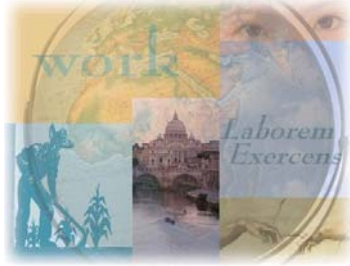


Work as Key to the Social Question

The Great Social and Economic Transformations and the Subjective Dimension of Work



Labor, Property and Co-Determination: Guidelines of the Christian Social Teaching and Experiences in Germany

by Prof. Dr. Manfred Spieker

The relation between labor and property in industrialized society is a key theme in social-ethical reflection as well as in discussions about the political order, even since the origin of industrialized society in the first half of the 19th century. Industrialization brought the separation of labor and capital, wage-labor, and the resulting dependency of workers of employers. Karl Marx and the Communist parties believed they could dissolve the connection between labor and property by eliminating private property by the socialist revolution. The results are well-known: the workers did not become owners liberated entirely from alienation, but prisoners of Marxist-Leninist despotisms. Production led not to a universal satisfaction of needs, but to the distribution of want, the exhaustion of resources, and the destruction of the environment.

The social teaching of the Catholic Church, the history of which is inseparable from the origin and development of industrialized society, had already, in the first social encyclical *Rerum Novarum* (1891), warned about the socialist program to regulate the relationship between work and property. Leo XIII wrote that it was "far removed from contributing anything to the solution of the question; instead, it actually harmed the working classes." [1] Christian social teaching has repeatedly claimed that the separation between work and property and wage-labor is not in itself unjust or immoral. [2] But it has always tied the wage-labor contract to a series of criteria which are necessary for its moral legitimation. In opposition to classical liberalism, Catholic social teaching explains that the freedom of the laborer in negotiating a contract does not by itself suffice as a moral validation of the contract. Two further criteria need to be fulfilled: the contract must also guarantee a just wage and working conditions suitable to human dignity. [3] In this fashion the relation between work and property already points beyond the labor contract to co-determination.

In what follows, the fundamental principles of Christian social teaching on work, property, and co-determination need to be summarized (I), before we can explain

experiences with co-determination in Germany (II).

I. Work, Property and Co-Determination in Christian Social Teaching

I. Work

People in Germany, as in most of the western industrialized countries, today spend little more than ten percent of their lifetime at work. Yet it remains true for them, as for all people, that work, its shape and substance, are fundamental to the success of human life. Work is an activity by which, on the one hand, humanity transforms nature and shapes it to its needs, or wills to know, defend, and promote itself and its social and natural environment, thereby securing the necessities of life and/or income and making a contribution to the common good. On the other hand, through work human being develops its very self. *Through* work, not apart from work, human being becomes more human, independent of every timeperiod allotted to work and independent too of the type of work, whether wage-earning or self-employed work, for-profit work, domestic work or the voluntary work. From the perspective of Christian anthropology, work is a participation of human being in the divinely ordained development of the earth, a participation in God's creative power. For Christian social teaching work therefore has an objective and a subjective dimension. The objective dimension consists in the goods and services created by work, the subjective in the self-realization of human being, [4] more precisely in the self-realization of the person, in which Catholic social teaching sees not just the individual but always and at the same time a being which is social and political, with its familial and national ties. [5]

The dignity of human work is grounded in this subjective dimension. It is therefore not the type of work, its social prestige, or the income it provides, which define the moral worth of work, but the fact that the one who accomplishes it is a *person*. The purpose of work "in the final analysis always remains man himself." [6] On the basis of this anthropocentric perspective, Christian social teaching will always give precedence to the subjective dimension of work over the objective, and to work over capital. [7]

In hasty interpretations, these principles were treated as a plea for a pro-labor understanding of business, hence an understanding of business in which economic decisions are the concern not of the owners but of the employees. The encyclical *Laborem Exercens* was construed as representing not only co-determination but even worker autonomy and anti-capitalism. [8] This interpretation was hasty because it ignored the fact that John Paul II, in *Laborem Exercens* and also on other occasions, emphasized "that we cannot separate capital from labor," and that labor and capital should never be placed in opposition to one another. [9] Capital is the "result of the historical heritage of human labor" [10] and thus the "product of the work of generations." [11] An ordering of labor can therefore only be morally legitimated, hence be a contribution to the fulfillment of human life, "if in its very basis it overcomes the opposition between labor and capital" and in its elaboration is oriented to the "principle of the subjectivity of human labor and its effective participation in the whole production process," [12] or if, as the co-determination declaration of the

Lutheran Church in Germany in 1968 expresses it, "the one who is a wage-worker becomes ever more a co-worker." [13]

The overcoming of the opposition between capital and labor by the simultaneous recognition of wage-labor, of private ownership of the means of production, and of co-determination, has been one of the central concerns of Christian social teaching since its inception. It led Pius XI in the encyclical *Quadragesimo Anno* towards his widely misunderstood - and no longer upheld - conception of an occupational ordering of society. [14] It also led John Paul II in *Laborem Exercens* to declare that human labor is a "key to the social question." [15] In its concern to overcome this opposition, Christian social teaching, in both its Catholic and Protestant forms, has argued for co-determination. But such an argument also presumes the recognition of the private ownership of the means of production.

2. *Property*

The property ethic of Christian social teaching rests on two pillars: the recognition of private property as a basic right, and the principle of the universal ordinance of goods. It starts from the fact that God has "intended the earth, and all that it contains for the use of every human being and people," and that created goods should therefore "abound for them on a reasonable basis." [16] The property ethic is thus rooted in the doctrine of creation. Because humanity was created to be not only a spiritual but an embodied nature, we are dependent on external goods, and because God has endowed us, as His image, with dominion over the earth, we are authorized to put these goods at our disposal and to make them our own. This appropriation is accomplished through labor. Labor leads to the acquisition of capital and thus to the power of disposition over external goods. [17]

Private ownership of the means of production is therefore the fundamental means of the attainment of freedom and of a self-supporting way of life. It serves "as an extension of human freedom." It provides "the absolutely necessary space for the self-supporting management of the personal life of each individual and their family" and "inspires people to adopt tasks and responsibility." [18] It is therefore a basic right, or a natural law, that is valid "for every age," and from which comes "the right to entrepreneurial activity." [19] It constitutes one "prerequisite for civil liberties" [20]

But the basic right to personal property is always subordinated to the basic principle of the universal determination of goods. According to John Paul II, the Christian tradition has "never considered this right as absolute and unimpeachable. Quite the contrary: it has always seen it in the larger context of the common right of all to the use of the goods of the whole creation; in other words, the right to private property is subordinated to the right to the common use, the determination of goods for everyone." [21] The representatives of Catholic social teaching have tried to express this end-means relation in numerous pairs of concepts. The principle of the universal determination of goods was treated as "absolute," or "relative" or "secondary" natural law, [22] in the former sense being seen as "divine

ordinance” or ”basic right,” in the latter sense as ”human invention” or ”practical determination.” [23]

The fundamental right to private property serves as the most important instrument for the realization of the fundamental principle of the universal determination of goods. In this perspective neither corporate nor common ownership are the best means to realize this fundamental principle, but rather personal property, which to be sure may require a broad distribution and protection by means of an appropriate legal and constitutional ordering.

The social encyclicals and the Second Vatican Council have pointed out the historicity and hence the contingency of the institution of private property and its legal regulation. [24] They have also accepted the socio-political extension of the concept of property, in which, besides such thoroughly alienable goods as can serve the purposes of consumption or production, legal entitlements to the fruits of state or social systems of providing life's needs also count as property . [25] A professional education, particular craft, technical, or artistic capabilities, copyrights, talents or patents, also serve as property that deserves legal protection and must remain subordinated to the universal destination of goods. [26]

The relativity of property and the state’s competence of intervention with respect to the regulation of property do not, however, mean that the state should be permitted to suspend property, to undermine it via excessive taxation, or to replace it with collective ownership. The right to personal property as well as the right of inheritance must in their essence ”remain forever intact and unharmed.” [27] The right to private property remains ”in itself legitimate and necessary,” even though it ”must be circumscribed by the boundaries of its social functions.” [28] It must ”protect the right of the human being to freedom and at the same time make an essential contribution to the building of a just social order.” [29] But a just social order, in the perspective of Christian social teaching, is an order which has overcome the opposition between capital and labor by means of co-determination.

3. *Co-determination*

Co-determination is a consequence of the anthropocentric orientation of Catholic social teaching. If the human being is the source, the center, and the purpose of economics, and if labor serves not only the production of goods and services but also the development of the person, then every working human being must have a say in the shaping of his activity. ”Not only the distribution of economic output must correspond to the dictates of justice, but also the whole of economic activity. It is an inherent requirement of human nature that whoever performs productive labor should also be in a position to co-determine the course of things and to achieve the development of his personhood by means of his work.” [30] Lutheran social ethics shares this perspective. [31] ”Subordination to the directives of a company’s management should not make the employee into a mere taker of orders. He must also have the opportunity to think actively and knowledgeably about his own area of work, and to be heard accordingly.” [32] Employees must therefore participate in the organization of the work process and in its social ordering. They must be able to

experience themselves in their work as subjects and not only as objects controlled by supervisors or machines. It is necessary, therefore, "to secure [for workers] an organic participation not only in the fruits of their labor, but also in decisions about economic and social matters which are important for their own destiny and for that of their offspring." [33]

Because enterprises are therefore not only production sites which work according to the criteria of profitability, but also for a time communities of persons, "the active participation of everyone in the running of an enterprise, whether it be one of ownership, hiring, management or labor, and without prejudice to the necessary unity of operation should be promoted." [34] Co-determination should be extended to the workers not only in the workplace and in the company, but "even beyond the boundaries of the company." [35] The first calls to implement co-determination or, alternatively, to "make the wage-earning relationship approximate to a social relationship" that enables shared possession or management or profits, are found already in 1931 in *Quadragesimo Anno*. [36]

As a rule, unions are the instrument of the workers for securing this right to co-determination, not only in wage negotiations, but also, for example in Germany, by the labor management relations act and by the boards established by the co-determination laws. The unions' task is "the defense of the vital interests of employees in all areas touching on their rights." [37] To carry out this task successfully naturally presumes appropriately educated, experienced, and smart union officials, committed to the common good - the same of course goes for factory managers and boards of directors. Historical experience shows that unions "constitute an essential element of social life, above all in industrial societies." [38] The right to form them is equally a human right. [39]

Unions need to lead workers into a "social partnership", [40] not into class warfare. However, this does not mean that striking should not be legitimate as a last resort in the defense of interests, and that it would not be recognized by Catholic social teaching. [41] This position is scarcely new. It occurs already in Bishop Ketteler's famous address to the workers at Offenbach on July 25, 1869. [42]

In this perspective co-determination finds its limit in the central direction of the business enterprise, [43] in the responsibility of the entrepreneur, and in the right to private property. It can thus be neither omni-present nor egalitarian. But it must be present. In achieving co-determination, an essential role falls to the state along with the social partners. By means of its legal structure, especially its constitutional law on corporations and its business law, the state has to regulate co-determination in a way appropriate to the conditions of its history, its constitution, and its political culture. These legal regulations will look different from country to country. A single concrete model for co-determination cannot be deduced from Catholic social teaching. "It is impossible to determine for every situation" [44] how the participation of workers in the production process of their company should look in detail.

II. Experiences in Germany

1. *Catholic Contributions to the Historical Development of Co-Determination*

Among the states of the European Union, Germany stands as the country with the most extensive legal regulations on co-determination for employees in industry and business. From the beginning, those who took part in the development of co-determination regulations were persons and parties with an orientation towards Catholic social teaching. The first legal recognition of factory councils in the law on the ordering of industry, in the "Gewerbeordnung" of 1891 was the work of Franz Hitze (1851-1921), a priest and deputy of the Catholic Party "Zentrum" in the German Reichstag, who had already as a 29-year old chaplain published a book on the theme of "capital and labor" and had in 1893 joined the Catholic theological faculty of the University of Münster as the first Professor of Christian Social Teaching. [45] In 1890 Kaiser Wilhelm II asked him to contribute to the formulation of supplementary law on the ordering of industry, and to the regulation of the protection of the workers. The establishment of factory councils, which had to oversee the application of the compulsory work regulations, in which questions of the length of the workday, of wages, of times for giving notice, and of lay-offs were treated, were to be sure still left to the judgment of the employers.

Obligatory staff and crew representations were introduced by the Factory Councils Law of February 1920, in the formulation of which in the Weimar National Assembly, along with Franz Hitze, especially Heinrich Brauns (1868-1939) took part. It was due to their influence that the radical socialist concept of the soviets did not come to bear on the Works Councils Law. The factory councils had the responsibility of representing the interests of employees in social and personal questions, and of supporting the factory directors in the achieving of the economic goals of the factory. Heinrich Brauns did not only bring himself credit as a representative in the protection of employees. After the Reichstag elections of June 1920, he became Labor and Social Minister. In this office, which he held for twelve of the governments formed by the Zentrum and the Social Democratic Party up to June 29, 1928, he threw the switches for the development of the social welfare system. He also promoted the protection of workers through labor law and the introduction of an independent labor jurisdiction. [46] Without being cited by name, he was praised by Pope Pius XI in the 1931 encyclical *Quadragesimo Anno* as an outstanding example of Catholic political involvement in the spirit of the encyclical *Rerum Novarum*. [47]

During the totalitarian era of National Socialism, all co-determination regulations were suspended and the "leadership principle" (*Führerprinzip*) became dominant in the economy as well. Afterwards, with the re-organization of state, society and economy at the end of the forties, a considerable discussion about co-determination began. In September 1949 the seventy-third German Catholic Congress (*Katholikentag*) in Bochum called for a legal endorsement of co-determination "according to the model of progressive companies." Catholic workers and businessmen were in agreement, according to the resolution of the congress, "that the right of all co-workers to co-determination in social, personal, and economic questions is a natural law in a divinely-willed order, to which the co-responsibility of all corresponds." [48]

The final resolution of this Catholic Congress led to considerable debate over the

foundation and the range of the right to co-determination, [49] in which Pope Pius XII also intervened. Probably not without the counsel of his social ethics advisor, the German Jesuit Gustav Gundlach, he explained in an address to the participants of an international congress of social scientists on June 3, 1950, that the demand for co-determination should not lead to a threat to private property, and that the right to co-determination could be derived neither from the nature of the work contract nor from the character of industry. [50] In saying so, Pius XII did not wish to reject the call for co-determination as such, but rather to oppose false foundations and likewise to define the extent of co-determination short of the demand for an egalitarian co-determination that would threaten the right to property. On the other hand, he emphasized that "the wage-laborer is in the same fashion as the employer a subject and not the object of the economy," and that the structure of the economy should be shaped accordingly. With reference to the call for co-determination in *Quadragesimo Anno* 64 and 65, he recommended once more a vocational group order to realize this status as subject rather than object.

Beyond the concept of an occupational ordering of society, which largely lost its meaning during the fifties, three other ways to improve the subject-status of the employee in the workplace also emerged in the Catholic discussion of co-determination: the employee ownership programs, which at the same time wanted to make the employee into a property-owner; supra-industrial co-determination; and co-determination in the workplace, thus the labor law in the broader sense. In the politics and legislation of the Federal Republic of Germany, preference was given to the third way.

2. *The Legal Regulations on Co-Determination*

With the 1952 labor management relations act, the co-determination of employees in the workplace was legally regulated. It serves as a milestone in the development of co-determination in Germany. In its amended form from 1972, it governs all workplaces which as a rule have at least five permanent enfranchised employees, of whom three must be eligible. The reform of the labor management relations act from 29th of may 2001 extended the rights of the factory council in the electoral procedure, in the release of his members from work and in the rights to initiatives. The law therefore includes around 70% of workers. The sphere of public administration is governed by the 1974 (1955) federal law of personnel representation and by the corresponding laws of the individual states (*Länder*). These laws guarantee the co-determination of the factory councils and personnel councils elected by the employees for social and personal affairs. But they also govern the individual employee's workplace rights to information, a hearing, explanation, and grievances. The co-determination laws in social affairs, in the structuring of the workplace and of termination from work, as well as in individual affairs, form the core of the law on co-determination, which reaches beyond advisory and initiative rights to veto and consent rights.

The factory council, for example, has information rights to measures for worker protection and accident prevention, to the planning of buildings, technical installations, and

work procedures (§90), to personnel planning (§92), and about its management board in economic affairs (§106). Since 2001 the environmental care of the factory is included in the tasks of the factory council. It has rights to initiative in cases of excessive burdens on employees through technical changes in the workplace (§91), in the setting up of electoral rules for personnel involvement in workplaces with more than 1,000 coworkers (§95,2), in measures for professional and vocational training (§96), in the establishment of social provisions in cases of workplace changes or lay-offs (§112 and 112a) and since 2001 in the protection of employment. The factory council has consent rights, for example, in the setting of the daily work schedule, in the temporary shortening or lengthening of the work schedule, in the concern's wage configuration, the setting up of vacation plans, the introduction and application of technical equipment which is supposed to monitor the conduct or performance of employees (§87) and since 2001 in the realization of work in groups.

In addition to these detailed regulations on substantive matters and the extent of the laws on co-determination, the labor management relations act also contains principles for the collaboration of employees and employers which make it clear that Parliament has resolved the choice between a conflict model and an integration model for co-determination unequivocally in favor of the integration model. [51] "Employer and works council work to observe faithfully the current wage agreements and to collaborate with the unions and employer associations represented in the business, to the common benefit of the employee and the business" (§2,1). [52] They have "to protect and promote the free unfolding of the personhood of the worker employed in the workplace" (§75,2). They are subject to a strong obligation to peace and "have to abstain from activities by which the progress of work or the peace of the workplace is affected" (§74,2).

The second pillar of legal regulation of co-determination in Germany is the co-determination laws for the constitution of business, the mining co-determination law of May 21, 1951, and the co-determination law of May 4, 1976. The mining co-determination law had introduced a co-determination on a basis of parity to businesses which required coal, as well as to the iron and steel industries. For the next twenty-five years German unions made this law their point of reference in their struggle to extend co-determination. Full parity co-determination means that the seats on the supervisory board are occupied half by the owners of capital and half by the employees, and that the employees' side is also represented on the corporate board of directors by the so-called "labor director," who cannot be elected contrary to the wishes of a majority of the worker representatives on the supervisory board, nor can he be recalled.

For non-mining industries with more than 2000 employees, the co-determination law of 1976 prescribes a form of co-determination which does not reach full parity. Seats on the supervisory board are divided equally between shareholders and employees, but the chairman is elected by the shareholders; in cases of tie votes he may cast the tie-breaker, and among the representatives of the employees are found, as a distinct group, several representatives of the managerial-level employees. The principle of groups was cancelled in the reform of 2001. At the present time somewhat more than 700 companies fall under this law; the supervisory boards of these companies have about 5000 employee representatives,

among whom are included about 1500 external delegates from trade unions. In equity companies with less than 2000 representatives, the prescriptions of the 1952 constitutional law on workplaces are in force. They provide that a third of the members of the supervisory board be employees. Exempted from these requirements are family companies with less than 500 employees.

The co-determination law of 1976 was hotly contested for some years, and the struggle even continued after its passage. While for many union representatives the law did not go far enough, many employers regarded it as unconstitutional. They saw it as damaging their property rights and filed a constitutional grievance with the Federal Supreme Court. The controversy came to an end only after the highest German court rejected the plea on March 1, 1979, and established the compatibility of the co-determination regulations of this law with the basic right to private property. [53] There was, however, a series of critical commentaries on the occasion of the twentieth anniversary of the passage of the 1976 law. At the same time controversies over European co-determination regulations intensified during these months, after the social minister of the European Union on September 22, 1994, adopted a policy which mandates large businesses with operations in at least two EU countries to establish until 1999 a European factory council or to create a process for briefing and hearing of employees. [54] In Germany about 270 companies are affected, in Europe as a whole 1150.

Alongside the legal forms of co-determination, in the last years increasingly autonomous forms of co-determination in the workplace have been developed, inspired by the ideas of productivity theory and organizational psychology. In small workgroups, so-called quality circles or instructional sites, workers involved in a production, process talk with their foreman about the production process, make use of room for action in the production, and loosen the barriers of the division of labor. On the one hand this co-determination in working groups serves the optimizing of the work routines and the improvement of the factory output; but on the other hand it ensures the participation of the employees in the workplace. [55]

3. *Evaluation*

With the co-determination law of 1976, Germany reached a degree of institutionalized co-determination of employees in factory and corporation which was unique in comparison with the rest of Europe. In the light of Christian social teaching, how may we evaluate experiences with this law and with the labor management relations act? We should not put both of these laws and their results on a par, although they each deal with the protection of the worker and with his personal status in industry and business.

The co-determination law of 1976 has certainly contributed to making it harder to control the corporate boards of directors, one of the central tasks of the supervisory boards; to shortening the list of business which require consent; and to expanding the power of boards of directors. In light of a number of crises and bankruptcies in co-determined large

corporations during the past several years (among others, Daimler-Benz, Metallgesellschaft Frankfurt; Vulkan-Werft Bremen), the controlling function of the supervisory boards has encountered widespread criticism. The criticism extends not only to the representatives of the banks, but even to those from the employees. But the "unhappy bottom line" that *Manager's Magazine* drew on the occasion of the twentieth anniversary of the co-determination law was certainly overstated. According to the journal, the law "led to a weakening of the supervisory board in favor of the board of directors," turned the sessions of the supervisory boards "into empty shows," and led to a national disadvantage in global competition, hence it was "luxurious and superfluous ritual." [56] The *Frankfurter Allgemeine Zeitung* also spoke, in an editorial on the anniversary of the co-determination law, of its "extremely serious" results, the weakening of the control function of the supervisory boards and the shift of power towards the corporate boards of directors. But it avoids a bankruptcy verdict against co-determination, and instead only asks that better qualifications for the worker representatives be adopted by reform proposals for the supervisory boards. [57] On the other hand, the co-determination law, as even the *Manager's Magazine* concedes, "advances the understanding between capital, management, and the employee lobby" by means of the joint work of representatives of employers and employees in the supervisory boards. [58]

The outcome on the labor management relations act, with which Germany has now 47 years of experience, looks more positive. The principles for the cooperation of employees and employers, whose goals are the development of the person in the workplace, the integration of the workforce into the company, and the cooperative partnership between capital and labor, reflect the influence of Christian Democratic forces in the origin of the law. They are compatible with the guidelines of Catholic social teaching on labor, property and co-determination. But the extension of co-determination by the reform law 2001 was not necessary in this perspective. In the application of the labor management relations act, there was probably some disappointment on the part of workers and union representatives with Christian orientations, because in the elections for the factory councils and supervisory boards they turned significantly to left-wing competitors. They lamented the dominance and the lack of tolerance of socialist forces in the German Federation of Unions (DGB) in the context created by co-determination. [59] Oswald von Nell-Breuning criticized the DGB's hesitation between linkage with the constitutional law on industry and distance towards it. [60] On the left-wing of the DGB and even further to the left, there were always forces which, with the support of the Socialist Unity Party of Germany, interpreted co-determination as merely a step on the way towards the full control of monopoly capital and towards the construction of a counter-force, which rejected the "legally established social partnership," and which sought to evoke the strength of system-challenging socialist forces in the working class. [61] Only in the course of the 1980's did these voices become softer. After the historic changes of 1989, they quieted altogether.

It will come as no surprise that employers also occasionally resist co-determination via factory councils, and hinder their election or activity. *Die Zeit* of May 17, 1996, reported on some especially crass cases of "factory council phobia." But the paper also shows, citing the director of a Saarbrücken Institute for Social Research and Social Economy, that such cases, although they have become more common in the recent past, are not typical in the

economy. Rather, people are interacting much more "pragmatically" and "civilized" with one another, and factory councils are even sometimes being allowed to assume the role of "co-managers." [62]

The co-determination discussions and models in Germany show that there are a variety of possibilities for realizing the participation of workers in industry and the partnership between capital and labor in business. Although Christian social teaching proposes no specific model for doing so, it requires on the basis of its concept of human being that co-determination be realized. The actual form it takes is conditioned by the current constitutional, legal, and economic order, by the culture of a particular country, but also by some non-negotiable social and ethical leading principles or basic values: the dignity of the employee, fundamental rights (including that of property), the social partnership, the social market economy, and a free, democratic ordering of state and society. The decades-long experiences of the Federal Republic of Germany with its co-determination laws have been positive - not least in comparison with the experiences of workers in the former German Democratic Republic [East Germany]. The judgment of Bernhard Rüthers is one with which the social ethicist can agree:

The current co-determination system in the Federal Republic has proved true altogether now since 1945. It has advanced the relatively high degree of integration of the worker into the free political and social order of the Federal Republic, has stabilized labor relations, and thereby also increased internal political stability...Co-determination as a model of peaceful cooperation has developed, in the real world of labor relations, an awareness of common interests and responsibility on the part of the various parties in the labor market, an awareness which has also had an effect in the mastering of crises. [63]

The social Teaching of the Church can further add that the co-determination system in the Federal Republic has established the participation of workers in the workplace and therefore has contributed to the worker's capacity to become more human by his labor and to be a subject in his labor.

[1] Leo XIII, *Rerum Novarum* 3 and 4.

[2] Leo XIII, *Rerum Novarum* 33; Pius XI, *Quadragesimo Anno* 64.

[3] Leo XIII, *Rerum Novarum* 34 and 17; John Paul II, *Laborem Exercens* 15.

[4] John Paul II, *Laborem Exercens* 5, 6 and 26.

[5] Ibid. 10. Cf. also M. Spieker, "Das Menschenbild der katholischen Soziallehre," in Enrique H. Prat, ed., *Ökonomie, Ethik und Menschenbild* (Vienna 1993), 52-74.

[6] John Paul II, *Laborem Exercens* 6.

[7] Ibid. 6 and 10.

[8] Cf. Friedhelm Hengsbach, "Die Arbeit an erster Stelle - Das Sozialrundsreiben des Papstes Woytila," *Gewerkschaftliche Monatshefte*, 32 (1981) 729ff. Hengsbach on the other hand also criticizes the encyclical for letting its formulations remain "in a cautious circumspection" (ibid. 734).

[9] John Paul II, *Laborem Exercens* 13. The time of a direct confrontation between labor and capital is over, he explains in an address to the businessmen of Sicily on May 5, 1993, in Agrigento, in *Osservatore Romano* (German language weekly edition) for May 28, 1993.

[10] Ibid. 12.

[11] Ibid. 14.

[12] Ibid. 13. Leo XIII had already pleaded in *Rerum Novarum* 15 for the overcoming of this opposition.

[13] "Sozialethische Erwägungen zur Mitbestimmung in der Wirtschaft der Bundesrepublik Deutschland," Council of the EKD, in *Die Denkschriften der EKD*, published by the Church Office of the EKD, vol. 2: *Soziale Ordnung* (Gütersloh, 1978), 89.

1[14] Pius XI, *Quadragesimo Anno* 81ff.

2[15] John Paul II, *Laborem Exercens* 3.

[16] Second Vatican Council, *Gaudium et Spes* 69. Cf. also the 1962 declaration of the EKD, "Eigentumsbildung in sozialer Verantwortung," in *Die Denkschriften der EKD*, 20ff.

[17] John Paul II, *Laborem Exercens* 12, and *Centesimus Annus* 31.

[18] Second Vatican Council, *Gaudium et Spes* 71; John XXIII, *Mater et Magistra* 109ff.; John Paul II, *Centesimus Annus* 30.

[19] John Paul II, *Sollicitudo Rei Socialis* 15.

[20] Second Vatican Council, *Gaudium et Spes* 71.

[21] John Paul II, *Laborem Exercens* 14; *Sollicitudo Rei Socialis* 42; *Centesimus Annus* 30;

Christifideles Laici 43; Paul VI, *Populorum Progressio* 23; Congregation for the Doctrine of the Faith, *Instruction on Christian Freedom and Liberation*, "Libertatis Conscientia" 87.

- [22] Cf. Jean-Yves Calvez/Jacques Perrin, *Kirche und Wirtschaftsgesellschaft. Die Soziallehre der Päpste von Leo XIII bis zu John XXIII* (Recklinghausen, 1965) 2:49; Johannes Messner, *Das Naturrecht. Handbuch der Gesellschaftsethik, Staatsethik und Wirtschaftsethik*, 6th ed. (Innsbruck, 1966), 1068; Franz Klüber, *Eigentumstheorie und Eigentumspolitik, Begründung und Gestaltung des Privateigentums nach katholischer Gesellschaftslehre* (Osnabrück, 1963), 81f; Lothar Roos, *Ordnung und Gestaltung der Wirtschaft. Grundlagen und Grundsätze der Wirtschaftsethik nach dem II. Vatikanischen Konzil* (Cologne, 1971), 104f.
- [23] Oswald Nell-Breuning, *Gerechtigkeit und Freiheit. Grundzüge katholischer Soziallehre* (Vienna, 1980), 198.
- [24] Leo XIII, *Rerum Novarum* 7; Pius XI, *Quadragesimo Anno* 49; Pius XII, *La Solennità*, in Arthur Fridolin Utz and Joseph-Fulko Groner, eds., *Aufbau und Entfaltung des gesellschaftlichen Lebens. Soziale Summe Pius XII*, 3 vols. (Fribourg, 1954-1961), No. 506 [henceforth Utz/Groner]; Second Vatican Council, *Gaudium et Spes* 69.
- [25] Second Vatican Council, *Gaudium et Spes* 71; John Paul II, *Laborem Exercens* 19.
- [26] John Paul II, *Centesimus Annus* 32.
- [27] Pius XI, *Quadragesimo Anno* 49.
- [28] John Paul II, *Centesimus Annus* 30.
- [29] John XXIII, *Mater et Magistra* 111.
- [30] John XXIII, *Mater et Magistra* 82. Cf. also Paul VI, who took this assertion still further ten years later in *Octogesima Adveniens* 41: the degree of co-determination and co-responsibility was "for future society no less meaningful and important than the size and variety of goods produced and distributed to the consumer." cf. Michael J. Naughton, *Participation in the Organization: An Ethical Analysis from The Papal Social Tradition*, in: *Journal of Business Ethics*, vol. 14 (1995), 923ff.
- [31] Cf. the declaration "Sozialethische Erwägungen zur Mitbestimmung in der Wirtschaft der Bundesrepublik Deutschland" of November 8, 1968, in *Die Denkschriften der EKD*, 2:85ff.
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- 3[32] Ibid. 90. Cf. also Martin Honecker, *Grundriß der Sozialethik* (Berlin, 1995), 510ff.
- 4[33] Paul VI, address before the International Labor Organization, in Geneva, June 10, 1969, no. 21 in *Texte zur katholischen Soziallehre. Die sozialen Rundschreiben der Päpste und andere kirchliche Dokumente*, with introductions by Oswald von Nell-Breuning and Johannes Schasching, published by the Bundesverband der KAB, 8th ed. (Bornheim, 1992), 452.
- [34] Second Vatican Council, *Gaudium et Spes* 68. Cf. also the *Catholic Catechism for Adults* of the German Bishops' Conference, vol. 2: *Leben aus dem Glauben* (Bonn, 1995), 408ff.
- [35] John XXIII, *Mater et Magistra* 97.
- [36] Pius XI, *Quadragesimo Anno* 65. Cf. also O. von Nell-Breuning, *Soziallehre der Kirche. Erläuterungen der lehramtlichen Dokumente*, 2nd ed. (Vienna, 1978), 51.
- [37] John Paul II, *Laborem Exercens* 20; *Centesimus Annus* 35.
- [38] John Paul II, *Laborem Exercens* 20.
- [39] John Paul II, *Sollicitudo Rei Socialis* 15; Leo XIII, *Rerum Novarum* 38.
- 5[40] John XXIII, *Mater et Magistra* 97; Pius XI, *Quadragesimo Anno* 14; John Paul II, *Laborem Exercens* 20.
- [41] John Paul II, *Laborem Exercens* 20.
- [42] Wilhelm Emmanuel von Ketteler, "Die Arbeiterbewegung und ihr Streben im Verhältnis zu Religion und Sittlichkeit," in: *Texte zur katholischen Soziallehre II*, published by the Bundesverband der Katholischen Arbeitnehmerbewegung (KAB) Deutschlands, vol. 1, pt. 1 (Kevelaer, 1976), 245f.
- [43] John XXIII, *Mater et Magistra* 92. Second Vatican Council, *Gaudium et Spes* 68. Cf. also Wilhelm Weber, "Die Aussagen der katholischen Soziallehre, besonders des II. Vatikanischen Konzils, on Co-determination" in Anton Rauscher, ed., *Mitbestimmung* (Cologne, 1968), 251ff.
- [44] John XXIII, *Mater et Magistra* 91; Second Vatican Council, *Gaudium et Spes* 68; John Paul II, *Centesimus Annus* 43. Cf. also the declaration on co-determination by the Lutheran church in Germany, in *Die Denkschriften der EKD*, 105ff.
- [45] Cf. Hubert Mockenhaupt, "Franz Hitze (1851-1921)," in Rudolf Morsey, ed., *Zeitgeschichte in Lebensbildern* (Mainz, 1973), 53ff.

[46] Ibid. 138ff.

[47] Pius XI, *Quadragesimo Anno* 27 and 28. The statement that outstanding Catholic individuals, who were priests and who thought entirely according to the mind of Pope Leo XIII, who had developed and passed parliamentary legislation for the protection of workers, and who had developed a "new and to the previous generation entirely unknown area of law," namely labor law, can only refer to Heinrich Brauns.

[48] "Gerechtigkeit schafft Frieden." Der 73. Deutsche Katholikentag vom 31. August bis 4. September 1949 in Bochum, ed. Generalsekretariat des Zentralkomitees der Deutschen Katholikentag (Paderborn, 1949), 114.

[49] Cf. Josef Oelinger, "Schwerpunkte der innerkatholischen Mitbestimmungsdiskussion 1945-1963," in Albrecht Langner, ed., *Katholizismus, Wirtschaftsordnung und Sozialpolitik 1945-1963* (Paderborn, 1980), 158ff.; Eberhard Welty, *Herders Sozialkatechismus*, vol. III (Freiburg, 1958), 354ff.; Gustav Gundlach, *Die Ordnung der menschlichen Gesellschaft*, vol. 1 (Cologne, 1964), 540ff.; von Nell-Breuning, *Gerechtigkeit und Freiheit*, 230ff.; von Nell-Breuning, "Arbeit und Mitbestimmung," in Rauscher, ed., *Mitbestimmung*, 19ff.; A. Rauscher, "Arbeit und Eigentum in der Problematik der paritätischen Mitbestimmung," in A. Rauscher, *Kirche in der Welt*, vol. 2 (Würzburg, 1988), 217ff.

[50] Pius XII, "Address to the Participants of the International Congress for the Social Sciences," June 3, 1950, in Utz/Groner, eds., Nr. 3266.

[51] Eduard Gaugler, "Mitbestimmung," in *Handwörterbuch der Wirtschaftswissenschaften*, ed. Willi Albers et al., vol. 5 (Göttingen, Stuttgart, Tübingen, 1980), 254.

[52] Similarly, the law on personnel representation, for example, of the state of Lower Saxony in §2,1, obligates department and personnel representative to work together "in good faith and as partners," "for the fulfillment of the tasks delegated to the department and for the securing of the interests of those employed in the department."

[53] *Federal Supreme Court Decisions* 50:290ff. In the most solemn German legal language, on the other hand, there is reflected - as in the fundamental law - an understanding of property that is in the highest degree compatible with Catholic social teaching. Ownership ought to guarantee to the bearer of this basic right a freedom of action in the realm of property law, and "provide...him thereby a self-determining mode of life" (*BverfGE*) 24:389 and 30:334; *BGHZ* 6:276).

[54] Richtlinie des Rates über die Einsetzung eines Europäischen Betriebsrates oder die Schaffung eines Verfahrens zur Unterrichtung und Anhörung der Arbeitnehmer in gemeinschaftsweit operierenden Unternehmen und Unternehmensgruppen of September 22, 1994. The Bundestag adopted its incorporation into German law on September 27,

1994.

- [55] Cf. E. Gaugler, "Mitbestimmung in Betrieb und Unternehmung," in G. Endruweit et al., eds., *Handbuch der Arbeitsbeziehungen. Deutschland - Österreich - Schweiz* (Berlin, 1985), 179.
- [56] Arno Balzer/Andreas Nölting, "Dabeisein ist alles," *Managermagazin* (May 1996) 49ff.
- [57] Jürgen Dunsch, "Am Tisch der großen Konzerne," *FAZ*, May 6, 1996.
- [58] Balzer/Nölting, "Dabeisein ist alles," 51.
- [59] J. Oelinger, "Schwerpunkte der innerkatholischen Mitbestimmungsdiskussion," 194, with citations.
- [60] O. von Nell-Breuning, "Selbstverständnis und Selbsterkenntnis der Gewerkschaften," *Stimmen der Zeit* 171 (1962-63) 9.
- [61] *Mitbestimmung als Kampfaufgabe. Grundlagen - Möglichkeiten - Zielrichtungen. Eine theoretische, ideologiekritische und empirische Untersuchung zur Mitbestimmungsfrage in der Bundesrepublik.* Institut für Marxistische Studien und Forschungen (IMSF) (Cologne, 1971) 43ff.; Frank Deppe et al., *Kritik der Mitbestimmung. Partnerschaft oder Klassenkampf?* (Frankfurt, 1969).
- [62] Roland Kirbach, "Krieg im Werk," *Die Zeit* (May 17, 1996) 25.
- [63] Bernard Rüthers, "Mitbestimmung," in *Staatslexikon der Görres-Gesellschaft*, 7th ed. (Freiburg, 1987) 3:1179.