

The Universal
Destination
of Goods
The Ethics of
Property in the
Theory of a
Christian Society*

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In its property ethics, the theory of a Christian society tries to bring together two statements that at first glance are not easily reconciled. The first statement underscores the importance of private property to the freedom and personal development of a person and declares that the right to personal property is a natural law. The second statement reminds us that God has destined the goods of this earth to the benefit of all people and nations, and, therefore, they must also be enjoyed by all. When either statement is divorced from the other, misunderstandings, controversies, or even ideologies easily result. This holds for the Catholic theory of society as well as for Protestant social ethics. Even though most of the following citations are taken from the social encyclicals and other documents of the Roman Catholic Church, all of the fundamental statements also hold for Protestant social ethics in the tradition of Martin Luther.¹

Two Pillars of the Ethics of Property in the Theory of a Christian Society

The first statement of the property ethics of Christian social theory, the emphasis on the right to personal property, held up by Leo XIII in the 1891 encyclical *Rerum Novarum* (RN 4)² against socialism, which, along with Karl Marx, saw in private property the source of all human alienation and all social misery and hoped—at least until 1989—for a paradise on earth by its elimination, can, if taken in isolation, lead to the misunderstanding that Christian social theory wants to legitimize the existing property system in the industrialized Western nations. The second statement, also developed by Leo XIII in *Rerum*

Novarum (RN 7) and then in greater detail by Pius XI in 1931 in *Quadragesimo Anno* (QA 45ff.), can lead to the opposite error, that Christian social theory weakens the importance of private property and holds alternative forms of property, even public property, as no less legitimate. Pius XI warned as early as *Quadragesimo Anno* against the “two dangerous unilateral positions” resulting from the denial or weakening of the social function of property, on the one hand, and the function of the individual, on the other, and leading either to individualism or collectivism (QA 46). However, even when these unilateral views are avoided and both statements are given consideration, it is not easy to determine their proper relationship. This is already reflected in the history of Christianity.

Property in the History of Christianity

In the first millennium of Christianity, the social-ethical question of property as an ordering idea did not yet play any role. At the center of the deliberations was the individual-ethical question of the correct use of property, which finds its answer, first, in the Ten Commandments and, second, in the first letter of John. The seventh commandment says, “Thou shalt not steal,” and the tenth, “Thou shalt not covet thy neighbor’s goods,” and the first letter of John admonishes not to be proud of possessions and wealth (1 John 2:16). A Christian’s possessions should be as naught. If he acquires something, he should behave “as if he were not the owner” (1 Cor. 7:30). However, the “communism” of primitive society, the community of goods of the first Christians in Jerusalem as described in the Acts of the Apostles (4:32–34), was not adopted as the rule for Christian living. Private property still existed. Even for the church fathers, whose judgments on private property are often very critical, a community of property under the conditions of the fall of man was only possible in families or cloistered communities. As a form of social existence, it would have disastrous consequences because it paralyzes the feeling of responsibility and willingness to work and reduces the prosperity.

Only in the thirteenth century with Thomas Aquinas (1225–1274), do we encounter social-ethical considerations on property as an ordering idea. Whether it is permitted to possess a thing as property, he answers in the affirmative, first, because “a man uses more care in acquiring something that belongs to him alone, than something which belongs to many or all,” and second, “human affairs are better managed when each individual has his own concerns in the acquisition of things,” and third, “the peaceful constitution of men is better preserved.” The more something belongs to many or all, the more

often there is strife.³ Thomas uses here the arguments of Aristotle (384–322 B.C.) in criticizing Plato’s plea for a community of goods.⁴ He legitimizes individual property for pragmatic reasons as an ordering idea, rather than a subjective right, and he distinguishes between the acquiring and the use of property. Although man has the right to acquire property, like the church fathers, he advises using external things not as property, but “as a common possession,” that is, to put them in service of one’s fellow man. God remains the absolute owner of all things. Work as the principle of legitimacy of individual property is not found in Thomas.

The classical thinker who founds the individual right to property on human work is John Locke (1632–1704). In his *Second Treatise of Government*, 1689, he writes that the earth and all lower beings belong to all men in common, but “each man has property of his own person.” Therefore, “the work of his body and the work of his hands are also, properly speaking, his.” Therefore, whatever man wrests from the state of nature and mixes with his work, “is consequently made his property.”⁵ Although John Locke is neither a church father nor a church teacher, his justification of private property played a major role in the nineteenth century, in which the Christian theory of society arose.

Wilhelm Emmanuel von Ketteler (1811–1877) in 1848—two years before his appointment as Bishop of Mainz, in his famous Advent sermon in the Cathedral of Mainz, in which he set off the Catholic theory of property from liberalism, on the one hand, and communism, on the other—still followed Thomas Aquinas entirely.⁶ Luigi Taparelli, Matteo Liberatore, and Tommaso Zigliara, who prepared the social encyclical *Rerum Novarum* for Pope Leo XIII, also relied on John Locke’s property theory. Two aspects exert substantial influence on this first and ground-breaking encyclical: Locke’s individualism and work as the criterion for legitimacy of the right to private property.

In various investigations on the development of the property ethics of the Christian social theory, which appeared in the early 1970s, the property theory of *Rerum Novarum* was accused of being too individualistic, of not giving proper place to the universal destination of goods, and of reintroducing the social nexus of property only through religion and the duty to give alms.⁷ Because of the conflict with the Marxist denial of private property, the individual right to property was of course greatly accentuated. This individual right to private property is also a consequence of the personal anthropology of the Christian social theory and its principle of subsidiarity. It therefore remained a pillar of the property ethics of the Christian social theory, even though moderated in the course of the twentieth century by emphasizing the second pillar of the universal destination of goods.

The Justification of Private Property

The property ethics of Christian social theory starts by saying that God has “destined the Earth with all that it contains to the benefit of all people and nations” and therefore “these created goods must be used by all in a fair proportion” (*GS* 69).⁸ Thus, the property ethics is rooted in the theory of creation, and this theory already leads to the right to private property. Because man was created by God not only as a spiritual but also a physical being, he is dependent on external goods. Because he has a duty of self-preservation, he also has the right to the goods necessary for this and because he, as the image of God, has been given sovereignty over the earth, he is authorized to place these goods in his service. This is generally done through work. It leads to the acquisition of property and, thus, the power to dispose over external goods (*LE* 12; *CA* 31). Thus, private property provides “the absolutely essential space for a responsible ordering of each individual’s personal existence and that of his family” and must “be viewed as a kind of extension of human freedom.” It spurs one to “undertake chores and responsibility” and thus counts as “one of the prerequisites of civil liberty” (*GS* 71).⁹

This positive justification of private property, which is developed primarily by John XXIII in the encyclical *Mater et Magistra* in 1961 (*MM* 108–121), is augmented by an argument *via negationis*: the lack of private property would lead to sloth, disorder, bureaucracy, concentration of power, social unrest, and the endangering of freedom as well as the worth of the human being (*MM* 109).¹⁰ Therefore, the right to private property—including the means of production—is a right pertaining to man on the basis of his nature (*MM* 108–112; *PT* 21).

The Subordination of Private Property to the Universal Destination of Goods

For Christian social theory, the natural right to personal property always remains subordinate to the universal destination of goods. Christian tradition, according to John Paul II, has “never viewed this right as absolute and unassailable. Quite the contrary, it has always seen it in the broader framework of the common right of all to enjoy the goods of the creation; in other words, the right of private property is subordinate to the right of common usage, the destination of goods for all” (*LE* 14; Pius XII, *La Solennità*, a message on the fiftieth anniversary of the encyclical *Rerum Novarum* of 1 June 1941, in

Utz-Groner 506; *PP* 23; *LC* 87; *SRS* 42; *CL* 43; *Guidelines* 42; *CA* 30; *CCC* 2402–2404).

In numerous paired concepts, the advocates of Christian social theory have attempted to characterize the relationship between the two pillars of property ethics. The universal destination of goods was called an “absolute” or “primary” natural law, the right to private property a “relative” or “secondary” natural law,¹¹ the former also “God’s work” or “fundamental law” and the latter “Man’s work” or “implementing provisions.”¹² Even Thomas Aquinas had traced back the universal destination of goods to natural law, that is, the dispensation of creation, and the right to private property to positive law, which springs from human reason and does not oppose natural law.¹³ It was also called to mind in this debate, as Paul VI had also emphasized in *Populorum Progressio* (*PP* 49), that the principle of the universal destination of goods holds “also for the community of nations”¹⁴ and especially in view of *Gaudium et Spes*, the ethics of property should not be confined to an ethics of distribution, but one should also inquire into the significance of production and the use of goods in order to implement the principle of universal destination.¹⁵

The Extension of Private Property to the Social and Cultural State

Thus, the natural right to private property is the best-suited instrument for implementing the universal destination of goods. Given the *conditio humana*, cooperative or common property is not the optimal means of achieving this principle. Instead, it is personal property, which requires a suitable legal and constitutional system to safeguard it in every society. Both the social encyclicals and the Second Vatican Council pointed out that the institution of private property and its legal arrangements are historical in nature and thus can change (*RN* 7; *QA* 49; Pius XII, *La Solennità*, in *Utz-Groner* 506; *GS* 69). They formulate an extension of the concept of property to the social and cultural state. From this perspective, not only land and soil, but also transferable goods that can serve purposes of consumption or production, as well as legal rights to services of governmental or cooperative systems of welfare, count as property (*GS* 71; *LE* 19).¹⁶ Even a vocational training and certain craftsmanship, technical or artistic skills, copyrights, or talents or patents count as private property, being as they are intangible property enjoying legal protection and must remain subordinate to the basic principle of universal destination (*CA* 32). Protection of property therefore requires an “ongoing and reliable qualifications policy” for lifelong learning.¹⁷

However, the relative nature of property and the ability of the state to intervene in regard to property regulations does not mean that the state can abolish personal property, undermine it by excessive taxation, or replace it with commonly held property. The right to personal property and the right of inheritance must “always remain untouched and unharmed” in their substance (*QA* 49). The right to personal property remains “valid and necessary in itself,” even if it must also “be circumscribed within the limits of its social function” (*Guidelines of the Congregation for Catholic Education* 42; *CA* 30). It must “protect the person’s right to freedom and at the same time make an essential contribution to the construction of the legal social order” (*MM* 111).

Human Dignity as the Boundary of Private Property

Property claims can apply to goods and services, pension entitlements, copyrights, patents, and the like but never to human beings. To assert a property right to a person is to enslave them. “A right to freedom never gives mastery over others.”¹⁸ The right to a free expression of personality—for example, of the researcher—ends at the rights of another (Art. 2.1 *GG*). “Fundamental freedom means self-determination, but not disposition over others. It ends at the fundamental freedom of another and gives no right over his person.”¹⁹ Even so, slavery was socially accepted for many centuries—even among peoples with a Christian culture, although the apostle Paul had already taken the axe to its roots when he advised the slave owner Philemon in the year 55 A.D. to treat the slave Onesimus (who had run away from Philemon, become a Christian, and was sent back to him by Paul) not as his property but as a brother (Philemon 16). Today, slavery appears to be a thing of the past, at least in the Christian realm. In any case, slaves are no longer considered property.

The issue of the human being as property, however, has become topical once again in the debate on embryonic stem cell research. Advocating the use of so-called orphaned or leftover embryos for stem cell research implies using them as a source of raw materials to develop new therapies for thus far incurable diseases. It therefore means treating the embryos not as persons and therefore legal subjects but instead as things and therefore legal objects. To assert the legitimacy of this claim, a number of distinctions are brought in, supposedly proving that the embryo *in vitro* or the cryogenically preserved embryo is not yet a person and is not covered by the guarantee of human dignity (Art. 1.1 *GG*). These distinctions include those between humans or incipient humans,

on the one hand, and human life, on the other, between the embryo *in vitro* and the embryo *in utero*, between the preembryo and the embryo, between the abstract and the concrete possibility of becoming a human, or between embryos living in communicative relations and having interests and feelings and embryos lacking all these features. These distinctions serve the purpose of denying personality and human dignity to embryos of lesser status and validating the property claims of society for research and therapy projects.²⁰ They are reminiscent of efforts to justify the legitimacy of slavery in that humans are divided into two types, those who can supervise and those who can only perform work. This attempted justification, given the Christian view of a human being, is as unconvincing as the ruling of the Supreme Court of North Carolina, which in 1829 rejected the charge of severe bodily injury by a slaveholder upon his slave—he had shot her during an attempted escape—with the justification that the slave was his property. Because she was subject to his full disposition, the act could not be considered a bodily injury.²¹

In view of the claims of science and medicine, to dispose over the so-called orphaned embryos, or those created specifically for research and therapy purposes, the question arises whether society is making these embryos into slaves of the twenty-first century. Yet, the slaves of the Roman Empire, at least in the second century, had it even better. Although they were property, commercial goods, means of production and capital investment, the authority of the slave masters was limited in that they did not have the right to the life of the slaves. Embryos *in vitro*, on the other hand, have even fewer rights than slaves. Under the claims of embryonic stem cell research, they are reduced to the status of a commercial good and a means of production. The Embryo Protection Act of 13 December 1990, in §2, penalizes the “improper use of human embryos.” By withholding them from commerce, as well as research or use in therapy, they are evidently not treated as a thing. Their creation is solely permitted for the purpose of producing a pregnancy. For some time now, the guns have been brought into position by the federal government, with the help of the *DFG* and several commentators on Art. 1 *GG*, to bring down this fortress of protection of life. Therefore, a discussion of property as an ordering idea cannot ignore the stem cell debate. It must show that there can be no possession of embryos as property, not even embryos *in vitro*, because they develop as humans and not just into humans.²²

Immanuel Kant (1724–1804), in his *Metaphysics of Morals* in 1798, has already furnished a convincing argument for this. The act of procreation results in a person, not a thing. Therefore, parents cannot “destroy their child as if it were their convenience or their property, nor even leave it to chance, because

they have placed therein not merely a creature of the world, but also a citizen of the world in a condition that cannot be indifferent to them, as well from a legal standpoint.”²³ This also applies to the *nasciturus* and the embryo *in vitro*. These, too, are never things to which property claims can be asserted but are, rather, persons with a claim to unconditional recognition.²⁴ Things never turn into persons. Therefore, there is also a “strict connectivity relationship” between an artificial fertilization and the implantation of an artificially generated embryo in the womb,²⁵ which is even now being enacted by Italian lawmakers. Thus, the alternative of use or discard²⁶ is unacceptable because it reduces the orphaned embryo to a thing and therefore subjects it to the dominion of another. Because the embryo *in vitro* is deprived of an existential condition for its further development with the uterus, this still does not mean that it becomes the property of a laboratory director or of society and can be subjected to the interests of research, therapy, or other usage like a thing. Property claims have their inviolable limit at human dignity and the right to life of each person. Even the needless death of a cryogenically preserved embryo still does not justify a mandate for stem cell research.²⁷ A needless death is not yet a meaningless death.²⁸

Private Property and Common Weal

Private property contributes to a just social order when it is subordinated to the universal destination of goods. It must contribute to the common weal. The right to private property, as the Congregation for the Doctrine of the Faith declared, can “not be understood without the obligation to the common weal (LC 87).”²⁹ This obligation does not mean that the owner must surrender his disposition over property to the state but rather that private property must be widespread and, whatever its form, benefit as many people as possible. The proprietor must remain conscious of the social burden of private property and recognize the priority of labor over capital. Accordingly, the lawmaker has the duty to heed this when enacting property, tax, social, and employee rights law (MM 115; SRS 42; John Paul II, “Address at the Third General Assembly of Latin American Bishops in Puebla,” 28 January 1979, in *AAS*, vol. 71, pp. 187–205; LC 84).

Yet, the proposition that the function of private property is to serve to achieve the common weal is problematic.³⁰ Of course, the contrary proposition, that the common weal is merely a means of securing private property, is false. It does not follow from this false proposition that the common weal “is

the foundation, finality, and regulator of property right.”³¹ This one-sided commitment of private property to the service of the common weal tends to overlook the anthropocentric orientation of the common weal in Christian social theory. If the common weal is the totality of political, social, economic, and legal contingent possibilities of personal development of the human being (*MM* 65; *GS* 26 and 74; *CL* 42), then personal development or success in human life is the foundation, goal, and limit of the common weal and, thus, also of the universal destination of goods and the right to private property. The Roman Catholic property ethic therefore not only places private property in the service of the common weal but also places the common weal in the service of the person for whom the right to private property is one of the conditions of freedom and development.³² “What is done for the person is in the service of society, and what is done for society benefits the person” (*CL* 40).

The Issue of Expropriation and the Restitution of Expropriated Assets

The expropriation of land or the means of production and their conversion into public property have never been excluded from this standpoint. The proprietor may forget the social burden of his property. He may use his private property against the universal destination of goods and increase human poverty instead of decreasing it. Thus, the common weal may dictate an expropriation (*GS* 71; *PP* 24; *LE* 14), but each expropriation must not only heed the principle of indemnification but also the principle of subsidiarity (*MM* 117). This means that the expropriating government agency must remain conscious of its subsidiary role. It should not diminish the willingness and the ability of the citizens to take initiatives, expend effort, and perform work. Instead, it must strengthen them. It must guarantee the “subjective nature of society” (*LE* 14) and avoid “excessively limiting private property or, even worse, totally suppressing it” (*MM* 117).

Expropriations by totalitarian regimes have as much in common with such expropriations by rule-of-law states as communist “people’s democracies” do with the democracies of the Western constitutional states. In socialist systems, expropriations served not the common weal but the class struggle. The vanguard of the proletariat wanted to destroy the class enemy with its confiscations and solidify the dictatorship of the proletariat. Therefore, when history presents fortunate moments, as in 1989–1990, for correcting such unjust actions, it is a commandment of justice to undertake such corrections and grant

the victims of the socialist class struggle compensation—as much as is possible. Thus, the handling of property issues, restitution claims, and damage claims has been a central issue of all postcommunist transformation processes—including East Germany.³³

The fact that the federal government and the GDR government in their joint declaration on the handling of unresolved property matters of 15 June 1990 excluded the victims of the so-called Land Reform, that is, those expropriated between the end of the war on 8 May 1945 and the advent of the GDR constitution on 7 October 1949, from all claims of restitution, is a deep wound in the process of German reunification. The pretext mentioned at the time, that it was necessary to obtain the consent of the Soviet Union to the reunification, has since proven to be false.³⁴ The Soviet Union was interested in acknowledgment of the legitimacy of its measures under occupation law and sovereignty and therefore its indemnity. It did not care about establishing the outcomes of these measures. Such an establishment was solely in the interest of the GDR government at the time. The Kohl government, by going along with this establishment in that joint declaration, in article 41, paragraph 1 of the Unification Treaty and in article 143, paragraph 3 of the revised constitution, inflicted no minor damage on the rule of law—like the three-month rule in making possible an abortion—and in offering land for sale that was excluded from any restitution, it also made itself into a receiver of stolen goods.

Politics, legal scholarship, and jurisprudence have put forth a series of grounds to justify this refusal of restitution that are not very convincing, bring up many issues, and really demonstrate only one purpose: to exclude the victims of the confiscations of 1945–1949 permanently from the group of those entitled to restitution.

1. The expropriations of the so-called land reform, according to the federal constitutional court in its ruling of 23 April 1991, were undertaken, first, prior to the adoption of the constitution and, second, outside its jurisdiction.³⁵ Is not the right to private property a human right prior to the state, which was massively violated by the land reform? Does not the constitution in article 1.2 profess such pregovernmental “inviolable and inalienable human rights as the foundation of every human society, peace and justice in the world,” and did it not declare in its old preamble that the German people in ratifying the constitution were also acting for those Germans “who were forbidden to take part in it?”

2. Those harmed by the land reform could not have counted for decades on the reunification and the possibility of a restitution. Furthermore, they should consider that they are not the only victims of the unjust socialist regime and that those imprisoned for political reasons, dismissed from occupational positions, or excluded from schools should also be indemnified.³⁶ Does the historical unlikelihood of compensation for an injustice change anything about this injustice or the duty to make compensation as soon and as far as it becomes possible? Can the injustice experienced by other victims of the regime be repaired by excluding another group of victims from reparations?
3. The wheel of history cannot be turned back by half a century.³⁷ The politburo of the SED could also have brought this argument against the reunification itself.
4. Only four of the fourteen plaintiffs before the federal constitutional court were former proprietors, and ten were heirs or the children of heirs. The heirs should be excluded from the group of those entitled to damages “and be referred to later dates.” Is not the right of inheritance part of the human right to private property and subject to the guarantee of article 14.1 *GG*? If the heirs are to be referred to a later date for indemnification, they cannot at the same time be cut from the group of claimants.
5. The interest in restitution has been articulated primarily by the FDP and old property owners living in West Germany.³⁸ This statement is no legally relevant argument, as if the beliefs or the political homeland of the plaintiff had any bearing on the justification of the complaint. The objection borders on discrimination against the FDP.
6. Claims for indemnification or compensation could only be justified by the principle of a social state based on the rule of law and the ban on discrimination of article 3 *GG* but not the guarantee of property in article 14 *GG*.³⁹ Does not the violation of a fundamental right produce a stronger obligation for indemnity than the goal of a social state under the rule of law? Does not shifting the justification of possible duties of indemnification to the principle of a social state imply their abolition?
7. There could “be no doubt that the principle of restitution can be suspended for urgent reasons when such is necessary in the view of the legislature to accomplish its stated task.”⁴⁰ Does not this argument take an axe to the roots of the rule of law, because a parliament, by

virtue of the power to define itself, its tasks, and the urgent reasons for exceptional circumstances at any time, can also place itself above the fundamental rights at any time?

If it is a precept of justice to grant compensation—as much as is possible—to the victims of the socialist class struggle, then this certainly holds for all victims, not just for those of the different waves of expropriation. It is contrary to this precept to totally exclude one group of victims from this compensation for the benefit of the other groups, to improve the federal budget with their twice-confiscated assets and thereby pay the compensation for the other groups. The property ethics of Christian social theory suggests two conclusions for the handling of restitution claims and compensation payments in the postcommunist transformation processes:

- (a) If the right to private property is a human right, inseparably connected to human freedom and responsibility, then the restitution or indemnification of all expropriated persons is a public duty or, better, a condition of legitimacy of the free rule of law.⁴¹ The principle of return before indemnity is imperative. It derives not from conservative property ideology but from the legal arrangements of the constitution. If a return is no longer possible or would violate the well-understood interests of the current users, the fairest possible indemnification and compensation should be paid promptly.
- (b) If the right to private property is not an absolute right but subject to the universal destination of goods or beholden to the welfare of the public (article 14.2 *GG*), then the principle of invest before return is also legitimate if this way of proceeding for job-creating investments goes hand in hand with proper compensation arrangements and does not lead to further job cutbacks elsewhere. Damage or compensation payments that do not restore the full market value to the proprietor as well as equalization of burden levies for certain old proprietors who see their property restored with considerable added value are also morally defensible. It is the art of the politician and, thus, the lawmaker or the courts to find arrangements that prevent one group of old proprietors from being much more favored than others or allow old proprietors, beneficiaries, or investors to assert their interests at the expense of others. Arrangements are necessary that bring the justified claims of all groups as much as possible “into a fair settlement.”⁴² Therefore, a fair settlement should not be prevented

because those with claims for restitution or damage payments “have more than those from whom it is being taken.”⁴³ This view, tinged with socialist equality, may be worthy of a newspaper close to the PDS but not to a handbook for the German state of law.

Distribution and Production

Reflections on the fundamental principle of universal destination of goods sometimes give the impression that the property ethics of Christian social theory cares only about the distribution of goods and less about their production. However, a glance at the pastoral constitution *Gaudium et Spes* and the social encyclicals, especially *Centesimus Annus*, shows that this impression is not correct. Of course, it is not the mission of Church teaching to make economic and scientific recommendations on the production of goods and services. That is the mission of the Christians who must acquire the necessary skill and experience for this and observe the legitimate autonomy of earthly realities (*PT* 147–150; *GS* 72; *CS* 43). Yet, the council and the popes also point out that implementing the principle of the universal destination of goods involves more than questions of distribution.

First of all, there are questions of production and the conditions of production to be regulated by the state. If the goods of this earth are supposed to help everyone, everyone must have access to the market. Investments are necessary (*OA* 18; *CA* 32). Each person must be able to participate in the production and acquisition of goods and services, that is, the economic life. Each must be able to use his income productively to form capital and acquire property including the means of production (*RN* 4). In a dynamic economy, this results in the creation of jobs and, thus, income opportunities. A fair wage for the work done is therefore “the concrete path by which most men arrive at those goods destined for common use” (*LE* 19). In some cases, it may be very hard to determine the fair wage, and it may lead to different results from an economic perspective than from a social perspective. Developments in the East German lands after the reunification can demonstrate this conspicuously. If trade unions, worker associations, and the state, which sets the basic conditions for collective bargaining, remain committed to the principle of universal destination of goods, they will join together in social partnership to consider the specific situation of each land and supplement the monetary wage with institutions of asset formation, profit sharing, and company pensions (*LE* 14). Even Pius XI recommended “making the paid labor relationship closer to a partnership” in the hope that “worker and employee would arrive in this way at a co-ownership or

co-management or some other kind of profit sharing” (*QA* 65; cf. also *GS* 68). There are no specific forms of profit sharing mentioned in Christian social theory. Yet, John Paul II challenges those at the bargaining table to use imagination and expertise in finding ways to ensure the participation of all in the production and distribution of goods and promote a widespread dispersal of property (*LE* 14).

Humanization of Work

Furthermore, the codetermination of the workers at a company and the broad realm of labor law contribute to strengthening the position of the worker as an involved actor and furthering his interest in the economic life. If he is “jointly responsible and co-creator” of his job (*LE* 15; *CA* 43); if he has the right to be informed, to be heard, and to codetermine operational decisions; if his labor contract, his work time, his vacation, and his wage claims are legally protected—even in the event that his company goes bankrupt; and if he can appeal to independent labor courts in cases of conflict, this helps humanize the working world. It facilitates his integration into society and his participation in the economic progress (Paul VI, “Address to the International Labor Organization in Geneva,” 10 June 1969, 21; *OA* 41). Thus, codetermination and labor law also serve the principle of universal destination of goods (*LE* 15, 17, 19).

The Social Services System

Finally, in economically developed nations, the entire legally regulated system of social services that guarantees the individual citizen and his family legal claims to payments in event of sickness, disability, old age, unemployment, and poverty represents a central contribution to implementing the principle of the universal destination of goods (*GS* 69; *LE* 19). The old-age pension in particular is similar in nature to property—the federal constitutional court has even ruled it is identical to property. The same holds for the family benefits, that is, the child rearing and education allowance, as well as unemployment insurance. The latter, in particular, conforms to “the principle of common use of goods or, otherwise and more simply stated, the right to life and support” (*LE* 18).

Yet, the valuing of pension claims as property is made difficult by the contribution procedure of social security, which requires a balanced demographic development in order to function. Since 1972, the demographic development,

for more than a generation, has been in deficit, and the share of the elderly population will rise considerably in the middle term; thus, the ownership of pension entitlements will undergo an almost inflationary devaluation. This, as well as the property ethics of Christian social theory, dictates bringing the claims of all generations to the fairest possible compromise; giving proper respect to the contributions of the families, so necessary to a bright future; and strengthening their earning power and willingness to work.

The Global Dimension of Property Ethics

In a dynamic economy that is globally interconnected, the principle of universal destination of goods takes on a global dimension. While it is true, as Paul VI said in *Populorum Progressio*, “that each nation should be the first to enjoy the gifts which Providence has bestowed on it as the fruit of its toil, nevertheless no nation can claim its wealth for itself alone” (*PP* 48). John Paul II emphasizes in *Sollicitudo Rei Socialis* this global dimension not less than ten times (*SRS* 7, 9, 10, 21, 22—twice—28, 39, 42, 49). It is essential “to grant each nation the same right ‘to sit at the table of the common meal,’ instead of being outside the door like Lazarus” (*SRS* 33; *PP* 47). It is therefore necessary to review the international trade relations, which suffer from protectionism, but also to strengthen international institutions and have an international social policy (*SRS* 43; *LC* 90; *LE* 18).

Property Ethics and Political Ethics

If the universal destination of goods is in need of new and deeper thinking and implementation, then the political and constitutional framework must also be taken into account because “one must take the step from economics to politics” (*OA* 46). One must guarantee that the internal ordering of the nations protects the “right to free economic initiative” (*SRS* 42). The subjective nature of society requires the closest possible connection between work and capital and a great variety of *corps intermédiaires* of associations, cooperatives, and “corporate bodies with true autonomy vis-à-vis the public authorities” (*LE* 14; *CA* 49). Finally, in many developing countries, the replacement of corrupt, dictatorial, and authoritarian regimes by democratic systems is a central condition of development (*SRS* 44; *CA* 20 and 48).

Christian social theory therefore increasingly ties together ideas on property ethics with those of political ethics. Implementing the principle of the universal

destination of goods requires political institutions that respect the worth of the human person and the primacy of private initiative; that guarantee the citizen the right of economic and political participation; that are framed democratically and oriented to a market economy; and, finally, that protect both the right of self-determination of nations and the global common weal on the international level (CA 15 and 48). In the Charter for a New Europe signed in Paris on 21 November 1990, all thirty-four nations of the then CSCF, and thus also the Holy See, acknowledged the close connection between democracy and a market economy on the foundation of inalienable human rights and social justice.⁴⁴ Hardly any other document of international politics in the twentieth century, including the United Nations Declaration of Human Rights of 1948, enunciates so clearly the principles and norms of Christian social theory as this charter, signed in the *annus mirabilis* of the past century. Its leitmotifs—inalienable human rights, democracy of a social state and rule of law, and a social market economy—are the enduring prerequisites for achieving the principle of the universal destination of goods.

Conclusion

The two pronouncements of the property ethics of Christian social theory—the universal destination of goods and the natural right to private property as an extension of human freedom—are reconciled through human work, which is also the starting point for the social and cultural-political broadening of the concept of property. As much as developments in the twentieth century have broadened the concept of property, property claims can never be extended to people, nor to embryos *in vitro*.

The right to private property remains subordinate to the universal destination of goods. However, the function of private property does not consist only in serving the common weal. First and foremost, it serves the free development of the person, which is also the purpose of the common weal. Expropriations may be dictated as exceptions for the common weal, but confiscations can never be justified. To exclude the confiscations of totalitarian systems of domination from restitution settlements after their collapse therefore jeopardizes human rights as well as the conditions of legitimacy of a state of law.

The Ten Commandments and the first letter of John also apply in the third millennium. Yet, the property ethics of Christian social theory is not limited to the commandment “thou shalt not steal” and the admonition to hold possessions as if they were naught. It also includes Jesus’ parable of the talents. The

challenge to increase to the best of one's ability the talents placed in one's safekeeping refers to the whole person, and not just one's possessions, but neither are the latter excluded. Property should be used productively and increased. The more it is increased, the more the proprietor should give—especially if Kirchof's proposals on tax reform are carried out. Even under the present conditions of taxation one can and should do much—remember the motto of an American industrialist and philanthropist (Carnegie): “He who dies rich, dies in shame.”

The church around the world celebrated this week the festival of the Epiphany, the true Christmas festival in the Orthodox Church. This festival also shows us how to deal with property. The three kings or wise men, who sought the child and found him in Jerusalem after much hardship, and presented him with costly gifts: gold, frankincense, and myrrh. The lowly stable in Bethlehem where they fell down and offered up their treasures did not prevent them from this. They knew that they had found the Lord of the earth in the tiny child. To give him the costliest of things was for them the condition of their happiness.

Notes

- * *Ed. note:* This paper was originally presented by the author at the 42nd annual Bitburger Discussions in Germany on January 10, 2004. I am grateful to Leslie Matthews and the staff at TRANSLATIONS UNLIMITED for the job well done on the translation of Professor Spieker's article.
1. The social encyclicals that are examined hereafter will all be found in the volume *Texte zur katholischen Soziallehre. Die sozialen Rundschreiben der Päpste und andere kirchliche Dokumente* [Texts on Catholic Social Theory. The Social Encyclicals of the Popes and Other Church Documents], introductions by Oswald von Nell-Breuning and Johannes Schasching, 8th ed., (n.p.: Catholic Employees Movement of Germany, 1992). For the property ethics of the Protestant Church of Germany [EKD], cf. the memorial of the EKD *Gemeinwohl und Eigennutz* [Common Weal and Self-Interest], (Gütersloh: Chancellor's Office of the EKD, 1991), 95; the memorial “Eigentumsbildung in sozialer Verantwortung [Property Formation in Social Responsibility] of 1962,” in *Die Denkschriften der EKD* [The Memorials of the EKD], vol. 2 (Gütersloh: Chancellor's Office of the EKD, 1978), 19; the *Protestant Catechism for Adults*, 5th ed. (Gütersloh: Chancellor's Office of the EKD, 1989), 673; Martin Honecker, *Grundriss der Sozialethik* [Fundamentals of Social Ethics] (Berlin: Walter de Gruyter, 1995), 471; and Theodor Strohm, “Eigentum [Property], II. Theology and Social Ethics,” in *Evangelisches*

- Staatslexikon* [Protestant Lexicon of Government], ed. Roman Herzog, et al., 3rd ed. (Stuttgart: Kreuz-Verlag, 1987), 686.
2. Abbreviations: *AAS: Acta Apostolicae Sedis* (Vatican City: Official Publication of the Holy See), 1909.
CA: Centesimus Annus (John Paul II, 1991)
CL: Christifideles Laici (John Paul II, 1988)
GS: Gaudium et Spes (Pastoral Constitution of the Second Vatican Council on the Church in the World Today, 1965)
CCC: Catechism of the Catholic Church, 1993
LC: Libertatis Conscientia (Instruction to the Congregation for the Doctrine of the Faith on Christian Freedom and Liberation, 1986)
LE: Laborem Exercens (John Paul II, 1981)
Guidelines: Congregation for Catholic Education (Guidelines for Study and Teaching of the Social Theory of the Church in the Training of Priests, 30 Dec 1988).
MM: Mater et Magistra (John XXIII, 1961)
OA: Octogesima Adveniens (Paul VI, 1971)
PP: Populorum Progressio (Paul VI, 1967)
PT: Pacem in Terris (John XXIII, 1963)
QA: Quadragesimo Anno (Pius XI, 1931)
RN: Rerum Novarum (Leo XIII, 1891)
SRS: Sollicitudo Rei Socialis (John Paul II, 1987)
 3. Thomas Aquinas, *Summa Theologica* II-II, 66, a.2.
 4. Aristotle, *Politics* 1261a.
 5. John Locke, *Second Treatise of Government* II.27, 32.
 6. Wilhelm Emmanuel von Ketteler, "The Catholic Theory of Property," in *Texte zur katholischen Soziallehre* [Texts on Catholic Social Theory], vol. 2 (Cologne: Catholic Employees Movement, 1976), 87.
 7. Helmut Sorgenfrei, *Die geistesgeschichtlichen Hintergründe der Sozialenzyklika Rerum Novarum* [The Intellectual Historical Background of the Social Encyclical *Rerum Novarum*] (Heidelberg: F. H. Kerle, 1970), 114, 146, 155; Friedrich Beutter, *Die Eigentumsbegründung in der Moraltheologie des 19. Jahrhunderts* [The Justification of Property in the Moral Theory of the Nineteenth Century] (München: F. Schöningh, 1971), 74 and *passim*; Oswald von Nell-Breuning,

Soziallehre der Kirche. Erläuterungen der lehramtlichen Dokumente [The Social Theory of the Church. Explanations of the Official Teaching Documents], 2d ed. (Vienna: Europaverlag, 1978), 33. Nell-Breuning speaks of a “wicked blemish, that the work encyclical begins with such an apology for property.” Cf. also M. Honecker, *Grundriss der Sozialethik*, 481.

8. Cf. also the memorial of the EKD “Common Weal and Self-Interest,” no. 137; Th. Strohm, “Eigentum, II,” 687.
9. “Common Weal and Self-Interest,” nos. 130, 132; “Property Formation in Social Responsibility,” 21.
10. Cf., for this, also Joseph Kardinal Höffner, *Christliche Gesellschaftslehre* [Christian Social Theory] (Kevelaer: Rheinland, Butzon & Bercker, 1965), 163; and the memorial of the EKD “Common Weal and Self-Interest,” no. 134.
11. Cf. Jean-Yves Calvez und Jacques Perrin, *Kirche und Wirtschaftsgesellschaft, Die Soziallehre der Päpste von Leo XIII bis zu Johannes XXIII* [Church and Economic Society, the Social Theory of the Popes from Leo XIII to John XXIII], vol. 2 (Recklinghausen: Paulus Verlag, 1965), 49; Johannes Messner, *Das Naturrecht, Handbuch der Gesellschaftsethik, Staatsethik und Wirtschaftsethik* [Natural Law, A Manual of Social Ethics, Government Ethics and Economic Ethics], 6th ed. (Innsbruck: Tyrolia-Verlag, 1966), 1068; Franz Klüber, *Eigentumstheorie und Eigentumspolitik, Begründung und Gestaltung des Privateigentums nach katholischer Gesellschaftslehre* [Property Theory and Property Politics, Justification and Organization of Private Property According to Catholic Social Theory] (Osnabrück: Fromm, 1963), 81; Lothar Roos, *Ordnung und Gestaltung der Wirtschaft, Grundlagen und Grundsätze der Wirtschaftsethik nach dem II. Vatikanischen Konzil* [The Ordering and Organization of the Economy, Foundations and Principles of Economic Ethics According to the Second Vatican Council] (Cologne: Bachem, 1971), 104.
12. Oswald von Nell-Breuning, *Gerechtigkeit und Freiheit, Grundzüge katholischer Soziallehre* [Justice and Freedom, An Outline of Catholic Social Theory] (Vienna: 1980), 198.
13. Thomas Aquinas, *Summa Theologica* II-II, 66, a.2, ad 1.
14. According to Joseph Kardinal Höffner, “The World Economy in Light of Catholic Social Theory,” in *Stimmen der Kirche zur Wirtschaft* [Voices of the Church on the Economy], ed. Lothar Roos (Cologne: Bachem, 1986), 37.
15. Oswald von Nell-Breuning, “Social Theory of the Church,” 144; Anton Rauscher, “The Destination of Earthly Goods for All People and Its Implementation in the Modern Economy,” in *Kirche in der Welt, Beiträge zur christlichen Gesellschaftsverantwortung* [Church in the World, Essays on Christian Social Responsibility], vol. 1 (Würzburg: Echter, 1988), 321.

16. Cf. also the memorial of the EKD “Common Weal and Self-Interest,” no. 133.
17. “The New Social Thinking for a Long-Term Reform Policy,” Declaration of the Commission on Social and Societal Issues of the German Bishops’ Conference of 12 December 2003, 16.
18. Paul Kirchhof, “Gene Research and the Freedom of Science,” in *Gentechnik und Menschenwürde* [Gene Technology and Human Dignity], ed. Otfried Höffe et al. (Cologne: DuMont, 2002), 9. Cf. also M. Honecker, *Grundriss der Sozialethik*, 487.
19. Josef Isensee, “The Legal Status of the Embryo,” in *Gene Technology and Human Dignity*, 50.
20. Cf. M. Spieker, “Between Freedom of Research and Protection of Embryos: Controversies in Bioethics,” in *Der Status des Embryos. Medizin—Ethik—Recht* [The Status of the Embryo. Medicine—Ethics—Law], ed. Rainer Beckmann and Mechthild Löhr (Würzburg: Naumann, 2003), 39.
21. *State vs. Mann*, 13 N.C. (2 Dev) 263 (1829).
22. Cf. also BV erf GE 88, 203 (252).
23. Immanuel Kant, *Metaphysics of Morals*, §28, in *Works*, ed. Wilhelm Weischedel, vol. 8, 394.
24. Cf. Robert Spaemann, *Personen. Versuche über den Unterschied zwischen “etwas” und “jemand”* [Persons. Attempts at Distinguishing Between “Something” and “Someone”] (Stuttgart: Klett-Cotta, 1996).
25. Christian Starck, “Constitutional Boundaries of Biological Science and Reproductive Medicine,” *Juristenzeitung* 37 (2002): 1067. Cf. also Starck’s “The Tiniest Citizen of the World. A Person, Not a Thing: The Embryo,” *FAZ*, 25 April 2002.
26. P. Kirchhof, “Gene Research,” 30.
27. Wolfram Höfling, “Against Reification. Even ‘Leftover’ Embryos Are Protected by the Constitution,” in *Biopolitik. Die Positionen* [Biopolitics. The Positions], ed. Christian Geyer (Frankfurt: ISP-Verlag, 2001), 246.
28. Christian Hillgruber, “The Constitutional Issues of *In Vitro* Fertilization,” *Zeitschrift für Lebensrecht* 11 (2002): 2.
29. Cf. also the memorial of the EKD “Common Weal and Self-Interest,” no. 136.
30. Which is the fundamental proposition of F. Klüber (FN 11), A. Rauscher, “Critical Comments Regarding Klüber,” 314.
31. F. Klüber, *Eigentumstheorie und Eigentumspolitik*, 107.

32. Cf. also J. Messner, *Das Naturrecht*, 1071: Although private property is in service of the commonwealth “it is likewise in service of freedom, which is itself a fundamental part of the commonwealth.”
33. Manfred Spieker, “Property and Common Weal—A Contradiction? On the Issue of Property Arrangements in the Process of German Reunification,” *Die Neue Ordnung* 46 (1992): 371; Albrecht Weber, “On the Restitution of Expropriated Assets as Reflected by German and Foreign Constitutional Jurisprudence,” in *Recht-Staat-Gemeinwohl, Festschrift für Dietrich Rauschnig*, ed. Jörn Ipsen and Edzard Schmidt-Jortzig [Law—State—Common Weal, Special Publication dedicated to Dietrich Rauschnig] (Cologne: C. Heymann, 2001), 371.
34. Cf. Hans Christian Löhr, “A Contribution of East Berlin to the Reunification,” *FAZ*, 29 September 2000; Constanze Paffrath, *Macht und Eigentum. Die Enteignungen 1945 bis 1949 im Prozess der deutschen Wiedervereinigung* [Power and Property. The Expropriations of 1945–1949 in the Process of German Reunification] (Cologne: Böhlman, 2004).
35. BVerf GE 84, 90 (122f.) and Fritz Ossenbühl, “Property Matters,” in *Handbuch des Staatsrechts der Bundesrepublik Deutschland* [Handbook of Public Law], ed., Josef Isensee and Paul Kirchhof, vol. 9 (Heidelberg: C. F. Müller Juristischer Verlag, 1997), §212, marginal note 72.
36. F. Ossenbühl, “Property Issues,” marginal notes 53, 116. Cf. also Joachim Lege, “The Bankruptcy of an Unjust State,” *Der Staat* 38 (1999): 1. Lege tries to apply bankruptcy law to the handling of restitution and compensation claims after the failure of the GDR. The victims of the confiscations of 1945–1949 are called upon in special manner, contrary to the principle of equality, to indemnify the other groups of victims.
37. *Ibid.*, marginal note 116.
38. *Ibid.*, marginal notes 94, 97, 116.
39. BVerf GE 84, 90 (126); F. Ossenbühl, *op. cit.*, marginal note 75f. and 96.
40. F. Ossenbühl, “Property Issues,” marginal note 94.
41. To be sure, a human right to private property was already previously denied by Roman Herzog, presiding judge of the First Division, which handed down the judgment on the constitutionality of the exclusion from restitution of the victims of the confiscations of 1945–1949. He sees in such a human right an attempt “primarily by the Catholic legal and social philosophy” to withdraw property from governmental lawmaking. Cf. R. Herzog, “Property. I. Constitutional,” in *Protestant Government Lexicon*, 673.

42. "Bringing Justified Claims into a Fair Settlement. A Contribution from the Council of the EKD and the German Bishops Conference to Deal with the Injustice of the Expropriations in the Former GDR of 21 October 1991," *Herder-Korrespondenz* 45 (1991): 564.
43. Friedrich Wolff, *Neues Deutschland*, 2 October 1991, cited in F. Ossenbühl, "Property Issues," marginal note 116.
44. "Charter for a New Europe, Declaration of the CSCF Meeting of Government Heads in Paris on 21 November 1990," *Europa-Archiv* 45, no. 24 (1990): D656.