

## ESSAYS

### RELIGIOUS VALUES AND CORPORATE DECISION MAKING: THE ECONOMY OF COMMUNION PROJECT

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#### INTRODUCTION

Recently some of the legal, economic and management literature has begun to explore the numerous complex questions and concerns that arise with the prospect of integrating religious perspectives, values and frameworks into business life. From economic and legal perspectives, does integration of religious perspectives threaten the integrity of current business structures? From a religious perspective, might integration of religious beliefs and communities lead to their being manipulated for commercial purposes, thus threatening their authenticity and integrity?<sup>1</sup>

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1. The post 2004-election holiday-season culture wars illustrate the tension well. On the one hand, increasing numbers of Christians organized to protest what they perceive to be an increasingly commercial and "determinedly secular" tilt in community celebrations of Christmas and in department store advertising. See, e.g., Kirk Johnson, *A Question of Faith for a Holiday Parade*, N.Y. TIMES, Dec. 6, 2004, at A1 (describing Christian protests at the holiday parade in Denver, Colorado: "The star was Santa, not Jesus, and the mood was bouncy, commercial, and determinedly secular."); Allen G. Breed, "Merry Christmas" — or No Sale, CBSNews.com, Dec. 16, 2004, <http://www.cbsnews.com/stories/2004/12/16/national/main661383.shtml> (discussing the California Committee to Save Merry Christmas boycott of Macy's because it replaced "Merry Christmas" signs with ones wishing "Seasons Greetings" and "Happy Holidays."). On the other hand, for those who take seriously that Christmas marks the

In all aspects of the inquiry, the move from abstract theoretical principles to practical implementation seems to be extremely difficult.<sup>2</sup> Even if one could map out religion's potentially powerful impact on business life, how should such principles be applied?

This brief overview of the "Economy of Communion" project hopes to respond to some of these concerns. As its history and development illustrate, the project emerged not so much from a desire to find solutions or sources of orientation for the problems of business life, but rather from the practical experience of a particular community that intuited the capacity for business endeavors to further nourish the life of the community and to express its religious values. Because a well-developed cultural reality informed by religious values preceded the business experience, the project can effectively illustrate an organic and authentic connection between the religious and business dimensions.

In response to the concerns about bridging theory and practice, the Economy of Communion project is, at this point in its development, in some sense an invitation to shift the focus of intellectual inquiry. Rather than starting from the question of how to concretize abstract principles, it challenges academics to move from practice to theory. More than 700 Economy of Communion businesses are already operating in various sectors of production and service, on every continent. While many are small and medium sized, they are authentic "laboratories" that can be studied and from which principles can be drawn.

Certainly the project is not without a theoretical basis. The participants in the Economy of Communion project would be the first to say that it owes its success to the religious and cultural humus in which

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incarnation of God born into vulnerable poverty, there is something disconcerting about the use of religious symbolism to promote what seem to be in essence commercial goals. *See, e.g.,* *Lynch v. Donnelly*, 465 U.S. 668, 694 (1984) (Brennan, J. dissenting) (reducing the crèche to a mere "traditional symbol" was "offensive to those for whom the crèche has profound significance"); *id.* at 727 (Blackmun, J. dissenting) (describing as a Pyrrhic victory permission to include the crèche in a town holiday display when relegated to "the role of a neutral harbinger of the holiday season, useful for commercial purposes, but devoid of inherent meaning").

2. *See, e.g.,* Mark Sargent, *Competing Visions of the Corporation in Catholic Social Thought*, 1 J. CATH. SOC. THOUGHT 561, 592 (2004) ("A broad frame of reference exists, but translation of the abstract theological and moral principles of [Catholic Social Thought] into legal theory and specific recommendations for legal reform has not yet begun").

it is grounded. Nonetheless, for economists and legal scholars, the invitation is to move from the question of how to implement abstract theory, toward an appreciation of the social, economic, and legal structures already operating within the living model—and to let the fact that these businesses actually function within market structures challenge some of the most deeply held assumptions about business life.

This overview begins with some background on the history of the project and the principles which now guide its continued efforts. Professor Bruni then interfaces the project's theoretical underpinnings with some salient themes in economic history and current trends in economic theory. Professor Uelmen then briefly touches on how the project might inform some aspects of legal theory. The analysis is in no way comprehensive, but hopes to signal promising paths for further and more in-depth research and analysis.

## I. THE ECONOMY OF COMMUNION: AN OVERVIEW

### A. Brief History

The Economy of Communion project came to life in the cultural humus of the Focolare Movement, one of the international ecclesial movements in the Catholic Church, which began in Italy during World War II.<sup>3</sup> *Focolare* — which means “fireplace” in Italian — was the nickname given to the initial group because of the warm family-

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3. For general information and a broad overview, the Focolare Movement's official international website is particularly helpful, Focolare, <http://www.focolare.org> [in Italian, “Movimento dei Focolari”]. For background information on the Focolare Movement see Focolare, <http://www.focolare.org> (follow “English” hyperlink; then follow “Focolare in Brief” hyperlink). The most comprehensive history in Italian thus far is ENZO FONDI & MICHELE ZANZUCCHI, *UN POPOLO NATO DAL VANGELO: CHIARA LUBICH E I FOCOLARI* (San Paolo Edizioni 2003). The most comprehensive overview in English thus far is JIM GALLAGHER, *A WOMAN'S WORK* (New City Press 1997). See also CHIARA LUBICH, *THE CRY OF JESUS CRUCIFIED AND FORSAKEN IN THE HISTORY AND LIFE OF THE FOCOLARE MOVEMENT* (New City Press 2001) (includes historical elements as well as theological reflection); LORNA GOLD, *THE SHARING ECONOMY: SOLIDARITY NETWORKS TRANSFORMING GLOBALISATION* 48-68 (2004). For a brief sketch of the life of the founder, see Amelia J. Uelmen, *Chiara Lubich: A Life for Unity*, 8:1 LOGOS 52 (Winter 2005).

atmosphere that people found at the first informal gatherings.<sup>4</sup> Its specific aim is to work for unity within the Catholic Church and among Christians of different churches, and for relationships of peace and understanding between people of different religions, cultures, and social backgrounds.<sup>5</sup>

For years, the people of the movement have been making the effort to put into practice the life of the Gospel, particularly the New Commandment, "Love one another as I have loved you" (John 13:34). Inspired by the example of the first Christian community (Acts 2:44-45), one specific result was a communion of spiritual and material goods, initially aimed at meeting the basic needs of the poor in their heavily bombed city.<sup>6</sup> Living the words of scripture, "Give and it will be given to you," (Luke 6:38) the initial group saw food, clothing and medicine arrive in abundance.<sup>7</sup>

Over the years, what emerged from their lifestyle was not only a more equal distribution of goods, but also a profound cultural intuition — that the essence of human experience is to be "in communion."<sup>8</sup> It found in the image of God, who is love, and who for Christians is a communion of persons, the Trinity, the map for all human relationships. In the core of our being, our deepest fulfillment is found in a life of communion, in loving, in giving.<sup>9</sup> Like a divine immigrant, Jesus brought to earth the customs, the culture of heaven — of the life of communion as lived in the Trinity — and he wants to share this life with

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4. GALLAGHER, *supra* note 3, at 35-36.

5. Focolare, <http://www.focolare.org> (follow "English" hyperlink; then follow "Focolare in Brief" hyperlink; then follow "Its origins" hyperlink).

6. CHIARA LUBICH, *L'ECONOMIA DI COMUNIONE: STORIA E PROFEZIA 16-17* (Città Nuova 2001).

7. *Id.* at 17 (from the discourse on the occasion of the conferral of an honorary degree in economics at the Catholic University of Piacenza).

8. See generally Vera Araújo, *Personal and Societal Prerequisites of the Economy of Communion*, in *THE ECONOMY OF COMMUNION*, 24 (Luigino Bruni ed., New City Press 2002). One could also add numerous citations to Catholic Church documents, and certainly parallels in other Christian traditions which elaborate this principle. See, e.g., sources cited *infra* notes 9, 10, 14 & 16.

9. Araújo, *supra* note 8, at 27; JUDITH POVILUS, *UNITED IN HIS NAME* 65-66 (New City Press 1985) (quoting Lubich). See also PONTIFICAL COUNCIL FOR JUSTICE AND PEACE, *COMPENDIUM OF THE SOCIAL DOCTRINE OF THE CHURCH*, paragraphs 30-37 (discussing Trinitarian love as the origin and goal of the human person); GOLD, *supra* note 3, at 61-64.

us.<sup>10</sup> From the Gospel of John, “As the Father has loved me, so I have loved you” (John 15:9); “such as my love has been for you, so also must your love be for one another.” (John 13:34; see also John 15:12-17).<sup>11</sup>

As the Focolare people spread throughout the globe, they continued their efforts to love one another concretely, and also tried to meet the needs of the poor in their communities. But the needs often outweighed the resources. In 1991 when the founder, Chiara Lubich, visited the community in San Paolo, Brazil, she was struck by the marked contrast of skyscrapers surrounded by slums, where Focolare people lived. She was also touched by the ardent desire of many to have a more effective impact in addressing the social problems of their country.<sup>12</sup>

As Lubich reflected with them, they began to see new possibilities.<sup>13</sup> Why not start businesses — normal, for-profit businesses — which could augment employment possibilities and create profits.

10. See CHIARA LUBICH, *SPIRITUALITÀ DELL'UNITÀ E VITA TRINITARIA* [The Spirituality of Unity and Trinitarian Life], 26 *NUOVA UMANITÀ* 11, 12-13 (2004); CHIARA LUBICH, *LA DOTTRINA SPIRITUALE* [The Spiritual Doctrine] 142 (Mondadori 2001).

11. See MARISA CERINI, *GOD WHO IS LOVE* 43-44 (New City Press 1992). As John Paul II recently encouraged in the apostolic letter, *Novo Millennio Ineunte*,

Before making practical plans, we need to *promote a spirituality of communion* . . .

A spirituality of communion . . . means an ability to think of our brothers and sisters . . . as ‘those who are a part of me.’ This makes us able to share their joys and sufferings, to sense their desires and attend to their needs . . . . A spirituality of communion implies also the ability to see what is positive in others, to welcome it . . . as a gift from God . . . as a ‘gift for me’ . . . . A spirituality of communion means, finally, to know how to ‘make room’ for our brothers and sisters, bearing ‘each other’s burdens.’ Gal 6:2.

12. LUBICH, *STORIA E PROFEZIA*, *supra* note 6, at 12-13. See also Chiara Lubich, *The Experience of the “Economy of Communion”: A Proposal of Economic Action from the Spirituality of Communion*, in *THE ECONOMY OF COMMUNION*, *supra* note 8, at 15-16.

13. One of the sources for their reflection was the then recent encyclical, *Centesimus Annus* [The Hundredth Year] (“CA”), promulgated by Pope John Paul II in May 1991, on the hundredth anniversary of the first social encyclical, *Rerum Novarum*. An “encyclical” is literally a “circular letter” (from the Greek *egkyklios*, *kyklos*, meaning a circle). It refers to a pastoral letter written by the Pope to the entire Church, generally concerning matters of doctrine, morals or discipline, or significant commemorations. The formal title is taken from the first few words of its official text, usually in Latin. See Michael Glazier & Monika K. Hellwig eds., *THE MODERN CATHOLIC ENCYCLOPEDIA* 279 (1994). The full texts of all of the encyclicals cited here are available online through the Vatican website, [www.vatican.va](http://www.vatican.va).

The profits could be divided in three equal parts and used for direct aid for the poor, educational projects which could help further a culture of communion, and development of the businesses.<sup>14</sup>

Fifteen years later, more than 700 businesses follow the Economy of Communion model.<sup>15</sup> Most are small and medium size, but some have more than 100 employees. They function in various sectors of production and service, and are located on every continent.<sup>16</sup> The forty-five businesses in the United States include an import-export business, a law office, an environmental consulting firm, a tutoring business, a violin shop, an accounting firm, an apparel labeling shop, a goat farm,

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14. LUBICH, STORIA E PROFEZIA, *supra* note 6, at 10-13; Lubich, *The Experience of the "Economy of Communion," supra* note 12, at 15-16. See also Alberto Ferrucci, *The Economy of Sharing in Freedom*, LIVING CITY, Feb. 1998, at 26-27 (tracing history of the project's development). Note that for the first few years of the project, the North American translation of the project was "Economy of Sharing." With the 2002 publication of the English translation of a series of essays about the project, the name was changed to Economy of Communion. See Lorna Gold, *Translator's Note*, in THE ECONOMY OF COMMUNION, *supra* note 8, at 7 (finding the term "sharing" too reductive and narrow to express the deeper nature of the project). See generally GOLD, *supra* note 3, at 82-90.

15. GOLD, *supra* note 3, at 91-100 (discussing numbers, types and geographic locations of businesses).

16. For general information about the project, the best resource is the international website, which includes the history of the project, academic conferences, scholarship on the topic, an index of student theses written thus far, and other up-to-date data. See, e.g., *The Economy of Communion*, <http://www.edc-online.org> (follow the "English" hyperlink; then follow "The Idea" hyperlink). The most complete analysis in English thus far is GOLD, *supra* note 3. The Focolare magazines, *Città Nuova* (Italy, with extensive coverage of international events) and *Living City* (North America) also frequently feature stories about individual businesses and the project's development. See, e.g., Michele Zanzucchi, *10 Years from Its Beginning: Special on the Economy of Communion*, LIVING CITY, July 2001, at 6-9 (reporting on the Rome conference to mark the project's tenth anniversary); Oreste Palotti, *Golden Fruits*, LIVING CITY, Dec. 1999, at 20 (describing an Italian agricultural business); Caterina Ruggiu, *The Story of Bangko Kabayan*, LIVING CITY, May 1999, at 20 (describing a Filipino rural bank); Elaine Borgogna, *Pizza, Pasta and More*, LIVING CITY, Oct. 1997, at 16 (describing a Filipino pizzeria); Ericilia T. Fiorelli, *A Silent Partner: The Experience of a Brazilian Company*, LIVING CITY, Aug./Sept. 2002, at 24 (describing a Brazilian environmentally friendly cleaning products company); Caterina Ruggiu, *A Warm Welcome in Rome*, LIVING CITY, Feb. 2001, at 20 (describing a bed & breakfast); Rocco Femia, *A Dream Come True*, LIVING CITY, July 1996, at 11 (describing a French plastic manufacturing company).

several restaurants, and a chocolate factory.<sup>17</sup>

B. The Life of Communion in the Internal Operations of the Business

Economy of Communion businesses commit themselves to following management principles that enable them to bring Gospel values to bear on their day-to-day decisions while working within market structures.<sup>18</sup> Cornerstones of business operations include ethical relationships with the government and with labor unions.<sup>19</sup> The businesses foster communion with employees by paying particular attention to their health, well-being, and development.<sup>20</sup> Communion

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17. See Claudia Cosenza, *Like a Post in the Fence Line*, LIVING CITY, Aug./Sept. 2002, at 22 (discussing "First Fruits" California goat farm); Mary Cass, *Petrucci's Ristorante Italiano*, LIVING CITY, Jan. 1996, at 16 (discussing a Los Angeles pizzeria). See also Maria Dalgarno, *Colortec: Doing Business in a New Way*, LIVING CITY, Aug./Sept. 2002, at 21 (discussing a silk screening company in Vancouver, Canada).

18. See LUBICH, *STORIA E PROFEZIA*, *supra* note 6, at 25-27; *id.* at 53 ("The culture of giving does not mean only sharing profits, or giving things such as jewels or property. It is not this. It is the kind of giving that we have learned from the Gospel, which means to love everyone. Therefore, a culture of love: to love also one's employees, competitors, clients, suppliers — everyone. The lifestyle of the business must change completely, everything must be based on the Gospel, otherwise we do not have the Economy of Communion") (from a conversation in Prague, Czech Republic, 2001) (here, and where other original sources are in Italian, the translations are our own); The Economy of Communion, <http://www.edc-online.org> (follow "English" hyperlink; then follow "The Businesses" hyperlink; then follow "ethics" hyperlink) (discussing ethical principles); *What are the Characteristics of an Economy of Communion Business?*, LIVING CITY, July 2001, at 9 (excerpts from the 1996 Guidelines for Managing Business Enterprises); ELISA GOLIN & GIAMPIETRO PAROLIN, *PER UN'IMPRESA A PIÙ DIMENSIONI: STRATEGIE E BILANCIO SECONDO IL METODO RAINBOWSCORE* (Città Nuova 2003) (management guide). See generally Chiara Lubich, *A Constant Giving*, LIVING CITY, Aug./Sept. 2003, at 17 ("The Economy of Communion is true to itself when everything is done out of love. It is lived where the employees, customers, suppliers, and competitors are loved, where there are no moral compromises or deceptive practices, where the environment is respected and protected, and where owners of different businesses support and help one another").

19. See The Economy of Communion, <http://www.edc-online.org> (follow "English" hyperlink; then follow "The Businesses" hyperlink; then follow "ethics" hyperlink). See generally GOLD, *supra* note 3, at 153 (listing Guidelines for Business Practice within EOC Businesses).

20. See, e.g., Ruggiu, *Bangko Kabayan*, *supra* note 16, at 21 (discussing a bank's offer of health insurance, pension benefits, and profit sharing, all uncommon for the

with consumers and the public is achieved through concern for product safety, and respect for the environment.<sup>21</sup>

Managers of a Brazilian cleaning products company provided examples which illustrate the depth with which these principles are applied. One of the managers described how he handled a meeting with a supplier who had disrupted production by delivering poor quality material.<sup>22</sup> Initially the manager attempted to terminate the arrangement. However the manager decided to pursue a different route after discussing the problem with another colleague. He recounted:

I realized I had to start again and renew my promise to love each neighbor in a real way. With this new frame of mind, I was able to greet him as if the mistake had never happened, and was able to treat his problems as if they were my own. In the course of the conversation, we found a solution, and instead of breaking off the relationship, we had the opportunity to deepen it.<sup>23</sup>

In another incident at the Brazilian cleaning products company, a manager was ready to fire an employee until one of the chemists suggested to the manager that he should first listen to the employee with greater attention. The manager reflected: "From that moment on, not only did our relationship improve, but his work did as well. It was a lesson for me not to jump at the obvious decision based on professionalism, or the market, or stress, but to recognize the importance of personal relations."<sup>24</sup>

Following these guidelines, many of the businesses have not only survived, but have thrived in the market. A Philippine rural bank moved from the 123<sup>rd</sup> to the third largest rural bank in terms of deposits. This bank was one of the few to survive the 1998 Asian financial crisis because of the trust created within and around the business.<sup>25</sup>

Economy of Communion businesses also factor in their calculations

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local market); Ruggiu, *A Warm Welcome*, *supra* note 16, at 20 (discussing a bed & breakfast's focus on creation of job opportunities for unemployed and refugees).

21. See Dalgarno, *supra* note 17, at 21 (listing examples of understanding and going beyond employees' mistakes).

22. Ericilia T. Fiorelli, *A Silent Partner: The Experience of a Brazilian Company*, LIVING CITY, Aug. / Sept. 2002, at 24-25.

23. *Id.*

24. *Id.* at 25.

25. See Ruggiu, *Bangko Kabayan*, *supra* note 16, at 21-22.



a new element — God's loving intervention, which often arrives in the form of unexpected clients, revenue, or ideas for new products.<sup>26</sup> For example, a California goat farm was threatened by a wildfire and experienced God's intervention through an unexpected wind that averted the blaze.<sup>27</sup>

C. A Life of Communion in which the Poor are Active Participants

Another striking aspect of the Economy of Communion project is the way in which everyone involved is given equal consideration. Those who receive help are not considered "assisted" or "beneficiaries." Rather they are regarded as active participants in the project, all part of the same community, who also live the culture of giving.<sup>28</sup> The emphasis is not on philanthropy, but on sharing, in that each person gives and receives with equal dignity.<sup>29</sup> As a Brazilian collaborator with the Economy of Communion project recently explained:

It is not merely a question of reaching the right persons and of giving priority to the most urgent needs . . . . It also involves making sure that the assistance be part of a fraternal rapport that does not tolerate positions of inferiority and superiority because it sees the other person as 'another me,' as a brother, and this is possible due to the

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26. LUBICH, STORIA E PROFEZIA, *supra* note 6, at 27. See, e.g., Ferrucci, *supra* note 14, at 27 (reporting Filipino entrepreneur's explanation for why her business had become the number one consulting firm in its field in Southeast Asia after just five years in operation: "God has helped us because we want to help many brothers and sisters in need").

27. Cosenza, *supra* note 17, at 23.

28. LUBICH, STORIA E PROFEZIA, *supra* note 6, at 26. Additionally, Caterina Mulatero writes:

According to the Economy of Sharing, the business people, the industrialists, the workers and the needy are all part of the same reality, the same community wherein people are brother and sisters, and there is no distance between those who give and those who receive. In a community of this kind, wherein people love one another and have the Trinity as the model of their relationships, all are givers, all are active members, builders — even though with different roles and functions — of a more just society where the *culture of giving* permeates every aspect of life.

Caterino Mulatero, *An Important Aspect of the Economy of Sharing: The Needy are Full Participants in This Initiative*, LIVING CITY, May 2001, at 14-15.

29. LUBICH, STORIA E PROFEZIA, *supra* note 6, at 26.

fact that we are dealing with persons who know how to share.<sup>30</sup>

Under this scenario one may be both the recipient and giver of goodwill and in both instances be treated with equal dignity and consideration.

As with the initial Focolare communities facing the hunger and poverty of World War II, those in need and those with resources to share are invited to sit at the same table.<sup>31</sup> Those assisted by the Economy of Communion are not an anonymous mass, but share in a relationship of equality and community with everyone.<sup>32</sup> Similarly, the Economy of Communion entrepreneurs are not considered as "the rich" who share their surplus, rather in a way they are the first to live poverty, in an "evangelical" sense. This is because of their readiness to put their goods into communion and to face, out of love, the risks of business.<sup>33</sup>

Though participants such as entrepreneurs offer tangible goods and absorb the obvious risks, some may wonder, what do those without material resources have to give? First, they bring to the whole project a profound awareness of the fact that the gift of self is the most precious of all. Giving need not be confined to material or quantifiable items, rather understanding, attention, forgiveness, a smile, time, talents, ideas, and help are also gifts to share. This theory of giving resonates well with the culture of communion which rests on the premise that everyone has something to give.<sup>34</sup> Even if one lacks material resources, sharing

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30. Benedetto Gui, *Sharing in Fraternity*, 19 ECONOMY OF COMMUNION NEWSLETTER 11 (2003) (interview with Margarida Silveira Silva, the coordinator of a network of social development projects in Vargem Grande, Brazil). See also Benedetto Gui, *Sharing That Builds Universal Brotherhood*, LIVING CITY, June 2004, at 20.

31. CHIARA LUBICH, LA DOTTRINA SPIRITUALE 46 (2001) ("We would read, 'whatever you do to the least of my brothers, you do it to me' (Mt. 25:40). The people around us, because of the terrible circumstances, were hungry, thirsty, wounded, without clothes, homeless. We would cook big pots of soup that we would then distribute. At times the poor would knock on our door and we would invite them to sit next to us [at the table]: a poor person then one of us, a poor person, then one of us").

32. See, e.g., Gui, *supra* note 30, at 20 (interview with Margarida Silveira Silva).

33. See, e.g., Ferrucci, *supra* note 14, at 27 ("[i]n an Economy of Sharing, capitalists become precious brothers and sisters who risk what belongs to them for the good of everyone").

34. Chiara Lubich, *Give and Gifts Will Be Given to You (Lk 6:38)*, LIVING CITY, Feb. 2001, at 23 (commenting on scripture passage: "You might tell me: but I don't have anything to give. It's not true. If we want we have real treasures to give: our free

one's needs, with dignity and sincerity, is appreciated as a gift and a contribution to increase the life of communion.<sup>35</sup> As expressed by a Croatian family of nine living in a two room apartment: "The assistance we receive means so much to us, not just because it is helping us to survive, but because by sharing our need, we can be part of this 'sacred' reality."<sup>36</sup>

In addition to sharing their needs, they may also share their experience of God's love, which reaches them through the financial help they receive, which in turn inspires deeper commitment in all of the project's participants. As a letter from Uruguay illustrates: "I have experienced the love of our heavenly Father on many occasions, but I never thought he would even help me with my teeth. Well, he did. Through the help I received I was able to take care of an infection I had. I felt so happy – as if I were the Father's favorite child . . . ."<sup>37</sup>

It is moving to see how many share the help they receive with others whose need is greater, gestures which often set off a chain of solidarity. A Brazilian woman with barely enough to meet her own needs saw that another woman's difficulties "were greater than mine," so with confidence that "God knew my situation" she gave her everything she had so the other woman could buy medicine for her daughter. She wrote to express her joy upon receiving "His reply the very next day" through the assistance from the Economy of Communion.<sup>38</sup> Another woman, who had just received an unexpected gift of vegetables, shared them with her neighbor, who in turned shared them with others.<sup>39</sup>

Many of the poor who participate in the Economy of Communion project renounce the help they had been receiving just as soon as they have the bare minimum of economic independence.<sup>40</sup> As illustrated by a

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time, our heart, our smile, our advice, our knowledge, our peace, our words, to convince those who have to give to those who do not have").

35. Mulatero, *supra* note 28, at 15.

36. *Id.* at 15-16.

37. *Id.* at 15; *see also* Gui, *supra* note 30, at 20-21 (excerpts from letters from families who received help to pay for basic utilities (Colombia), medical care (Pakistan), and burial costs (Pakistan)).

38. Carla Bozzani, Letters From Around the Globe, 19 *ECONOMY OF COMMUNION* 12 (2003).

39. Mulatero, *supra* note 28, at 15.

40. *Id.* at 16; *see also* Gui, *supra* note 30, at 20-21 ("[w]hen someone finds

letter from a young man in Nigeria, who with financial help was able to finish high school and find a better job, exclaimed: "Now it is time for me to help someone else in need, someone whom I do not know but who needs my small contribution, as I was helped. I ask God that he may always give me a heart as big as his, in order to see others' needs."<sup>41</sup>

For some, the assistance allows them to sustain their own economic endeavors: a woman from Kenya had been trying to start a small vegetable business, but was unable to pay for the proper permit, and so often spent the night in jail. With the help she received, she was able to obtain the necessary permit and bring the business ahead.<sup>42</sup> A Brazilian young man, after going through drug rehabilitation, was able to use the assistance to open a small shop; in turn he wanted to share something. He wrote: "Our economic problems have not been totally solved, but now we want to give our small contribution to help someone else."<sup>43</sup>

Contributions such as these and the subsequent self sufficiency of the recipients are not new to the Economy of Communion. In fact, the initial Economy of Communion businesses began with the active participation of people with very few material resources. Hundreds put in their small contributions, often selling chickens or other livestock to purchase "shares" for the initial capital. In 1998, a Cameroon woman named Patience did not let an initial lack of resources stop her from beginning a small chicken farm, which has now grown to include two large coops, a warehouse, an employees' lounge, and a car for deliveries. Their choice to avoid excessive use of chemicals has somewhat reduced the profit margin, but so far they are able to cover expenses and maintain the salaries of three employees — they are looking forward to generating a profit to share.<sup>44</sup>

## II. THE ECONOMY OF COMMUNION AND ECONOMIC THEORY

When placed against the backdrop of the history of economic thought and current market structures, one question is often proposed

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employment, he or she notifies us right away that they no longer need help. One family began their own cottage industry, and now they want to help someone else").

41. Mulatero, *supra* note 28, at 15.

42. ECONOMY OF SHARING (North American Newsletter), Spring 2002, at 13.

43. Mulatero, *supra* note 28, at 15.

44. ECONOMY OF SHARING, *supra* note 42, at 1-2.

and greatly debated: should the Economy of Communion businesses simply be considered a utopic anomaly? Some economic theorists and experts of other disciplines have dedicated considerable time to this question.<sup>45</sup> What follows are a few initial insights.

#### A. Spirituality and Economic Life: A Project with Deep Roots

First, it should be noted that the Focolare Movement is certainly not the first to intuit that business endeavors may express religious commitments. Throughout the history of Western civilization, spiritual movements have generated economic projects. In the Middle-Ages monasteries gave life to the first "rational" forms of economic activity, joining together culture and work (*ora et labora*).<sup>46</sup> Similarly, in the fifteenth century, the Franciscan Movement served as the backdrop for the first modern banks, the *Montes Pietatis*, which arose not to pursue profit, but to combat usury and give the poor the chance for a fresh start following financial ruin.<sup>47</sup> The Jesuits, too, provide an illustrative example of a viable economic and social project in the *Reduções* in Paraguay.<sup>48</sup> The nineteenth century also witnessed the unique

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45. See The Economy of Communion, <http://www.edc-online.org> (follow "English" hyperlink; then follow "News & Events" hyperlink) (listing recent conferences in Italy, Germany, Ireland and Brazil); The Economy of Communion, <http://www.edc-online.org> (follow "English" hyperlink; then follow "Publications" hyperlink; then follow "Online Papers" hyperlink) (listing links to the most recent international conference, held in September 2004 in Rome); Vittorio Pelligra, *The Business of Giving*, LIVING CITY, Jan. 2005, at 16 (overview of the September 2004 "New Horizons for the Economy of Communion" Rome Conference). See also Michele Zanzucchi, *The Culture of the Economy of Communion*, LIVING CITY, Aug./Sept. 2002, at 20 (discussing academic conferences on the Economy of Communion in Milan, Paris, Madrid and Lisbon); The Economy of Communion, <http://www.edc-online.org> (follow "Italiano" hyperlink; then follow "Pubblicazioni" hyperlink; then follow "Tesi di Laurea" hyperlink) (listing the doctoral and masters theses in various disciplines defended thus far).

46. See generally LUIGINO BRUNI & STEFANO ZAMAGNI, *ECONOMIA CIVILE: EFFICIENZA, EQUITÀ, FELICITÀ PUBBLICA* 31-32 (2004).

47. Stefano Zamagni, *The Market, Happiness and the "Economics of Reciprocity,"* LIVING CITY, June 2004, at 18.

48. See generally PHILIP CARAMAN, *THE LOST PARADISE* (1976). But see also later more complex critiques: Barbara Ganson, *Like Children Under Wise Parental Sway: Passive Portrayals of the Guarani Indians in European Literature and The Mission*, 3

combination of economic and spiritual objectives as most of the European hospitals and welfare institutions arose from spiritual movements. In Italy, for example, the first contract for a boy's apprenticeship was signed by Father John Bosco, the founder of the Salesians.<sup>49</sup> Given this history, it is not surprising that a new understanding of both the economic activity and culture would emerge from a modern Catholic spirituality. Deeply rooted in both economic and spiritual traditions, the Economy of Communion, properly understood, may help retrieve some of the values that economic culture has lost along the way.

Historically economic culture was mainly composed of principles espoused by classical economic theorists and which are much in line with the tenets of the Economy of Communion. In fact, it was only about a hundred years ago that the science of economics shifted and began to build on a foundation of an individualistic paradigm based on the concept of scarcity.<sup>50</sup> Today, economics is understood as a science which focuses on the best relation between scarce resources and alternative uses. This definition of economics represents a shift in the history of economic thought in which some of the more classical economic categories were in effect superseded.

Despite the shift in economic thought, an area where the Economy of Communion and classical economic theory seems to converge is the notion of happiness. The Economy of Communion holds as the center of economic activity a category which served as the foundation of much of classical economic science: *public happiness*.<sup>51</sup> Here the operative word is *public* because it highlights the reciprocal nature of happiness, as distinct from wealth: *I can be rich by myself, but to be happy I need others*.<sup>52</sup> Within the economic school of thought, public happiness has

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COLONIAL LATIN AM. HIST. REV. 399-422 (Fall 1994).

49. Don Bosco Pupils Association, <http://www.dbpc.org> (follow "About St. John Bosco" hyperlink).

50. Luigino Bruni, *Toward an Economic Rationality "Capable of Communion,"* in THE ECONOMY OF COMMUNION, *supra* note 8, at 41.

51. See generally LUIGINO BRUNI, L'ECONOMIA, LA FELICITÀ E GLI ALTRI: UN'INDAGINE SU BENI E BENESSERE (2004). See also Luigino Bruni, *Sul Consumo, Sui Beni, Sulla Felicità*, in ECONOMIA COME IMPEGNO CIVILE 103, 110-11 (Bruni & Pelligra eds. 2002); see also Bruni & Zamagni, *supra* note 46, at 68-69.

52. Bruni & Zamagni, *supra* note 46, at 68. For a detailed study on the revival of the study of the relationship between happiness and economics, see generally BRUNI,

been analyzed in a series of studies called “paradoxes of happiness in economics,” which indicated that over time and along the life cycle, happiness does not depend on income. On the contrary, these studies highlight the idea for both economic practice and theory that commodities and profits actually become welfare or happiness only within meaningful interpersonal relationships.<sup>53</sup>

Additionally, for most of the classical economists the market was considered as a “civic” moment of communal life. Rather than being opposed to civil society, the market was an expression of it. It relied on cooperation, contracts, institutions and trust — all matters engendering the principle of reciprocity. In particular, the classical Latin tradition saw economic activity as an exercise of “reciprocal assistance” and friendship; economic activity provided a context for people to express their social nature and their need for companionship in relationships of equality. Without the market the only mechanisms for obtaining something from someone else were through gift or war. Therefore, for these economists, the market was considered an alternative to war resulting in an improved possibility for peaceful communal life.<sup>54</sup>

Against the backdrop of what we know about the market today these descriptions may seem naïve or misleading, especially when one considers the power of the weapons industries in our current economy. But the point here is that the market can be an expression of social life when we are able to rediscover a common sense of community prior to bargaining. When we are able to build good and fair institutions, contracts based on genuine trust and not only on the market commodity of reputation, then in such a society market interactions need not be reduced to exploitation<sup>55</sup> but may instead have a broader and more virtuous function as was illustrated in the Middle Ages and into the nineteenth century. In this sense, the Economy of Communion project

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L'ECONOMIA, *supra* note 51; see also Bruni & Zamagni, *supra* note 46, at 243-76; Luigino Bruni, *The 'Happiness Transformation Problem' in the Cambridge Tradition*, 11 EUR. J. HIST. ECON. THOUGHT 433 (2004).

53. Bruni, *Cambridge Tradition*, *supra* note 52, at 434; BRUNI, L'ECONOMIA, *supra* note 51, at 15-20 (discussing Richard Easterlin's studies, which show that an increase in income does not result in an increase in happiness).

54. See Luigino Bruni, *The Experience of the "Economy of Communion" and Its Relation to the "Civil Economy,"* 27 COMMUNIO NO. 3 464, 473 (2000).

55. See Luigino Bruni & Robert Sugden, *Moral Canals: Trust and Social Capital in the Work of Hume, Smith and Genovesi*, 16 ECON. & PHIL. 21 (2000).

taps into a series of ideas prevalent in ancient economies.

Another somewhat more recent historical concept that the Economy of Communion project might help to retrieve and revive is a more nuanced and complex description of the identity of the entrepreneur. At the turn of the twentieth century, economists such as Thorstein Veblen distinguished the entrepreneur from the speculator. Veblen defined the entrepreneur as a person with a project, who measured the success of one's business in terms of the realization of such project. Profit was considered only a constraint or a signal of the goodness of the activity.<sup>56</sup> In contrast, the speculator is the one who embarks on a given activity for the purpose of making money; the particular material object of the activity is accidental. The speculator would change activities or even economic sectors once he discovered a more profitable way to make money.<sup>57</sup> In contrast to mere speculation, the entrepreneurs of the

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56. See THORSTEIN VEBLEN, *THE THEORY OF BUSINESS ENTERPRISE* 41-42 (1904). Veblen describes the "entrepreneur" as one who seeks to coordinate industrial processes,

with a view to economics of production and heightened serviceability . . . . In common with other men, the business man is moved by ideals of serviceability and an aspiration to make the way of life easier for his fellows. . . . [T]hroughout men's dealing with one another and with the interests of the community there runs a sense of equity, fair dealing, and workmanlike integrity; and in an uncertain degree this bent discountenances gain that is got at an undue cost to others, or without rendering some colorable equivalent. Business men are also, in a measure, guided by the ambition to effect a creditable improvement in the industrial processes which their business traffic touches.

57. See *id.* at 155-56. Veblen is careful to distinguish mere speculation from the incidental speculation inherent in all "corporation financiering":

The mere buying and selling of stocks by outsiders for a rise or a decline is of course a speculative business; it is a typical form of speculative business. But in so far as such buying and selling is carried on by the managers of the corporations whose securities are the subject of the traffic, and especially where the securities are bought and sold with a view to the control of the corporations in question and their management for private, tactical ends, a characterization of the business as "speculative" is inadequate and beside the point. This higher reach of corporation financiering has little if any more of a speculative character than what belongs to the commonplace business management of any industrial enterprise. In all business enterprise that stands in relations with the market and depends on vendibility of its output there is more or less uncertainty as to the outcome. In this sense all industrial business, as well as commercial business, has something of a speculative character. But it is little to the purpose on that account to lump industrial enterprises and corporation financiering together as "speculative business" and deal with them as if this were their most salient and consequential bearing. What speculative risk there is in these lines of business is



Economy of Communion are people with a project, or one could say a dream, to contribute through their economic activity to a more just world, to a world of communion.<sup>58</sup>

B. The Economy of Communion and Current Dilemmas in Economic Theory

Reflection on the implications of the Economy of Communion project and model has not only inspired further reflection on the retrieval of some of the classical values of economic culture, but it has also generated new insights into some of the most difficult dilemmas in current economic theory.<sup>59</sup> The following subsections set out just a few of the initial ideas.

1. Reconciling Economic Rationality and "Gratuitousness"

Some recent economics scholarship has focused on the incapacity of certain definitions of instrumental rationality to reach higher goals, such as happiness or reciprocity.<sup>60</sup> It is important to note, however, a certain intrinsic paradox in genuine social relationships: on one hand, reciprocity is essential, but its very characteristic is that it will not arrive if we expect it. Genuine happiness is grounded in gratuitous and disinterested acts of openness towards others: we need reciprocity to be happy; but at the same time, we cannot expect it.

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incidental, and it neither affords the incentive to engaging in these pursuits nor does it bound the scope of their bearing upon economic affairs.

58. See Ferrucci, *supra* note 14, at 27 (describing the Economy of Communion as an example of the social function of business as described in Christian social teaching: "capitalists become precious brothers and sisters who risk what belongs to them for the good of everyone.").

59. See The Economy of Communion, <http://www.edc-online.org> (follow "English" hyperlink; then follow "News & Events" hyperlink) (listing recent conferences in Italy, Germany, Ireland and Brazil); The Economy of Communion, <http://www.edc-online.org> (follow "Italiano" hyperlink; then follow "Pubblicazioni" hyperlink; then follow "Tesi di Laurea" hyperlink). See also Zamagni, *supra* note 47 (describing the challenge of translating the Economy of Communion project into economic science and discussing University of Bologna economics course on the economics of reciprocity).

60. See, e.g., generally John S. Dryzek, *Complexity and Rationality in Public Life*, 35 POL. STUD. 424 (1987).

Some of the scholars exploring the Economy of Communion see in the experience the capacity to reconcile the seemingly paradoxical elements. Economic transactions can seriously take into consideration this paradoxical nature of love and interpersonal relationships.<sup>61</sup> When two or more people live this paradoxical logic of reciprocal love, it generates what we call "communion." Economy of Communion businesses illustrate that it is possible to structure relationships based on the gratuitous and free gift of self — the opposite of rational egoism — and still survive on the market.

## 2. More than Corporate Social Responsibility, More than Altruism

Pushed by grassroots organizations, businesses are developing an increasing sense of social responsibility.<sup>62</sup> Businesses are beginning to take care of aspects of social life, which up until a few years ago, were considered within the ambit of the state, religious institutions, or civil society. Systems of ethical ratings and social accountability reports are just a few of the signals of this kind of development. Consumers are ever more sensitive to ethical values, respect for the natural and social environment, and especially in places where civil society is most mature, they expect businesses to conform with these values; and if not, they express their preferences by boycotting their products. In the new economy there is a strong tendency for businesses to appreciate this

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61. Many of the essays in the volume *ECONOMIA COME IMPEGNO CIVILE* revolve around these themes. See, e.g., Luca Crivelli, *Quando l'Homo Oeconomicus Diventa Reciprocans*, in *ECONOMIA COME IMPEGNO CIVILE*, *supra* note 51, at 21-43 (discussing reciprocity and gift exchange game theory); Luigino Bruni & Benedetto Gui, *Quattro Parole su Economia e Comunione*, in *ECONOMIA COME IMPEGNO CIVILE*, *supra* note 51, at 213-25 (discussing the concepts of giving, "gratuitousness," love and communion, as understood within the context of the Economy of Communion project); see also Bruni, *supra* note 50, at 63-66 (discussing the possibility of "unconditional reciprocity"); Ferrucci, *supra* note 14, at 27 (reporting comments from a conference at the London School of Economics: "We are not interested in new ways of changing the world, no matter how compelling they are. Instead, we would be very interested in working on a new model of human behavior, one that is more in line with reality than the present one which is based on rational egoism. Among the business leaders, workers and shareholders of the Economy of Sharing, a new model of the human person, who finds fulfillment in relationships rather than in rational egoism, is already in operation").

62. See Amy Uelmen, *The Economy of Communion's Contribution to Economic Theory*, *LIVING CITY*, June 2004, at 13.

social dimension. Employees of for-profits businesses are increasingly treated as non-profits treat their volunteers, in the sense that they are considered the company's most important resource. Forms of remuneration become always more symbolic and qualitative, including non-monetary incentives, and efforts to encourage the employees to identify with the mission of the business. The labor of employees can no longer be reduced to a money-machine for the stockholders.<sup>63</sup>

In a sense, developments in the past few years indicate a kind of "convergence toward the center" — capitalistic businesses founded on the profit motive are increasingly social; and non-profit volunteer initiatives are increasingly similar to businesses. It is not difficult to predict that in the not-too-distant future just about every business will need to ask itself, in what way must it become, in a certain sense, "social." Will the Economy of Communion maintain anything unique in a context where all businesses become, in a certain sense, social? Or to return to one of the concerns about the extent to which entry into the market might threaten the authenticity and integrity of religious expression, might the dimensions of the project which aim to express a culture of the gratuitous gift of self ultimately be swallowed up by what may also be articulated as simply demands of the market?

Here the principle of the gratuitous gift of self is crucial—and it is important to acknowledge that it can never be fully expressed or transformed into contract, even in its most sophisticated forms.<sup>64</sup> The Economy of Communion businesses safeguard this principle in several ways. First, they value the relationship with those who lack material resources. They are not considered a burden, but an occasion for reciprocity, and a vehicle through which the business community may experience the primary importance of the principle of brotherhood. Second, they aim to develop a business culture and governance which fosters the gratuitous gift of self that can penetrate the entire vision of the business. For this reason, it will never be enough to simply put profits in common. As one Economy of Communion businessman confided, "I could give all of the profits to the poor, and still take advantage of the others in thousands of ways." A business culture of "free gift" must be translated into the procedures and practice that

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63. See generally Bruni & Gui, *supra* note 61, at 467-68 (tracing the characteristics of the "civil economy" movement).

64. *Id.* at 218.

permeate its daily life.

Economists have long noted that in order to function, the market needs a certain dose of "free gift," but it is not able, in and of itself, to produce or replicate it.<sup>65</sup> Why? No one wants to live in a world where nurses, teachers, doctors, waiters and butchers act only within the strict limits of contract, and where one's actions are merely the execution of a limited request. In order to respond to the expectations of clients, service industries need a certain dose of non-instrumental sincerity. We want our doctors to take good care of us not only because they are executing a contract, or because they want to keep us alive so that we will be a source of future business, but also because they are genuinely concerned with our well-being. We can also suppose that when this second element is not present, our sense of satisfaction will be less. If given the choice, all other things being equal, we would prefer to find a different doctor who exhibited this additional element. Similarly, we hope that teachers discipline or praise our children not only for the salary, but also because they are genuinely interested in the growth of our children. Normal relations in the market require something more, beyond contractual relations.<sup>66</sup>

We could resign ourselves to an economic life without this additional element, but as a result, our economy and our society would certainly suffer. What we have seen in the past few years confirms that the issue of relational goods, those that depend on the *motivations* of the producers, becomes more pressing with the growth of income. As goods become more subjective and personalized, the *how* — the relationship between contracting parties — emerges as the crucial factor. Thus, genuine, non-instrumental human relationships truly become the scarce goods in advanced economies, those that everyone would like, but few know how or are able to offer. As Simone Weil reflected, "The most precious goods should not be sought out, but waited for. For man cannot find them on his own, and if he starts to seek them, he will find in their place false goods whose falsehood he will not be able to discern."<sup>67</sup>

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65. Bruni, *supra* note 50, at 65.

66. See generally Benedetto Gui, *Productive Organizations with Ideal Aims and Personal Fulfillment: Interpersonal Relations and Horizons of Meaning*, in *THE ECONOMY OF COMMUNION*, *supra* note 8, at 112-29.

67. Simone Weil, *Réflexion sur le bon usage des études scolaires en vue de l'Amour de Dieu*, in *ATTENTE DE DIEU*, available at <http://www.eleves.ens.fr/>

Finally, the culture of “gratuitousness” should not be confused with *altruism*, or philanthropy, and even less with social assistance. It does not mean being “good” or generous. Instead, it is properly understood as a cultural and spiritual attitude grounded in the understanding that one cannot be happy alone, that others are necessary for one’s happiness.<sup>68</sup> As the Italian economist Antonio Genovesi, the first economist in history to hold a chair in “civil economy” wrote 250 years ago:

If everyone were to look out for their own interest, no one would be able to do anything other than think of their happiness, and would be less a man; but if you can, in as much as you can, try to make the others happy. It’s the law of the universe that we cannot create our own happiness without looking for that of the others.<sup>69</sup>

### 3. A Model for Equality in Corporate Governance

“Market economy” is immediately associated with freedom. The

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aumonerie/seneve/automne99/sweil.html (“Les biens les plus précieux ne doivent pas être cherchés, mais attendus. Car l’homme ne peut pas les trouver par ses propres forces, et s’il se met à leur recherche, il trouvera à la place des faux biens dont il ne saura pas discerner la fausseté”).

68. The Economy of Communion model would have much to offer current psychological, economic and legal reflections on the nature and role of altruism. According to some theories, one’s seemingly altruistic acts are rooted not so much in genuine care for the happiness of others, but in the desire for the personal pleasure that results from such gestures. Thus, psychological, economic and legal literature is replete with analyses of the tension between “true altruism” and the happiness one experiences in living for others. See generally Thomas C. Galligan, Jr., *Aiding and Altruism: A Mythopsychological Analysis*, 27 U. MICH J. L. REFORM 439, 490-98 (1994). In contrast, the Economy of Communion project is grounded in a culture which sees a profound harmony between the gift of self and personal happiness. See Vera Araújo, *supra* note 8, at 23 (observing how, in the gift of self, “individuality and sociality come together”); Chiara Lubich, *The Experience of the Economy of Communion*, *supra* note 12, at 14 (“[s]ince every person is made in the image of God, who is one and three, all people have this model of the Creator within them, expressed in the instinct to enter into a relationship with others”); see also Gerard Rossé, *The Charism of Unity in the Light of the Mystical Experience of Chiara Lubich*, in AN INTRODUCTION TO THE ABBA SCHOOL: CONVERSATIONS FROM THE FOCOLARE’S INTERDISCIPLINARY STUDY CENTER 64 (New City Press 2002) (“In the gift of one to the other, each becomes for the other a source for the fullness of divine life”).

69. ANTONIO GENOVESI, AUTOBIOGRAFIA E LETTERE, 449 (Feltrinelli 1963) (1766).

birth of the modern economy, in fact, is associated with the emergence of two principles which formed the backdrop for the *ancien régime*: the principle of equality (that is, of considering all men and women as equal in rights and dignity), and above all the principle of freedom (that is, the value of the individual and his or her rights, especially the freedom to choose one's lifestyle, friends, and the things one desires). In its social foundations, pre-modern Western society was unequal: relationships were not "horizontal," but "vertical" — the principle of hierarchy prevailed.<sup>70</sup>

As a result of the industrial revolution and the cultural and social revolutions of the Enlightenment, the emergence of the market economy initiated a slow but unstoppable process in which the rigid structures of a feudal society were gradually discarded. In *Wealth of Nations*, the first modern treatise on economics, Adam Smith eloquently expressed the cultural and anthropological novelty of the market economy: when one enters into the market, one does not depend any longer in a hierarchical sense on others: the beggar on the rich, the farmer on the landlord. In the interactions of the market, one meets the others as equals, where, paying the price, one is free, emancipated, from links with others. Well known is the example of the beggar who, once able to enter into the market, does not depend any longer on the benevolence of the butcher, the brewer, or the baker, but is a free equal. Free of the urgency of one's needs, one is able to exchange with others.<sup>71</sup>

In fact, the contract, a typical instrument of the market economy, requires that the parties are both free, and in a certain sense, equal — two characteristics which are neither asked for nor required by the feudal economy, which had other mechanisms for the distribution of wealth.<sup>72</sup> For this reason, many economists have defined economics as a science which studies voluntary relationships that require free consent of

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70. One can find examples of "horizontal" relationships in the Middle-Ages—it would be enough to think of the Franciscan Movement which focused on the concept of fraternity. The fundamental dynamic of the society, however, was based on a hierarchical principle commonly referred to as "feudal society."

71. ADAM SMITH, *THE WEALTH OF NATIONS* 18 (Edwin Cannan ed., Univ. of Chicago Press 1976) (1776) ("It is not from the benevolence of the butcher, the brewer or the baker that we expect our dinner, but from their regard to their own interest. We address ourselves, not to their humanity but to their self-love, and never talk to them of our own necessities but of their advantages").

72. Such mechanisms included, for example, redistribution, raids and war.

the involved parties;<sup>73</sup> and they have highlighted how the market requires a certain freedom and equality.<sup>74</sup> In sum, the market works well in as much as its economic agents are equal and free to choose.<sup>75</sup>

The emergence of the modern market economy has been presented most of all as an affirmation of a new humanism based on a conviction which is more moral than economic — that wherever markets arrive, sooner or later, also interpersonal relationships will become more free and more equal, thus imploding feudal and caste systems.<sup>76</sup>

But there is more. For Smith, and for the other teachers of the Scottish Enlightenment,<sup>77</sup> the market was the necessary condition in

73. See, e.g., F. EDGEWORTH, *MATHEMATICAL PSYCHICS* 17 (1881) (defining economics as the study of peaceful relationships). More generally, the classic works of Adam Smith and Antonio Genovesi can be summed up as a vision in which economics is considered an alternative to war. See generally GENOVESI, *supra* note 69, and SMITH, *supra* note 71.

74. See, e.g., SMITH, *supra* note 71, at 18 (affirming that the pivotal human characteristic for a functioning economy is the capacity to persuade, in order to convince the other party that an agreement is to the other's advantage more than one's own). Smith also developed an anthropology in which the market needed 'fellow-feeling,' which he defined as the capacity to enter into a 'correspondence of sentiments' with the other party, in order to know the other's preferences, and at the same time, seize the greater portion of surplus or profit in the contract. See generally ADAM SMITH, *THE THEORY OF MORAL SENTIMENTS* (Prometheus Books 2000) (1759); see also *ECONOMICS AND HAPPINESS: FRAMING THE ANALYSIS* (Luigino Bruni & Pier Luigi Porta eds., Oxford Univ. Press 2005).

75. Certainly the mechanisms of the market also depend on concepts of authority, but the market's structure is more complex. Market interactions involve not only the contracting parties, between whom hierarchical principles do not apply, but also an external element, represented by legal authorities, who guarantee the application of sanctions. Contracts executed without such authority to guarantee sanctions could provoke inefficient economic transactions. As we know from game theory, cooperation is the result of an efficient system of sanctions, but the principle at work here is that an authority, which is external to the contracting parties, should not be confused with the principle of hierarchy.

76. For an excellent explanation of the philosophical and cultural implications of the arrival of the modern economy, see LOUIS DUMONT, *HOMO AEQUALIS* (Paris: Gallimard 1977) and LOUIS DUMONT, *HOMO HIERARCHICUS* (UP Chicago 1980) (1970).

77. See generally ADAM FERGUSON, *PRINCIPLES OF MORAL AND POLITICAL SCIENCE; BEING CHIEFLY A RETROSPECT OF LECTURES DELIVERED IN THE COLLEGE OF EDINBURGH* (1792); DAVID HUME, *AN ENQUIRY CONCERNING HUMAN UNDERSTANDING* (Elibron Classics 2005) (1739-40); see also FRANCIS HUTCHENSON, *INQUIRY INTO THE ORIGINS OF OUR IDEAS OF BEAUTY AND VIRTUE, IN TWO TREATISES* (Kessinger

order to experience free and *disinterested* human relationships, and to allow the flowering of real friendship. The market had the capacity to overcome the logic of allies and enemies, and to free actors from feudal relationships of duty and status, so as to rediscover relationships of equality, the necessary basis for friendship — for the beggar cannot be the friend of the benefactor. As Professor Silver has observed, “[a]ccording to Smith, the replacement of *necessitudo* by commercial society brings with it a morally superior form of friendship — voluntary, based on “natural sympathy,” unconstrained by necessity.”<sup>78</sup>

Commercial society allows us to choose our friendships not out of need or necessity, but freely, as a “virtue,” as Aristotle might say. In fact, friendship, to be such, cannot be reduced to various forms of dependence. Friendship requires freedom — this is an argument which still today holds all of its freshness and truth. For the first economists the market was a providential mechanism. As Adam Smith explained with the famous metaphor of the “invisible hand,” the market worked a formidable alchemy with private interests in the common good through which it is not difficult to detect the presence of “providence.”<sup>79</sup> Also today, in our globalizing world, citizens, intellectuals, and institutions look to the humanism of the market as a vehicle for the new wave of freedom.

It is ironic that right at the time when economic theorists are describing market relationships as horizontal and symmetrical rather than hierarchical, the modern business persists in its hierarchical model. In their governing structures and principles, many modern businesses are a remnant of a feudal society, certainly not in accord with the equality that the market brought and demanded.<sup>80</sup>

The Economy of Communion project proposes that businesses place, as an organizing principle, reciprocity over hierarchy. To pose

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Publishing 2003) (1725).

78. A. Silver, *Friendship in Commercial Society: Eighteenth Century Social Theory and Modern Sociology*, 95 AM. J. SOC. 1474, 1481 (1990).

79. As more explicitly affirmed in the Italian civil tradition of Giambattista Vico, Ferdinando Galiani, and Antonio Genovesi. See Luigino Bruni, “The Economics of Happiness” Seminar (Nov. 15, 2004), <http://unpan1.un.org/intradoc/groups/public/documents/caimed/unpan019404.pdf>; see also GIAMBATISTA VICO, *THE NEW SCIENCE* (David Marsh trans., Penguin 1999) (3d ed. 1744).

80. In fact, as various theories of market efficiency conclude, asymmetry among contracting parties results, with rare exceptions, in inefficiency.



communion at the heart of the economic life of the business is to affirm a principle of “brotherhood” or of reciprocity as the foundation of the business management structure. First we are equal, and then we have different functions within the organization. Such does not negate the importance of the principle of hierarchy, especially in moments in which there are conflicts of interest. It does mean, however, recognizing that *first* we are equal in dignity, and *then*, at a second level, we have different functions and tasks, and therefore different responsibilities.

Also, the participants in Economy of Communion businesses know that a reflection on governance is essential, because it is difficult, if not impossible, to live communion at the heart of organizational models centered on the hierarchical principle or based on models of an “unequal society.” This participative experience demonstrates that culture is essential. For only in this way can norms and values of communion be interiorized so that they are put into practice because they are good in themselves, and therefore followed even when they seem to contrast with immediate interests.

#### 4. Glimpses of the Market as a Place of Communion

Many who affirm the role of love in economic life have chosen to work outside of the context of the market, along the path of charities, non-governmental organizations, and foundations. In contrast, Economy of Communion businesses do not operate in the context of an “alternative” economy and instead attempt to bring the logic of love and communion into the relationships external to the business, adding to the typical relationships of the market. They live a “culture of love” immersed in the economy of the market, while producing and selling goods and services side by side with other businesses in today’s globalizing economy, unprotected from the fierce laws of competition.

The history of the idea of cooperatives reveals that this project’s intent, at least in the mind of the best theorists, was similar. John Stuart Mill, and many Italian authors, tended to see cooperation as the rule rather than the exception. Cooperation in the business was the simplest version of the cooperation which is at the basis of division of labor, and therefore, of the market. As Mill explained, “The peculiar characteristic, in short, of civilized beings, is the capacity of cooperation; and this, like other faculties, tends to improve by practice, and becomes capable of

assuming a constantly wider sphere of action.”<sup>81</sup> In contrast to Marxist theories, these economists tended to see cooperation, rather than conflicts of interest, as central to economics of the market. In the context of our globalizing economy, Mill’s “prophecy” takes on particular meaning: “there is no more certain incident of the progressive change taking place in society, than the continual growth of principle and practice of cooperation.”<sup>82</sup>

By its very existence, the Economy of Communion and its effort to bring concepts of gift and communion *into* the market, proves that the market can be multi-dimensional. It indicates the possibility that the market can become a space characterized not only by efficiency, but also by room to live out spirituality and a culture of giving, love and fraternity, on the condition that cultural foundations are laid.

### III. THE ECONOMY OF COMMUNION AND LEGAL THEORY

The fact that Economy of Communion businesses not only survive, but thrive in the market poses a challenge to some basic assumptions not only of economists, but also of corporate law theorists. Given the extent to which “law and economics” theories dominate many areas of legal analysis, the history, development and principles of the Economy of Communion project are fertile ground for re-examination of many areas of corporate legal theory. The following subsections set forth a few initial ideas.

#### A. The Dilemma of Profit-Maximization

If the Economy of Communion businesses were to look for an analogue in the history of U.S. corporate law, Henry Ford’s approach to business might be an interesting place to start. Some aspects of Henry Ford’s business plan were remarkably parallel to the Economy of Communion approach. In 1919, the Dodge brothers, two of the original shareholders in the Ford Motor Company, and subsequent competitors, brought a suit against Ford, claiming that his plan to withhold a special

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81. JOHN STUART MILL, THE PRINCIPLES OF POLITICAL ECONOMY 698 (Longmans Green and Co. 1940) (1848).

82. John Stuart Mill, *Principles of Economics*, available at <http://socserv2.socsci.mcmaster.ca/~econ/ugcm/3113/mill/prin/book4/bk4ch01>.

dividend ought to be enjoined as inimical to the best interests of the company and its shareholders.<sup>83</sup> The Economy of Communion businesses might see their own reflection in Ford's testimony: "My ambition is to employ still more men, to spread the benefits of this industrial system to the greatest possible number, to help them build up their lives and their homes. To do this we are putting the greatest share of our profits back in the business." Further, as the Michigan Supreme Court summarized, Ford thought that the Ford Motor Company had made "too much money, has had too large profits, and that, although large profits might be still earned, a sharing of them with the public, by reducing the price of the output of the company, ought to be undertaken."<sup>84</sup>

The court's response was far from a ringing endorsement of what could be described as altruistic generosity:

A business corporation is organized and carried on primarily for the profit of the stockholders. The powers of the directors are to be employed for that end. The discretion of directors is to be exercised in the choice of means to attain that end, and does not extend to a change in the end itself, to the reduction of profits, or to the non-distribution of profits among stockholders in order to devote them to other purposes.<sup>85</sup>

Under *Dodge v. Ford*, "it is not within the lawful powers of a board of directors to shape and conduct the affairs of a corporation for the merely incidental benefit of shareholders and for the primary purpose of benefiting others."<sup>86</sup>

As Milton Friedman famously put it, "The social responsibility of business is to increase its profits."<sup>87</sup> Might these stark and simple

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83. *Dodge v. Ford Motor Co.*, 170 N.W. 668 (Mich. 1919). For a history of the case, see D. Gordon Smith, *The Shareholder Primacy Norm*, 23 J. CORP. L. 277, 315-20 (1998).

84. *Dodge*, 170 N.W. at 683-84.

85. *Id.* at 684.

86. *Id.*

87. Milton Friedman, *The Social Responsibility of Business is to Increase its Profits*, N.Y. TIMES MAG., Sept. 13, 1970, at 32, 33 ("In a free enterprise, private-property system, a corporate executive is an employee of the owners of the business. He has [a] direct responsibility to his employers. That responsibility is to conduct the business in accordance with their desires, which generally will be to make as much

principles of U.S. corporate law signal the end of any conversation about possibilities for relationships of "communion" and "gratuitous gift" with other corporate stakeholders?

At this point, most would admit that the analysis is considerably more complex. Even granting the priority of the "profit-maximization" principle, only the most myopic analyses would fail to acknowledge that a corporation's long-range profitability depends on careful analysis of how the corporation's actions and decisions impact a variety of stakeholders both with and external to the company.<sup>88</sup>

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money as possible while conforming to the basic rules of society . . . . Insofar as his actions in accord with his 'social responsibility' reduce returns to stockholders, he is spending their money"). See generally, Stephen M. Bainbridge, *In Defense of the Shareholder Wealth Maximization Norm: A Reply to Professor Green*, 50 WASH. & LEE L. REV. 1423, 1423-28 (1993).

88. See, e.g., *A.P. Smith v. Barlow*, 98 A.2d 581, 586 (N.J. 1953) (In response to a shareholder's challenge of a 1951 Board Resolution authorizing the company to transfer \$1,500 to Princeton University, the New Jersey Supreme Court upheld the power of corporations to make transfers to charity, recognizing their "enlightened self interest" in assuring "a sound economic and social environment which in turn rests in no insignificant part upon free and vigorous nongovernmental institutions of learning."); ALI PRINCIPLES OF CORPORATE GOVERNANCE (1994) § 2.01 cmt. (f) (1994) ("The modern corporation by its nature creates interdependencies with a variety of groups with whom the corporation has legitimate concerns, such as employees, customers, suppliers, and members of the communities in which the corporation operates. The long-term profitability of the corporation generally depends on meeting the fair expectations of such groups"); *id.* at § 2.01 cmt. (h) ("the ethical considerations reasonably regarded as appropriate to the responsible conduct of the business necessarily include ethical responsibilities that may be owed to persons other than shareholders with whom the corporation has a legitimate concern, such as employees, customers, suppliers, and members of the communities within which the corporation operates"); see also Steven M. Bainbridge, *The Bishops and the Corporate Stakeholder Debate*, 4 VILL. J. L. & INV. MGMT. 4, 9 n. 35, available at <http://www.law.vill.edu/scholarlyresources/journals/joflawandinvgmt/docs/fall2002volume4number1.pdf> (harmonizing *Dodge* with later cases that acknowledge that shareholders' long-run interests are often served by decisions, such as charitable giving, that appear to be harmful in the short run); Bainbridge, *supra* note 87, at 1447 n.2; Nancy J. Knauer, *The Paradox of Corporate Giving: Tax Expenditures, the Nature of the Corporation, and the Social Construction of Charity*, 44 DEPAUL L. REV. 1, 24-32 (1994). As revealed in a later interview, even Milton Friedman concedes this point. See Willa Johnson, *Freedom and Philanthropy: An Interview with Milton Friedman*, BUS. & SOC'Y REV., 11, 14 (Spring 1989) ("Charitable activity in some cases may contribute to a corporation's making as much money as possible. It may be that an enterprise that

But the Economy of Communion model pushes much further than Ford. A full two-thirds of its profits are destined to broader community development, either as direct aid for the poor, or to support educational programs which further a culture of giving — both aspects which may not necessarily have a tight connection with employees, customers, or others with a more direct interest in the business itself.

Perhaps the short answer is not to expect that an Economy of Communion business will be publicly traded on a U.S. stock exchange, and the short analysis is that while the Economy of Communion businesses do operate within market structures, the model nonetheless does push the edges of the U.S. model of a for-profit business. The Economy of Communion model is simply at odds with what seems to be, at least for the time being, the heart of both U.S. corporate legal theory and corporate ideology.<sup>89</sup> The laws of transparency and accountability which form the foundations of U.S. corporate laws, and which facilitate the public's participation in the market are premised on the assumption that market relationships are anonymous, and should therefore be free of personal and possibly partial interests or commitments.<sup>90</sup> If individual investors would like to contribute to the alleviation of poverty, that is certainly their prerogative—but generally

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needs goodwill of the community, that it wants to have its workers motivated to regard the enterprise as one that's worth sacrificing for, worth working hard for, and so on, may find that the most effective way to promote that kind of an environment is to provide charitable assistance in its local community").

89. See Stephen M. Bainbridge, *Director Primacy: The Means and Ends of Corporate Governance*, 97 NW. U. L. REV. 547, 576 (2003) (discussing recent National Association of Corporate Directors (NACD) reports and other surveys that describe shareholder wealth maximization as the corporation's primary objective).

90. In this context, it seems right to worry, as Professor Fisch does, that shifting the responsibility for deciding which projects are worthy of funding into the hands of corporate decision-makers in effect "both hide[s] the decision-making process from shareholders in particular and the public more generally, and [creates] a system of social spending which is profoundly undemocratic." Jill E. Fisch, *Questioning Philanthropy from a Corporate Governance Perspective*, 41 N.Y.L. SCH. L. REV. 1091, 1094 (1997). See also Faith Stevelman Kahn, *Pandora's Box: Managerial Discretion and the Problem of Corporate Philanthropy*, 44 UCLA L. REV. 579, 586 (1997) ("The absence of substantive regulation, in combination with the absence of a disclosure requirement, has meant that corporate senior executives have had a blank check to make corporate charitable contributions independent of both business objectives and shareholder preferences").

the current structures of large publicly held corporations are not well equipped to handle such complex commitments in an open and democratic way. In contrast, the Economy of Communion model is premised on a series of tight inter-personal relationships—the antithesis of the anonymity which characterizes the dynamics of publicly traded companies.

Even if the Economy of Communion model does not fit directly into the U.S. legal strictures of large publicly traded corporations, it still may serve as a multi-dimensional model for reflection on economic, legal, social and managerial aspects of business life. In fact, in pushing the envelope on analyses which explore the roles of religious values and corporate decision-making, the most fruitful avenue of inquiry may be found in small but vitally concrete closely-held businesses which allow for more flexibility in incorporating and expressing alternative values systems.<sup>91</sup>

For example, it would be well worth extended reflection to explore how application of religious values and principles to the internal operations of Economy of Communion businesses generates valuable social capital and “relational goods.”<sup>92</sup> Such might open new paths to understanding the complexity of strategies for long-range profit maximization. Similarly, analyses of the extent to which Economy of Communion businesses illustrate that a more “horizontal” vision of governance and management relationships within the business actually increases productivity and profit might challenge some of corporate

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91. In the field of corporate governance, for example, it would be interesting to explore the extent to which the experience of the Economy of Communion businesses might illustrate aspects of “team production” theory or a “relational board” — all topics which are unfortunately beyond the scope of this brief overview. See, e.g., Margaret M. Blair & Lynn A. Stout, *A Team Production Theory of Corporate Law*, 85 VA. L. REV. 247 (1999); Margaret M. Blair & Lynn A. Stout, *Team Production in Business Organizations: An Introduction*, 24 J. CORP. L. 743 (1999); Lynne L. Dallas, *The Relational Board: Three Theories of Corporate Boards of Directors*, 22 J. CORP. L. 1, 3 (1996) (exploring a model in which the board “assist[s] the corporation in forging relationships with various stakeholders and others in its social environment.”); Lawrence E. Mitchell, *A Critical Look at Corporate Governance*, 45 VAND. L. REV. 1263, 1272 (1992) (exploring a model which recasts the board of directors “as a mediating body among the different corporate constituent groups.”).

92. See Gui, *supra* note 30, at 20-21 (discussing the economic value of relational goods and social capital).

theorists' deeply held assumptions that hierarchical models of management and governance should remain in place.<sup>93</sup> Finally, the project's unique approach to poverty and development, especially its insistence on treating with equal dignity the sharing of resources and the sharing of needs, would have much to offer to reflections about sustainable development and corporations' obligations in a globalizing world.<sup>94</sup>

An interesting subset of the legal debates over the extent to which the common good rather than shareholder or stakeholder profit-maximization might inform corporate decision-making perceives an enormous chasm between certain applications of Catholic Social Thought, and the essential components of corporate theory.<sup>95</sup> Perhaps part of the reason for the divide is that the discourse revolves around abstract principles rather than concrete projects. It may be that including in the discussion analysis of smaller but actual and concrete projects such as the Economy of Communion may serve as a productive point of reference, and even promise some hope for common ground.<sup>96</sup>

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93. See, e.g., Stephen M. Bainbridge, *Corporate Decision-Making and the Moral Rights of Employees: Participatory Management and Natural Law*, 43 VILL. L. REV. 741, 828 (arguing against models of participatory management as "empirical evidence indicates that many firms and workers remain unpersuaded by the merits of employee involvement."). See also Bainbridge, *Bishops and the Corporate Stakeholder Debate*, *supra* note 88, at 15 (extolling the benefits of hierarchy for corporate management); Stephen M. Bainbridge, *Privately Ordered Participatory Management: An Organizational Failures Analysis*, 23 DEL. J. CORP. L. 979, 1004-09 (1998) (discussing the economics of hierarchy).

94. See, e.g., Zamagni, *supra* note 47, at 17 (describing the key conflict of our time as one of identity rather than interest; one of the innovative characteristics of the Economy of Communion as its capacity to move beyond philanthropic paternalism, which can humiliate, to a way of doing business which values the whole person, "including his or her religious, ethnic or cultural identity."); see Pelligra, *supra* note 45, at 17 ("just as business people offer their monetary profits to the poor, the poor also offer their needs to the businesses. It is a reciprocal gift, then, that creates a strong bond, a communion that elevates those who receive instead of degrading them").

95. See, e.g., Sargent, *supra* note 2.

96. Undoubtedly, the Economy of Communion project contains a strong critique of some of the limitations of capitalistic systems, but it also recognizes capitalism's positive potential. See, e.g., Lorna Gold, *The Roots of the Focolare Movement's Economic Ethic*, 6 J. MARKETS & MORALITY n.2 (Spring 2003).

[T]he attitudes and actions of the Economy of Communion business leaders display many of the central elements of [Michael] Novak's Catholic ethic, especially in

B. Legal Definitions of Rationality

Within the common law and regulatory fabric, in addition to the laws of corporate governance, a number of other legal constraints come into the picture, and other voices bring their judgment to bear on what constitutes "rational" corporate behavior.

More than half a century after *Dodge*, the Ford Motor Company mounted its defense in *Grimshaw vs. Ford Motor Company*<sup>97</sup> — and it was a far cry from its founder's argument that the company was "making too much money." In *Grimshaw*, a stalled Ford Pinto had been struck from behind by a car that had braked to a relatively slow speed of about thirty miles per hour. The impact resulted in a rear-end fire that killed the driver and left thirteen-year-old Richard Grimshaw with serious injuries. In the course of discovery, the Ford Motor Company produced a document which indicated that it was aware of certain risks, but because of a "cost-benefit" calculus, the company determined it would be cheaper to compensate for resulting injuries and death rather than alert the public and recall the Pinto for repair. Concluding that the company's product design was unreasonably dangerous, the jury awarded Grimshaw over \$2.5 million in compensatory damages and \$125 million in punitive damages. The punitive damages award was later reduced by the court to \$3.5 million, but the case took on somewhat mythical dimensions, and it remains an important symbol.<sup>98</sup>

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Brazil. Through the promotion of Economy of Communion businesses, initiative, and enterprise have become qualities that are promoted throughout the Focolare in general, harnessing the creative potential which Novak sees as central to the development of the market economy. Through the Economy of Communion, the art of association is promoted, especially at local levels, through encouraging local communities to take stock of their needs and to begin to work to fulfill these needs. The Economy of Communion also engenders a sense of public spiritedness and civic responsibility within individuals and in corporate groups that decide to participate in the Economy of Communion. This could be seen above all in the attitudes of the business leaders toward the various communities of which they were a part. The Economy of Communion provoked a sense of looking outward from the business itself as a source of profit to the place of the business in the wider local community and beyond.

*Id.*

97. *Grimshaw v. Ford Motor Co.*, 174 Cal. Rptr. 348 (Cal. Ct. App. 1981) (affirming a 1978 jury decision).

98. See generally Gary T. Schwartz, *The Myth of the Ford Pinto Case*, 43 RUTGERS L. REV. 1013 (1991).



Under some economic theories, Ford's calculations were perfectly "reasonable." As Judge Learned Hand described: "to measure three things: the magnitude of the loss if an accident occurs; the probability of the accident's occurring; and the burden of taking precautions that would avert it."<sup>99</sup> According to Posner, in *A Theory of Negligence*, "[i]f the cost of safety measures or of curtailment — whichever cost is lower — exceeds the benefit in accident avoidance to be gained by incurring that cost, society would be better off, in economic terms, to forgo accident prevention."<sup>100</sup> In such cases, a "rational profit-maximizing enterprise will pay tort judgments to the accident victims rather than incur the larger cost of avoiding liability."<sup>101</sup>

But as *Grimshaw* illustrates, more often than not this line of analysis just does not sit well with a civil jury. The market for "a broken arm, shattered brain, or a life" is "quite thin" — as Professor Michael Green graphically explains — not only because it is problematic to compare items that do not align on a common scale or measure, but also because on an even more basic level, "the stark balancing of lives and limbs with money strikes many as jarring, inappropriate, even absurd."<sup>102</sup>

What might the model of the Economy of Communion have to offer to such dilemmas? First, it can remind legal theorists that it is no small matter to situate one's approach to business within the context of the moral values of the community. Such is not an act of generosity, but in

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99. Richard Posner, *A Theory of Negligence*, 1 J. LEG. STUD. 29, 32 (1972); see also *United States v. Carroll Towing Co.*, 159 F.2d 169, 173 (2d Cir. 1947), and *Conway v. O'Brien*, 111 F.2d 611, 612 (2d Cir. 1940).

100. Posner, *supra* note 99, at 32.

101. *Id.* at 33. For a more extended discussion of this case and an argument for reconceiving the relational dimensions of rationality in the products liability context, see Amelia J. Uelmen, *Toward a Trinitarian Theory of Products Liability*, 1 J. CATH. SOC. THOUGHT 603, 607-10, 629-32 (2004).

102. Michael D. Green, *The Schizophrenia of Risk-Benefit Analysis in Design Defect Litigation*, 48 VAND. L. REV. 609, 617 (1995). See also Michael D. Green, *Negligence = Economic Efficiency: Doubts*, 75 TEX. L. REV. 1605, 1643 (1997) ("economics is not nearly as intuitive as Landes and Posner think it is . . . . Understanding the economic version of risk-benefit analysis is not always easy, is sometimes contrary to common sense, and requires comparisons that can be quite jarring to lay sensibilities"). Or as economist Amartya Sen states bluntly, "The economic man is indeed close to being a social moron." Amartya Sen, *Rational Fools: A Critique of the Behavior Foundations of Economic Theory*, 6 J. PHIL. & PUB. AF. 317, 336 (1977).

common law countries, it is perhaps the best measure of “rational” behavior under the law. The Economy of Communion’s intrinsically motivated framework for decision-making about product safety and other aspects of business which impact the public may actually bring it closer to the moral instincts of citizens on juries than some profit-maximizing law and economics interpretations. As Professor Stephen Gilles put it: “[N]o one has suggested that jurors are deeply conflicted over whether the average person ought to take as much care for the average other person as for himself or herself.”<sup>103</sup>

The Economy of Communion project could provide for legal theorists not only a concrete example of a corporate decision-making which moves beyond a vision of consumers and producers as primarily atomistic economic beings<sup>104</sup> but also a thick description of alternative forms of rationality.<sup>105</sup> For the Economy of Communion businesses, whose focal point of reference for rationality is the depth of one’s connection to other human beings, it is evident that the Posnerian “rational profit-maximizers” might be missing out on the greatest richness of all.

Through the lens of the Economy of Communion, the heart of what it means to be a “reasonable person” is to open oneself to relationships of respect, service, and attentive care to all that solidarity calls for in the production process. Through this lens, it is “reasonable” that the production of material goods should express concern for others. Or as Focolare founder Chiara Lubich would put it: “I am myself not when I close myself off from the other, but when I give myself, when out of

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103. Stephen G. Gilles, *The Invisible Hand Formula*, 80 VA. L. REV. 1015, 1048 (1994).

104. See Bruni, *supra* note 50, at 41-67 et seq. (tracing the history of the current definition of “rationality” and drawing out the elements for rethinking rational action in light of non-individualistic behaviors). Such would also accord with recent analysis of cultural studies theorists, who describe consumers as “permanently engaged in a dialectical conversation with product manufacturers, marketers, regulators, and others regarding the social significance of consuming activities.” Douglas A. Kysar, *The Expectations of Consumers*, 103 COLUM. L. REV. 1700, 1758 (2003). See also *id.* at 1757 (“Those who view consumer goods merely as vehicles for satisfying individual, unspecified desires ignore the many ways in which consumer product markets are culturally inflected”).

105. Cf. Kysar, *supra* note 103, at 1774-82 (discussing whether lay, non-expert, judgments constitute a “rival rationality”).

love I am lost in the other.”<sup>106</sup>

For Economy of Communion businesses, it is *more* reasonable to let solidarity with those with whom one is called to live in relationships of “gift,” and communion permeate the decision-making process than to be guided by “rational profit-maximizing” formulas. To the extent that businesses operating within this quite different paradigm of “rationality” both survive and thrive on the market, they offer both a challenge to many aspects of current legal paradigms and a richly complex model for reflection and analysis.

### CONCLUSION

For this Christian community, the effort to eradicate destitution is not so much a story of arduous sacrifice and self-denial — but rather a joyful discovery of that self-giving love is not only a profound solution to social and economic problems, but is also the path to human freedom and fulfillment. The Economy of Communion calls the market forces back to their original vocation: a meeting place for people who, although not connected by profound relationships of blood or friendship, nonetheless recognize that they belong to the same social group, and who can freely work together in a positive and constructive way. Working within the structures of business and the market, the Economy of Communion presents an example of how these structures can create well-being and at the same time foster authentic human encounters and development.

It moves away from and poses a challenge to a wide-spread vision of a market as a reality whose sole aim is to reach efficiency, and as such, discards elements of redistribution, reciprocity, and gift. In contrast, the Economy of Communion rests on the premise that

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106. Chiara Lubich, *Toward a Theology and Philosophy of Unity*, in AN INTRODUCTION TO THE ABBA SCHOOL, *supra* note 68, at 19, 33 (2002). See also John Paul II, Centesimus Annus ¶ 41 (1991) (through the free gift of self that one truly finds oneself); *id.* ¶ 58 (describing the preferential option for the poor as an “opportunity”: “[j]ustice will never be fully attained unless people see in the poor person, who is asking for help in order to survive, not an annoyance or a burden, but an opportunity for showing kindness and a chance for greater enrichment. Only such an awareness can give the courage needed to face the risk and the change involved in every authentic attempt to come to the aid of another”).

economic activity must make space for redistribution, reciprocity, and even gift, as essential elements of the exchange. Certainly Economy of Communion businesses aim at efficiency and being competitive on the market — but they also highlight these other elements.

The Economy of Communion is a proposal of economic action at many levels. Participants are well aware that market does not capture all of its aspects; in fact, many of its most important values cannot be measured and priced. Yet the success on the market of the more than 700 businesses is an invitation to consider how all the dimensions of life — including the relational and religious — can enrich both economic and legal reflection and experience.