scholars are in agreement. Michael Novak criticizes church leaders who wish to impose a single moral standard on society. The Church’s imposition of such a standard of ethical behavior, constitutes a return to the days of the Christendom of the Middle Ages, where the Church wielded undue influence on the economic system. The undue influence of the Church on the economy is what Mr. Novak attributes to the ongoing poverty in Latin America.

The best counter argument to Mr. Novak’s laissez-faire contentions are those of liberation theologians who hold that Christianity is only authentic when Catholics join for the liberation of the poor against the oppression of the international imperialism of money. The question then becomes whether Abel should, on the above facts, act in accordance with Church teaching, or depart from Church teaching and instead side with dissenters such as Michael Novak?

Abel could dissent from Catholic social teaching in this particular representation of LRC, Inc. The doctrine of informed conscience requires, however, that Abel be well informed concerning his dissent. In order to dissent from the Church’s Social Doctrine, Abel should have serious and well-founded reasons. Also, while Abel may choose to dissent if his conscience dictates that he do so, his dissent should not impugn the authority of the Church. Stated differently, Abel should keep in mind that his dissent must not cause public scan-

83. See supra note 35 and accompanying text.
84. See supra note 35 and accompanying text.
86. Id. at 276-77.
87. Id. at 272-82.
88. Gustavo Gutierrez, A Theology of Liberation 51 (Caridad Inda & John Eagleson, trans. 1994) (arguing that the under-development of poor nations is a byproduct of the development of wealthy, large capitalist countries).
89. See Richard A. McCormick, Dissent in Moral Theology and Its Implications, 48 Theological Stud. 87 (1987) (discussing the rationale and dissent procedures of the Roman Catholic Church).
90. Id. at 101.
91. Id.
dal. A good example of the type of scandal that the Church wishes to avoid is seen in the Church's prohibition of birth control.

CONCLUSION

After completing her legal work, a Catholic lawyer must then ask, what more is required of me to gain salvation? Jesus's response is both challenging and shocking: "[Y]ou must sell all you have, give to the poor, and come follow me." After two thousand years, this three-fold requirement has been reduced to the simple command: Follow Jesus. The reality for a Catholic attorney, then, is that she may not ignore the poor, and must, in fact, find some expression of concern for the poor in her legal work if she is to gain salvation.

92. Id.
Notes & Observations