

# The Catholic Modernity of Pope Benedict XVI: Healthy Secularity and Christian Jurisprudence

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*This article examines the concept of healthy secularity in the thought of Pope Benedict XVI. In developing the idea of healthy secularity, Benedict builds upon longstanding themes in Catholic social thought while also provoking a deeper engagement with western modernity. Rather than placing Christianity and the secular in an oppositional framework, Benedict positions Christianity as the foundation of an authentic secular order. In so doing, he opens up new modes of critical engagement with western legal and political thought. Yet, while the concept offers a creative theological method for addressing contemporary issues, it depends for its realisation on vanishing cultural resources that are being eroded by the very secular order he aims to heal.*

## I. INTRODUCTION

Religion and the secular are typically placed in an oppositional framework. It is certainly the case that the tradition of modern Catholic social thought, as it took shape in the decades following the promulgation of Pope Leo XIII's 1891 encyclical, '*Rerum Novarum*', followed the approach of defining Catholicism in critical tension with liberalism, modernism, and secularism.<sup>1</sup> While there have been many efforts to move beyond a binary formulation, it is Pope Benedict's thought that elevates and even fulfills the project of overcoming the Catholic-secular divide. This is especially the case in his writings on the concept of healthy secularity. In developing this theme, Benedict offers a new way of imagining Christianity as operating with the grain of secular modernity, while still retaining the prophetic role of Catholic social thought. Healthy secularity both overcomes an oppositional framing while simultaneously positioning Catholicism as an even more determined critic of the errors of secularism, particularly as exemplified by the abandonment of Europe's Christian foundations. This article traces the development of Benedict's thought about the secular and its contributions to Catholic social thought. It is argued that healthy secularity offers a creative methodology for addressing contemporary issues in western law and politics, but that it depends for its realization on vanishing cultural resources within the very secular order it aims to heal. This internal contradiction ultimately leaves healthy secularity operating more as a vocabulary of lament than as the basis for a constructive social ethic.

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<sup>1</sup> Pope Leo XIII, '*Rerum Novarum*' (Encyclical, Dicastery of Communication Vatican, 15 May 1891) <[https://www.vatican.va/content/leo-xiii/en/encyclicals/documents/hf\\_l-xiii\\_enc\\_15051891\\_rerum-novarum.html](https://www.vatican.va/content/leo-xiii/en/encyclicals/documents/hf_l-xiii_enc_15051891_rerum-novarum.html)>.

## II. THE IDEA OF HEALTHY SECULARITY

In a 2006 address to a meeting of Italian lawyers, Pope Benedict XVI spoke of the need to promote a ‘healthy secularity’.<sup>2</sup> No concept was more central to Benedict’s social thought than the secular. In important respects, his writings on the secular are the key to understanding the social objectives of his papacy. Benedict had spoken in similar terms before assuming the papacy, for instance distinguishing a ‘positive secularism’ from a ‘negative secularism’ that ‘leaves no public space for the Catholic and Christian vision’.<sup>3</sup> Yet, it was as Pope that Joseph Ratzinger came to construct a social vision for the church in terms of a critical engagement with the secular.<sup>4</sup> He spoke of ‘positive secularity’ in a 2011 address to the Evangelical Lutheran Church of Germany.<sup>5</sup> In a 2011 meeting with the Brazilian ambassador to the Holy See, Benedict called for a ‘healthy secularism’.<sup>6</sup> During a 2008 visit to France, Benedict pressed for ‘new reflection on the meaning and importance of *laïcité*’.<sup>7</sup> Similarly on his trip to the United States, Benedict contrasted the ‘positive concept of secularism’ that has defined American public life with the ‘negative’ secularism prevalent in Europe.<sup>8</sup> While Benedict was not the first to invoke such language, his strategy of using this terminology marked a novel shift within Catholic social thought. Through healthy secularity, Benedict entered into a fundamental confrontation with the very logic of modernity in a way that marked out the culmination of the liberal Catholic tradition.

Benedict’s choice of speaking most often in terms of ‘secularity’ is revealing. Selecting this term rather than secularism or *laïcité* was not accidental. There have been two dominant approaches to interpreting the meaning of the secular, sometimes referred to as secularity and secularism. Brett Scharffs observes that both ‘secularity and secularism are linked to the general historical process of secularization, but ... have significantly different meanings and practical implications.’

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<sup>2</sup> Pope Benedict XVI, ‘Address to the Participants in the 56th National Study Congress Organized by the Union of Italian Catholic Jurists’ (Speech, Hall of Blessings, 9 December 2006) (‘Address Organized by Union of Italian Catholic Jurists’).

<[https://www.vatican.va/content/benedict-xvi/en/speeches/2006/december/documents/hf\\_ben\\_xvi\\_spe\\_20061209\\_giuristi-cattolici.html](https://www.vatican.va/content/benedict-xvi/en/speeches/2006/december/documents/hf_ben_xvi_spe_20061209_giuristi-cattolici.html)>.

<sup>3</sup> Joseph Ratzinger, Interview with Joseph Ratzinger, *La Repubblica* (19 November 2003).

<sup>4</sup> Pope Benedict XVI, ‘Address to the Board members of the Lazio Region, of the Municipal Corporation of Rome and of the Province of Rome. Members of the Regional Board of Lazio’ (Speech, Clementine Hall, 11 January, 2007) <[https://www.vatican.va/content/benedict-xvi/en/speeches/2007/january/documents/hf\\_ben-xvi\\_spe\\_20070111\\_admin-roma-lazio.html](https://www.vatican.va/content/benedict-xvi/en/speeches/2007/january/documents/hf_ben-xvi_spe_20070111_admin-roma-lazio.html)>; Pope Benedict XVI, ‘Address at Fifth General Conference of the Bishops of Latin America and the Caribbean’ (Speech, Conference Hall, Shrine of Aparecida, 13 May 2007) <[https://www.vatican.va/content/benedict-xvi/en/speeches/2007/may/documents/hf\\_ben-xvi\\_spe\\_20070513\\_conference-aparecida.html](https://www.vatican.va/content/benedict-xvi/en/speeches/2007/may/documents/hf_ben-xvi_spe_20070513_conference-aparecida.html)>.

<sup>5</sup> Pope Benedict XVI, ‘Meeting with the Council of the Evangelical Church in Germany’ (Speech, Chapter Hall of the former Augustinian Convent, Erfurt, 23 September 2011) <[https://www.vatican.va/content/benedict-xvi/en/speeches/2011/september/documents/hf\\_ben-xvi\\_spe\\_20110923\\_evangelical-church-erfurt.html](https://www.vatican.va/content/benedict-xvi/en/speeches/2011/september/documents/hf_ben-xvi_spe_20110923_evangelical-church-erfurt.html)>.

<sup>6</sup> Pope Benedict XVI, ‘Address of His Holiness Benedict XVI to H.E. Mr. Almir Franco De Sá Barbuda, New Ambassador of Brazil to the Holy See’ (31 October 2011) <[https://www.vatican.va/content/benedict-xvi/en/speeches/2011/october/documents/hf\\_ben-xvi\\_spe\\_20111031\\_ambassador-brasile.html](https://www.vatican.va/content/benedict-xvi/en/speeches/2011/october/documents/hf_ben-xvi_spe_20111031_ambassador-brasile.html)>.

<sup>7</sup> Pope Benedict XVI, ‘Welcome Ceremony and Meeting with Authorities of State’ (Speech, Elysee Palace, Paris, 12 September 2008) <[https://www.vatican.va/content/benedict-xvi/en/speeches/2008/september/documents/hf\\_ben-xvi\\_spe\\_20080912\\_parigi-elysee.html](https://www.vatican.va/content/benedict-xvi/en/speeches/2008/september/documents/hf_ben-xvi_spe_20080912_parigi-elysee.html)>.

<sup>8</sup> Benedict XVI, ‘Celebration of Vespers and Meeting with the Bishops of the United States of America’ (Speech, National Shrine of the Immaculate Conception, Washington DC, 16 April 2008) (‘Meeting with the Bishops of the United States of America’) <[https://www.vatican.va/content/benedict-xvi/en/speeches/2008/september/documents/hf\\_ben-xvi\\_spe\\_20080912\\_parigi-elysee.html](https://www.vatican.va/content/benedict-xvi/en/speeches/2008/september/documents/hf_ben-xvi_spe_20080912_parigi-elysee.html)>.

Secularity refers to ‘an approach to religion-state relations that avoids identification of the state with any particular religion or ideology (including secularism itself) and that endeavours to provide a neutral framework capable of accommodating a broad range of religions and beliefs’ while secularism is ‘an ideological position that is committed to promoting a secular order’.<sup>9</sup> Benedict seemingly follows this distinction while also adding a theological dimension. At base, the distinction concerns whether the secular is derived from religion or against religion. At its most basic, the secular refers simply to that which is profane and not sacred. It refers to the space within which persons and communities pursue limited temporal goods. In other words, the secular need not, as Robert Markus points out, ‘have such radical opposition to the sacred’.<sup>10</sup> In fact, this idea of the secular has genealogical roots in the Christian political imagination. By contrast, secularism refers to deep forms of social meaning in which the secular stands over and against religion. By thus speaking in terms of secularity, Benedict rejects the conflation of secular and secularism while also affirming the category of the secular as consonant with Christianity.

Benedict’s pairing of secularity with the language of healthy, authentic, positive, and true also borrows from a long tradition of Catholic thought. These adjectives litter the Catholic social canon, particularly documents of the second Vatican Council and its aftermath. Pope John XXIII spoke in ‘*Mater et Magistra*’, a 1961 encyclical on the topic of Christianity and social progress, of ‘true community’, ‘true human values’, ‘true human community’, ‘true social order’, and ‘true civilization’.<sup>11</sup> Pope Paul VI employed this language when discussing human sexuality in ‘*Humanae Vitae*’, writing of ‘true mutual love’, ‘authentic love’, ‘true liberty’, and ‘true happiness’.<sup>12</sup> Paul VI followed a similar practice in his 1967 encyclical ‘*Populorum Progressio*’ on economic and human development, in which he spoke of ‘true human community’, ‘true human values’, ‘true humanism’, and ‘authentic development’.<sup>13</sup> Pope John Paul II likewise uses this formula in ‘*Evangelium Vitae*’, his major encyclical on sexuality, abortion, and euthanasia, in which he spoke of realizing an ‘authentic civilization of truth and love’, ‘true democracy’, and the ‘authentic meaning of life’.<sup>14</sup>

This linguistic practice finds expression in the earliest documents of modern Catholic social thought. Pope Leo XIII employed the technique with particular creativity in his vast writings on social and political questions. His 1888 encyclical ‘*Libertas*’, for instance, argues for the ‘true liberty’ of Christianity against the ‘false’ anthropology of ‘modern liberties’.<sup>15</sup> His

<sup>9</sup> Brett G Scharffs, ‘Four Views of the Citadel: The Consequential Distinction between Secularity and Secularism’ (2011) 6(2) *Religion and Human Rights* 102, 110.

<sup>10</sup> Robert A. Markus, *Christianity and the Secular* (Notre Dame, 2006) 5.

<sup>11</sup> Pope John XXIII, ‘*Mater et Magistra*’ (Encyclical Letter, Dicastery of Communication Vatican, 15 May 1961) [65], [89], [91], [111], [171], [177] <[https://www.vatican.va/content/john-xxiii/en/encyclicals/documents/hf\\_j-xxiii\\_enc\\_15051961\\_mater.html](https://www.vatican.va/content/john-xxiii/en/encyclicals/documents/hf_j-xxiii_enc_15051961_mater.html)>.

<sup>12</sup> Pope Paul VI, ‘*Humanae Vitae*’ (Encyclical Letter, Dicastery of Communication Vatican, 25 July 1968) [12] <[https://www.vatican.va/content/paul-vi/en/encyclicals/documents/hf\\_p-vi\\_enc\\_25071968\\_humanae-vitae.html](https://www.vatican.va/content/paul-vi/en/encyclicals/documents/hf_p-vi_enc_25071968_humanae-vitae.html)>.

<sup>13</sup> Pope Paul VI, ‘*Populorum Progressio*’ (Encyclical Letter, Dicastery of Communication Vatican, 26 March 1967) [28]–[29] <[https://www.vatican.va/content/paul-vi/en/encyclicals/documents/hf\\_p-vi\\_enc\\_26031967\\_populorum.html](https://www.vatican.va/content/paul-vi/en/encyclicals/documents/hf_p-vi_enc_26031967_populorum.html)>.

<sup>14</sup> Pope John Paul II, ‘*Evangelium Vitae*’ (Encyclical Letter, Dicastery of Communication Vatican, 25 March 1995) [6], [101] <[https://www.vatican.va/content/john-paul-ii/en/encyclicals/documents/hf\\_jp-ii\\_enc\\_25031995\\_evangelium-vitae.html](https://www.vatican.va/content/john-paul-ii/en/encyclicals/documents/hf_jp-ii_enc_25031995_evangelium-vitae.html)>.

<sup>15</sup> Pope Leo XIII, ‘*Libertas*’ (Encyclical Letter, Dicastery of Communication Vatican, 20 June 1888) [1], [2], [10] <[https://www.vatican.va/content/leo-xiii/en/encyclicals/documents/hf\\_l-xiii\\_enc\\_20061888\\_libertas.html](https://www.vatican.va/content/leo-xiii/en/encyclicals/documents/hf_l-xiii_enc_20061888_libertas.html)>.

groundbreaking 1891 encyclical on labor and economics, *‘Rerum Novarum’*, similarly applied this formula to liberal capitalism and socialism. Leo invoked the language of ‘true’ in order to offer a simultaneous yes and no to the categories of modernity. The Church can affirm freedom, liberty, rights, and democracy yet, by speaking in terms of their true and false expressions, also name the errors of liberal modernity in its dominant expressions. This convention of speaking of that which is healthy, true, and authentic has thus allowed the Church to enter into a dialogue with modernity even as it moves to offer an alternative narration of how modernity should be actualized. In speaking of healthy secularity, Benedict is likewise affirming the secular, including aspects of its outworking within modernity, while calling for it to be reimagined in light of Christian truth.

Catholic social thought has long advanced the idea of a true and healthy modernity, but concern with the secular as such is more recent. In the nineteenth and early twentieth centuries, the secular was identified with civil authority and discussed in terms of the jurisdictional divide between sacred and secular power.<sup>16</sup> To the extent the secular was engaged directly, it was typically to criticize an account of civil authority that encroached on ecclesiastical authority. The 1864 *‘Quanta cura’* (*‘Syllabus of Errors’*), for instance, rejects the proposition that the ‘civil authority may interfere in matters relating to religion, morality and spiritual government’.<sup>17</sup> The problem was not with secularism as a broader sociological and ontological phenomenon, but with an account of the secular state that denied the church its proper jurisdictional independence. Catholic social thought displayed little attentiveness to, or even awareness of, the Church’s location within a more all-encompassing secular age. Indeed, Catholic thought retained a sense that it was addressing a social order that remained basically Christian, not only in terms of belief but also form and structure. There were threats to this order, to be sure, including from the forces of liberalism and irreligion, but Catholic social thought did not present the secular as a constitutive part of reality that must be independently acknowledged and constructively engaged.

Vatican II brought forth a turn to the secular as a primary context for Catholic social and political engagement. In so doing, the Church approached the secular as an overarching way of experiencing life in the modern world. The secular was more than a jurisdictional category that separated ecclesial and worldly authority. It was the concept that characterized the modern world as such.

Along with this reimagining of the relationship between Church and secular came an opening to modernity’s achievements. Economic development, technological and scientific advancement, the end of colonialism and the advance of human rights, filled the Church with a newfound confidence in the moral possibilities of the age. The Church should not oppose the secular but enter into it as

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<sup>16</sup> Leo XIII offered a classical statement of this understanding: ‘Yet, no one doubts that Jesus Christ, the Founder of the Church, willed her sacred power to be distinct from the civil power, and each power to be free and unshackled in its own sphere: with this condition, however — a condition good for both, and of advantage to all men — that union and concord should be maintained between them; and that on those questions which are, though in different ways, of common right and authority, the power to which secular matters have been entrusted should happily and becomingly depend on the other power which has in its charge the interests of heaven.’ Pope Leo XIII, *‘Arcanum Divinae’* (Encyclical Letter, Dicastery of Communication Vatican, 10 February 1880) [36] <[https://www.vatican.va/content/leo-xiii/en/encyclicals/documents/hf\\_l-xiii\\_enc\\_10021880\\_arcanum.html](https://www.vatican.va/content/leo-xiii/en/encyclicals/documents/hf_l-xiii_enc_10021880_arcanum.html)>.

<sup>17</sup> Pope Pius IX, *‘Quanta cura’* (Encyclical Letter, Dicastery of Communication Vatican, 8 December 1864) [44] <<https://www.papalencyclicals.net/pius09/p9quanta.htm>>.

a constructive agent of progress.<sup>18</sup> The Pastoral Constitution ‘*Gaudium*’ encapsulates this optimism. Its title — ‘Joy and Hope’ — announced the Church’s new orientation towards the secular. From a posture of resistance to one of receptivity, ‘*Gaudium*’ brought the Church into conversation with the ‘new stage of history’ in which ‘the human race is involved’.<sup>19</sup> This age generates ‘griefs and anxieties’ and ‘raises anxious questions’ about ‘the place and role of man in the universe’, but so too does it bring opportunities ‘for the perfection and further extension of culture’.<sup>20</sup> The new task for the Church was therefore to ‘decipher authentic signs of God’s presence and purpose in the happening, needs, and desires’ that the ‘People of God’ share ‘with other men of our age’.<sup>21</sup> It is not to uncritically embrace the world, but to interpret and narrate the presence of God in the spirit of the age.

‘*Gaudium*’s reassessment of the relationship between Christianity and the secular was premised on an acceptance of ‘the autonomy of earthly affairs’. Along these lines, the most critical and contested language in ‘*Gaudium*’ appears in para 36: ‘If by the autonomy of earthly affairs we mean that created things and societies themselves enjoy their own laws and values which must be gradually deciphered, put to use, and regulated by men, then it is entirely right to demand that autonomy.’ Similar language appears in para 59, which speaks of the ‘autonomy’ and ‘inviolability’ of culture. On one hand, these statements are unremarkable. Catholic social thought had long spoken of the rightful independence of civil and ecclesial institutions. This talk of autonomy thus harkens to established ideas about spheres of authority and jurisdiction within society. Yet, ‘*Gaudium*’ also introduces a new understanding of autonomy that Claudio Cardinal Hummes terms a ‘positive view of creation’.<sup>22</sup> This account of autonomy goes beyond civil jurisdiction to implicate human life and creativity within the world. Indeed, the language in paras 36 and 59 can be seen to intimate that the outworking of earthy affairs discloses fundamental truths about the human person. The secular is not merely a space for pursuing limited temporal goods. It is a site of divine activity and revelation. In a remarkable statement, for instance, ‘*Gaudium*’ declares that ‘the earthly and the heavenly city penetrate each other’.<sup>23</sup> There is much theological background embedded in this statement, particularly contested understandings of the relationship between nature and grace. Yet speaking about the interpenetration of the earthy and heavenly — the secular and the sacred — pushes Catholic social thought in new discretions. The boundary between Church and world is rendered porous. All is graced. The secular is not itself salvific but it does participate in the Church’s salvific work.

‘*Gaudium*’ provides important background for approaching healthy secularity. Benedict’s call to ‘formulate a concept of secularity’ represents a continuation of the positive encounter with modernity outlined in ‘*Gaudium*’. But it is equally a call to protect the authentic insights of

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<sup>18</sup> Of this optimism, Tracey Rowland notes that ‘there are sections of [*Gaudium*] which do sound as though they have been written by people who have forgotten about evil, sin, and atheistic ideologies’: Tracey Rowland, ‘The Good, the Bad, and *Gaudium et Spes*’ *The Catholic World Report* (Newsletter, 12 October 2022) <<https://www.catholicworldreport.com/2022/10/12/the-good-the-bad-and/>>.

<sup>19</sup> Pope Paul VI, ‘*Gaudium et Spes*’ (Encyclical Letter, Dicastery of Communication Vatican, 7 December 1965) [4] (‘*Gaudium*’) <[https://www.vatican.va/archive/hist\\_councils/ii\\_vatican\\_council/documents/vat-ii\\_const\\_1966](https://www.vatican.va/archive/hist_councils/ii_vatican_council/documents/vat-ii_const_1966)>.

<sup>20</sup> *Ibid* [1], [3], [54].

<sup>21</sup> *Ibid* [11].

<sup>22</sup> Claudio Cardinal Hummes, ‘Theological and Ecclesiological Foundations of *Gaudium et Spes*’ (2006) 3(2) *Catholic Journal of Social Thought* 231, 234.

<sup>23</sup> Pope Paul VI, ‘*Gaudium et Spes*’ (n 19) [40].

‘*Gaudium*’ from distortion. Loeven Beove observes, for instance, that ‘Ratzinger’s position with respect to ‘*Gaudium et Spes*’ is ambiguous to say the least’.<sup>24</sup> It is difficult to know whether Benedict’s concern is with how ‘*Gaudium*’ has been interpreted or with its underlying theological orientation. Either way, there are enduring points of contact between the future pope’s critique of secular culture during Vatican II debate about ‘*Gaudium*’ and ideas later found within healthy secularity. While healthy secularity builds on the turn to the secular inaugurated in ‘*Gaudium*’, it does not do so in a straightforward or uncritical manner.

Benedict has exhibited ongoing concern with certain interpretations and appropriations of ‘*Gaudium*’, particularly the tendency of some to read the document as endorsing a form of secular immanentism in which the world discloses truth to the Church.<sup>25</sup> This temptation is grounded, to some extent, in the theological foundations of the text. In Joseph Komonchak’s assessment, ‘*Gaudium*’ ‘followed an incarnational approach, looking in contemporary social and cultural movements for signs of an aspiration for the spiritual to which the church could address her message about Christ’.<sup>26</sup> The aspirations of modern society found their analogue in Christian hope. The world became a site for understanding, and realizing, the promise of the Gospel.

This incarnational understanding of contemporary society offered a corrective to antimodern strands within the Catholic tradition. As Markus argues, the impulse encapsulated in ‘*Gaudium*’ reversed ‘the spell of Constantinianism’.<sup>27</sup> The Church no longer sought to control the world but to be open to ‘the joys and the hopes, the griefs and the anxieties’ of the age.<sup>28</sup> Yet, Benedict wants to emphasize that affirmation of the world should not entail kneeling down before it. A healthy theology of the secular brings the world to the Church as much as the Church to the world. It is a perhaps merely a point of emphasis rather than a direct critique, but the tonal shift Benedict invites is significant.

Both as a participant at Vatican II and as Pope, Benedict has affirmed the secular as a constructive point of dialogue between Christianity and modernity, even as he asserted the ineluctability of tension and conflict. In a 2005 Christmas address given shortly after his election to the Papacy, Benedict reflected on the legacy of the Council that had concluded four decades prior.<sup>29</sup> He proposed that the central debate was whether the Council should be understood as advancing a ‘hermeneutic of reform’ and ‘renewal’ or ‘a hermeneutic of discontinuity and rupture’. Tracey Rowland speaks similarly of two dominant interpretations of ‘*Gaudium*’, which she designates the

<sup>24</sup> Loeven Boeve, ‘Europe in Crisis: A Question of Belief or Unbelief: Perspectives from the Vatican’ (2007) 23(2) *Modern Theology* 206, 206–11 (‘Europe in Crisis’).

<sup>25</sup> See Joseph Komonchak, ‘The Redaction and Reception of *Gaudium et Spes*: Tensions within the Majority at Vatican II’ <<https://jakomonchak.files.wordpress.com/2013/04/jak-views-of-gaudium-et-spes.pdf>>. See also Brandon Peterson, ‘Critical Voices: The Reactions of Rahner and Ratzinger to “Schema XIII” (*Gaudium et Spes*)’ (2015) 31(1) *Modern Theology* 1, 1–26; Andrew Sullivan, ‘Cardinal Sins: On Joseph Ratzinger’, *The New Republic* (Forum Post, 4 July 1988). Like Komonchak, Sullivan sees the early and later Ratzinger as held together by his Augustinian orientation.

<sup>26</sup> Joseph Komonchak, ‘The Church in Crisis: Pope Benedict’s Theological Vision’, *Commonweal* (5 June 2005) <<https://www.commonwealmagazine.org/church-crisis-pope-benedicts-theological-vision/>>.

<sup>27</sup> Robert Markus, *Christianity and the Secular* (University Notre Dame Press, 2006) 11.

<sup>28</sup> Pope Paul VI, ‘*Gaudium et Spes*’ (n 19) [40].

<sup>29</sup> Pope Benedict XVI, ‘Address to the Roman Curia Offering them His Christmas Greetings’ (Speech, Vatican City, 22 December 2005) <[https://www.vatican.va/content/benedict-xvi/en/speeches/2005/december/documents/hf\\_ben\\_xvi\\_spe\\_20051222\\_roman-curia.html](https://www.vatican.va/content/benedict-xvi/en/speeches/2005/december/documents/hf_ben_xvi_spe_20051222_roman-curia.html)>.

‘Wojtyla’ and ‘Schillebeeckx’ approaches.<sup>30</sup> Benedict, it would seem, associates himself with the Wojtyla school of reform and renewal, which emphasizes a constructive if critical engagement between ‘the church and the modern era’. Such an engagement with modernity will change the Church, but it is not an invitation to endless theological accommodation. As Boeve writes in summarizing Ratzinger/Benedict’s posture, ‘*Gaudium*’ ‘was not meant as a starting point for unrestricted dialogue, it was intended rather to set the boundaries of such a dialogue’.<sup>31</sup> The ‘turn towards the modern world’ epitomised by ‘*Gaudium*’ must not therefore ‘place too much emphasis on the dynamics of incarnation ... forgetting the mystery of the cross’.<sup>32</sup> The Church should approach the secular from a critical position of strength rather than one of uncritical openness. In other words, the notion of creational autonomy cannot be understood as vesting the world with life and meaning apart from the Church. It is not the saeculum which illuminates the Church’s vocation in the world, but the Church which gives meaning to the vocation of the saeculum.

### III. FALSE SECULARISM AND MODERN MORAL ORDER

Healthy secularity builds on this theological background to offer an account of the terms and conditions of the Church’s engagement with the secular. On an elemental level, healthy secularity can be seen as a critique of the ideological secularism Benedict sees infesting Europe and the post-Christian West more broadly.<sup>33</sup> As Benedict noted in his 2005 lecture to Italian jurists, the fundamental problem with the secular is that it ‘has come to mean the exclusion of religion and its symbols from public life by confining them to the private sphere and to the individual conscience’. The secular has acquired ‘an ideological understanding’ in which it ‘is commonly perceived today as the exclusion of religion from social contexts’ and as the ‘total separation’ of church and state. This false secularism denies ‘the Christian community and its legitimate representatives the right to speak on the moral problems that challenge all human consciences today, and especially those of legislators and jurists.’ Benedict makes a similar point in the 2006 book *Without Roots*, in which he argues that secular values are now understood to entail ‘freedom from religious constrictions’ and ‘the exclusion of Christian contents and values from public life’.<sup>34</sup> Benedict again returned to these themes in a 2012 exhortation to the Church in the Middle East, in which he criticised a view that ‘reduces religion to a purely private concern’. ‘In its extreme and ideological form’, this ‘becomes a secularism which denies citizens the right openly to express their religion and claims that only the State can legislate on the public form which religion may take.’<sup>35</sup>

Against this false secularism, healthy secularity acknowledges ‘the place that is due to God and his moral law, to Christ and his Church in human life, both individual and social’.<sup>36</sup> It is a form of secular order that not only permits religion to inform political meaning, but which takes it to be necessary. A political order that aims to ground itself on moral principles that would be valid *etsi*

<sup>30</sup> Rowland (n 18).

<sup>31</sup> Boeve, ‘Europe in Crisis’ (n 24) 207.

<sup>32</sup> Ibid.

<sup>33</sup> Pope Benedict XVI, ‘Meeting with the Bishops of the United States of America’ (n 8).

<sup>34</sup> Joseph Ratzinger and Marcelo Pera, *Without Roots: The West, Relativism, Christianity, Islam*, tr Michael F. Moore (Basic Books, 2007) 116.

<sup>35</sup> Pope Benedict XVI, ‘*Ecclesia in Medio Oriente*’ (Post Synodal Exhortation, Vatican City, 14 September 2012) [29] (‘*Ecclesia in Medio Oriente*’) <[https://www.vatican.va/content/benedict-xvi/en/apost\\_exhortations/documents/hf\\_ben-xvi\\_exh\\_20120914\\_ecclesia-in-medio-oriente.html](https://www.vatican.va/content/benedict-xvi/en/apost_exhortations/documents/hf_ben-xvi_exh_20120914_ecclesia-in-medio-oriente.html)>.

<sup>36</sup> Pope Benedict XVI, ‘Address Organized by Union of Italian Catholic Jurists’ (n 2).

*Deus non daretur*, even in the case that God did not exist, cannot ultimately endure. A civilisation needs ‘roots’ to survive — a sense of meaning and self-understanding that moves beyond the immanent frame.<sup>37</sup> What might be dismissed as marginal legal skirmishes over the permissibility of religious symbols in public thus reveal a deeper cultural malaise within the body politic. This conviction, for instance, informed the Vatican’s intervention in debate about referencing God in the proposed European Union Constitution and the display of the crucifix at issue in the case of *Lautsi v Italy* before the European Court of Human Rights.<sup>38</sup> Debates over the place of religious symbols and sources within secular law disclose, for Benedict, a contest over the very structure of modern order.

However, even in the context of these debates, healthy secularity does not represent a mere argument for religion against secularism. The concept is in fact animated by its rejection of such either/or approach. Rather than interpreting the landscape in terms of religion versus the secular, healthy secularity offers an account of religion for the secular. In this respect, healthy secularity is not merely a call to resist privatizing impulses that circumscribe the public influence of religion. It is not merely a call to leaven political and legal liberalism with a strong dose of religion. The deeper project at work is to reclaim the very idea of the secular as rooted in Christian thought and understanding. Against secularism, Benedict offers a secularity that is dependent at an ontological level on forms of theological meaning. It is not only that Christianity can coexist with the secular state. Christianity is the handmaiden of the secular state.

In developing these claims, Benedict connects healthy secularity to a longer genealogy of the secular. Attention has been given in recent scholarship to the history of the secular in relationship to Christianity. Against an account of the secular that begins with the Enlightenment and the modern state, this counter-history emphasises the role of Christianity in birthing the idea of the secular.<sup>39</sup> Along these lines, Angelo Amato argues that, ‘[i]n the first centuries, even the Church itself conducted a type of secularization when it demythologized pagan gods and idols’.<sup>40</sup> The desacralization of pagan culture, the de-divinization of law and politics, and the recognition of a sphere of governance to promote limited temporal goods were, in this reading, the outgrowth of Christianity. The result was what Thomas Berg terms a ‘modest’ understanding of the secular as simply that outside the church.<sup>41</sup>

Benedict’s account of healthy secularity tracks this genealogy in significant respects. In tracing the political history of Europe in *Without Roots*, Benedict outlines a progression from the division of authority between Pope and Emperor, to the emergence of the ‘secular state’ defined by its ‘abandoning and excluding as mythological any divine guarantee or legitimation of the political element’. Finally in modernity, ‘the state came to be understood in purely secular terms, as

<sup>37</sup> Joseph Ratzinger, ‘On Europe’s Crisis of Culture’ (St Benedict Award Recipient, Subiaco, 1 April 2005).

<sup>38</sup> On the Vatican and the *Lautsi* case see: Grégor Puppincq, ‘The Case of *Lautsi v Italy*: A Synthesis’ (2012) 3 *Brigham Young University Law Review* 835, 873.

<sup>39</sup> As Iain Benson notes, the idea of the ‘secular’ as ‘neutral’, ‘value free’ and ultimately irreligious is quite recent: Iain T Benson, ‘Notes Towards a (Re)Definition of the Secular’ (2000) 33(3) *University of British Columbia Law Review* 519, 520.

<sup>40</sup> Angelo Amato, *Catholicism and Secularism in Contemporary Europe* (Nanovic Institute for European Studies, 2009) 8.

<sup>41</sup> Thomas Berg, ‘Christianity and the Secular in Modern Political Life’ (2005) 2(2) *University of St Thomas Law Journal* 425, 425.



grounded in rationalism and the will of the citizens.’<sup>42</sup> This narrative highlights the extent to which secular categories emerged from Christianity — ‘the Enlightenment is of Christian origin’, Benedict has written.<sup>43</sup> Modernity, in other words, did not invent the secular. It transformed and distorted the secular by divorcing it from the sources which had given it life.

Part of Benedict’s concern in offering this genealogy is to complicate our historical imagination and offer an account of the secular that runs with the grain of Christianity. Yet, Benedict’s concerns are ultimately forward looking and not historical. He invokes the past in order to envision alternative ways of restructuring the present. In particular, Benedict aims to recover a constructive tension between Christianity and the secular that he sees having been lost in modernity. As Naomi Stolzenberg writes, modern secularism ‘eliminates the tension [between sacred and profane] by simply preserving one and discarding the other.’<sup>44</sup> For Benedict, it is important to resist this subsumption of the religious into the secular, just as it is critical to resist a subsumption of the secular into the religious. Healthy secular aims not at univocity but tension and dialectic.

Speaking in 2012 on the relationship between ‘the spiritual (religious) and the temporal (political) spheres’, Benedict argues that a ‘correct relationship ... should be marked by a kind of unity in distinction, inasmuch as both are called, while remaining distinct, to cooperate harmoniously in the service of the common good.’ ‘This kind of healthy secularity’, he adds, ‘is defined by a “unity in distinction” ... necessary and even vital for both spheres.’ Far from simply placing religion in the service of politics, ‘[a] healthy secularity ... frees religion from the encumbrances of politics, and allows politics to be enriched by the contribution of religion, while maintaining the necessary distance.’ ‘No society,’ Benedict concludes ‘can develop in a healthy way without embodying a spirit of mutual respect between politics and religion, avoiding the constant temptation either to merge the two or set them at odds.’<sup>45</sup> The religious and secular possess vocations that are complimentary but distinct. What Benedict aims to achieve with healthy secularity is the preservation of space for Christianity to inform and indeed to uphold secular order. It does not reduce the gap between Christianity and the secular. Rather, healthy secularity recalls the ‘unity in distinction’ that is Christianity’s unique contribution to understanding the secular.<sup>46</sup> The Church neither can nor should aspire to do more.

The dialectical impulse at the heart of healthy secularity also captures Benedict’s disposition towards political modernity. While healthy secularity offers a determined critique of modernity, it would be incorrect to see Benedict as having little interest in a constructive engagement with modern culture. Healthy secularity speaks to the distortions of modern order but does not reject modernity as fundamentally ‘antithetical to the spirit of the Gospel’.<sup>47</sup> To the contrary, healthy secularity is best understood as offering an account of a Catholic modernity. It is not a backward looking initiative to resurrect older forms of political and moral order, but a proposal to salvage late modernity from self-destruction.

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<sup>42</sup> Ratzinger and Pera (n 34) 51–62.

<sup>43</sup> Joseph Ratzinger, ‘On Europe’s Crisis of Culture’ (n 37).

<sup>44</sup> Naomi Stolzenberg, ‘The Profanity of Law’ in Austin Sarat, Lawrence Douglas and Martha Merrill Umphrey (eds), *Law and the Sacred* (Stanford University Press, 2007) 29, 35.

<sup>45</sup> Pope Benedict XVI, ‘*Ecclesia in Medio Oriente*’ (n 35) [29].

<sup>46</sup> *Ibid.*

<sup>47</sup> Robert Carle, ‘Pope Benedict XVI Confronts Religious Relativism’ (2008) 45(6) *Culture and Society* 549, 551.

While healthy secularity critiques the distortions of a false modernity, it is also open to the ways in which this same modernity has helped Christianity to become more authentically Christian. ‘Secularism’, Benedict writes, ‘challenges the Church to reaffirm and to pursue more actively her mission in and to the world.’<sup>48</sup> A posture of resistance towards the secular is neither adequate nor appropriate. In fact, Benedict goes further than simply seeing the secular as having prompted the Church to enter the world. He also speaks to how ‘[i]t was and is the merit of the Enlightenment to have again proposed ... original values of Christianity and of having given back to reason its own voice.’<sup>49</sup> This somewhat cryptic remark might be understood as echoing Charles Taylor’s claim that the dethroning of Christianity by modernity made possible ‘a great advance in the practical penetration of the gospel in human life.’<sup>50</sup> That is to say, the full social and political implications of the Gospel could only be realized when Christianity experienced critical judgment from the outside. Ideas of equality, dignity, freedom, and rights, all of which can be understood as authentic expressions of the Gospel, took hold within the Christian imagination through a refining encounter with secular patterns of thought. Christianity needs the secular and the secular needs Christianity. Healthy secularity offers a form of modern moral order that sustains this dynamic relationship.

Benedict’s interest in the creative tension between Christianity and the secular echoes themes from Taylor’s illuminating reflections in ‘A Catholic Modernity?’. As with Taylor’s ‘Catholic modernity’, Benedict’s healthy secularity stands within the liberal tradition of Catholic social thought that has sought to locate the Church’s voice within what Taylor terms ‘the achievements of modernity’.<sup>51</sup> Yet, even as Taylor’s Catholic modernity and Benedict’s healthy secularity both adopt a constructive and dialogical approach to relating church and age, there are important differences that illuminate Benedict’s more cautious and modest approach. While Taylor emphasizes how modernity has reformed Christian understanding, Benedict is more concerned with how Christianity might reform modernity. That is, Benedict is less concerned with securing the place of Catholicism within the secular age than with assessing how the Church can be the architect of an alternative secular order. The main objective is not for the Church to learn more fully from the secular — this was the mistaken interpretation of ‘*Gaudium*’ — but to prevent the secular from becoming a totalizing form of meaning in opposition to the Church.

In the end, Benedict retains a certain pessimism towards the moral life of modern secular order. The echoes of transcendence Taylor sees still present within modern secular culture are fainter to Benedict’s ear. If Taylor invites the Church to live into modernity — and to open itself to the critique of modernity — Benedict remains more concerned with healing modernity from within.

#### **IV. REASON, REVELATION, AND LAW**

Healthy secularity’s prescription for healing modernity begins with restoring the proper relationship between reason and religion. There is ‘a necessary relatedness between reason and

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<sup>48</sup> Pope Benedict XVI, ‘Meeting with the Bishops of the United States of America’ (n 8) [1].

<sup>49</sup> Joseph Ratzinger, ‘On Europe’s Crisis of Culture’ (n 37).

<sup>50</sup> Charles Taylor, ‘A Catholic Modernity?’ in James Heft (ed), *A Catholic Modernity: Charles Taylor’s Marianist Award Lecture* (Oxford University Press, 1999) 13, 18.

<sup>51</sup> *Ibid* 36.

faith and between reason and religion, which are called to purify and help one another.’<sup>52</sup> Religion sustains reason and reason refines religion. Neither is alone able to nourish a healthy and stable secular order.

The roots of false secularity are manifold, but Benedict sees the problem as largely noetic in nature. One of his central concerns is thus to diagnose what he calls the ‘pathologies of reason’ within modernity.<sup>53</sup> These pathologies arose, Benedict argues, because of the divorce of reason from nature which, in turn, led reason to become an expression of unbound will. His genealogy identifies developments in late medieval theology, particularly the voluntarism of Duns Scotus, as introducing dangerous intellectual pathways. Once divine will is severed from the bonds of reason, reason no longer provides what Brague terms a point of ‘continuity between the Creator and the creature’.<sup>54</sup> Reason participates in nothing outside of itself, leading to the modern quest for ‘purity’.<sup>55</sup>

A related pathology is framing reason as an autonomous form of knowledge. Reason does have a proper autonomy and Benedict’s criticisms should not be taken as rejecting the idea that human reason discloses truths. In discussing Aquinas, for instance, Benedict speaks of ‘the autonomy of philosophy, and with it the laws and the responsibility proper to reason, which enquires on the basis of its own dynamic’.<sup>56</sup> Yet, engaging the world from the perspective of reason alone, closed off from other sources of knowledge and experience, results in incomplete understanding. The particular temptation of modernity is to associate reason solely with scientific forms of knowledge, which alone are considered pure and authentic. Yet, this technical account of reason excludes much that is ‘part of the storehouse of human wisdom and [the] criteria of authentic reasonableness’.<sup>57</sup>

A concern with the narrowing of reason is the focus of Benedict’s much discussed lecture at Regensburg.<sup>58</sup> Although the lecture was mainly noticed for its remarks about Islam, this distracted from more important arguments.<sup>59</sup> At base, the focus of the lecture was the undoing of the ‘rapprochement’ between faith and reason that had defined and animated Christian culture. The Pope describes this process in terms of a ‘dehellenization’ that resulted in faith and reason coming to occupy distinct and autonomous spheres of meaning, neither enriching nor limiting each other. Benedict’s remarks on Islam were much criticized but perhaps also misunderstood. The reason he begins the lecture with reference to the classical Islamic belief in God’s absolute transcendence — a transcendence so absolute that God is ‘not bound even by his own word’ — is that he sees a

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<sup>52</sup> Joseph Ratzinger, ‘That Which Holds the World Together: The Pre-political Moral Foundations of a Free State’ in Jürgen Habermas and Joseph Ratzinger, *The Dialectics of Secularization* (Ignatius Press, 2005) 53, 77–8 (‘That Which Holds the World Together’).

<sup>53</sup> Ibid.

<sup>54</sup> Remi Brague, *The Law of God* (University of Chicago Press, 2007) 219.

<sup>55</sup> Pope Benedict XVI, ‘Lecture by the Holy Father Benedict XVI at the University of Rome *La Sapienza*’ (Speech, *La Sapienza* University, Rome, 17 January 2008) (*‘La Sapienza’*) <[https://www.vatican.va/content/benedict-xvi/en/speeches/2008/january/documents/hf\\_ben-xvi\\_spe\\_20080117\\_la-sapienza.html](https://www.vatican.va/content/benedict-xvi/en/speeches/2008/january/documents/hf_ben-xvi_spe_20080117_la-sapienza.html)>.

<sup>56</sup> Ibid.

<sup>57</sup> Ibid.

<sup>58</sup> See generally, James V Schall, *The Regensburg Lecture* (St. Augustine’s Press, 2007).

<sup>59</sup> Pablo Blanco Sarto comments that ‘[i]n spite of everything that was said, the subject ... was not Islam, but the importance of reason in Christianity and in other religions’: Pablo Blanco Sarto, ‘Logos and *Dia-Logos*: Faith, Reason, (and Love) According to Joseph Ratzinger’ (2010) 92(3) *Anglican Theological Review* 499, 499.

similar absolutism operating within western modernity. Logos has been replaced by will. The secular unbound from reason becomes unmediated power.

This shift in the culture of rationality, occurring slowly over the course of centuries, troubles Benedict because he sees it feeding the ‘instrumentalization’ of reason.<sup>60</sup> An instrumentalized reason cuts off human knowing from the wellspring of other, especially religious, insights. The coordination of knowledge and power at the heart of modern rationality poses a ‘danger for the western world’.<sup>61</sup> Reason unmoored from nature becomes captive to mere will and technique; it strives to master and control nature rather than conforming to limits. This instrumentalization of reason is driving the environmental, technological, and military threats to human survival. Of course, the utilization of reason for technical scientific ends has produced remarkable benefits for humanity, a fact that Benedict acknowledges. ‘Technology, viewed in itself, is ambivalent’, Benedict observes.<sup>62</sup> The problem is that technology has acquired a ‘hubris’ that refuses to recognize ‘proper limits’.<sup>63</sup> As Benedict laments, ‘Moral strength has not grown together with the development of science; rather, it has diminished, because the technical mentality relegates morality to the subjective realm, while we have need, precisely, of a public morality, a morality that is able to respond to the threats that weigh down on the existence of us all.’<sup>64</sup> Scientific rationality does not, in the end, contain the moral resources to control its own internal logic and inertia. Indeed, it consumes and undermines such resources. Reason needs something outside of itself.

The problem of technological rationality is a human problem. Reason has become the handmaiden of the will to mastery that cuts technology off from a deeper moral anthropology. Technology unmoored from the limits of nature inevitably becomes ‘radically anti-human’.<sup>65</sup> It destroys the human rather than elevating it. It strives to overcome nature rather than respecting its limits. Reason as a ‘purely functional rationality’ leads to the ‘mutilation of man’,<sup>66</sup> for human problems cannot be reduced solely to a ‘technological dimension’.<sup>67</sup> Authentic human development, Benedict argues in his 2009 encyclical ‘*Caritas in Veritate*’, instead requires connecting ‘technical progress’ to a vision of ‘charity, illumined by the light of reason and faith’.<sup>68</sup> The ethics of modernity reject the love that is the true story of humanity — a love that cannot be captured by reason alone. A healthy secularity is connected to a healthy anthropology.

These claims about reason, which seem at first far removed from law, are in fact at the heart of the jurisprudence embedded in healthy secularity. Benedict writes sparsely about law and legal theory. Healthy secularity is not a comprehensive theory of jurisprudence but a broad approach to

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<sup>60</sup> Ratzinger, ‘That Which Holds the World Together’ (n 52) 77–8.

<sup>61</sup> Pope Benedict XVI, ‘*La Sapienza*’ (n 55).

<sup>62</sup> Pope Benedict XVI, ‘*Caritas in Veritate*’ (Encyclical Letter, Dicastery of Communication Vatican, 29 June 2009) [14] <[https://www.vatican.va/content/benedict-xvi/en/encyclicals/documents/hf\\_ben-xvi\\_enc\\_20090629\\_caritas-in-veritate.html](https://www.vatican.va/content/benedict-xvi/en/encyclicals/documents/hf_ben-xvi_enc_20090629_caritas-in-veritate.html)>.

<sup>63</sup> Ratzinger, ‘That Which Holds the World Together’ (n 52) 77–8.

<sup>64</sup> Ratzinger, ‘On Europe’s Crisis of Culture’ (n 37).

<sup>65</sup> Pope Benedict XVI, ‘*Caritas in Veritate*’ (n 62) [14]. On Benedict’s approach to technology and human development in ‘*Caritas in Veritate*’, see J Brian Benestad, ‘Pope Benedict XVI’s “*Caritas in Veritate*”’ (2009) 16(2) *Josephinum Journal of Theology* 4.

<sup>66</sup> Ratzinger, ‘On Europe’s Crisis of Culture’ (n 37).

<sup>67</sup> Pope Benedict XVI, ‘*Caritas in Veritate*’ (n 62) [32].

<sup>68</sup> *Ibid* [9].

structuring the relationship between Christianity and modernity. Still, outlines of a theory of law can be identified.

These emerge most immediately in Benedict's writings on natural law, in which he makes related claims about the limits of secular reason. One of the achievements of the Christian West was creation of a legal order independent of revealed religion; law found its basis in reason and not divine law. Yet while Benedict acknowledges the important role of natural law reasoning in continuing to facilitate a Catholic engagement with secular politics, he also sees it as a limited moral and political discourse. In the end, he views natural law as ill-suited to supporting a universal moral order within the conditions of late modernity, a position that places him at some tension with an important strand of Catholic social thought.

Benedict's aim of recovering authentic rationality as the foundation of authentic secularity leads to his position that reliance on natural law is inadequate. Perhaps his most revealing if somewhat cryptic remark about natural law is that 'this instrument has become blunt'.<sup>69</sup> This statement can be interpreted in a number of ways. For one, it is an acknowledgment of the practical limits of natural law for political argumentation. Appeals to moral universality on the basis of reason alone fail to move a culture suspicious of fixed ethical norms. Benedict also seems to have in mind the particular challenge of advancing moral claims about nature in a post-evolutionary context where nature no longer holds normative significance.

There is an additional sense in which we might understand Benedict's hesitancy that goes to the heart of the relationship between reason and truth. Part of Benedict's concern about natural law is that it is all too often used to advance a form of reason autonomous from theology. In order to uphold the universality of moral claims, certain forms of natural law adopt the very errors of modern rationality. In one passage, for instance, Benedict writes of the need to give greater attention to "the intrinsic relationship between Gospel and the natural law."<sup>70</sup> It is only through Christianity that the true logic of reason is disclosed and the full ends of nature are made manifest. Reason and nature find completion in Christ. Along these lines, Peter Casarella observes that Benedict does not reject reason, but insists that 'its positivistic and instrumental usages require a broadening that only Christian revelation can provide'.<sup>71</sup> Logos without theology generates an account of natural law that is a blunt and ineffectual vehicle for communicating truth and authentically ordering common life.

Benedict's approach to reason is fundamentally incarnational and thus resists an account of natural law as autonomous. Reason must seek its fulfillment in 'the Light that illuminates history'.<sup>72</sup> Natural law points beyond law. Yet, it is important to note that Christianity's completion of reason does not imply that the relationship between faith and reason is unidirectional. Ratzinger rather emphasizes the dialectical nature of the relationship. Referring, for instance, to what he calls 'pathologies in religion', Benedict proposes that religion must 'allow itself to be purified and

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<sup>69</sup> Ratzinger, 'That Which Holds the World Together' (n 52) 69.

<sup>70</sup> Pope Benedict XVI, 'Meeting with the Bishops of the United States of America' (n 8).

<sup>71</sup> Peter Casarella, 'Public Reason and Intercultural Dialogue' in William A Barbieri Jr (ed), *At the Limits of the Secular: Reflections on Faith and Public Life* (William B Eerdmans, 2014) 75, 75.

<sup>72</sup> Pope Benedict XVI, 'La Sapienza' (n 55).

structured by reason'.<sup>73</sup> There is a process of mutual 'self-reflection' that emerges out of the 'dialogue between secularists and Catholics'.<sup>74</sup> At its best, this dialogue allows both faith and reason to be more fully true and more fully authentic to their vocations. Benedict's appeal to 'dialogue' is no mere platitude, for he sees in this critical and constructive interaction the lifeblood of a healthy secular order.

Benedict frames this dialectical relationship between faith and reason in terms of an engagement between the universal and the particular. These two ordering dynamics exist in an ongoing tension that is never fully resolved. Religion and reason gesture towards a universality that, within the limits of our experience, can never be fully realized. In fact, Benedict exhibits a determined scepticism about the possibility of any universal account capturing the full range of human goods: '[T]he rational or ethical or religious formula that would embrace the whole world and unite all persons does not exist'.<sup>75</sup> Reason and revelation are inextricably linked, neither being sufficient to independently sustain a moral or legal order.

Similar themes are found in his 2011 lecture to the German Bundestag titled 'The Listening Heart: Reflections on the Foundations of Law'.<sup>76</sup> This short address is perhaps the closest that Benedict comes to connecting healthy secularity to law and legal theory. His aim in the Bundestag lecture is to reflect on 'the foundations of law', that is, the sources of law's authority and meaning. Although Benedict never uses the word 'secular' in the address, his argument fundamentally concerns the rise and fall of a healthy secular legal order. He begins by noting that 'Christianity has never proposed a revealed law to the State and to society', but has instead 'pointed to nature and reason as the true sources of law'. This basically Christian insight gave life to a secular legal order — an account of law's authority that required no direct recourse to religion or the sacred — that would endure 'up to the time of the Declaration on Human Rights after the Second World War'. What changed is that nature came to be viewed as 'purely functional' and 'incapable of producing any bridge to ethics and law'.<sup>77</sup> Reason excluded all knowledge that was not deemed scientific. This 'positivistic' understanding of nature and reason closed off law to anything 'beyond mere functionality'. The way to recover an authentic account of law is not, however, through a totalizing turn to theology that would destroy law's secularity, but rather to reimagine nature and the ways in which humanity engages and knows it. Nature is not purely bounded and immanent, as the positivists propose, but rather a reality suffused with 'God's raw materials'. As he declares, 'the windows must be flung open' in order to encounter a world that 'presupposes creative reason' in nature.<sup>78</sup> In this respect, Benedict's legal theory is thoroughly theological, even as it aims to channel theology into and through the secular. The resulting jurisprudence is profoundly incarnational. God is revealed in and through the natural world, and human reason is an encounter with God. Nature, like the secular more generally, retains its own autonomy and dignity and is not rendered coterminous with the theological. However, its full and proper meaning

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<sup>73</sup> Ratzinger, 'That Which Holds the World Together' (n 52) 77.

<sup>74</sup> Ratzinger, 'On Europe's Crisis of Culture' (n 37).

<sup>75</sup> Ratzinger, 'That Which Holds the World Together' (n 52) 76.

<sup>76</sup> Pope Benedict XVI, 'The Listening Heart: Reflections on the Foundations of Law' (Speech, Reichstag Building, Berlin, 22 September 2011) <[https://www.vatican.va/content/benedict-xvi/en/speeches/2011/september/documents/hf\\_ben-xvi\\_spe\\_20110922\\_reichstag-berlin.html](https://www.vatican.va/content/benedict-xvi/en/speeches/2011/september/documents/hf_ben-xvi_spe_20110922_reichstag-berlin.html)>.

<sup>77</sup> *Ibid.*

<sup>78</sup> *Ibid.*

is revealed only in and through a theological worldview that sees the natural and supernatural as always already intermingled.

Benedict's understanding of law becomes clearer when the Bundestag lecture is read in conjunction with his remarks on natural law. What emerges is a jurisprudence grounded in tension. Secular law becomes the point of convergence between reason and revelation, nature and supernature, universal and particular. The resulting tension is animating but also unstable. Healthy secularity does not resolve what is to be the proper relation between religion and law; it simply rejects any system in which one dynamic seeks to exclude the other. The theological subsumption of the secular is no less problematic than the secular subsumption of the theological. Both are false and violent universalisms.<sup>79</sup> Christianity punctures the false universalism of legal positivism but must equally acknowledge and confront its own limitations as a totalizing system of legal meaning.

Benedict's account of law, like his account of healthy secularity more generally, is fragile. The most basic challenge is that a healthy secular order depends on the very intellectual, cultural, and moral resources that Benedict argues modernity has undermined. How is Christianity to save modernity as an increasingly marginalized actor in a post-Christian order? How is Christianity to transform the logic of modernity from within when it is located to a large extent on the outside? Scepticism is warranted. Yet to ask these questions might be to misunderstand the fundamental aim of healthy secularity.

## V. CONCLUSION

Healthy secularity offers Christianity as a gift to the life of the world — the *saeculum*. The principal aim of Benedict's social vision is not to instrumentalize Christianity to save the world that modernity has wrought. Healthy secularity does contain a positive vision for the reconstruction of the secular and, in so doing, provides the foundations for a political or juridical program. In this sense, healthy secularity can be seen as contributing to the ongoing development of the Catholic social thought tradition. Yet healthy secularity diverges from this tradition, not only in the extent to which it adopts the logic of modern secularity as its starting point but also in its concern with naming the internal exhaustion of the modern project. It is lamentation as much as critique, deconstruction as much as reconstruction. In this respect, healthy secularity does not simply follow the well-trodden impulse of Catholic social thought to critically engage modernity from within. It equally looks ahead to a world in which modernity, already 'on a collision course'

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<sup>79</sup> It is here that we might reference interesting points of distinction between Benedict's approach and that taken by Rowan Williams, the former Archbishop of Canterbury, in his lecture on civil and religious law in England. Most importantly, both Benedict and Williams identified a form of universalism given shape and life through secular law, as a threat to the capacity of community, especially religious communities, to live out their moral particularity. For Williams, a solution is to puncture this universality by opening the secular law to certain expressions of religious law. Religious law gains space apart from the secular law and the secular law is denied a monopoly over both public meaning and private loyalty. The reach of the secular law is, in this respect, checked. Benedict's healthy secularity, by contrast, offers an account of religion going through the secular law — accepting the basic construct of the secular as the ordering ground of public life even as Christianity aims to reimagine the meaning and foundations of the secular. It is through recovering a full account of reason that this can be accomplished. See Rowan Williams, 'Civil and Religious Law in England: A Religious Perspective' (2008) 10(3) *Ecclesiastical Law Journal* 262, 262–282.

with itself, finally reaches a point of collapse.<sup>80</sup> This is the most basic paradox of healthy secularity, a concept that heightens the church's engagement with the modern world while also moving beyond it. It should not be surprising that the same Pontiff devoted to the task of healthy secularity spoke equally of a grace that transcends any social and political order. In the end, it is charity and love that are 'at the heart of the Church's social doctrine'.<sup>81</sup> This love is the Church's enduring gift to the life of the world.

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<sup>80</sup> Ratzinger and Pera (n 34) 109.

<sup>81</sup> Pope Benedict XVI, '*Caritas in Veritate*' (n 62) [2].