

SYMPOSIUM: THE POPE'S ENCYCLICAL AND CLIMATE CHANGE POLICY DOMINION AND STEWARDSHIP

*Dinah Shelton**

The Encyclical Letter of Pope Francis centers on an interpretation of Biblical texts that establishes human power over other creatures and the right to beneficial use of them, imposing a type of guardianship or a trust,¹ not a right of ownership.² The Pope emphasizes that message he presents is intended to be a universal one, not limited to all Catholics or even all Christians, but to “every person living on this planet.”³ The encyclical begins by reviewing several aspects of the present ecological crisis, then considers some principles drawn from the Judaeo-Christian tradition which can render commitment to the environment more coherent.

Importantly, Chapter 2, part II of the encyclical rejects the idea of “dominion”⁴ often put forward to justify harming or destroying aspects of nature. It recasts the accounts in Genesis as establishing three “fundamental and closely intertwined relationships: with God, with our neighbor and with the earth itself.”⁵ As to the third of these:

The earth was here before us and it has been given to us. This allows us to respond to the charge that Judaeo-Christian thinking, on the basis of the Genesis account which grants man “dominion” over the earth, has encouraged the unbridled exploitation of nature by painting him as domineering and destructive by nature. *This is not a correct interpretation of the Bible as understood by the Church.* Although it is true that we Christians have at times incorrectly interpreted the Scriptures, nowadays we must forcefully reject the notion that our being created in God’s image and given dominion over the earth justifies absolute domination over other creatures. . . . Each community can take from the bounty of the earth whatever it needs for subsistence, but it also has the duty to protect the earth and to ensure its fruitfulness for

* *Manatt/Abn Professor of Law, George Washington University School of Law.*

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¹ In Revelation, the twenty-four elders worship God by saying “Thou art worthy, O Lord, to receive glory and honour and power: for thou hast created all things, and for thy pleasure they are and were created.” All things being created for God’s pleasure, humans err in extinguishing any of them. In Revelation the angels are commanded not to hurt the earth, the sea, the grass of the earth, nor any green thing including any tree. Rev. 7, 9. Only humans are marked and judged, at which judgment God will “destroy them which destroy the earth.” Rev. 11:18.

² Cf. “for the earth is the Lord’s and the fullness thereof,” I Cor. 10:26. In speaking of the desolation of Egypt, God says “the river is mine and I have made it.” Ezek. 29:9.

³ POPE FRANCIS, ENCYCLICAL LETTER LAUDATO SI’ OF THE HOLY FATHER FRANCIS ON CARE FOR OUR COMMON HOME, para. 3 (2015).

⁴ “Be fruitful, and multiply, and replenish the earth, and subdue it; and have dominion over the fish of the sea, and over the fowl of the air, and over every living thing that moveth upon the earth.” Gen. 1:28. Notably, in Genesis 2 a different order of creation has God creating Adam just prior to the Garden of Eden, in which grew every tree pleasant to the sight and good for food. Adam is placed in the garden “to dress it and to keep it.” Only after this are all the animals created and named; none are found suitable to be with Adam and thus God creates woman. In this recounting of the creation, no reference is made to dominion and the guardianship of Adam over the garden is made clear in his mission to “keep” (i.e. conserve, maintain) the garden.

⁵ POPE FRANCIS, supra note 3, at para. 66 (2015).

coming generations. “The earth is the Lord’s” (Ps 24:1); to him belongs “the earth with all that is within it” (Dt 10:14). Thus God rejects every claim to absolute ownership: “The land shall not be sold in perpetuity, for the land is mine; for you are strangers and sojourners with me” (Lev 25:23).

This responsibility for God’s earth means that human beings, endowed with intelligence, must respect the laws of nature and the delicate equilibria existing between the creatures of this world for “he commanded and they were created; and he established them for ever and ever; he fixed their bounds and he set a law which cannot pass away” (Ps 148:5b-6). . . . Clearly, the Bible has no place for a tyrannical anthropocentrism unconcerned for other creatures.

Together with our obligation to use the earth’s goods responsibly, we are called to recognize that other living beings have a value of their own in God’s eyes: “by their mere existence they bless him and give him glory”, and indeed, “the Lord rejoices in all his works” (Ps 104:31).⁶

The encyclical draws on numerous other passages to expressly recognize the intrinsic value of other species and the mutual dependence of all living things:

It is not enough . . . to think of different species merely as potential “resources” to be exploited, while overlooking the fact that they have value in themselves. Each year sees the disappearance of thousands of plant and animal species which we will never know, which our children will never see, because they have been lost forever. The great majority become extinct for reasons related to human activity. Because of us, thousands of species will no longer give glory to God by their very existence, nor convey their message to us. We have no such right.⁷

In sum, “the natural environment is a collective good, the patrimony of all humanity and the responsibility of everyone.”⁸

Similar rethinking of religious doctrine has been occurring among other religious leaders, and the Pope cites to some of them, in particular the teaching of the Ecumenical Patriarch Bartholomew.⁹ The Pope does not mention, but is worth noting, that in 1983 Muslim experts undertook a study of the relationship between Islam and environmental protection. The results underscored that humans form part of the universe, whose elements are complementary to one another in an integrated whole, but humankind has a special relationship to the other parts of nature, a relationship of utilization and development. The basic principle of the biosphere is that:

God's wisdom has ordained to grant man inheritance on earth. Therefore, in addition to being part of the earth and part of the universe, man is also the executor of God's injunctions and commands. And as such he is a mere manager of the earth and not a proprietor; a beneficiary and not a disposer or ordainer. Man has been granted inheritance to manage and utilize the earth for his benefit, and for the

⁶ *Id.* at paras. 67-69. (emphasis added)

⁷ *Id.* at para. 33.

⁸ *Id.* at para. 95.

⁹ *Id.* at para. 8 (“Patriarch Bartholomew has spoken in particular of the need for each of us to repent of the ways we have harmed the planet, for “inasmuch as we all generate small ecological damage”, we are called to acknowledge “our contribution, smaller or greater, to the disfigurement and destruction of creation.” He has repeatedly stated this firmly and persuasively, challenging us to acknowledge our sins against creation: “For human beings . . . to destroy the biological diversity of God’s creation; for human beings to degrade the integrity of the earth by causing changes in its climate, by stripping the earth of its natural forests or destroying its wetlands; for human beings to contaminate the earth’s waters, its land, its air, and its life—these are sins.” For “to commit a crime against the natural world is a sin against ourselves and a sin against God.” Citations omitted.)

fulfillment of his interests. He therefore has to keep, maintain and preserve it honestly, and has to act within the limits dictated by honesty.¹⁰

Accordingly, each generation is entitled to use nature to the extent that it does not disrupt or upset the interests of future generations. Islamic principles thus envisage the protection and the conservation of basic natural elements, making protection, conservation and development of the environment and natural resources a mandatory religious duty of every Muslim.¹¹ Any deliberate or intentional damage to the natural environment and resources is forbidden.

Buddhist chronicles, dating to the third century B.C. record a sermon on Buddhism in which the son of the Emperor Asoka of India stated that “the birds of the air and the beasts have as equal a right to live and move about in any part of the land as thou. The land belongs to the people and all living beings; thou art only the guardian of it.”¹² Also worthy of note are the religious beliefs of many indigenous peoples that call for respect for all life and impose duties on individuals and the community to avoid waste or harm.¹³ According to one commentator, “indigenous peoples unanimously emphasize the spiritual nature of their relationship with the land or earth, which is basic to their existence and to their beliefs, customs, traditions, and culture.”¹⁴

Despite the traditions that would support an environmental ethic, many early environmental agreements reflected the contrary religious doctrines and cultures, adopting a utilitarian or anthropocentric orientation based on the centrality of human dominance and humankind’s unlimited right to exploit nature. These agreements stressed the protection of resources “useful” to humans and the destruction of nonuseful living creatures. Other environmental laws placed their focus on pollution, because of its impact on human health, and only later addressed issues of endangered species and protection of biological diversity. Even today, many air pollution agreements express the idea that the negative effects of such pollution on humans is the reason why action must be taken.¹⁵ Similarly, the first principle set forth in the 1992 Rio Declaration on Environment and Development proclaims that “[h]uman beings are at the center of concerns for sustainable development.”

It is in this context that the Encyclical takes on immense importance in asserting the intrinsic value of nature independently of its utility to humans. It posits a less utilitarian view of human relations with other species, a notion perhaps already reflected in those constitutions, laws, and international instruments that require the humane treatment of living creatures.¹⁶ Among international instruments the preamble of the 1979 Bern Convention on the Conservation of European Wildlife and Natural Habitats was one of the first to express a basis of environmental protection in the intrinsic value of nature: “Recognizing that wild flora and fauna constitute

¹⁰ *Islamic Principles for the Conservation of the Natural Environment*, IUCN ENVIRONMENTAL POLICY AND LAW PAPER No. 20, p. 45 (1983).

¹¹ *Id.* at 20.

¹² *THE MAHAVAMSA*, Chap. 14, quoted in, *Case Concerning the Gabčíkovo-Nagymaros Project (Hungary v. Slovakia)*, Separate Opinion of Judge Weeramantry, 1997 ICJ REP. 88, n. 41.

¹³ See J. Baird Callicott, *Traditional American Indian and Western European Attitudes Toward Nature: An Overview*, 4 ENVTL ETHICS 293 (1982); JOHNSON DONALD HUGHES, *AMERICAN INDIAN ECOLOGY* (1983).

¹⁴ Hurst Hannum, *New Developments in Indigenous Rights*, 18 VA J. INT'L L. 649, 666 (1988).

¹⁵ This is not to minimize the detrimental effects of air pollution on human health. In 2002, the WHO and UNEP estimated that between 1.4 and 1.6 billion urban residents experienced air quality that failed to meet WHO guidelines on pollution, resulting in up to half a million deaths a year. See UNEP, *Global Environmental Outlook 3* (2002); UNECE, *The 2004 Substantive Report on the Review and Assessment of Air Pollution Effects and their Recorded Trends*, UN Doc. EB.AIR/WG.1/2003/14, Rev. 1 (2004).

¹⁶ See e.g. Art. 32 of the Constitution of the German Land of Thuringia, “Animals are to be respected as living beings and fellow creatures. They will be protected from treatment inappropriate to the species and from avoidable suffering.” International and national legal texts have long protected species from inhumane treatment. See the *1968 European Convention on the Protection of Animals during International Transport* (Dec. 13, 1968), E.T.S. No. 65, and the *1979 Convention on the Conservation of European Wildlife and Natural Habitats* (Sept. 19, 1979), E.T.S. No. 104.

a natural heritage of aesthetic, scientific, cultural, recreational, economic, and intrinsic value that needs to be preserved and handed on to future generations.”¹⁷

The text demonstrates an integrated approach: the natural heritage presents a certain number of qualities important for humanity, but these do not diminish nature’s inherent value. The contracting parties to the 1992 Convention on Biological Diversity similarly profess that they are “[c]onscious of the intrinsic value of biological diversity and of the ecological, genetic, social, economic, scientific, educational, cultural, recreational and aesthetic values of biological diversity and its components.”¹⁸ This integrated approach helps create a solid foundation for environmental protection, perhaps best stated in the first phrases of the preamble of the World Charter for Nature: “Mankind is a part of nature and life depends on the uninterrupted functioning of natural systems which ensure the supply of energy and nutrients.” Or as Pope Francis states: “We have forgotten that we ourselves are dust of the earth (cf. Gen 2:7); our very bodies are made up of her elements, we breathe her air and we receive life and refreshment from her waters.”²⁰

The intrinsic value of the biosphere is integrated with an understanding that humans make up part of the universe and cannot exist without conservation of the biosphere and the ecosystems comprising it. In this perspective all components of the environment have a value not only in their short-term utility to humans, but also as indispensable elements of an interrelated system which must be protected. While the aim of human survival remains anthropocentric, humans are not viewed as apart from or above the natural universe, but as a linked and interdependent part of it. It follows that because all parts of the natural web are linked, they must all be protected and conserved. For those whose beliefs are not grounded in religion, it is in this sense that “intrinsic value” may be understood.²¹ For Catholics and perhaps others, the Pope’s encyclical provides the theological foundations for environmental protection.

¹⁷ Preamble, para. 3, Convention on the Conservation of European Wildlife and Natural Habitats (Sept. 19, 1979), E.T.S. 104.

¹⁸ Preamble, para. 1, Convention on Biological Diversity (June 5, 1992), 31 ILM 818 (1992). Other international treaties that take into account the intrinsic value of nature include the 1980 Convention for the Conservation of Antarctic Marine Living Resources (May 20, 1980), 1329 UNTS 48, the 1991 Protocol to the Antarctic Treaty on Environmental Protection (Oct. 10, 1991), 30 ILM 1455 (1991), and the 1973 Convention on International Trade in Endangered Species of Wild Fauna and Flora (Mar. 3, 1973), 993 UNTS 243.

²⁰ POPE FRANCIS, *supra* note 3, at para. 2.

²¹ There are no doubt other philosophical and ethical foundations to the conservation movement, some of which may lead to conflicting approaches. Similar problems exist in other areas of the law. During the drafting of the Universal Declaration of Human Rights, Jacques Maritain confessed that agreement could be reached on a catalogue of human rights so long as no attempt was made to agree on *why* human rights should be protected.