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## Symposium Welcome

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# SYMPOSIUM WELCOME

ROBERT K. VISCHER\*

Welcome to the *University of St. Thomas Law Journal*'s fall symposium exploring the rise of private power and political authority. I am grateful to Megan Massie and all the student editors who have worked hard putting this together, as well as their faculty advisor, Professor Ben Carpenter, and Professor Chuck Reid, who was the moving force behind this particular symposium. I am also grateful to the scholars who are contributing to this conversation on an important and timely topic. It is especially important for a Catholic law school to be the venue for this conversation, for reasons I will briefly explain.

Five or ten years ago, you might have looked at today's symposium program and concluded, "ah, typical left-leaning concerns with private power coming out of a left-leaning legal academy." Concerns over private power, after all, meant concerns over the free market. Times have changed, though—this is definitely a bipartisan issue now. Just one week before this symposium, the Federalist Society convened its annual conference, and the theme was private and public power.<sup>1</sup> The annual Federalist debate posited the question, "RESOLVED: Concentrated corporate power is a greater threat to individual freedom than government power."<sup>2</sup> That was the debate at the Federalist Society! David Brooks recently reported from the National Conservatism convention in Florida, noting the emergence of a "new right" dedicated to "using state power to break up and humble the big corporations and to push back against coastal cultural values."<sup>3</sup> Republicans, after decades as "cheerleaders for corporate America, limited regulations, and free market orthodoxy," are now in the midst of an "anti-corporate evolution."<sup>4</sup> The rise of private power is a concern across the political spectrum, though the origins of the concern differ widely.

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1. *2021 National Lawyers Convention*, FEDERALIST SOC'Y, <https://fedsoc.org/conferences/2021-national-lawyers-convention> (last visited Jan. 28, 2022).

2. *Id.*

3. David Brooks, *The Scary Future of the American Right*, ATLANTIC (Nov. 18, 2021), <https://www.theatlantic.com/ideas/archive/2021/11/scary-future-american-right-national-conservatism-conference/620746/>.

4. Nihal Krishan, *How the GOP went from being pro-Big Business to anti-Big Tech*, WASH. EXAM'R (Nov. 14, 2021), <https://www.washingtonexaminer.com/news/how-the-gop-went-from-being-pro-big-business-to-anti-big-tech>.

This political reshuffling is largely irrelevant to Catholic social teaching, of course, as that has never really stuck to partisan scripts or red/blue categorization. So how might we frame today's conversations from the vantage point of the animating faith tradition of this law school? To be clear, the Church has not prescribed particular parameters for private power or set specific levels beyond which income inequality becomes intolerable. But the Church does have plenty to say that is relevant to today's inquiry. In *Centesimus Annus*, the 1991 papal encyclical addressing the emergence of a new economic order in the wake of the Berlin wall coming down, John Paul II explained that socialism's fundamental error was anthropological in nature.<sup>5</sup>

Socialism, he writes, "considers the individual person simply as an element, a molecule within the social organism, so that the good of the individual is completely subordinated to the functioning of the socio-economic mechanism," and socialism "maintains that the good of the individual can be realized without reference to his free choice . . . Man is thus reduced to a series of social relationships, and the concept of the person as the autonomous subject of moral decision disappears, the very subject whose decisions build the social order."<sup>6</sup> Might this description also fit some instances in which private power is wielded in the world today?

Even the reasons underlying the Church's embrace of democracy may be a bit more awkward of a fit today. John Paul II writes that

the Church values the democratic system inasmuch as it ensures the participation of citizens in making political choices, guarantees to the governed the possibility both of electing and holding accountable those who govern them . . . Thus she cannot encourage the formation of narrow ruling groups which usurp the power of the State for individual interests or for ideological ends.<sup>7</sup>

What does this mean in terms of how the church might evaluate our democracy in 2021?

Finally, John Paul II extols the virtues of intermediate communities—the various organizations and entities that lie between the individual and the state—because they are “real communities of persons” that “prevent society from becoming an anonymous and impersonal mass.”<sup>8</sup> At what point do the organizations that lie between the individual and state become akin to the state, and thus become “an anonymous and impersonal mass?”<sup>9</sup>

Are the answers clear? Hardly. That's why we've convened this gathering of scholars who have reflected deeply on these questions. I'm grateful for their willingness to guide our exploration.

5. Pope John Paul II, *Centesimus Annus*, VATICAN ¶ 13 (1991).

6. *Id.*

7. *Id.* ¶ 46.

8. *Id.* ¶ 49.

9. *Id.*