



## Who is going to pay for it all?

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The summer economic plan announced this week by Chancellor Rishi Sunak extends the unprecedented spending that the UK government is undertaking to manage the fallout from the Covid-19 crisis. But where will the money come from to pay for it? Catholic Social Teaching's treatment of the principles of private property and the fulfilment of contracts shows that answering that question in a way that ensures the common good is served is a complicated matter, says Patrick Riordan SJ.

As people now speculate about the possibilities opened up by the coronavirus pandemic, there is a frequently expressed hope that the 'system' might be reformed. The system is variously taken to refer to neoliberalism, globalisation, financialisation, increasing inequality, and the marginalisation of politics in the face of economic power. Capitalism is another shorthand for the system, stressing the freedom of markets and the curtailment of state interference. If reform is to happen, recent contributions to Catholic Social Teaching would insist that it needs a legal foundation: Pope Francis in *Laudato si'* (§189) echoes the demand of his predecessor Pope John Paul II in *Centesimus annus* (§42) that the free market be constrained within an appropriate juridical framework. What would a new framework look like?

The popes' authority is a moral one, and their teaching is a moral teaching, its point being to insist that legal frameworks should constrain economic activity to ensure that it serves common goods. The need for a juridical framework is to ameliorate the damage that unconstrained economic activity can do. Destruction of the natural environment, the destruction of traditional cultures with subsistence economies, creation of mass unemployment with the marginalisation of unskilled workers, reliance



on unhealthy food sources such as wet markets hosting viruses and alternative criminal means of livelihood such as people trafficking are all phenomena associated with aggressive economic activity. To facilitate the benefits of markets – reduction of mass poverty, improved life expectancy, raised quality of life – and to reduce their threatened harms, legal constraints are

required. Hence the moral demand by the popes that laws constrain economic activity and direct it to the common good. That has moral implications for the decision-making of both voters and lawmakers.

Every defender of capitalism and proponent of free markets will immediately point out that a legal framework is essential to the functioning of markets and of capitalism. No market could function in the absence of moral and legal supports. Two fundamental legal principles in particular are required for the normal economic activity of buying and selling: private property, and the enforcement of contracts.

Only where the law secures rights to property can people have the confidence to trade, assured that the seller is entitled to offer her property for sale and that the buyer can rely on protection in law for the ownership of what has been purchased. The elaboration of property

rights in a legal system can be extremely complex, and increasingly so as the nature of property develops. The details are not of concern just now: it is the principle that the protection of property in law is foundational for the functioning of markets.

The second foundational principle is that contracts entered into must be fulfilled. Without assurance that the trading partner will deliver what she promises to deliver no one would enter a deal to trade. It is the legal framework that adds bite to the moral injunctions not to deceive and not to steal. Especially where trading is done between strangers without prior relationship with one another providing a ground of mutual trust, agreements can only be entered into where there is some assurance that one will not be lied to or robbed. Some assurance is all the law can provide: a guarantee that failure to deliver will be followed by a payment of damages.

‘Thou shalt not steal; thou shalt not bear false witness!’ These moral injunctions familiar from the ten commandments (Exodus 20:2-17; Deuteronomy 5:6-12) along with the others (do not kill, do not commit adultery, do not covet) are foundational for any social existence. Without widespread compliance with these, life in society would be impossible. Without respect for property, without commitment to promise-keeping, the production, distribution and exchange of goods would be impossible. It is not surprising then that the papal moral teachers reinforce these moral norms. But the popes add another level of moral injunction: the obligation to create and maintain legal frameworks to help ensure that social and economic life are grounded on a vibrant moral core.

A juridical framework to ensure that markets serve the common good would have to include many more principles than ‘protect property’ and ‘enforce contracts’. Many familiar liberties would also find their place, such as those listed in the Universal Declaration of Human Rights –

the liberty to pursue a career, to take a job, to migrate – along with necessary constraints such as the freedom of speech and expression limited by the duty not to deceive with misinformation about products or services. Consumer protection legislation, workplace health and safety legislation, employment law, are all now part of the robust juridical framework constraining economic activity. But, we must wonder, surrounded as they are with so many legal constraints, why do markets not deliver a sustainable quality of life for everyone? Why does economic activity continue to destroy the natural environment and dehumanise and exploit and marginalise so many people?

We must look again at the desired juridical framework. I concentrate here on the two foundational values advanced by free market defenders. The point of this reflection is to become aware of the complexity of the moral demand for a juridical framework.

Since Pope Leo XIII’s *Rerum novarum* in 1891, the social teaching of the Catholic Church has defended private property in the face of a perceived threat from communism’s demand for the abolition of private property (*Rerum novarum*, §13). It is also true to say that the Church has consistently taught the duties of property, insisting that while property might be private in holding it should be common in use. The obligations of property owners include the duty to use their property to provide for human need. This is formulated as the ‘social mortgage’ on property. It is grounded in the principle of the ‘universal destination of material goods’, namely, that goods are provided by the provident Creator for the satisfaction of the needs of all humankind. John Paul II in his 1981 letter ‘On human work’ spells out the implications for this position for capitalism:

The above principle, as it was then stated and as it is still taught by the Church, *diverges* radically from the programme of *collectivism* as proclaimed by Marxism and

put into practice in various countries in the decades following the time of Leo XIII's Encyclical. At the same time it differs from the programme of *capitalism* practised by liberalism and by the political systems inspired by it. In the latter case, the difference consists in the way the right to ownership or property is understood. Christian tradition has never upheld this right as absolute and untouchable. On the contrary, it has always understood this right within the broader context of the right common to all to use the goods of the whole of creation: *the right to private property is subordinated to the right to common use*, to the fact that goods are meant for everyone. ([Laborem exercens](#), §14)

While with Thomas Aquinas it may be conceded that the efficient administration of resources is best assured by an allocation to private owners, it remains their duty to manage those resources so that their benefits are enjoyed by all. Even more, church tradition underlines the priority of the poor, that their needs be directly met ([Gaudium et spes](#), §69).

A 'strong juridical framework' might be expected to deliver on both aspects of the moral teaching on property: the securing of private property, and the obligation to use property for the good of all. The moral duty to create and maintain such a framework applies to both aspects. A tension is noticeable at this point. Historically it might be said that the Church has been most successful in upholding legal frameworks protecting the claims of property. Indeed, in many jurisdictions in which secularisation and anti-Catholic discrimination has been a matter of policy, the state has confiscated property belonging to church institutions. Church buildings, hospitals, schools, residences have been taken forcefully without compensation, and church personnel deported. It is not surprising, then, that church teaching is sensitive to the protection of property rights. But this historical dimension does not fully explain the tension.

There is a tension in the different ways that the two aspects translate into legal protection.

In protecting the claims of property and its appropriate freedoms, the liberal legislator formulates as crimes the activities that are to be prohibited. In legislating, it is always easier to formulate the negative injunctions of what may not be done. It is easier to say what is prohibited than what is permitted. Safeguarding property is done by forbidding theft, robbery, fraud; it is done by clarification as to what counts as property and as claim, and by specifying procedures, e.g. for registration of titles to property. But in supporting the moral injunction that private property should be used for the good of all, it is not so easy to formulate in positive terms what exactly should be done. Is it a better use for the common good to invest available resources in building a livelihood project that will enable a poor community to earn its own living, or to distribute those resources immediately in aid to alleviate extreme need? The latter course of action may help in the short term, but it could simply be a postponement of pressing disaster. The former may provide a longer-term solution, but at the cost of failing to save the most vulnerable immediately. There cannot be a clear formulation of duty that directs the agent to one or other course of action. It is the familiar challenge of those who take responsibility to have to make such decisions prudently. The common good would be served by either course of action. Hence the contrast and tension between the two approaches: a wrong action because directly violating a prohibition can be identified easily; but a good action in response to a positive injunction cannot be easily identified as the uniquely right, or the best action. The consequences of this can be seen in the usual debates about taxation.

Those charged with particular responsibility for the common good, the civil authorities and lawmakers, have to devise a suitable juridical framework to ensure the second part of the moral

principle enunciated by the popes, namely that property holders have obligations to use their property for the benefit of all, especially the most needy. Without wishing to suppress or supplant the philanthropic motives of the propertied, the legislators may decide on a system of taxation as the most efficient and equitable way of ensuring that property is used to meet human needs. Paul VI encourages them to do so in support of the duty to aid development: 'Government leaders, your task is to draw your communities into closer ties of solidarity with all, and to convince them that they must accept the necessary taxes on their luxuries and their wasteful expenditures in order to promote the development of nations and the preservation of peace.' (*Populorum progressio*, §47 [see also §84])

Equity and efficiency matter: a taxation system should be neither disproportionately burdensome on some sectors nor excessively costly to implement. The most productive taxes tend to be those that track frequent, regular and widespread activities: value-added, sales and income tax (along with so-called 'sin taxes' on alcohol and tobacco) channel funds from the widest cross-section of society. The reluctance to implement a wealth tax, frequently called for, is due not only to the expected political opposition, but also due to the costs involved in collecting this tax. Among those costs are legal expenses as the wealthy seek to defend their property rights that they deem violated by a wealth tax.

Not only a wealth tax is pilloried as a violation of property rights. A twenty percent income tax is interpreted by some as a form of slavery, since the employee is required to work one day in five for the benefit of others, and such loss of freedom and coercion of activity is said to be tantamount to slavery. In the implementation of a strong juridical framework to secure both parts of the property principle – that private property be secured against state depredation and that property be required to contribute to the good of all – we find that one part is used to frustrate the other. The strong defence of

property rights, reinforcing prohibitions on violations, is invoked to silence the arguments in support of duties to share. While the right to property is never defended by the Church as an absolute, but always qualified by the concern for the needy and for the common good, the popular conception of rights as inviolable makes it difficult to land the other equally important message. Our existing juridical framework is not strong enough in this regard: too many corporations and holders of wealth are allowed to avoid their duty to contribute to the common good.

Lest the impression be given that taxation is exclusively for redistribution, for fulfilment of the obligation to share, we should note the other important purposes of raising revenue for the public good. To pay for the maintenance of important infrastructure in public health, education, social services, security, defence, along with government itself, and the material demands of transport, housing and communication, the state must raise revenues and this is largely done through taxation. Perhaps, without going the whole way towards hypothecation (tax on tobacco to be used only for costs of treating lung cancer) these purposes of taxation can be argued for in terms of the benefits enjoyed by the whole community. Public goods from the enjoyment of which no one can be excluded should be the responsibility of all to support. But it is the dimension of redistribution that poses the challenge of justification. The raising of revenues from some to benefit others requires an argument couched in terms of solidarity, perhaps, but ultimately also in terms of the duty of the propertied to share wealth with those in need. This argument is too easily drowned out by the arguments in defence of property rights.

The other fundamental principle at the base of all markets is that contracts be fulfilled. Promises should be kept, and civil authorities should provide a juridical framework to secure this principle. The Church in her social teaching has upheld this principle also, but just as with the

issue of property, we find that the teaching is complex. John Paul II (1991) writes on the centenary of *Rerum Novarum*:

The principle that debts must be paid is certainly just. However, it is not right to demand or expect payment when the effect would be the imposition of political choices leading to hunger and despair for entire peoples. It cannot be expected that the debts which have been contracted should be paid at the price of unbearable sacrifices. In such cases it is necessary to find — as in fact is partly happening — ways to lighten, defer or even cancel the debt, compatible with the fundamental right of peoples to subsistence and progress. (*Centesimus annus*, §35)

That freely undertaken duties should be fulfilled is affirmed, whether it be a contract of employment or a contract to deliver goods or services, or to repay loans. On the other hand, the Church, inheriting the teaching of the Hebrew scriptures, imposes moral constraints on the enforcement of contracts (Isaiah 58:3-11; Jeremiah 7:4-7; Amos 2:6-7). It is never justifiable to take advantage of the needs of others, to use their need to extract from them commitments to pay beyond what they can afford. This is the reasoning behind the condemnation of usury: the lending at extortionate rates that the poor are forced to pay because these are the only terms on which they can borrow. The same concerns are voiced about the justifiability of employment contracts that seem to take advantage of the workers' need for some employment with an income, even though barely sufficient to meet the costs of living for themselves and their families. The counter argument that those contracts are freely entered into, that workers engage in them because they expect to be better off by doing so than by not doing so, is not taken seriously by the church teachers, since the freedom involved is compromised by need and by powerlessness. Paul VI writes in his 1967 letter 'On the development of peoples':

The teaching set forth by Our predecessor Leo XIII in *Rerum Novarum* is still valid today: when two parties are in very unequal positions, their mutual consent alone does not guarantee a fair contract; the rule of free consent remains subservient to the demands of the natural law. In *Rerum Novarum* this principle was set down with regard to a just wage for the individual worker; but it should be applied with equal force to contracts made between nations: trade relations can no longer be based solely on the principle of free, unchecked competition, for it very often creates an economic dictatorship. Free trade can be called just only when it conforms to the demands of social justice (*Populorum progressio*, §59).

Here and elsewhere the popes insist that free commitment alone is not sufficient to justify the terms of contracts. There are objective requirements that must also be met, for instance, the minimal requirements of workers to meet their and their families' needs (*Laborem exercens*, §19).

What about the looming debt following our current crisis: who will pay for it all? This question arises as we look ahead and wonder about the world post Covid-19. Conservative governments usually reluctant to have the state intervene in the economy have proved themselves exemplary Keynesians, recognising the obligation on the state to do what needs to be done to meet the crisis. Support for firms, for employers and employees, for the health service and for various sectors of society requires a huge commitment of wealth, without a definite end in sight. The government must borrow, as do many other agents, creating massive debt. Who is going to pay off this debt? If the usual answer is given, namely that the taxpayer will pay via the usual forms of taxation, then the world post Covid-19 will not be much different from the world in the decade since the credit crisis in 2008. Austerity was the catchword then. Will it be austerity for ages to come?

It would be great to have an easy, ready-made solution. Imagination and creativity will be required to devise the framework to relieve the burdens on society, especially the poor, following this crisis. From the social teaching of the Church we can offer the principles that are acknowledged by all to be foundational for economic life: property and promises. But as the teachings on those principles are complex we must highlight and foreground the neglected aspects of the principles: property holders have

duties as well as rights, duties to use their wealth to benefit all, especially those most in need; and contracts are to be fulfilled, but such contracts that are exploitative of the needs of the poor are immoral and should be renounced, not enforced.

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