

SYMPOSIUM: THE POPE'S ENCYCLICAL AND CLIMATE CHANGE POLICY
LAUDATO SI', POPE FRANCIS' CALL TO ECOLOGICAL CONVERSION: RESPONDING
TO THE CRY OF THE EARTH AND THE POOR—TOWARDS AN INTEGRAL ECOLOGY

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The recent Encyclical by Pope Francis, *Laudato Si'*, On Care for our Common Home,¹ is a remarkable document, both original and continuous within the tradition of Catholic social doctrine.² Emerging from and grounded in a very specific religious tradition and constrained by the peculiar encyclical literary form, the document nonetheless seeks to open a dialogue with “every person living on this planet,”³ about care for our common home. Using the urgency of addressing global climate change as its point of departure, the Encyclical does a superb job summarizing the scope of the present environmental crisis and the disproportionate harms suffered by vulnerable populations of the poor and excluded. It also provides a careful analysis of the root causes of environmental degradation, mapping out the complex linkages and tensions between globalization, economic growth, liberalized trade, unsustainable patterns of consumption and production, environmental degradation, involuntary migration, immiseration and growing inequality. In this respect, the Encyclical, may well come to serve as a useful position paper for the upcoming Paris climate change negotiations or as a background text for a course on climate change or sustainable development. Yet, properly understood, this is not its true purpose. Rather, in its deepest sense, the Encyclical is an appeal to all of humanity to listen to “the cry of the earth and the cry of the poor,”⁴ to reject the “throwaway” culture of consumerism, and to embrace a culture of care and a commitment to pursue integral ecology. It is, in other words, a call to ecological conversion: a call addressed not only to individuals but also to individuals-in-community.⁵ In this short essay I will begin by exploring the meaning of ecological conversion in the text. Next, I will focus on the Encyclical’s signature contribution to the evolving body of Catholic social doctrine—its recognition of the intrinsic value of nature—and discuss some important ways in which the objective of integral ecology, proposed in the Encyclical, differs from the seemingly cognate objective of sustainable development. Finally, I will touch on the relevance that the document may have for international law academics and practitioners. Recognizing that the Encyclical will seem to many to be speaking in a foreign language, I attempt to bridge the divide, and argue that there is much wisdom to be extracted from it. The introduction of the concept of integral ecology, grounded in human dignity and the intrinsic value of nature, may provide a way out of the impasse of “sustainable development,”

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¹ POPE FRANCIS, ENCYCLICAL LETTER LAUDATO SI' OF THE HOLY FATHER FRANCIS ON CARE FOR OUR COMMON HOME, para. 21 (2015).

² PONTIFICAL COUNCIL FOR JUSTICE AND PEACE, COMPENDIUM OF THE SOCIAL DOCTRINE OF THE CHURCH (2004).

³ POPE FRANCIS, *supra* note 1, at para. 3.

⁴ *Id.* at para. 49.

⁵ *Id.* at para. 219.

which contrary to its original intention, today mostly provides cover to the imperative of economic growth.⁶ Meanwhile, the call to ecological conversion serves as a radical call to action to the world's 1.2 billion Catholics, and, stripped of its religious specificity, may yet provide a powerful idiom for the many others who share the insight that the present social and environmental crisis demands not tinkering but a fundamental reassessment of our way of life and a collective commitment to re-imagine and reform the social structures that underpin it. The role of law and lawyers will be to help provide a new architecture to support the aspirations of those who heed the call.

The call to ecological conversion⁷ draws on the profound spiritual idea of conversion, which at its simplest can be described as a radical re-orientation of perspective that informs our goals and therefore guides our choices and actions. In the religious tradition, a conversion depicts both a turning point and a journey. The turn is both a turning away from and a turning towards. Paradoxically, this shift in perspective is experienced at the same time as a momentous break, away from deeply entrenched habitual patterns of thought and action, and as a minor adjustment, for in the moment of conversion we merely rediscover our original orientation and destination.

The adoption of the grammar of conversion signals the extent to which Francis recognizes the present crisis as a symptom and consequence of what theologians have termed structural or social sin. According to Pope Francis, the present crisis is both a social and an environmental crisis.⁸ In spiritual terms, the common origin of this complex crisis is a distorted understanding of our proper relationship to each other and to the natural world, resulting in a self-centered “throwaway” and consumerist culture and the globalization of an attitude of indifference. Earlier Popes had already highlighted the problem of the consumerist and wasteful culture, but Francis takes the analysis one step further, emphasizing the intimate connection between the culture's utilitarian attitude to things and its attitude to people. A throwaway culture is one that fails to recognize the core dignity of human beings or the intrinsic value of nature, and treats both as available for our use and exploitation, to be enjoyed, wasted and discarded as soon we have no further use for them.⁹ A consumerist culture is one that encourages us to consume more than is really necessary without regard to the damage our disordered desire to consume inflicts on our natural environment or the impact it has on the poor whose exploitation and dispossession undergird our present globalized system of production and consumption.¹¹ For this reason, the Encyclical emphasizes the intimate relationship between the poor and the fragility of the planet and places the poor at the heart of its message of ecological conversion.¹²

In *Laudato Si'*, Pope Francis identifies two sets of dominant social structures, which together have contributed to the emergence and globalization of the disordered throwaway and consumerist cultures that he deplores: an unfettered free-market economy and the technocratic paradigm. In a sense, this focus is not surprising. Indeed, it could be argued that modern Catholic social doctrine was born in 1891 to respond to the increasingly evident negative impacts of unfettered liberal capitalism.¹³ Francis does not pretend to be an economist; rather he gives witness to the continuing scandal of extreme poverty and growing inequality in a world

⁶ For a critical evaluation of sustainable development see Ileana Porras, *Binge Development in the Age of Fear: Scarcity, Consumption, Inequality and the Environmental Crisis*, in INTERNATIONAL LAW AND ITS DISCONTENTS: RESPONDING TO GLOBAL CRISES 25 (Barbara Stark ed., 2015).

⁷ POPE FRANCIS, *supra* note 1, at paras. 216-221. The term “ecological conversion” was used by Pope John Paul II in 2001, see POPE JOHN PAUL II, *GENERAL AUDIENCE*, para. 4 (2001), but receives its first full development in *Laudato Si'*.

⁸ POPE FRANCIS, *supra* note 1, at para. 139.

⁹ *Id.* at paras. 22, 43.

¹¹ *Id.* at para. 123.

¹² *Id.* at paras. 48-52, 216-221.

¹³ See Leo XIII's seminal, POPE LEO XIII, *RERUM NOVARUM ENCYCLICAL OF POPE LEO XIII ON CAPITAL AND LABOR* (1891).

governed by the structures of global free-market capitalism, and points to the new outrage that is accelerating environmental degradation: “The earth, our home, is beginning to look more and more like an immense pile of filth.”¹⁴ In his analysis, Francis places special emphasis on the negative impact of free-market capitalism on global inequality, noting that the high level of development and quality of life in the global north has been purchased at the expense of the environment and the people of the global south. The global north has exploited the south’s poverty to access cheap natural resources and labor and, with careless disregard for the health and wellbeing of these already impoverished communities, has left them worse off in an ever more degraded environment.¹⁵

The other primary target of Francis’ structural critique in *Laudato Si’* is what he terms the globalization of the technocratic paradigm, which is the dark side of scientific and technological advances. Francis is no Luddite, and he is careful to distinguish between the many positive contributions of science and technology to human development and its distortions.¹⁶ His concern is that science and technology have given those human beings “with the knowledge, and especially the economic resources to use them, an impressive dominance over the whole of humanity and the entire world.”¹⁷ The technocratic paradigm, radically anthropocentric, establishes a confrontational relationship with material objects based on “possession, mastery, and transformation,” and feeds the delusion of the possibility of infinite growth. The technocratic paradigm and the liberal capitalist faith in markets combine to produce two perverse effects: first, new technologies are adopted primarily with a view to realizing profit without regard to potential negative impacts on human beings or nature; and second, technocracy and capitalism give cover to the deceptive promise that devastating environmental and social problems can be solved by recourse to technology and the market. Thus, in the first place these social structures are responsible for enabling the destructive practices that produce environmental degradation and immiseration as “collateral damage,” and in the second place they encourage a culpable naiveté that the very tools that have brought us to the present crisis are sufficient to fix it.¹⁸

In contrast, Francis argues that these economic and social structures are root causes of the present crisis. Policy choices made from within these powerful and compelling structures will continue to be shaped by ruptured relationships and the disordered pursuit of growth, profit and power. Without a radical reorientation of objectives and a reform of our social structures, what we will get is more of the same, and as Francis points out, the matter is urgent.

Doomsday predictions can no longer be met with irony or disdain. We may well be leaving to coming generations debris, desolation and filth. The pace of consumption, waste and environmental change has so stretched the planet’s capacity that our contemporary lifestyle, unsustainable as it is, can only precipitate catastrophes, such as those, which even now periodically occur in different areas of the world. The effects of the present imbalance can only be reduced by our decisive action, here and now.¹⁹

To respond adequately to the crisis, according to Francis, decisive action must emerge from ecological conversion, which comports both a profound interior conversion,²⁰ and a community conversion, “for social

¹⁴ POPE FRANCIS, *supra* note 1, at para. 21.

¹⁵ *Id.* at paras. 48-52.

¹⁶ *Id.* at paras. 47, 101-114.

¹⁷ *Id.* at para. 104.

¹⁸ *Id.* at para. 123.

¹⁹ *Id.* at para. 161.

²⁰ *Id.* at para. 217.

problems must be addressed by community networks and not simply by the sum of individual good deeds.”²¹ Ecological conversion requires a radical break from the social structures that currently hold us in their pervasive logic, shape our imagination, multiply our needs, and entice us with their promise of ever more and greater comforts. At the same time, according to the tradition of conversion, ecological conversion will only be possible because it resets us on our original and proper course. The harmony that Saint Francis of Assisi experienced with all creatures is paradigmatic of authentic human life in and with nature. The break is radical, yet merely a return to our true selves. That conversion is also a journey, rather than a one-time event, is a reminder that ecological conversion is a process: there is work to be done and old habits are hard to break. What then is the decisive action that must emerge from this ecological conversion?

The path sketched out by Francis is that of integral ecology, which substitutes in the Encyclical for the more familiar figure of sustainable development. Integral ecology, like sustainable development recognizes the inter-relatedness of everything.²² The concept of sustainable development is premised on the idea that because everything is interrelated, the three competing values or objectives of economic development, environmental protection, and social equity cannot be achieved in isolation from one another. In its strongest form, sustainable development stands for the proposition that the pursuit of development that is not “sustainable” on all three fronts leads to a dead end. In practice, however, sustainable development simply requires that the competing interests be consciously weighed against each other, and the trade-offs made visible. To the extent that promoters of the principle of sustainable development hoped it would serve to install a new form of rationality, help reduce environmentally destructive practices and contribute to a more equitable world, they have been disappointed. Under the guise of sustainable development, economic values have continued to govern, constraining action mostly at the level of rhetoric. At first glance, the elements of the concept of integral ecology introduced in the Encyclical seem merely to mirror those of sustainable development, adding little of interest. Those elements include: environmental, economic and social ecology;²³ cultural ecology;²⁴ and the ecology of daily life.²⁵ The principles that underlie integral ecology are the common good²⁶ and justice between generations.²⁷ Nonetheless, I would argue, the concept of integral ecology, introduced in the Encyclical, shifts the balance in a subtle but important and potentially radical way. The key is the emphasis on “ecology,” rather than “development.” The choice of “ecology” signals a new sensibility, attentive to the web of relationships that exist between living things, nature and matter. The ecological sensibility is, in a sense, anti-anthropocentric. It stands for the proposition that human beings are not autonomous but must understand themselves as part of multiple interlocking webs of ecological relationships. The Encyclical does not abandon the Christian doctrine that human beings are unique, in that they are created in the image and likeness of God, which is the source of their human dignity. At the same time, however, it insists on the intrinsic value of nature, a value that does not depend on the utility of nature for man.²⁸ Nature, according to Francis, is created by God for God’s own enjoyment, which is the source of its intrinsic value.²⁹ The combined emphasis on the intrinsic value of nature and the adoption

²¹ *Id.* at para. 219.

²² *Id.* at para. 137.

²³ *Id.* at paras. 138-142.

²⁴ *Id.* at paras. 143-146.

²⁵ *Id.* at paras. 147-155.

²⁶ *Id.* at paras. 156-158.

²⁷ *Id.* at paras. 159-162.

²⁸ *Id.* at para. 33.

²⁹ *Id.* at paras. 67-69, 75-76, 82-94.

of the concept of ecology is the most significant contribution of Francis' Encyclical in the realm of Catholic social doctrine and to the broader debate on the present environmental crisis.

Two additional elements of Francis' analysis sharpen the distinction between the concept of integral ecology and its seeming cognate sustainable development: The principle of the common good,³⁰ which undergirds the pursuit of integral ecology, and the commitment to justice between generations.³¹ The principle of the common good is a long-standing and fundamental tenet of Catholic social doctrine, which perhaps surprisingly does not have a clear counterpart in the realm of sustainable development.

The contours of the concept of sustainable development have been shaped by its origin in the context of United Nations institutional practice, whose overarching concern is the maintenance of global peace and security. In that context, equity stands in for a thin and unarticulated conception of justice. Thus, although the principle of sustainable development seems to be permeated with references to equity, it is silent as to the source of the obligation or its scope. Indeed, while it is easy to suppose that some requirements of sustainable development, such as the essential task of eradicating poverty or the priority to be given to developing countries must be grounded in some notion of equity or justice, it is hard to pinpoint. In this respect, sustainable development's principle of common but differentiated responsibilities is still unique, in that it grounds the special obligation of developed countries to contribute to the solution, in their disproportionate historic contribution to the harm.³² In Catholic social doctrine, on the other hand, the principle of the common good has been given a greater degree of specificity. Stemming from the dignity, unity and equality of all people, the principle establishes the personal and community obligation of solidarity and a commitment to distributive justice. In this light, the principle specifically affirms the so-called social mortgage of private property in recognition of the universal destination of the world's goods.³³ According to Catholic social doctrine, the common good is the social and community dimension of the moral good, and should thus inform and give an orientation to all our social structures. In the context of integral ecology, the common good extends to future generations and thus requires a commitment to justice between generations.³⁴ At one level, the invocation of "justice between generations," parallels the sustainable development principle of inter- and intra-generational equity, familiar from the most common definition of sustainable development.³⁵ Nonetheless, even here the Encyclical strikes a rather different note, for its concern is not only with the obligation of equitable distribution of natural resources both across countries and across generations. Rather the question of justice it poses is: "What kind of world do we want to leave to those who come after us, to children who are now growing up?"³⁶ a question that returns us to the relationship the Encyclical identifies, between our dominant social structures, our throwaway and consumerist cultures, the globalization of an attitude of indifference towards people and things, and the present social and environmental crisis. In mapping out the objective of integral ecology, with its emphasis on webs of relationships, the intrinsic value of nature and the common good, the Encyclical attempts to foreclose the possibility that either environmental values or social equity should be sacrificed at the altar of economic growth.

³⁰ *Id.* at paras. 156-162.

³¹ *Id.* at para. 159-162.

³² See Ileana Porrás, *The Rio Declaration: A New Basis for International Cooperation*, 1 REV. EUR. COMMUNITY & INT'L ENV'L L. 3, 249-251 (1992). The Encyclical alludes to the principle of common but differentiated responsibilities see POPE FRANCIS, *supra* note 1, at paras. 52, 170.

³³ POPE FRANCIS, *supra* note 1, at paras. 164-184.

³⁴ *Id.* at paras. 159-162.

³⁵ See WORLD COMMISSION ON ENVIRONMENT AND DEVELOPMENT, *REPORT OF THE WORLD COMMISSION ON ENVIRONMENT AND DEVELOPMENT: OUR COMMON FUTURE*, UN Doc. A/42/427, Ch. 2 (Mar. 20, 1987)("[S]ustainable development is development that meets the needs of the present without compromising the ability of future generations to meet their own needs.").

³⁶ POPE FRANCIS, *supra* note 1, at para. 160.

Given its character as an unapologetically religious text, written in the peculiar idiom of theology, how should international legal scholars and practitioners respond to this Encyclical? In order to change course and embark on the path to integral ecology, and “escape the spiral of self-destruction which currently engulfs us,”³⁷ Francis offers some points of entry for dialogue.³⁸ In the process it becomes evident that Francis counts on law and legal institutions to facilitate the transition. The Encyclical is peppered with references to the need for more laws and regulation, better implementation, more enforcement, and better compliance. It specifically calls for more international governance; yet consistent with Catholic social doctrine it repeatedly endorses the principle of subsidiarity, including the requirement of public participation in decision making, with special emphasis on creating the conditions for the meaningful participation of the poor. Unlike unconstrained free-market capitalism and the technocratic paradigm, our legal structures are not viewed as part of the problem or as one of the social structures that have contributed to our present crisis. On the contrary, law is presented as oppositional and virtuous: “The establishment of legal framework which can set clear boundaries and ensure the protection of ecosystems has become indispensable; otherwise the new power structures based on the techno-economic paradigm may overwhelm not only our politics but also freedom and justice.”³⁹ Francis’ seemingly uncritical acceptance of the virtuous character of our legal structures, will undoubtedly strike many as naïve and unwarranted. After all there is a vast literature that critiques law’s productive complicity in supporting and promoting the very social evils that Francis and Catholic social doctrine deplore. There is no doubt that Catholic social doctrine, in so many ways a sophisticated and complex body of thought, could benefit from engaging with the work of critical legal scholars, and thereby approaching the present structures of law and legal institutions with a greater degree of healthy skepticism.

For the moment, however, rather than taking the Encyclical to task for what it fails to do, I would like to offer a more generous appreciation of its understanding of the function of law in society. Law is a social structure and must be seen as reflecting society’s deepest aspirations for the future and as providing the architecture to achieve those ends. In this sense, law is a means by which society’s ethical norms are not only expressed but transformed. The idea of the law as both product and productive reminds us that law is not an end in itself but an ever evolving means, and that what it is reaching towards is always subject to revision and contestation. In the context of *Laudato Si’s* call to ecological conversion towards integral ecology, this view of law allows us to hope, for it reminds us that law need not stand in the way of a profound transformation in the way in which human beings individually and collectively relate to and take responsibility for nature, the ecosystems that sustain life, and the natural resources on which economic development and human wellbeing depends. And it challenges us, because it requires that we design a legal architecture built on the foundation of human dignity that recognizes the intrinsic value of nature, with a clear view to integral ecology; and ordered toward the common good.

³⁷ *Id.* at paras. 163.

³⁸ *Id.* at paras. 163-201.

³⁹ *Id.* at paras. 53.