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Research Panel: Faculty Unionization at Religiously-Affiliated Institutions

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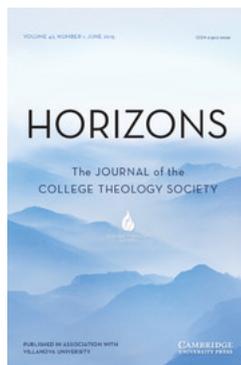
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Labor Unions, Adjuncts, and the Mission and Identity of Catholic Universities

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Catholic social teaching (CST) has long endorsed the right of all workers to unionize. However, many US Catholics exhibit an antiunion bias. In addition, Catholic institutions have engaged in union busting, thereby flouting CST. Focusing on the recent efforts of adjuncts to unionize at Catholic universities, this article argues that union busting jeopardizes the faith and conscience formation of students and undermines the evangelizing mission of Catholic universities. The article debunks the appeal to religious liberty by Catholic institutions to circumvent the National Labor Relations Board's injunctions to allow adjuncts to unionize. It also refutes the argument that the National Labor Relations Act imposes a style of collective bargaining contrary to the harmonious vision of labor relations in CST. Succinctly stated, the article contends there is no legitimate reason for Catholic universities to thwart the unionization efforts of adjuncts, particularly given the systematically unjust work conditions many of them face.

Keywords: Catholic social teaching, adjuncts, unions, workers' rights, Catholic higher education, evangelization

OFFICIAL Catholic social teaching (CST) has long endorsed unions as an “indispensable element of social life.”¹ According to the Second Vatican Council’s *Pastoral Constitution on the Church in the*

¹ Pope John Paul II, Encyclical *Laborem Exercens*, http://www.vatican.va/holy_father/john_paul_ii/encyclicals/documents/hf_jp-ii_enc_14091981_laborem-exercens_en.html, §20. This and all subsequent citations and translations of official Roman Catholic magisterial documents are taken from the Vatican website, <http://w2.vatican.va/content/vatican/en.html>. I am very grateful to Don Carroll, labor attorney and adjunct professor of labor law at the University of San Francisco, for helpful suggestions concerning this article. I remain solely responsible for all views expressed herein.

Gerald J. Beyer is Associate Professor of Christian Ethics at Villanova University. His publications include Recovering Solidarity: Lessons from Poland’s Unfinished Revolution (Notre Dame, IN: University of Notre Dame Press, 2010) and numerous journal articles. His forthcoming book is tentatively titled Solidarity or Status Quo? Catholic Social Teaching and the Mission of Catholic Universities.

Modern World (Gaudium et Spes), the right to unionize without fear of reprisal ranks among the “basic rights of the human person.”² However, in recent years several Catholic authors have expressed disapproval of unions, arguing that Catholics are not always obligated to support unions.³ According to a Pew study, only 48 percent of US Catholics have a favorable view of unions.⁴ Catholic philosopher Joe Holland has argued that the disdain for unions among Catholics in the United States and elsewhere has become an “*unjust bourgeoisie class prejudice* against workers and their human rights” that “undermines Catholic *solidarity* and *evangelization* of the working classes.”⁵ Furthermore, Catholic hospitals, diocesan schools, and institutions of higher learning in the United States have engaged in “union busting,” which involves a systematic effort to thwart workers from unionizing.⁶ Union-busting tactics can include, for example, hiring “union avoidance” firms, subjecting workers to antiunion propaganda at “captive

² Second Vatican Council, *Pastoral Constitution on the Church in the Modern World (Gaudium et Spes)* [GS], December 7, 1965, http://www.vatican.va/archive/hist_councils/ii_vatican_council/documents/vat-ii_const_19651207_gaudium-et-spes_en.html, §68.

³ See, for example, Samuel Gregg, *Tea Party Catholic: The Catholic Case for Limited Government, a Free Economy, and Human Flourishing* (New York: Crossroad, 2013), 177–81; Robert A. Sirico, “Catholic Teaching’s Pro-Union Bias,” *Milwaukee Journal Sentinel*, February 28, 2011; Annamarie Adkins, “Public Employee Unions and the Common Good,” *Zenit*, March 6, 2011, <http://www.zenit.org/en/articles/public-employee-unions-and-the-common-good>.

⁴ Kristen Hannum, “Labor Pains: What Wisconsin Tells Us about Catholics and Unions,” *U.S. Catholic* 76, no. 8 (August 2011), <http://www.uscatholic.org/church/2011/07/labor-pains-what-wisconsin-tells-us-about-catholics-and-unions>.

⁵ Joe Holland, *100 Years of Catholic Social Teaching Defending Workers & Their Unions: Summaries & Commentaries for Five Landmark Papal Encyclicals* (Washington, DC: Pacem in Terris Press, 2012), 1–2 (emphasis in the original).

⁶ See Adam D. Reich, *With God on Our Side: The Struggle for Workers’ Rights in a Catholic Hospital* (Ithaca, NY: Cornell University Press, 2012); David L. Gregory and Charles J. Russo, “The First Amendment and the Labor Relations of Religiously-Affiliated Employers,” *Boston University Public Interest Law Journal* 8 (1999): 449–585; Paul Moses, “Which Side Are They On?,” *Commonweal* 138, no. 10 (May 20, 2011): 18–20; Joseph J. Fahey, “Adjunct Unions at Catholic Affiliated Colleges and Universities: A Background Paper” (paper, Catholic Scholars for Worker Justice, November 1, 2013), <http://www.cswj.us/2013%2011-1%20Adjunct%20Background%20Paper%20-%20FAHEY.pdf>; Susan Stabile, “Blame It on Catholic Bishop: The Question of NLRB Jurisdiction over Religious Colleges and Universities,” *Pepperdine Law Review* 39, no. 5 (2013): 1341; and Walter “Bob” Baker, *Catholic Social Teaching and Unions in Catholic Primary and Secondary Schools: Clash between Theory and Practice within the United States* (Washington, DC: Pacem in Terris Press, 2014).

audience” meetings, impeding efforts to unionize through litigation, and retaliation toward workers attempting to organize.⁷

This breach of Catholic social teaching has occurred in the broader context of what can be called a war against workers and their right to unionize in the United States.⁸ Given the persistence of low wages and unsafe working conditions for many laborers, more than half of the American workforce would join a union if possible.⁹ Research demonstrates that “unions tend to improve the life satisfaction of individuals vis-à-vis nonunion members.”¹⁰ However, union-busting and pro-business court decisions have made it increasingly harder for workers to organize, particularly since 1980.¹¹ So-called right-to-work laws have attempted to eviscerate unions by forcing them to represent workers who refuse to pay the significant costs associated with membership and representation.¹² Already by the 1990s, more than

⁷ James A. Gross, *A Shameful Business: The Case for Human Rights in the American Workplace* (Ithaca, NY: ILR Press/Cornell University Press, 2010), 78–80.

⁸ See Gerald J. Beyer, “Workers’ Rights and Socially Responsible Investment in the Catholic Tradition: A Case Study,” *Journal of Catholic Social Thought* 10, no. 1 (2013): 117–21. On the war against workers, see also Gross, *A Shameful Business*; David L. Gregory, “The Demise of Workers’ Rights,” *America* 195, no. 5 (2006): 20–23; Kimberley A. Bobo, *Wage Theft in America: Why Millions of Working Americans Are Not Getting Paid—and What We Can Do about It* (New York: New Press, 2009); Robert B. Reich, *Aftershock: The Next Economy and America’s Future* (New York: Knopf, 2010).

⁹ See David Madland and Karla Walter, “The Employee Free Choice Act 101: A Primer and Rebuttal,” Center for American Progress Action Fund, <https://www.americanprogressaction.org/issues/labor/news/2009/03/11/5814/the-employee-free-choice-act-101/>.

¹⁰ Lonnie Golden, “Becoming Too Small to Bail? Prospects for Workers in the 2011 Economy and the 112th Congress,” *Indiana Law Journal* 87, no. 1 (2012): 36.

¹¹ Gross, *A Shameful Business*, 79–80. Scholars have often pointed to Ronald Reagan’s firing of striking PATCO (Port Authority Transit Corporation) workers as the death knell of the labor movement in the United States. See Joseph A. McCartin, *Collision Course: Ronald Reagan, the Air Traffic Controllers, and the Strike that Changed America* (New York: Oxford University Press, 2011). On antiunionism more generally, see also Interfaith Worker Justice, “Why Unions Matter,” in *A Worker Justice Reader: Essential Writings on Religion and Labor*, ed. Joy Heine and Cynthia Brooke (Maryknoll, NY: Orbis Books, 2010), 17–18; Darren Cushman Wood, “The Church, the Union and the Trinity,” *ibid.*, 198–209; Richard L. Kalhenberg and Moshe Z. Marvit, “A Civil Right to Unionize,” *New York Times*, February 29, 2012, A31; and John Schmitt and Alexandra Mitukiewicz, “Politics Matter: Changes in Unionization Rates in Rich Countries, 1960–2010,” Center for Economic and Policy Research, <http://www.cepr.net/index.php/publications/reports/changes-in-unionization-rates-in-rich-countries-1960-2010>.

¹² Bill Fletcher, *“They’re Bankrupting Us!”: And 20 Other Myths about Unions* (Boston: Beacon Press, 2012), 23–25; Gordon Lafer, “What ‘Right to Work’ Means for Indiana’s Workers: A Pay Cut,” *The Nation*, January 11, 2012, <http://www.thenation.com/article/165599/what-right-work-means-indianas-workers-pay-cut>; Martin Wolfson, “‘Right to

20,000 workers annually experienced discrimination for union activity.¹³ Human Rights Watch has thus reported that workers' freedom of association is "under sustained attack in the United States."¹⁴ As a result of this aggressive campaign against unions, union membership has dwindled to less than 7 percent of the private workforce in the United States.

Perhaps it should come as no surprise that Catholic institutions have engaged in union busting. As Catholic ethicist Daniel Finn contends, "History shows, of course, that the owners of capital have almost universally attempted to prevent the formation of labor unions at their origin and then they have tried to weaken their power after they were legalized."¹⁵ Catholic institutions, such as hospitals and universities, are corporations. While they serve good ends, they are also driven by "influence, interests, and money."¹⁶ However, given Catholic social teaching's clear mandate to support the rights of workers, including the right to unionize, and the call of the gospel to be a countercultural "sign of contradiction" (Luke 2:34; see also Acts 28:22), Catholic institutions should excel at protecting workers' rights in a world largely hostile to them.¹⁷

Within this larger context, this article examines the main arguments of opponents to the unionization of adjuncts (part-time faculty) at Catholic universities.¹⁸ As I shall discuss, these opponents often contend that the religious

Work' vs. The Rights of Workers" (report, Higgins Labor Studies Program, University of Notre Dame, March 2011), http://higginslabor.nd.edu/assets/38894/higgins_report_on_rtw_march_2011.pdf.

¹³ Lance Compa, "Workers' Freedom of Association in the United States: The Gap between Ideals and Practice," in *Workers' Rights as Human Rights*, ed. James A. Gross (Ithaca, NY: Cornell University Press, 2003), 33.

¹⁴ Human Rights Watch, *Unfair Advantage: Workers' Freedom of Association in the United States under International Human Rights Standards* (New York: Human Rights Watch, 2000), 12, <http://www.hrw.org/sites/default/files/reports/uslbroo8.pdf>.

¹⁵ Daniel Finn, "The Priority of Labor over Capital: Some Needed Extensions," *Journal of Catholic of Social Thought* 6, no. 1 (2009): 30.

¹⁶ David Hollenbach, "The Catholic University under the Sign of the Cross: Christian Humanism in a Broken World," in *Finding God in All Things*, ed. Stephen J. Pope (New York: Crossroad, 1996), 286. See also Reich, *With God on Our Side*.

¹⁷ Reflecting on the Lukan passage, Saint John Paul II wrote that "Jesus is the symbol of liberation from unjust structures, both social and economic. . . . He is in every way a reproach to affluent, acquisitive consumer societies." Like Jesus, the church must also be a sign of contradiction to the ways of the world. See Karol Wojtyła, *Sign of Contradiction* (New York: Seabury Press, 1979), 108.

¹⁸ The terms *non-tenure-track faculty* (NTFF) and *contingent faculty* include part-time adjuncts and full-time, non-tenure-track faculty and graduate assistants. While there are certainly differences in the situations of these types of faculty members, they all face many of the same struggles associated with the casualization of the academic workforce.

liberty of Catholic institutions is violated when the National Labor Relations Board (NLRB) asserts its jurisdiction over these institutions to force them to recognize union elections. In addition to examining this issue, I will critique the argument of legal scholar Kathleen Brady that the National Labor Relations Act (NLRA) imposes a style of collective bargaining antithetical to the harmonious vision of labor relations in Catholic social teaching, thereby violating the religious liberty of Catholic institutions. I will devote significant attention to Brady's argument because she has most systematically and thoroughly elaborated a position either explicitly repeated by others or echoed in their arguments against unionization at Catholic institutions.¹⁹ For example, administrators at Catholic health-care and educational institutions sometimes adopt the paternalistic rhetoric of the "benevolent employer." They claim unions are unnecessary because they would disrupt the congenial relationships between managers and workers in Catholic workplaces, where workers are taken care of like family members.²⁰ Brady's position articulates this idealistic vision, but goes beyond it in significant ways. It may thus represent the most potent foundation for the claim that NLRB jurisdiction violates the religious freedom of Catholic universities, and simultaneously provide the strongest argument against the unionization of adjuncts.

I will contend that these arguments against adjunct faculty unionization at Catholic institutions are based on misunderstandings of Catholic social teaching and a misreading of facts on the ground. I will therefore argue that Catholic universities have no legitimate reason for thwarting the unionization efforts of adjuncts, particularly given the systematically unjust conditions in

In this article, I focus on adjuncts because it has been mainly their efforts to unionize that Catholic universities have opposed. On the various terms used to refer to contingent faculty, see John Curtis and Saranna Thornton, *Here's the News: The Annual Report on the Economic Status of the Profession, 2012-13* (Washington, DC: American Association of University Professors, 2013), 8, <http://www.aaup.org/report/heres-news-annual-report-economic-status-profession-2012-13>. I agree with the AAUP's claim that the terms *adjunct* and *part-time* are both problematic, as the work of this group of university professors is anything but peripheral to higher education today. In addition, many who are deemed part-time by the universities spend as many if not more hours on teaching than professors considered full-time.

¹⁹ For example, Michael Moreland repeated Brady's argument in his testimony before the US Congress. See *Expanding the Power of Big Labor: The NLRB's Growing Intrusion into Higher Education; Before the Subcommittee on Health, Employment, Labor and Pensions jointly with the Subcommittee on Higher Education and Workforce Training*, 112th Congress (September 12, 2012) (statement of Michael P. Moreland, Vice Dean and Professor of Law, Villanova University), http://edworkforce.house.gov/uploadedfiles/09.12.12_moreland.pdf.

²⁰ See Reich, *With God on Our Side*, 104-5.

which they work and the broader assault against workers' rights in the United States. I make this argument while recognizing recent efforts to compensate adjuncts better on some Catholic campuses.²¹ Adjuncts nonetheless retain the right to evaluate these efforts and to decide for or against a union themselves according to Catholic social teaching.

I will also contend that forestalling the unionization of adjuncts who desire a union undercuts the mission and identity of Catholic institutions, in particular the task of evangelization and the faith formation of students. I aim to demonstrate that union busting, of any type, poses a greater threat to the mission of Catholic universities than the putative problem of NLRB oversight and subsequent union elections, an issue that has been raised by the American Association of Catholic Colleges and Universities and other Catholic higher-education leadership.²² As I will discuss, this issue is a red herring because universities can avoid NLRB involvement altogether by simply recognizing adjunct unions designated through a "card check." Finally, while this article focuses on recent efforts of adjuncts to unionize, its theses apply to the rights of all workers to unionize at Catholic institutions.

²¹ Several Catholic institutions have in recent years granted access to university health-care plans and increased adjunct salaries. See, for example, "Progress Made on Compensation and Working Conditions over the Past Five Years," Seattle University, <https://www.seattleu.edu/unionization-effort/steps/>. However, the universities generally share little to none of the health-care plans' cost (unlike for full-time faculty), rendering them unaffordable for most adjuncts, given their low wages. To my knowledge, no Catholic university with nonunionized adjuncts has offered the \$5,000 per course recommended by the Mayday Declaration on Contingency in Higher Education. See "Adjunct Supporters Call for \$5,000 Minimum Per Course," *Inside Higher Ed*, May 1, 2013; <https://www.insidehighered.com/quicktakes/2013/05/01/adjunct-supporters-call-5000-minimum-course>. Georgetown University, where adjuncts are unionized, is moving toward it (see <http://www.seiu500.org/files/2014/09/Georgetown-University-Contract-Highlights.pdf>). Seattle University, where adjunct unionization is discouraged, is offering \$4,000 to those with nonterminal degrees and \$4,300 to those with terminal degrees. Nonetheless, contingent faculty still wish to unionize at Seattle University (see <http://acttogetherwa.org/our-campaigns/seattle-university/why-a-union-for-seattle-university/>).

²² See the amicus brief filed on April 25, 2011, by the American Association of Catholic Colleges and Universities, Lasallian Association of Catholic College Presidents, and the Association of Jesuit Colleges and Universities on the National Labor Relations Board website at <http://www.NLRB.gov/search/all/02-RC-23543>. For statements by individual Catholic University administrators, see, e.g., the letters from Loyola Marymount University and Seattle University (<https://chroniclevitae.com/news/348-anatomy-of-a-letter-what-universities-tell-adjuncts-about-unions>), the video by Seattle University president Father Stephen Sundborg (<http://www.seattleu.edu/unionization-effort/message/>), and the documents in the Manhattan College case (<http://manhattan.edu/about/human-resources/adjunct-unionization-effort>).

I. The Context: The Adjunct Situation on the Ground

Daniel Finn has offered a crucial insight that is related to the purpose of this article. He has rightly maintained that “there should be no independent analysis of the relation of capital and labor that does not take into consideration the moral context of the economic situation. Putting that another way, differing contexts will require different responses if we are to achieve a just relationship between the owners of capital and laborers.”²³ Thus, before turning to the debate about the rightfulness of adjunct unionization at Catholic universities, I will first provide a brief synopsis of the situation of adjuncts.²⁴ This synopsis will elucidate some of the reasons adjuncts at Catholic universities have sought to unionize. Following Finn’s logic, this empirical contextualization of the debate about unionization at Catholic universities informs my conclusion that the arguments against it are invalid. Furthermore, I contend that those who argue against the unionization of adjuncts at Catholic universities either ignore or misunderstand the empirical context of the present debate.

Recently, more than 135 Catholic scholars, including eight past presidents of the Catholic Theological Society of America, signed a statement maintaining that many adjunct professors today are among the poor and vulnerable in

²³ Finn, “The Priority of Labor over Capital,” 25.

²⁴ For fuller analyses, see Michael Dubson, *Ghosts in the Classroom: Stories of College Adjunct Faculty—and the Price We All Pay* (Boston: Camel’s Back Books, 2001); Joe Berry, *Reclaiming the Ivory Tower: Organizing Adjuncts to Change Higher Education* (New York: Monthly Review Press, 2005); US House Committee on Education and the Workforce, Democratic Staff, *The Just-in-Time Professor* (Washington, DC: United States House of Representatives, January 2014), <http://democrats.edworkforce.house.gov/sites/democrats.edworkforce.house.gov/files/documents/1.24.14-AdjunctEforumReport.pdf>; Coalition on the Academic Workforce, *A Portrait of Part-Time Faculty Members* (2012), http://www.academicworkforce.org/CAW_portrait_2012.pdf; John Curtis and Saranna Thornton, *Losing Focus: The Annual Report on the Economic Status of the Profession, 2013–14* (Washington, DC: American Association of University Professors, 2014), <http://www.aaup.org/reports-publications/2013-14salarysurvey>; John Curtis, *The Employment Status of Instructional Staff Members in Higher Education, Fall 2011* (Washington, DC: American Association of University Professors, 2014), <http://www.aaup.org/sites/default/files/files/AAUP-InstStaff2011-April2014.pdf>; Adrianna Kezar and Daniel Maxey, *Dispelling the Myths: Locating the Resources Needed to Support Non-Tenure-Track Faculty* (Los Angeles: The Delphi Project on the Changing Faculty and Student Success, 2013), http://www.uscrossier.org/pullias/wp-content/uploads/2013/10/DelphiProject-Dispelling_the_Myths.pdf; Adrianna J. Kezar, *Embracing Non-Tenure Track Faculty: Changing Campuses for the New Faculty Majority* (New York: Routledge, 2012). In addition, see Barbara Wolf’s documentary film *Degrees of Shame*, <http://vimeo.com/37920244>.

our midst.²⁵ I have heard numerous personal stories about financial hardship, forgoing necessary medical treatments, and marginalization from adjunct colleagues, all of which add credibility to the statement's claim, even if not all adjuncts suffer from an exploitative situation. Moreover, empirical data reveal that in many cases adjunct faculty are indeed among the poor and vulnerable. The treatment of adjunct faculty at Catholic universities thus often violates the *preferential option for the poor*, which holds that economic decisions must place the rights of the poor first.²⁶

While some adjuncts report that additional salaried jobs outside teaching constitute their primary source of income, the majority (almost 75 percent) do not.²⁷ Most adjunct faculty work for years and even decades in this capacity; they see teaching as their primary vocation.²⁸ According to the latest available data, the national median adjunct pay for a three-credit course is \$2,700.²⁹ The median pay per course is lower for nonunionized part-time faculty (\$2,475), while it is \$3,100 among unionized adjuncts. Variations also exist depending on discipline, geography, and race. For example, engineering instructors' median pay per course is \$4,000, while developmental education courses net a median pay of \$2,074. The

²⁵ The letter is available on the Catholic Scholars for Worker Justice website at <http://www.cswj.us/2014-03-10%20ADJUNCT%20Sign-on%20Statement.pdf>. See also Fahey, "Adjunct Unions at Catholic Affiliated Colleges and Universities."

²⁶ For official statements on the option for the poor, see John Paul II, *Laborem Exercens*, §8; John Paul II, Encyclical *Sollicitudo Rei Socialis*, http://www.vatican.va/holy_father/john_paul_ii/encyclicals/documents/hf_jp-ii_enc_30121987_sollicitudo-rei-socialis_en.html, §42; John Paul II, Encyclical *Centesimus Annus*, http://www.vatican.va/holy_father/john_paul_ii/encyclicals/documents/hf_jp-ii_enc_01051991_centesimus-annus_en.html, §11; United States Conference of Catholic Bishops, *Economic Justice for All: A Catholic Framework for Economic Life*, §§16, 86–90 in *Catholic Social Thought: The Documentary Heritage*, ed. David J. O'Brien and Thomas A. Shannon (Maryknoll, NY: Orbis Books, 1992), 574–75, 599–600.

²⁷ Coalition on the Academic Workforce, "A Portrait of Part-Time Faculty Members," 9.

²⁸ *Ibid.* This report also states that the vast majority of the 30,000 respondents were in their prime earning years, i.e., between the ages of 35 and 65. This challenges the assumption that most contingent faculty members are either at the beginning of their careers or teaching as an avocation after retirement from another profession. As noted above, the terms *non-tenure-track faculty* (NTTFs) and *contingent faculty* include part-time adjuncts and full-time, non-tenure-track faculty and graduate assistants.

²⁹ Coalition on the Academic Workforce, "A Portrait of Part-Time Faculty Members," 10; Curtis and Thornton, *Here's the News*, 9. See also Jeffrey J. Williams, "The Great Stratification," *Chronicle of Higher Education*, December 2, 2013, <http://chronicle.com/article/The-Great-Stratification/143285/>.

Coalition on the Academic Workforce reports that the pay differential between males and females per course is negligible, but a larger gap exists based on race: “Part-time faculty respondents who identified themselves as black (not of Hispanic origin) earn significantly less than other racial and ethnic groups at a median per-course pay of \$2,083. . . . By comparison, median pay ranged from \$2,500 per course for Hispanic or Latino or multiracial respondents to \$2,925 for Asian or Pacific Islander respondents.”³⁰

The American Association of University Professors (AAUP) has estimated that part-time faculty’s yearly earnings across the nation range from \$18,000 to a little over \$30,000 at private doctoral universities. “That rate of pay represents one-third or less of the national average salary for full-time faculty members at those institutions, based on the AAUP’s 2010–11 data—and part-time positions do not include benefits, in most cases.”³¹ A growing number of adjunct faculty earn so little that they qualify for public assistance.³² Many respondents to the 2014 House Committee on Education and the Workforce study *The Just-in-Time Professor* reported earnings from \$15,000 to \$20,000. Given that the federal poverty line is \$19,530 for a family of three and \$23,550 for a family of four, many contingent faculty members live in or on the “edge of poverty” unless they rely on spousal, familial, or governmental assistance.³³ From the standpoint of Catholic social teaching, their wages do not reflect a preferential option for the poor and do not constitute a just wage, which must at least be a living wage. According to CST, a living wage must enable workers to adequately attend to their own and their dependents’ “material, social, cultural, and spiritual life” (GS §67).³⁴ To add to the problem, most adjuncts do not receive health-care and retirement benefits from their employer, often making it

³⁰ Coalition on the Academic Workforce, *A Portrait of Part-time Faculty Members*, 10–12; see also 38–39, tables 26 and 27.

³¹ Curtis and Thornton, *Here’s the News*, 9; see also Coalition on the Academic Workforce, *A Portrait of Part-Time Faculty Members*, 31.

³² Stacey Patton, “The Ph.D. Now Comes with Food Stamps,” *Chronicle of Higher Education*, May 6, 2012, <http://chronicle.com/article/From-Graduate-School-to-131795/?cid=vem>.

³³ House Committee on Education and the Workforce, *The Just-in-Time Professor*, 6. Information on adjunct pay at individual institutions can be found at the Adjunct Project, *Chronicle of Higher Education*, <http://adjunct.chronicle.com/>.

³⁴ Space precludes a fuller exposition of the just wage in CST here. On this, see Beyer, “Workers’ Rights.”

difficult or impossible to purchase health insurance.³⁵ Catholic social teaching deems this a violation of the right to health care.³⁶

Employment as a university professor once provided a path to financial stability in the United States. Today it is often a treacherous path toward poverty. In the US context, the rise of the “lumpen professoriate,” a “superexploited core of disposable workers” that carries out most undergraduate teaching, has not occurred because of a drop in demand for higher education.³⁷ No such drop took place, with the exception of a few years after the 2008 financial crisis.³⁸ Rather, the impoverishment of university faculty stems from the massive rise in part-time positions and the concurrent decline in full-time posts. The reason for this development is simple: it is much cheaper to hire contingent faculty to teach students than it is to hire full-time faculty. As Marc Bousquet has pointed out, the putative “surplus” of doctoral degree holders could be completely eliminated by returning to the 1972 proportion of tenure-track to non-tenure-track faculty in just one large state, such as New York or California.³⁹ Thirty-five years ago three-quarters of all college faculty were on the tenure track.⁴⁰ At present, more than three-quarters (approximately 76 percent) of all college instructors are contingent faculty (part-time adjunct faculty members, full-time

³⁵ House Committee on Education and the Workforce, *The Just-in-Time Professor*, 16–21; and Kezar and Maxey, *Dispelling the Myths*, 12. The New Faculty Majority has addressed this issue by providing access to limited medical indemnity plans to its members. See <http://www.newfacultymajority.info/equity/joomla-stuff-mainmenu-26/health-insurance-for-adjuncts>. Although it is a step in the right direction, this plan excludes many services, such as basic health checkups and childbirth. See <http://www.newfacultymajority.info/national/images/documents/limitedmedicaloverview.pdf>.

³⁶ On the realization of the right to health care in the American context from the standpoint of CST, see Beyer, “Workers’ Rights”; and Susan Stabile, “‘Poor’ Coverage: The Preferential Option for the Poor and Access to Health Care,” *Journal of Catholic Social Thought* 5, no. 1 (2008): 126–60.

³⁷ I borrow the term “lumpen professoriate” from Cary Nelson, as cited in Marc Bousquet, *How the University Works: Higher Education and the Low-Wage Nation* (New York: New York University Press, 2008), 18. Bousquet notes that some administrators have consciously viewed contingent faculty in this manner. As an example he points to the now-infamous words of the former New York University dean Ann Marcus, who apparently said with regard to adjuncts, “We need people we can abuse, exploit and turn loose,” *ibid.*, 107, 11.

³⁸ See Robert B. Archibald and David Henry Feldman, *Why Does College Cost So Much?* (New York: Oxford University Press, 2011), 25.

³⁹ Bousquet, *How the University Works*, 56.

⁴⁰ *Ibid.*, 17.

non-tenure-track faculty members, or graduate-student teaching assistants).⁴¹ Former AAUP president Cary Nelson and his coauthor, Stephen Watt, deem adjunctification “the single most serious problem in higher education.”⁴² Furthermore, the casualization of the academic workforce did not arise by happenstance. Rather, it is the linchpin of the strategic corporatization of the university.⁴³ Corporatized universities are “characterized by the entry of the university into marketplace relationships and by the use of market strategies in university decision-making.”⁴⁴ The corporatization of the university also reflects the larger neoliberal agenda to destroy solidarity among workers.⁴⁵ The “neoliberal assault on universities” subjects faculty and staff to a constant barrage of “crises,” austerity measures, and so-called reforms in order to “soften the resistance of faculty to change.”⁴⁶ Eliminating tenure-track posts and hiring more adjuncts provides a cost-cutting mechanism and solidifies managerial control over university matters once in the domain of tenured faculty.⁴⁷

Although the pay differential between male and female adjuncts may be marginal, women disproportionately bear the brunt of the casualization of

⁴¹ Curtis and Thornton, *Here's the News*, 8; Coalition on the Academic Workforce, *A Portrait of Part-Time Faculty Members*, 1; and Williams, “The Great Stratification.” Data on the composition of the faculty at individual institutions can be obtained at the College Factual database at <http://www.collegefactual.com>.

⁴² Cary Nelson and Stephen Watt, *Office Hours: Activism and Change in the Academy* (New York: Routledge, 2004), 28–29.

⁴³ Berry, *Reclaiming the Ivory Tower*, 4; Jan Clausen and Eva Maria Swidler, “Academic Freedom from Below: Toward an Adjunct-Centered Struggle,” *Journal of Academic Freedom* 4 (2013), <http://www.aaup.org/reports-publications/journal-academic-freedom/volume-4>, 9.

⁴⁴ Henry Steck, “The Corporatization of the University: Seeking Conceptual Clarity,” *Annals of the American Association of Political and Social Science* 585 (2003): 74.

⁴⁵ See Rudy Fichtenbaum, “After the Corporate University . . . Now What?,” *Academe*, November-December 2012, 56; David Schultz, “The Rise and Demise of the Neo-Liberal University: The Collapsing Business Plan of American Higher Education,” *Logos: A Journal of Modern Society and Culture* 11, nos. 2–3 (2012), http://logosjournal.com/2012/spring-summer_schultz/; Tarak Barkawi, “The Neoliberal Assault on Academia,” *Al Jazeera*, April 25, 2013, <http://www.aljazeera.com/indepth/opinion/2013/04/20134238284530760.html>; Bousquet, *How the University Works*, 34–35, 193; Berry, *Reclaiming the Ivory Tower*, 5; Clausen and Swidler, “Academic Freedom from Below,” 6–8. This latter article discusses the role of international institutions such as the World Bank, IMF, and WTO in bringing the neoliberal revolution to universities.

⁴⁶ Barkawi, “The Neoliberal Assault on Academia.” Although not mentioned, the parallels to Naomi Klein’s theory of “shock doctrine” are striking. See Naomi Klein, *The Shock Doctrine: The Rise of Disaster Capitalism* (New York: Metropolitan Books/Henry Holt, 2007).

⁴⁷ See Bousquet, *How the University Works*, 26–28.

the academic workforce. Women earn about 40 percent of all doctorates, yet they constitute about 58 percent of full-time contingent instructors.⁴⁸ The AAUP reports that in 2009 “44 percent of women in full-time faculty positions were off the tenure track, compared with 33 percent of men.”⁴⁹ Women hold 52.5 percent of all adjunct positions, while men hold 47.5 percent.⁵⁰ Bousquet argues that women recognize the “casualization” of the academic workforce as a feminist issue because “the sectors in which women outnumber men in the academy are uniformly the worst paid, frequently involving lessened autonomy—as in writing instruction, where the largely female staff is generally not rewarded for research, usually excluded from governance and even union representation, and frequently barred even from such basic expressions of academic discretion as choosing course texts, syllabus, requirements, and pedagogy.”⁵¹ According to New Faculty Majority executive director Maria Maisto, the notion of self-sacrificial service and “the fallacy of teaching for love” are often used to justify exploitation of contingent faculty, particularly in disciplines most heavily represented by women.⁵²

Presumably some administrators shun adjunct unions because they fear a significant rise in adjunct compensation will necessitate hefty tuition increases. However, adjunct faculty have watched athletic budgets skyrocket at many universities while earning paltry wages. A report by the Delta Cost Project states that in the last few decades funding for athletics has increased at double the rate for academics. Large coaching salaries, state-of-the-art facilities, and scholarship aid for student-athletes constitute the bulk of these costs. According to the report, “Institutions are spending three to six times as much on student-athletes than they do to provide instruction for the average student on

⁴⁸ Ibid., 59; see also 38.

⁴⁹ Curtis and Thornton, *Here's the News*, 12.

⁵⁰ Curtis, *The Employment Status of Instructional Staff Members*, 18.

⁵¹ Bousquet, *How the University Works*, 59–60.

⁵² Maria Maisto, “Taking Heart, Taking Part: New Faculty Majority and the Praxis of Contingent Faculty Activism,” in *Embracing Non-Tenure Track Faculty: Changing Campuses for the New Faculty Majority*, ed. Adrianna Kezar (New York: Routledge, 2012), 195. Feminist scholars have long been concerned about the use of self-sacrificial tropes to justify many forms of exploitation of women. See Emily Reimer-Barry, “Suffering or Flourishing? Marriage and the Imitation of Christ,” in *Women, Wisdom, and Witness: Engaging Contexts in Conversation*, ed. Rosemary P. Carbine and Kathleen J. Dolphin (Collegeville, MN: Liturgical Press, 2012), 124–45; Margaret A. Farley, *Personal Commitments: Beginning, Keeping, Changing*, rev. ed. (Maryknoll, NY: Orbis Books, 2013); Delores S. Williams, “Black Women, Surrogacy, Experience and the Christian Notion of Redemption,” in *Cross Examinations: Readings on the Meaning of the Cross Today*, ed. Marit A. Trelstad (Minneapolis: Augsburg Fortress, 2006).

campus.”⁵³ In addition, the rate of growth in full-time, nonacademic positions in higher education was an astounding 369 percent between 1975 and 2011. Full-time executive administrator positions increased by 141 percent. By comparison, tenure-track faculty appointments grew by only 23 percent during this period. Conversely, less costly part-time adjunct and full-time, non-tenure-track faculty jobs increased by 554 percent (286 percent and 259 percent, respectively).⁵⁴ In other words, a massive shift in financial expenditures at universities occurred, moving salary dollars away from faculty and toward nonfaculty employees. Moreover, athletics personnel and high-ranking administrators often make very generous salaries. These groups experienced exponentially higher salary growth than full-time, tenured professors, to say nothing of adjuncts.⁵⁵ The salaries of coaches are sometimes even a hundred times higher than those of a typical adjunct, while administrators often earn twenty or thirty times more than an adjunct.⁵⁶ In this vein, it is worth recalling that Pope John XXIII deemed “disproportionately high” wages unjust, particularly when many workers are not paid a living wage.⁵⁷ In addition, funding for

⁵³ Kezar and Maxey, *Dispelling the Myths*, 13. The authors cite Donna M. Desrochers, who debunks the myth that athletics programs bring in large revenue for universities. See Donna M. Desrochers, *Academic Spending versus Athletic Spending: Who Wins?* (Washington, DC: Delta Cost Project at American Institutes for Research, 2013), http://www.deltacostproject.org/sites/default/files/products/DeltaCostAIR_AthleticAcademic_Spending_IssueBrief.pdf. The AAUP points out that only 23 of more than 1,000 members of the NCAA reported higher revenues than costs for athletics programs. See Curtis and Thornton, *Losing Focus*, 14. See also Knight Commission on Intercollegiate Athletics, *Restoring the Balance: Dollars, Values and the Future of College Sports* (Miami: John S. and James L. Knight Foundation, 2013), <http://www.knightcommission.org/resources/press-room/845-december-4-2013-knight-commission-launches-groundbreaking-interactive-college-sports-spending-database>. According to this report, “From 2005–2011, academic spending per student at institutions in the Football Bowl Subdivision [FBS] grew just 3 percent after adjusting for inflation, while athletic spending per athlete grew 31 percent and football spending per football player grew 52 percent even without considering spending on athletic scholarships.” The data from this report pertain only to public universities.

⁵⁴ Curtis and Thornton, *Losing Focus*, 8.

⁵⁵ See Curtis and Thornton, *Losing Focus*, 9–10.

⁵⁶ My calculation is based on data from the *Chronicle of Higher Education's* executive pay database and publicly accessible 990 forms. See <http://chronicle.com/article/Executive-Compensation-at/143541/#id=table>.

⁵⁷ Pope John XXIII, Encyclical *Mater et Magistra*, http://w2.vatican.va/content/john-xxiii/en/encyclicals/documents/hf_j-xxiii_enc_15051961_mater.html, §70. On the problem of excessive pay and CST, see Robert G. Kennedy, “The Practice of Just Compensation,” *Journal of Religion and Business Ethics* 1, no. 1 (2010): 12. See also David L. Gregory, “Reflections on Current Labor Applications of Catholic Social Thought,” *Journal of Catholic Social Thought* 1, no. 2 (2004): 675–78; and Edward

building projects, many of which are not essential to learning, constitutes a potential source of revenue for adjunct pay.⁵⁸ In other words, there are other ways of keeping tuition down while compensating adjuncts more fairly.⁵⁹ Furthermore, raising adjunct pay to \$5,000 per course, a goal of numerous adjunct organizations, would pale by comparison to expenditures on athletics and infrastructure at most schools.⁶⁰

Abysmal, unjust pay is not the only form of injustice that adjuncts face; they encounter various kinds of marginalization. Adjunct faculty often do not even have shared office space, a telephone, photocopying privileges, or access to teaching materials at the university—all of which are needed to fulfill the job.⁶¹ They wander transiently from university to university to make ends meet, often spending hours commuting. Like temp workers, they are often hired “just in time,” leaving little or no time to prepare syllabi and gather course materials.⁶² In addition, adjunct faculty have little to no say in curriculum development or university governance at most institutions. They are often not permitted to attend departmental meetings where important decisions are made that affect them.⁶³ Their pictures, bios, and credentials seldom adorn university web pages. In other words, they often have no voice, and their presence in the community is limited. Adjuncts sometimes report feeling that they are invisible, disposable, or subhuman in the eyes of others around the university.⁶⁴ Although some tenure-track faculty and administrators try to form relationships of solidarity with adjuncts, many in those privileged positions refuse to refer to them as faculty.⁶⁵ Furthermore,

M. Welch, “Justice in Executive Compensation,” *America*, May 19, 2003, <http://america.magazine.org/issue/434/article/justice-executive-compensation>.

⁵⁸ See Andrew Delbanco, *College: What It Was, Is, and Should Be* (Princeton, NJ: Princeton University Press, 2012), 135–49; and Cary Nelson and Stephen Watt, *Office Hours: Activism and Change in the Academy* (New York: Routledge, 2004), 117–37. The chapter in *Office Hours* that deals with expenditures on nonacademic building projects such as golf courses is fittingly titled “Is It a University or Is It a Country Club?”

⁵⁹ See Kezar and Maxey, *Dispelling the Myths*.

⁶⁰ See note 21 above.

⁶¹ Bousquet, *How the University Works*, 58, 94; and Kezar and Maxey, *Dispelling the Myths*, 3.

⁶² Kezar and Maxey, *Dispelling the Myths*, 9; and House Committee on Education and the Workforce, *The Just-in-Time Professor*, 21–22.

⁶³ See Kezar and Maxey, *Dispelling the Myths*, 5–6.

⁶⁴ See Paivi Hoikkala, “‘Lecturers Anonymous’: Moving Contingent Faculty to Visibility at a Masters Institution,” in Kezar, *Embracing Non-Tenure Track Faculty*, 130–45; Bousquet, *How the University Works*, 42–44; Dubson, *Ghosts in the Classroom*; Maisto, “Taking Heart, Taking Part,” 194–97. Maisto argues that not all adjuncts feel this way, as many recognize their own leadership abilities and professionalism.

⁶⁵ Bousquet, *How the University Works*, 29.

contingent faculty usually do not enjoy the protection of academic freedom, which traditionally has empowered tenure-track professors to present uncomfortable truths to their students, the university community, and broader society. They therefore report feeling more vulnerable to resentment and retaliation.⁶⁶ However, in the face of their unjust situation, a growing number of adjuncts have refused to remain passive and helpless. They have devised ways of engaging in various forms of “self-advocacy,” as Maria Maisto has put it.⁶⁷

II. Adjuncts and the Struggle to Unionize at Catholic Colleges and Universities

Although contingent faculty recognize that unions are not a panacea, many adjuncts, including those at Catholic institutions, have increasingly determined that joining a union represents the best means to empower themselves.⁶⁸ However, since 2010 several Catholic universities petitioned the NLRB in Washington, DC, to overturn the regional NLRB’s decision that union elections must be allowed and recognized. These universities argue that according to the Free Exercise Clause of the First Amendment, a government agency such as the NLRB cannot assert its jurisdiction over Catholic universities to enforce labor laws (such as the right to unionize). They contend that Catholic universities qua religious institutions are entitled to exemption from NLRB jurisdiction, and thus are not required to accept a union election overseen by the NLRB.⁶⁹ The Association of Catholic Colleges and Universities, the Association of Jesuit Colleges and Universities, and the Lasallian Association of Catholic Presidents filed an amicus brief in support

⁶⁶ Kezar and Maxey, *Dispelling the Myths*, 2–3. See also Clausen and Swidler, “Academic Freedom from Below,” 1–3, 9. The latter article reports that some institutions have made “tenure-like arrangements for their adjuncts” (9).

⁶⁷ Maria Maisto discusses a study that concluded that contingent faculty often do not advocate for themselves because they have internalized a sense of inferiority and negative attitudes toward them. However, she also contends that “the more complex tropes of the self-hating adjunct and the satisfied or apathetic adjunct can be countered” by highlighting narratives of contingent faculty activism and empowerment. Maisto, “Taking Heart, Taking Part,” 195–97. On adjuncts organizing, see also Clausen and Swidler, “Academic Freedom from Below.”

⁶⁸ See Maisto, “Taking Heart, Taking Part,” 198–99; Berry, *Reclaiming the Ivory Tower*; and the Adjunct Action website at <http://adjunctaction.org>.

⁶⁹ See Stabile, “Blame It on *Catholic Bishop*,” 1326–28; Fahey, “Adjunct Unions at Catholic Affiliated Colleges and Universities”; Moses, “Which Side Are They On?”; *Expanding the Power of Big Labor* (statement of Michael P. Moreland).

of these universities affirming this line of argumentation.⁷⁰ Other Catholic university administrators have expressed their disapproval of incipient adjunct unionization efforts, perhaps implying that they too will join the legal battle against adjunct unionization.⁷¹ While they claim their fight is for religious freedom, this appeals process prevents adjuncts from unionizing because the results of any union election must be impounded until the process is over. This has a union-busting effect.

From a legal standpoint, the religious litmus test that the NLRB has employed since *NLRB v. Catholic Bishop of Chicago* in 1979 may be problematic. It does appear intrusive for a governmental institution such as the NLRB to “troll through the university’s practices” to determine if it has a substantially “religious mission.”⁷² Practically speaking, a government agency may not have the competence to determine whether or not a Catholic university truly functions as a religious institution. To put it bluntly, how can we be assured that members of the NLRB have significant enough training in Catholic doctrine to make this determination? Might their rulings in this matter be based on ignorance, bias, or both? On December 16, 2014, the NLRB in Washington ruled on an appeal involving adjuncts at Pacific Lutheran University. In its decision, the NLRB created a new standard to determine if an institution’s religious character precludes NLRB jurisdiction. Contingent faculty have hailed this as a victory, as the NLRB asserted its authority to authorize a union election at Pacific Lutheran.⁷³ The decision should further unionization efforts at Seattle University, Manhattan College, and elsewhere, as the NLRB stated this new standard will be applied to all

⁷⁰ See Stabile, “Blame It on *Catholic Bishop*,” 1318–19, nn. 7 and 39. The amicus brief (filed April 25, 2011) can be read on the National Labor Relations Board website at <http://www.NLRB.gov/search/all/02-RC-23543>. See also the Catholic Scholars for Worker Justice amicus brief, arguing conversely, at <http://www.cswj.us/2014-03-26%20Amicus%20Curiae%20Brief%20by%20CSWJ%20to%20NLRB.pdf>.

⁷¹ See sources in note 18 above. Other accounts of union busting on Catholic campuses can be found at <http://www.hawkillnews.com/article/2014/02/adjuncts-discouraged-from-unionizing-administration-works-to-prevent-union-election> and <http://chronicle.com/blogs/ticker/seattle-u-tells-adjuncts-it-opposes-their-unionization/70201> and <http://tcf.org/blog/detail/the-continuing-struggle-for-college-adjunct-unions>.

⁷² I have paraphrased the 2000 US Supreme Court decision *Mitchell v. Helms*, as cited in *Expanding the Power of Big Labor* (statement of Michael P. Moreland), 4. See also Stabile, “Blame It on *Catholic Bishop*,” 1317.

⁷³ See the Adjuncts and Contingents Together for Quality Education statement on its website at <http://acttogetherwa.org/news/washington-state-contingent-faculty-applaud-far-reaching-nlrp-ruling-that-expands-union-rights-for-faculty-nationwide/>.

pending cases, including those involving Catholic universities.⁷⁴ However, it is reasonable to surmise that this NLRB decision will face further legal challenges in the US Court of Appeals.

Hindering adjunct unionization drives through legal means is problematic on several counts. For starters, University of St. Thomas law professor Susan Stabile has cogently argued against the claim that government oversight is an unjust infringement on the religious liberty of Catholic institutions of higher learning. As she points out, almost all Catholic colleges and institutions already subject themselves willingly to governmental oversight via “regional agencies regarding terms and conditions of the employment of their faculty and of faculty/university relations. That they do so suggests that being subject to NLRB oversight would not impose a unique burden on their institutions. Accreditors already impose requirements on them as to faculty governance, academic freedom and other matters that relate to terms and conditions of employment.”⁷⁵

In my judgment, the practice of Catholic universities seeking a religious exemption from NLRB jurisdiction when employees wish to unionize is a dubious one, and may even appear cynical. It would be understandable if the NLRB wanted to prevent Catholic universities from giving preference to Catholics in hiring, as religious institutions have long enjoyed exemption from religious antidiscrimination laws in order to hire the necessary employees to fulfill their mission.⁷⁶ However, in many other cases Catholic teaching largely aligns with, and even surpasses, protections of the rights of the worker enshrined in American labor law.⁷⁷ In other words, when it requires a union election, the NLRB is not asking Catholic universities to do something that violates their tradition’s teaching. When a Catholic university refuses to recognize the right to unionize of its adjunct faculty, it violates its own tradition’s teaching, not a heteronomous legal injunction imposed upon it by a governmental authority. The right to unionize is something that official Catholic teaching itself has continually endorsed at least since Pope Leo XIII’s 1891

⁷⁴ See Board Decision, Pacific Lutheran University and Service Employees International Union, Local 925, Petitioner, Case19-RC-102521, <http://www.nlr.gov/case/19-RC-102521>.

⁷⁵ Stabile, “Blame It on *Catholic Bishop*,” 1333.

⁷⁶ See *Expanding the Power of Big Labor* (statement of Michael P. Moreland), 7–9.

⁷⁷ See Gregory, “Reflections on Current Labor Applications”; David L. Gregory and Charles J. Russo, “Overcoming *NLRB v. Yeshiva University* by the Implementation of Catholic Labor Theory,” *Labor Law Journal* 41, no. 1 (1990): 55–64; Kathleen Brady, “Religious Organizations and Mandatory Collective Bargaining under Federal and State Labor Laws: Freedom from and Freedom For,” *Villanova Law Review* 49 (2004): 77–168.

encyclical *Rerum Novarum*.⁷⁸ Furthermore, as I will discuss in more detail below, church teaching has explicitly stated that “all church institutions must also fully recognize the rights of employees to organize and bargain collectively with those institutions through whatever association or organization they freely choose.”⁷⁹ Therefore, even if the NLRB has no business determining if a college or university is religious, being a religious institution should not prompt a Catholic university to circumvent labor laws protecting the basic right of workers to unionize. Moreover, being deemed a nonreligious institution according to any legal standard used by the NLRB does not prevent Catholic institutions from carrying on their religious mission in cases dealing with unionization. As I will argue below, Catholic universities themselves tarnish their identity and threaten their mission by engaging in union busting.

In a sense, Catholic universities have invited this putative “governmental intrusion” upon themselves. As I mentioned in the introduction, Catholic universities could avoid the problem of NLRB jurisdiction altogether by allowing a free and fair union election to take place without NLRB involvement, which Section 9 (a) of the NLRA permits.⁸⁰ In fact, use of the NLRB process by anti-union employers is often a stall tactic. According to Catholic labor law expert David Gregory, workers have been repeatedly harassed or even fired by the employer during the protracted process of an NLRB union election. As a result, unions and workers who wish to join them generally prefer “card check” authorizations, which the NLRB does not oversee. In this case, a mutually agreed-upon arbitrator or respected community leader verifies that a majority of workers have opted for a union by signing authorization cards. The employer subsequently recognizes the union and agrees to engage in collective bargaining with it.⁸¹

The Catholic Church has a precedent and venerable role model for this kind of willingness to accept workers’ desire to unionize. In 1993 Pope John Paul II directed Vatican officials to recognize the long-stated desire to form a union of the Association of Vatican Lay Employees. As canon lawyer

⁷⁸ See Pope Leo XIII, Encyclical *Rerum Novarum*, http://w2.vatican.va/content/leo-xiii/en/encyclicals/documents/hf_l-xiii_enc_15051891_rerum-novarum.html, 36, 37. For discussion of this point, see Beyer, “Workers’ Rights,” 135–37.

⁷⁹ United States Conference of Catholic Bishops, *Economic Justice for All*, §353, 660.

⁸⁰ See Joseph Fahey’s statement in Peter Schmidt, “Adjuncts Appeal to Higher Power in Debate over Unions at Religious Colleges,” *Chronicle of Higher Education*, December 9, 2013, <http://chronicle.com/article/Adjuncts-Test-Faith-of/143493/>.

⁸¹ Gregory compares the problematic NLRB election process, which often ends with pro-union workers being fired or failure to recognize a union, to the much more successful card check method in Gregory, “The Demise of Workers’ Rights.” See also Reich, *With God on Our Side*, 159; and Madland and Walter, “The Employee Free Choice Act 101.”

Father Sinclair Oubre has observed, John Paul II's experience as a manual laborer in Poland greatly influenced his decision to formally recognize the union of Vatican employees.⁸² The following excerpt from a homily he gave in Mogiła, Poland, reveals as much:

The Pope is not afraid of the people of the working class. They have always been particularly close to him. He has come from their midst: from the quarries in Zakrzówek, from the Solvay furnaces in Borek Fałęcki, and then from Nowa Huta. Through these environments, through his own experience of labor, I dare to say, this Pope learned the Gospel anew. He noticed and became convinced that the problems being raised today about human labor are deeply engraved in the Gospel, that they cannot be fully solved without the Gospel.⁸³

Naturally, this raises the question: if Saint John Paul determined it was appropriate to recognize the union of Vatican employees, on what basis do Catholic universities refuse to recognize a union freely elected by a group of its employees such as adjuncts?

Michael Moreland argues that "there is nothing inconsistent with affirming the objectives of unionization while insisting that religious freedom requires that religious institutions be free of government oversight of employment practices."⁸⁴ This is formally true. However, canon law does not adopt this logic; it does not posit antinomy between civil law and the church's law in the area of labor. In fact, canon law creates a conundrum for universities objecting to NLRB oversight. Oubre points out that a nation's civil laws, such as labor laws, essentially become canon law as long as they "are not contrary to divine law and unless canon law provides otherwise."⁸⁵ Moreover, canon law itself explicitly recognizes the right of church employees to the freedom of association, which includes the right to unionize.⁸⁶ Perhaps this explains why Cardinal John O'Connor of New York apparently stated, "Over my dead body will any person be fired because he or she

⁸² Sinclair Oubre, "Labor Law for 1.1 Billion People: How Canon Law, and Catholic Social Justice Principles Can Give a Third Way," Catholic Labor Network, 2015, http://www.catholiclabor.org/gen-art/CanonLaw_CatholicLabor_Principles_6014010.pdf.

⁸³ The original Polish text: http://www.mogila.cystersi.pl/index.php?option=com_content&view=article&id=133:homilia-jana-pawla-ii&catid=48:jan-pawe-ii-w-mogile&Itemid=150. The official Vatican English translation: http://www.vatican.va/holy_father/john_paul_ii/homilies/1979/documents/hf_jp-ii_hom_19790609_polonia-mogila-nowa-huta_en.html.

⁸⁴ *Expanding the Power of Big Labor* (statement of Michael P. Moreland), 8.

⁸⁵ Canon 22, cited in Oubre, "Labor Law for 1.1 Billion People," 10.

⁸⁶ Oubre, "Labor Law for 1.1 Billion People," 10–11. Oubre points to canon 231 §2, which obligates church institutions to pay their employees a living wage, and canon 215, which

belongs to a union and is exercising the right to collective bargaining. I will not stand for union busting.”⁸⁷ Even though Catholic universities are not canonically ecclesial institutions, their Catholic status should compel them to attempt to incorporate these canons into their policies and structures.⁸⁸

III. CST on Human Labor, Solidarity, and Conflict

Thus far I have demonstrated that arguments against adjunct unionization at Catholic universities lack force. However, legal scholar Kathleen A. Brady has proffered a more sophisticated argument against NLRB jurisdiction over Catholic universities, which, if correct, would undermine Catholic support for unions given the current American legal context. She does not object to the NLRB exercising its jurisdiction per se over “secular matters” in the area of employment at Catholic institutions. In her view, “a broad freedom to be left alone in all matters, religious and secular, is asking too much if autonomy over religious matters is not endangered.”⁸⁹ Rather, she has contended that the understanding of collective bargaining in the NLRA presumes and promotes a much more antagonistic and conflictual relationship between employers and unionized employees than Catholic social teaching envisions. Imposing this model on Catholic institutions of higher learning, for example, would impinge upon their ability to practice the spirit of “brotherhood and cooperation” envisioned in labor-management relations by CST.⁹⁰ Thus, legally requiring the recognition of unions would violate the religious freedom of Catholic colleges and universities to fulfill their mission. At first blush, this seems like a peculiar argument, given that lay and religious Catholics have a long history of working in and for labor unions.⁹¹ Moreover, certain types of nonacademic unionized workers have fruitfully worked with administrators at Catholic universities for decades. Nonetheless, if Brady’s construal of CST on labor and her interpretation of certain provisions of the NLRA and its brand of collective bargaining are correct, her argument gains force.

While Brady’s argument may appear persuasive on a certain level, it fails for numerous reasons. Brady correctly maintains that CST posits the ability of workers and their employers to rise above their often conflicting interests in

codifies the freedom of association posited by Leo XIII in *Rerum Novarum*. See *Code of Canon Law*, http://www.vatican.va/archive/ENG1104/_PU.HTM.

⁸⁷ Gregory, “Reflections on Current Labor Applications,” 665.

⁸⁸ See Oubre, “Labor Law for 1.1 Billion People,” 13.

⁸⁹ Brady, “Religious Organizations and Mandatory Collective Bargaining,” 104.

⁹⁰ *Ibid.*, 80–81, 121–22, 57–58.

⁹¹ See Maria Mazzenga, “One-Hundred Years of American Catholics and Organized Labor, 1870s–1970s,” *Journal of Catholic Social Thought* 9, no. 1 (2012): 23–42.

order to reach compromises that reasonably fulfill their competing claims. CST certainly eschews the notion of intractable class struggle.⁹² However, Brady misconstrues CST in a way that makes it sound naïve and oblivious to the sinful personal drives and social structures that often cause discord and oppression. These “structures of sin,” as CST has referred to them, will not disappear without struggle.⁹³ History has demonstrated that oppressors seldom cede their power and the systems that maintain it willingly. Therefore, unlike Brady and those who echo her view, CST recognizes that conflict sometimes must play a role in building solidarity, particularly in aiding the marginalized and oppressed. Solidarity in CST allows for the use of nonviolent resistance such as strikes and civil protest in the face of injustices such as the continual violation of workers’ rights.⁹⁴ Brady acknowledges the church’s teaching on structures of sin, but she fails to draw the correct conclusions from it.⁹⁵ Her contention that CST has consistently advocated a “collaborative relationship” between workers and management is true.⁹⁶ However, she overlooks the unjust power dynamics that preclude harmonious relations between employers and employees, including in Catholic workplaces. She rightly maintains that Catholic employers are called to be models, but downplays the fact that many are not, thereby, in the viewpoint of their workers, necessitating unions.

In his encyclical on human work, *Laborem Exercens*, Pope John Paul II unambiguously endorsed strikes by unions when other methods fail, “as a kind

⁹² For this perspective in CST, see, for example, John Paul II, *Laborem Exercens* and *Compendium of the Social Doctrine of the Church*, http://www.vatican.va/roman_curia/pontifical_councils/justpeace/documents/rc_pc_justpeace_doc_20060526_compendio-dott-soc_en.html, §§305–6. Gregory Baum provides an excellent analysis of the points of contact and differences between CST and class struggle in “Class Struggle and the Magisterium: A New Note,” *Theological Studies* 45 (1984): 690–701.

⁹³ See *Sollicitudo Rei Socialis*, §§38–39. For discussion of structures of sin, see Suzanne C. Toton, *Justice Education: From Service to Solidarity* (Milwaukee: Marquette University Press, 2006), 22–26, 45–51; Daniel J. Daly, “Structures of Virtue and Vice,” *New Blackfriars* 92, no. 1039 (May 2011): 341–57; and Donal Dorr, *Option for the Poor: 100 Years of Vatican Social Teaching*, rev. ed. (Dublin: Gill and Macmillan, 1992), 329–31. Toton explains the relationship between structures and individuals, and the understanding of “structural and systemic evil” in the Bible. Daly traces the development of this concept in official Catholic teaching. Dorr discusses this concept as presented in *Sollicitudo Rei Socialis*.

⁹⁴ The following two paragraphs draw on lengthier discussion in Gerald J. Beyer, “The Meaning of Solidarity in Catholic Social Teaching,” *Political Theology* 15, no. 1 (2014): 20–22.

⁹⁵ See Brady, “Religious Organizations and Mandatory Collective Bargaining,” 111–12.

⁹⁶ *Ibid.*, 114.

of ultimatum to the competent bodies, especially the employers.”⁹⁷ While unions are not a “mouthpiece for class struggle,” they function as a “mouthpiece in the struggle for social justice.”⁹⁸ He also posited “the positive role of conflict” when it “takes the form of a struggle for social justice.”⁹⁹ Solidarity “presupposes taking sides with the most needy [*sic*] people . . . to defend their rights and attend to their just claims.”¹⁰⁰ Thus, as Gregory Baum contends, John Paul “fully endorsed” the “conflictual view of modern society,” most notably in his encyclical on human labor.¹⁰¹

If the pontiff did not endorse this approach, how else could we understand his unswerving support for the *Solidarność* movement in Poland?¹⁰² As the movement’s chaplain, Father Józef Tischner, put it, solidarity seeks to “hold up a mirror for the oppressor” so that the person may recognize his or her violations of justice and rectify them. Dialogue, shaming, and strikes may be employed toward this end.¹⁰³ In 1987 John Paul II exhorted Poles on the Baltic coast in words reminiscent of Tischner: “Solidarity must come before conflict . . . yet it also triggers conflict . . . but not conflict that treats another person as an enemy and seeks his or her destruction.”¹⁰⁴ For Tischner and John Paul the goal of the struggle for justice cannot be the

⁹⁷ John Paul II, *Laborem Exercens*, §19.

⁹⁸ *Ibid.*, §20.

⁹⁹ John Paul II, *Centesimus Annus*, §14. See also *Laborem Exercens*, §20. John Paul incipiently developed this position in his 1969 treatise *The Acting Person*. He maintained that “political opposition can be an expression of solidarity” when it is “aimed at attaining that which is true and just.” Author’s translation from Karol Wojtyła, *Osoba i czyn*, 3rd ed. (Lublin: Towarzystwo Naukowe KUL, 2000), 325.

¹⁰⁰ Cited in Kevin Doran, *Solidarity: A Synthesis of Personalism and Communalism in the Thought of Karol Wojtyła/John Paul II* (New York: P. Lang, 1996), 213; see also 157–58, 213–17.

¹⁰¹ Baum, “Class Struggle and the Magisterium,” 693. As Baum maintains, Donal Dorr goes as far as to say that for John Paul “solidarity seems to play a role analogous to the phrase class struggle in Marxist writings.” Yet Dorr also shows how John Paul ultimately eschewed the idea of class struggle. See Dorr, *Option for the Poor*, 303.

¹⁰² See Maciej Zięba, *Niezużytkły Pontyfikat* (Kraków: Znak, 1997), 86–101; and George Weigel, *The Final Revolution: The Resistance Church and the Collapse of Communism* (New York: Oxford University Press, 1992), 77–154.

¹⁰³ Józef Tischner, *The Spirit of Solidarity*, trans. Marek B. Zaleski (San Francisco: Harper & Row, 1984), 80–81.

¹⁰⁴ See the homily in Gdynia at http://www.vatican.va/holy_father/john_paul_ii/homilies/1987/documents/hf_jp-ii_hom_19870611_gente-mare_pl.html. For similar views of solidarity and conflict, see Jon Sobrino and Juan Hernández Pico, *Theology of Christian Solidarity*, trans. Philip Berryman (Maryknoll, NY: Orbis Books, 1985), 61–62, 90, 94, 96; Oscar A. Romero, *Voice of the Voiceless: The Four Pastoral Letters and Other Statements* (Maryknoll, NY: Orbis Books, 1985); 181–83, 86.

annihilation or forceful suppression of the oppressor. Rather, those who struggle for justice ultimately seek the other's conversion and the overturning of unjust social structures.¹⁰⁵ In short, only a distorted, ahistorical, and overly "passivistic" view of CST disallows the possibility of conflict between management and labor. Furthermore, the approach of CST has roots in the gospel, as "Jesus' third way is coercive, as it forces oppressors to make choices they would rather not make."¹⁰⁶

The difference between Brady's position and CST is ultimately rooted in divergent theological anthropologies. Modern Catholic social teaching sees the human potential to shape a better future, but it also acknowledges the fallenness of humanity and the propensity to sin (as seen, for example, in GS §13). The hopeful yet realistic anthropology of CST undergirds Catholic positions on social ethics. For example, Catholicism accepts the need for regulation of the economy.¹⁰⁷ An overly optimistic anthropology posits no need to regulate the economy. If we believe, for example, that companies will not subject their workers to unsafe working conditions or that industries, out of an abundance of goodwill, will not cause environmental damage, there is no need for the coercive power of laws to keep companies in check. Indeed, laws that seek to protect workers from workplace injury or illness or to protect humans and the environment from the nefarious effects of pollution assume that some employers and some corporations will engage in these harmful practices. In other words, a negative assumption about the nature of the human person functions in such laws. Human experience confirms this assumption.¹⁰⁸ Humans will not always willingly do the right thing, especially when their own self-interest prompts them to engage in actions that may be harmful to others. Long ago, Saint Augustine soberly reminded us of this fact.¹⁰⁹ This does not mean, of course, that Catholic institutions should

¹⁰⁵ See Tischner, *The Spirit of Solidarity*, 10–12, 71–74, 79–82; and John Paul II, *Laborem Exercens*, §20.

¹⁰⁶ Walter Wink, *The Powers That Be: Theology for a New Millennium* (New York: Doubleday, 1998), 143 (emphasis in the original). See also note 16 above. My use of the term "passivistic" is indebted to Wink.

¹⁰⁷ See Pope Francis, Apostolic Exhortation *Evangelii Gaudium*, http://w2.vatican.va/content/francesco/en/apost_exhortations/documents/papa-francesco_esortazione-ap_20131124_evangelii-gaudium.html, §§36–37; John Paul II, *Centesimus Annus*, §42.

¹⁰⁸ For example, James A. Gross stresses that American workers regularly face "violations of the right to life and limb" because the Occupational Safety and Health Administration (OSHA) fails to adequately regulate workplace safety. He states that about 65,000 American workers die annually from work-related illnesses or injuries. See Gross, *A Shameful Business*, 105.

¹⁰⁹ See, e.g., book 19 in Augustine, *The City of God against the Pagans*, trans. and ed. R. W. Dyson (London: Cambridge University Press, 1998), 909–64.

give up on the promise of the human spirit to choose goodness over evil, with the aid of God's grace. Indeed, Catholic institutions have an obligation to strive toward solidarity, peace, and justice, an obligation that requires overcoming the tendency to sin and the desire for power.¹¹⁰ However, it would be naïve and irresponsible to assume that this will always happen in any realm of life, whether it is the workplace, the financial sector, the battlefield, or the home. Catholicism thus accepts the necessity of laws that "encourage" right behavior.¹¹¹ Catholicism also acknowledges that in various realms the prudential use of power will be necessary to promote justice, human rights, and the common good.¹¹²

This same anthropology implicitly grounds CST's acceptance of the strike as a means of promoting peace and justice in labor relations.¹¹³ *Gaudium et Spes* (§68) maintains that "although recourse must always be had first to a sincere dialogue between the parties, a strike, nevertheless, can remain even in present-day circumstances a necessary, though ultimate, aid for the defense of the workers' own rights and the fulfillment of their just desires." Thus it makes little sense to argue that Catholicism cannot accept and comply with a system of collective bargaining that falls short of its ideal vision for labor-management relations. CST itself realistically acknowledges that the ideal will not always be possible in particular circumstances.

Brady's argument also obfuscates the fact that official CST's continuous insistence on the right to unionize and to engage in collective bargaining is rooted in the recognition of an imbalance of power that gives owners an unfair advantage over workers.¹¹⁴ In addition to unions being a "natural" form of association among workers, CST also sees unions as a necessary

¹¹⁰ I am influenced here by Augustine's famous discussion of *libido dominandi* (the lust for power), which is a part of the human condition. See Augustine, *The City of God*, 19.4.920, 14.15.614; see also 19.12.936.

¹¹¹ Daniel K. Finn, "Libertarian Heresy: The Fundamentalism of Free-Market Theology," *Commonweal*, September 22, 2008, <https://www.commonwealmagazine.org/libertarian-heresy-o>.

¹¹² This is why, for example, at least since Ambrose of Milan in the fourth century, Catholicism has traditionally endorsed the notion of a just war, which holds that sometimes war may be tragically necessary in order to promote peace and justice. See United States Conference of Catholic Bishops, *The Challenge of Peace*, §§56–70, 200, in O'Brien and Shannon, *Catholic Social Thought*, 504–7, 535–37. See also Lisa Sowle Cahill, *Love Your Enemies: Discipleship, Pacifism, and Just War Theory* (Minneapolis: Fortress Press, 1993), 58–59.

¹¹³ See John Paul II, *Laborem Exercens*, §21.

¹¹⁴ On the notion that CST sees unions as a remedy to an imbalance of power, I am indebted to Reich, *With God on Our Side*. In this vein, Brady's statement that Senator Wagner, author of the Wagner Act, was wrong to believe that "trust and cooperation" is only

“reaction” to labor’s precarious situation, which has perdured since the Industrial Revolution.¹¹⁵ After affirming myriad rights of workers, including the right to just wages and to form unions, the *Compendium of the Social Doctrine of the Church* correctly maintains “these rights are often infringed, as is confirmed by the sad fact of workers who are underpaid and without protection or adequate representation. It often happens that work conditions for men, women and children, especially in developing countries, are so inhumane that they are an offense to their dignity and compromise their health.”¹¹⁶ Citing John Paul II, the *Compendium* further states that “unions grew up from the struggle of workers . . . to protect their just rights vis-à-vis the entrepreneurs and the owners of the means of production.” Furthermore, “the practice of authentic solidarity among workers” remains more important than ever because their rights continue to be violated by employers.¹¹⁷ In his 2009 encyclical *Caritas in Veritate*, Pope Benedict XVI reiterated the urgency of workers forming associations “that can defend their rights.” According to the pontiff, “grave danger for the rights of workers” exists in underdeveloped, emerging, and advanced capitalist societies in part because of efforts to hamper unions.¹¹⁸ Thus CST recognizes that the present context, which I described above as a war against workers, evinces some of the pernicious consequences of the imbalance of power between owners and workers, which often leaves workers at the mercy of their employers.¹¹⁹

possible between two parties that have the equal ability to protect their rights. Brady, “Religious Organizations and Mandatory Collective Bargaining,” 137.

¹¹⁵ See John Paul II, *Laborem Exercens*, §8. For sources in CST that state or imply that unions are needed to correct an imbalance of power, see also Leo XIII, *Rerum Novarum*, §§47-49; John Paul II, *Laborem Exercens*, §§11, 14, 20; John Paul II, *Centesimus Annus*, §15; Benedict XVI, *Caritas in Veritate*, §25.

¹¹⁶ *Compendium of the Social Doctrine of the Church*, §301.

¹¹⁷ *Ibid.*, §305. Charles Curran correctly argues that John Paul accepts that “struggle and conflict” will take place between labor and management. See Charles Curran, *The Moral Theology of John Paul II* (London: T&T Clark, 2006), 210.

¹¹⁸ *Caritas in Veritate*, §25.

¹¹⁹ On the plight of workers, see Gross, *A Shameful Business*; Vincent A. Gallagher, *The True Cost of Low Prices: The Violence of Globalization* (Maryknoll, NY: Orbis Books, 2006); Robert A. Senser, *Justice at Work: Globalization and the Human Rights of Workers* (Bloomington, IN: Xlibris, 2009); Jody Heymann and Alison Earle, *Raising the Global Floor: Dismantling the Myth That We Can't Afford Good Working Conditions for Everyone* (Stanford, CA: Stanford University Press, 2009); Jody Heymann, *Forgotten Families: Ending the Growing Crisis Confronting Children and Working Parents in the Global Economy* (Oxford: Oxford University Press, 2006).

In this connection, it is also telling that the United States Conference of Catholic Bishops (USCCB) has unwaveringly endorsed the rights to unionize and collective bargaining with the full knowledge of the context within which those rights must be exercised—namely, under the aegis of the NLRA and its mandates regarding collective bargaining. The bishops either do not share Brady’s fear that the NLRA will compel employers and employees to become adversaries, or they conclude that as a matter of prudential judgment Catholics should support unions, given the hostile and precarious environment that workers face, even if the NLRA does not fully reflect the Catholic vision of labor-management relations. The bishops understand that neither unions nor management always strive for the hospitable relationship proposed by CST as the ideal. They nevertheless maintained in their 2012 Labor Day statement: “When labor institutions fall short, it does not negate Catholic teaching in support of unions and the protection of working people, but calls out for a renewed focus and candid dialogue on how to best defend workers. Indeed, *economic renewal that places working people and their families at the center of economic life cannot take place without effective unions.*”¹²⁰ In 2009 the bishops released *Respecting the Just Rights of Workers: Guidance and Options for Catholic Health Care and Unions*, a document written to guide workplace relations at Catholic institutions in the contemporary American context, the same context Brady addresses. Space limitations preclude extended discussion of this landmark document here. It suffices to note that the bishops “recognize that conflict and controversy” sometimes arise between “management and unions.” Nonetheless, they insist that the workers’ right to join a union must always be respected and that “unions may play a beneficial role in any workplace.”¹²¹ Thus, the USCCB rejects Brady’s all-or-nothing approach to the acceptance of unions.

Brady’s argument against unionizing at Catholic institutions suffers from another flaw. Susan Stabile has argued that the experience of Catholic hospitals invalidates Brady’s thesis. Since 1974 Catholic hospitals must abide by the putatively more hostile form of collective bargaining of the NLRA. However, this has not precluded Catholic hospitals from also pursuing a cooperative model of labor relations informed by Catholic teaching. In fact, the Catholic Hospital Association (CHA) has long embraced the application of the NLRA

¹²⁰ See Bishop Stephen E. Blaire, “Placing Work and Workers at the Center of Economic Life,” September 3, 2012, <http://www.usccb.org/issues-and-action/human-life-and-dignity/labor-employment/labor-day-statement-2012.cfm> (my emphasis).

¹²¹ United States Conference of Catholic Bishops, “Respecting the Just Rights of Workers: Guidance and Options for Catholic Health Care and Unions” (2009), 6–7, http://www.usccb.org/issues-and-action/human-life-and-dignity/labor-employment/upload/respecting_the_just_rights_of_workers.pdf.

to Catholic hospitals, including the right to unionize.¹²² It is a logical fallacy to say that because Catholic institutions are compelled by law to abide by the NLRA, which allegedly proposes an antagonistic form of collaborative bargaining, they cannot possibly strive for labor-management relations that more closely approximate the “tranquil ideal” of CST. After all, paying taxes that support unjust killing in warfare, for example, does not preclude Catholics from simultaneously using their resources to promote just causes. Likewise, laws requiring Catholics to accept the right to private property of other citizens, including those who hoard possessions, does not prevent them from sacrificing their own goods to promote solidarity with the poor and the common good. As Finn contends, believing that “a legal obligation makes virtuous behavior impossible” constitutes “a thoroughly un-Catholic view of law and morality, directly contrary, for example, to longstanding Thomistic tradition.”¹²³

Additional recent experience confirms that the existence of a labor union in Catholic workplaces does not preclude collaborative and peaceful relations between employers and employees. After many years of mistrust and animosity between workers and management at Santa Rosa Memorial Hospital in California, relations improved after a union was finally recognized in 2009. According to Adam Reich’s illuminating account, “The union was no longer a group of outsiders, but was *part* of the community of the hospital.”¹²⁴ Georgetown University has also maintained good relations with unions on its campus. The university did not oppose its adjuncts’ unionization drive. Officially, the university defaulted to its already existing just employment policy, which upholds the right of all employees on campus to unionize.¹²⁵ According to Lisa Krim, an adviser to Georgetown’s president, “Taking a neutral position has actually served Georgetown very well. In subsequent dealings with the newly formed union, we brought a whole lot of good faith to the table, which really helps a lot.”¹²⁶ A spokesperson for the union stated that the university’s administration was “not just neutral but very cooperative throughout the entire process. . . . They really upheld their social

¹²² Stabile, “Blame It on *Catholic Bishop*,” 1342–43.

¹²³ Finn, “Libertarian Heresy.”

¹²⁴ Reich, *With God on Our Side*, 159 (emphasis in the original).

¹²⁵ See “Just Employment Policy for Georgetown University,” <http://publicaffairs.georgetown.edu/acbp/just-employment-policy.html>.

¹²⁶ Peter Schmidt, “Union Efforts on Behalf of Adjuncts Meet Resistance within Faculties’ Ranks,” *Chronicle of Higher Education*, April 9, 2014, <http://chronicle.com/article/Union-Efforts-on-Behalf-of/145833/>.

values.”¹²⁷ The congenial relationship has benefited both sides. Unionized adjuncts at Georgetown have amicably negotiated a contract with the administration, belying the canard that the presence of a “third-party” union precludes collaboration between employer and employee.¹²⁸ As Holland notes, to say unions are somehow distinct from workers is analogous to claiming that an organization like “the Knights of Columbus is separate from its members.”¹²⁹

Brady correctly points out that CST has emphasized worker participation in decisions that affect them and the overall work process.¹³⁰ She also maintains, however, that NLRA Section 8 (a) (2) forces workers to remain at “arm’s length” from management.¹³¹ While legal scholars have criticized this section for impeding some forms of collaboration, it has not stood in the way of employee participation schemes, as Brady herself admits.¹³² Collaborative labor-management partnerships have been implemented. Thomas Kochan, a professor of management at MIT, argues that “the best employers and worker organizations could do what Kaiser Permanente and its union coalition are doing—build partnerships that nurture employee engagement. Workers respond well to these partnerships.”¹³³ This labor-management partnership, “the largest and most ambitious labor management partnership in the history of US labor relations,” might serve as an example for others.¹³⁴

¹²⁷ Peter Schmidt, “Georgetown U. Adjuncts Vote to Unionize,” *Chronicle of Higher Education*, May 3, 2013, <http://chronicle.com/article/Georgetown-U-Adjuncts-Vote-to/139069/>. Le Moyne College has had an adjunct union since 2007; see <http://lemoyne.edu/AZIndex/HumanResources/FacultyStaff/AdjunctFaculty/tabid/3036/Default.aspx>.

¹²⁸ Several Catholic university administrators have made this claim. See note 18 above. On the Georgetown negotiations, see Kevin Clarke, “Georgetown and Adjuncts Come to Terms,” *America*, October 10, 2014, <http://americamagazine.org/content/all-things/georgetown-and-adjuncts-come-terms>.

¹²⁹ Holland, *100 Years of Catholic Social Teaching*, 2.

¹³⁰ Brady, “Religious Organizations and Mandatory Collective Bargaining,” 116. For an extensive discussion of CST and worker participation, see Gerald J. Beyer, *Recovering Solidarity: Lessons from Poland’s Unfinished Revolution* (Notre Dame, IN: University of Notre Dame Press, 2010), 144–52.

¹³¹ Brady, “Religious Organizations and Mandatory Collective Bargaining,” 128–38.

¹³² *Ibid.*, 132, 134 n. 373.

¹³³ See Thomas Kochan, “4 Ideas Labor Unions Should Consider If They Want to Survive,” *Cognoscenti*, February 4, 2013, <http://cognoscenti.wbur.org/2013/02/04/union-innovation-thomas-kochan>.

¹³⁴ Thomas Kochan, “Editor’s Introduction: Introduction to a Symposium on the Kaiser Permanente Labor Management Partnership,” *Industrial Relations* 47 (2008): 1–2. See also Thomas A. Kochan et al., “The Potential and Precariousness of Partnership: The Case of the Kaiser Permanente Labor Management Partnership,” *ibid.*, 36–65.

Moreover, it demonstrates that the NLRA does not preclude a collaborative form of collective bargaining, as does the case of the CHA, which is also bound by the NLRA. Furthermore, many other employers have gone above and beyond its requirements in their treatment of their employees. One often highlighted example is Costco, the major retail outlet: its founder and CEO, James Sinegal, is a Catholic who has said that his Catholic faith informs the way he treats Costco employees. Costco workers are free to unionize, are paid very competitive wages, and provided with health benefits.¹³⁵

Living the gospel does not require being free from the jurisdiction of civil law, unless it unequivocally requires violating natural law. Catholic teaching, as proposed for example by John Paul II in *Veritatis Splendor*, holds that injunctions such as the prohibition against murder, which obviously has been enshrined in civil law, are the “precondition” to living the more virtuous path of charity and solidarity.¹³⁶ As Saint Augustine explained, “The beginning of freedom . . . is to be free from crimes . . . such as murder, adultery, fornication, theft, fraud, sacrilege, and so forth. When once one is without these crimes (and every Christian should be without them), one begins to lift up one’s head towards freedom. But this is only the beginning of freedom, not perfect freedom.”¹³⁷ Abiding by the NLRA requires meeting a certain minimum standard in labor-management relations. The NLRA merely mandates respect for the right to collective bargaining and the legal recognition of unions freely elected by a majority of employees. However, these examples demonstrate that the NLRA also leaves space within which a morally superior form of labor-management relations, one imbued with the spirit of *caritas*, can be cultivated. The law itself does not necessitate a negative disposition between labor and employers. According to James Gross, an expert on labor law at Cornell’s Industrial and Labor Relations

¹³⁵ See “Costco: The First Thirty Years,” Villanova University, http://campusevents.villanova.edu/vuevents/EventList.aspx?view=EventDetails&eventidn=9685&information_id=27707. See also Gerald F. Cavanagh, Jeanne M. David, and Simon J. Hendry, “Business Environmental and Workplace Reporting and Activities and Catholic Social Thought: A Practice-Based Approach to Education about CST,” 2008 Conference at University of Notre Dame, “Business Education and Catholic Universities: The Role of Mission-Driven Business Schools,” <http://www.stthomas.edu/media/catholicstudies/center/johnaryaninstitute/conferences/2008-notredame/updatedpdflinks/GeraldCavanaghS.J.JeanneDavidandSiHendryS.J..pdf>. This article maintains that Costco treats its workers in a way that reflects CST’s principles of the dignity of the human person and solidarity. Moreover, Costco’s workers are unionized, and the company fully accepts this fact: <http://www.ufcw.org/2013/10/30/costco-an-example-of-the-union-difference/>.

¹³⁶ See John Paul II, *Veritatis Splendor*, §13.

¹³⁷ Augustine, *In Iohannis Evangelium Tractatus*, 41, 10, cited in *Veritatis Splendor*, §13.

School, the NLRA does not compel anything beyond “requiring employers and unions to bargain with each other in good faith.”¹³⁸ Given Gross’ claim and the above-mentioned positive examples of union-management partnerships, one wonders if Brady’s argument rests on an overly negative and stereotypical view of unions as inherently and intractably combative.¹³⁹ Union members and administrators alike can and do engage in destructive, sinful behavior. However, this does not discount the tremendous good unions have done—as noted by popes since Leo XIII—and their ability to continually improve. Moreover, as Saint John Paul reminded us, all human institutions, including the church itself, consist of sinners and therefore need constant renewal.¹⁴⁰

Arguing against the applicability of the NLRA to Catholic institutions presents another problem: many exempted Catholic institutions do not live up to the idealized vision of labor-management relations that Brady describes. As Stabile rightly contends, “The problem is that Catholic colleges and universities have not modeled the vision Brady offers. The employee groups seeking unionization have done so because Catholic colleges and universities have not offered a cooperative model of collective bargaining and appear to treat their employees no more lovingly than secular institutions of higher learning do.”¹⁴¹ Moreover, it is doubtful that enough administrators even know and/or embrace CST’s vision of labor-management relations. Many are not Catholic, and those who are often embrace different paradigms.¹⁴² They import models from the corporate world that are antithetical to CST (exclusively market-based pay schemes, cutting costs on the backs of workers, viewing students as customers, etc.). Catholic colleges and universities have certainly not remained immune to the corporatization of the university.¹⁴³ Thus, it is

¹³⁸ Gross, *A Shameful Business*, 63; see also 62–67, 71–73, 196, 204–5; and Reich, *With God on Our Side*, 163.

¹³⁹ See Brady, “Religious Organizations and Mandatory Collective Bargaining,” 137–38. Fletcher cogently dispels stereotypes of unions, while admitting they can be corrupt just like any other institution; see Fletcher, “*They’re Bankrupting Us!*”

¹⁴⁰ See the historic Day of Pardon Mass, celebrated by Pope John Paul II on March 12, 2000. The full text is available at http://www.bc.edu/content/dam/files/research_sites/cjl/texts/cjrelations/resources/documents/catholic/johnpaulii/day_of_pardon_mass.htm.

¹⁴¹ Stabile, “Blame It on *Catholic Bishop*,” 1340. See also the source in note 6 above.

¹⁴² This should come as no surprise, as the majority of Catholics do not understand CST. See Paul Sullins, “Catholic Social Teaching: What Do Catholics Know, and What Do They Believe?,” *Catholic Social Science Review* 7 (2003): 243–64. On the ignorance or rejection of CST on workers’ rights by many Catholics, see Holland, *100 Years of Catholic Social Teaching*, 1–13, 153–67.

¹⁴³ See Thomas P. Rausch, *Educating for Faith and Justice: Catholic Higher Education Today* (Collegeville, MN: Liturgical Press, 2010), 19; and Hollenbach, “The Catholic University under the Sign of the Cross.”

unrealistic to think workers' rights will always be protected without struggle. Meanwhile workers' rights cannot be suspended in the air waiting for the "eschatological" vision of workplace harmony that Brady touts. As Saint John Paul said on numerous occasions, the rights of the poor, the marginalized, and the oppressed cannot be put on hold.¹⁴⁴

IV. The Mission of Catholic Universities and the Scandal of Union Busting

To reiterate, Brady contends that (1) collective bargaining according to the courts' interpretation of the NLRA would impose an adversarial style of labor-management relations that conflicts with the irenic vision of labor-management relations of CST; and (2) this vision might someday be realistically and fully implemented at Catholic institutions, even if it is not currently. I have tried to demonstrate the weaknesses of these arguments. However, even if Brady's claims were true, Catholic universities should not use legal recourse to forestall unionization efforts. This is the case even if the courts might plausibly uphold the religious exemption that Catholic universities seek from the jurisdiction of the NLRB. Catholic universities availing themselves of the courts will likely create a hostile environment, the environment that Brady precisely wants to avoid. The expensive legal battles that some Catholic universities are fighting right now surely will lead to a more rancorous situation between adjunct faculty and the administration, perhaps cutting off all hope of a more collaborative relationship in the future. In other words, to follow Brady's logic, if the NLRB decides in favor of adjuncts' right to unionize, the course of action more consistent with CST would be to accept their choice to be represented by a union, rather than paying expensive law firms to fight against this right through the legal system. In this connection, Saint Paul's rebuke of wealthy Corinthians using the courts to take advantage of poorer citizens is instructive: "I say this to shame you. Is it possible that there is nobody among you wise enough to judge a dispute between believers? But instead, one brother takes another to court—and this in front of unbelievers! The very fact that you have lawsuits among you means you have been completely defeated already. Why not rather be wronged? Why not

¹⁴⁴ See his homilies in Elk, Poland, on June 8, 1999, at http://w2.vatican.va/content/john-paul-ii/en/travels/1999/travels/documents/trav_poland-1999.html; and in Cuilapan, Mexico, at http://www.vatican.va/holy_father/john_paul_ii/speeches/1979/january/documents/hf_jp-ii_spe_19790129_messico-cuilapan-indios_en.html.

rather be cheated? Instead, you yourselves cheat and do wrong, and you do this to your brothers and sisters" (1 Cor 6:5–11 NIV).¹⁴⁵

In the present situation, Catholic university administrations are behaving analogously toward adjunct faculty members who wish to unionize by ensnaring their unionization drives in protracted legal battles.¹⁴⁶ Many adjuncts clearly represent the marginalized in our current-day "Corinthian" universities. Catholic universities and their leaders function as the elite, as evidenced by their use of powerful law firms to defeat their adversaries in court. They should instead follow the guidelines developed by the USCCB in *Respecting the Just Rights of Workers*. These guidelines commit both sides to a mutually acceptable "fair and expeditious process" that avoids protracted legal and jurisdictional battles that delay deciding to unionize or not. According to the bishops, management must respect whatever decision the workers make and whatever reason they have for making it.¹⁴⁷ Catholic institutions of higher learning paying enormous sums of money to high-powered law firms to assert their exemption from NLRB jurisdiction, while at the same time fighting the efforts of adjuncts to unionize, flouts CST. The question must be asked, what message do Catholic institutions send to their students and the larger society about the applicability of CST to real-world problems? Given the church's clear support for unions, including at Catholic workplaces, using legal recourse to thwart adjunct unions runs the risk of causing scandal.¹⁴⁸

According to M. Cathleen Kaveny, "Causing scandal in the theological sense connotes performing an action that increases the possibility that

¹⁴⁵ New Testament scholar Alan Mitchell has argued that Paul found it particularly egregious for those Corinthians who had power and wealth to file lawsuits against poor Corinthians who had no chance to win in the courts. See Alan C. Mitchell, "Rich and Poor in the Courts of Corinth: Litigiousness and Status in 1 Corinthians 6.1–11," *New Testament Studies* 39, no. 4 (1993): 562–86. David Gushee has recently discussed this pericope in relation to efforts to counter gay rights by appealing to the courts to protect religious liberty. See David Gushee, "On Religious Liberty and Gay Rights: Who Would Jesus Sue?," *OnFaith*, <http://www.faithstreet.com/onfaith/2014/03/12/liberty-gay-rights-who-would-jesus-sue/31265>.

¹⁴⁶ William Spohn argues that discerning how a biblical passage relates to Christian discipleship today entails thinking analogically or "spotting the rhyme." William C. Spohn, *What Are They Saying about Scripture and Ethics?* (New York: Paulist Press, 1984), 100.

¹⁴⁷ United States Catholic Conference of Bishops, *Respecting the Just Rights of Workers: Guidance and Options for Catholic Health Care and Unions* (Washington, DC: USCCB, 2009), 10; see also 6–7, http://www.usccb.org/issues-and-action/human-life-and-dignity/labor-employment/upload/respecting_the_just_rights_of_workers.pdf.

¹⁴⁸ See Gregory and Russo, "The First Amendment and the Labor Relations of Religiously-Affiliated Employers," 466.

other persons who witness the action will engage in morally objectionable activity themselves.”¹⁴⁹ Moreover, scandal arises when the action taken cannot reasonably be explained to those in the Catholic community as being consistent with the values of the tradition.¹⁵⁰ Apart from antiunion bias among some Catholics, it hardly seems plausible that Catholics could fathom Catholic universities, already expensive, using large sums of money to fight the efforts of grossly underpaid adjuncts to unionize, especially given CST’s steadfast affirmation of the right to unionize.

In her study of the Catholic concept of scandal, Angela Senander rightly contends that “the scandal of sin within the Church obscures the proclamation of the Good News.”¹⁵¹ In my judgment, union busting on Catholic campuses has a deleterious effect on the faith formation of students and impedes the evangelizing mission of the university. According to *Ex Corde Ecclesiae*, by virtue of their identity and mission Catholic universities are obliged to teach CST and discuss its prescriptions for a more just and peaceful world.¹⁵² The aim is not simply to transmit knowledge, but to help shape the minds and hearts of our students so that they can transform the world for the better.¹⁵³ In other words, we should seek to aid them in the formation of their faith and their consciences.¹⁵⁴ If teaching CST is to have this kind of transformative effect on our students, Catholic educators and institutions must move from talk to action. Modeling the ideals of the Catholic social tradition is even more important than teaching them in the classroom. As William Spohn put it, “We learn that a wise, compassionate, and committed life is possible from the living witnesses whom we know. The ideals that guide conscience do not reside in the starry heavens but in actual people we admire.”¹⁵⁵

¹⁴⁹ M. Cathleen Kaveny, “Appropriation of Evil: Cooperation’s Mirror Image,” *Theological Studies* 61 (2000): 285–86.

¹⁵⁰ James F. Keenan and Thomas R. Kopfensteiner, “The Principle of Cooperation: Theologians Explain Material and Formal Cooperation,” *Health Progress* 76 (April 1995): 23–27.

¹⁵¹ Angela Senander, *Scandal: The Catholic Church and Public Life* (Collegeville, MN: Liturgical Press, 2012), 97.

¹⁵² See Pope John Paul II, Apostolic Constitution *Ex Corde Ecclesiae*, http://www.vatican.va/holy_father/john_paul_ii/apost_constitutions/documents/hf_jp-ii_apc_15081990_ex-corde-ecclesiae_en.html, part II, art. 4, §5; John Paul II, *Centesimus Annus*, §5; Benedict XVI, *Caritas in Veritate*, §§5, 9, 30, 31, 45; United States Catholic Conference of Bishops, *Sharing Catholic Social Teaching: Challenges and Directions* (Washington, DC: USCCB, 1998).

¹⁵³ See John Paul II, *Ex Corde Ecclesiae*, §§31–37.

¹⁵⁴ See William C. Spohn, “Developing a Moral Conscience in Jesuit Higher Education,” in *Jesuit Education 21: Conference Proceedings of the Future of Jesuit Higher Education*, ed. Martin R. Tripole (Philadelphia: Saint Joseph’s University Press, 2000), 389–404.

¹⁵⁵ Spohn, “Developing a Moral Conscience,” 393.

Catholic institutions of higher learning must thus demonstrate their own willingness to implement the church's social teaching, including the rights of workers, in order for it to be credible. Over the years, a number of my students have stated candidly that learning about CST is pointless when they fail to see Catholic institutions living up to the tradition's own ideals. Violations of the church's own social teaching often challenge the faith of Catholic students. As Johannes Baptist Metz has argued, many young Christians yearn for a church that adopts more "radicalism" in the struggle for social justice and less "doctrinal rigorism."¹⁵⁶ In recent decades, one out of three baptized Catholics has left the church, often citing "hypocrisy" and "other moral failures" as reasons.¹⁵⁷ While many young Catholics remain either disillusioned with the church or have abandoned it altogether, research also shows that young Catholics want to know that their faith makes a difference in the world.¹⁵⁸ In his study of young adult Catholics, Dean Hoge concluded that "if the relationship between social justice and a specifically Catholic identity were more immediate to young adult Catholics, their perspective might be more concerned with structural approaches, aggregate effects, power and institutional systems—in keeping with contemporary church teaching regarding social justice."¹⁵⁹ Thus, confronting injustices on our campuses and illuminating how CST positively influences our institutions is vital to the faith formation of our students.

Standing in solidarity with workers on our campuses by promoting their rights is a component of the evangelizing mission of Catholic universities. Catholic doctrine holds that evangelization must entail promulgating CST.¹⁶⁰ Evangelization must also include solidarity with the marginalized and the promotion of "justice and liberation from every kind of oppression."¹⁶¹ In *Ex Corde Ecclesiae* John Paul II argued that in addition to teaching

¹⁵⁶ Johannes Baptist Metz, "Messianic or Bourgeois Religion?," in *Faith and the Future: Essays on Theology, Solidarity, and Modernity*, ed. Johannes Baptist Metz and Jürgen Moltmann (Maryknoll, NY: Orbis Books, 1995), 23. See also Rausch, *Educating for Faith and Justice*, 64.

¹⁵⁷ Peter Steinfels, "Further Adrift: The American Church's Crisis of Attrition," *Commonweal*, October 18, 2010, 16–20. Steinfels discusses the data from the 2008 Pew Forum on Religion and Public Life's U.S. Religious Landscape Survey.

¹⁵⁸ See Rausch, *Educating for Faith and Justice*, 58–75. Rausch reviews numerous recent studies of young adult Catholics.

¹⁵⁹ Dean Hoge, *Young Adult Catholics: Religion in the Culture of Choice* (Notre Dame, IN: University of Notre Dame Press, 2001), 224. Cited in Rausch, *Educating for Faith and Justice*, 74.

¹⁶⁰ John Paul II, *Centesimus Annus*, §5.

¹⁶¹ Pope Benedict XVI, *Message of His Holiness Benedict XVI for the World Mission Sunday*, http://w2.vatican.va/content/benedict-xvi/en/messages/missions/documents/hf_ben-

the truth of the gospel, Catholic universities must evangelize by “upsetting, through the power of the Gospel, humanity’s criteria of judgment, determining values, points of interest, lines of thought, sources of inspiration and models of life, which are in contrast with the Word of God and the plan of salvation.”¹⁶² The university’s task in evangelization is thus to be “a living *institutional* witness to Christ and his message, so vitally important in cultures marked by secularism, or where Christ and his message are still virtually unknown.”¹⁶³ In his recent apostolic exhortation *Evangelii Gaudium*, Pope Francis has recalled this dimension of the mission of Catholic universities, which are “outstanding environments for articulating and developing this evangelizing commitment in an interdisciplinary and integrated way.” According to Francis, Catholic universities must serve as a “valuable resource for the evangelization of culture” and search for appropriate ways of undertaking this endeavor in situations where cultural currents and dominant trends oppose the values of the gospel.¹⁶⁴ Thus, an essential element of the mission of every Catholic university is challenging the dominant paradigm of the corporatized university and the broader neoliberal agenda in order to render the gospel credible in a pervasive, institutionalized culture that rejects it.¹⁶⁵ In order to achieve this goal, the university must demonstrate the possibility of creating structures and policies imbued with the values and principles of CST. “Today more than ever,” as John Paul II put it, “the Church is aware that her social message will gain credibility more immediately from the *witness of actions* than as a result of its internal logic and consistency.”¹⁶⁶ More than two thousand years earlier, Jesus of Nazareth thus admonished his disciples, “You will know them by their fruits. Are grapes gathered from thorns, or figs from thistles? In the same way, every good tree bears good fruit, but the bad tree bears bad fruit” (Matt 7:16–18).¹⁶⁷ Therefore, in order for a Catholic university to preserve its identity and foster its mission,

xvi_mes_20110106_world-mission-day-2011.html. See also Paul VI, *Evangelii Nuntiandi*, §§13, 14, 27, 29, 31, 41; Francis, *Evangelii Gaudium*, §§176–87; and *Compendium of the Social Doctrine of the Church*, §§62–67.

¹⁶² John Paul II, *Ex Corde Ecclesiae*, Part I, §48.

¹⁶³ John Paul II, *Ex Corde Ecclesiae*, Part I, §49 (emphasis in the original).

¹⁶⁴ Pope Francis, *Evangelii Gaudium*, §134.

¹⁶⁵ John Paul II and Pope Francis explicitly criticized neoliberalism as being at odds with the gospel. See John Paul II, *Ecclesia in America*, §56; and Francis, *Evangelii Gaudium*, §§53–54.

¹⁶⁶ John Paul II, *Centesimus Annus*, §58 (emphasis in the original). See also Pope Francis’ discussion of the “social dimension of evangelization” in *Evangelii Gaudium*, §§176–207.

¹⁶⁷ On the meaning of this passage for discipleship, Spohn states, “We cannot expect good actions from a twisted character” (William C. Spohn, *Go and Do Likewise: Jesus and Ethics* [New York: Continuum, 1999], 110).

it must be “animated by the spirit of Christ” and characterized by “mutual respect, sincere dialogue, and protection of the rights of individuals.”¹⁶⁸

To summarize, in the light of Catholic teaching on unions, higher education, and evangelization, the unionization of adjuncts cannot be considered a threat to the mission of Catholic universities. Rather, union busting seriously undermines the evangelizing mission of Catholic universities. In order to be the countercultural “sign of contradiction” (Luke 2:34) that recent popes have challenged Catholic universities to be, they should do everything possible to militate against the nefarious war against workers ongoing today, not partake in it. Appealing to the right to religious freedom to shirk this responsibility cheapens the church’s witness to the gospel. Vatican II’s *Declaration on Religious Freedom (Dignitatis Humanae)* rightly claimed the freedom for the church to preach the gospel. However, preaching the gospel requires promoting justice and the human rights of all.¹⁶⁹ Thus, it is a non sequitur to argue that the state compelling a Catholic institution to uphold its own teaching on the right to unionize—a “basic right” according to *Gaudium et Spes*—violates its religious freedom.

This article has demonstrated that forbidding unions on Catholic campuses will not bring about a more loving and harmonious employer-employee relationship. When administrators, trustees, or their lawyers raise this contention, the option for the poor urged by CST requires giving precedence to the voices of the marginalized. In this particular situation, these are the voices of adjunct faculty, not administrators who fight their efforts to unionize. Catholic teaching holds that the marginalized and oppressed have an epistemological advantage in ascertaining the truth about situations of injustice. Saint Paul told impoverished Christians in Corinth that they were chosen to educate the wise about the reign of God.¹⁷⁰ As Pope Francis put it, we must be “docile and attentive to the cry of the poor. . . . We need to let ourselves be evangelized by them. . . [and] acknowledge the saving power at work in

¹⁶⁸ John Paul II, *Ex Corde Ecclesiae*, Part I, §21.

¹⁶⁹ Second Vatican Council, *Declaration on Religious Freedom (Dignitatis Humanae)*, http://www.vatican.va/archive/hist_councils/ii_vatican_council/documents/vat-ii_decl_1965_1207_dignitatis-humanae_en.html, §13. See Paul VI, *Evangelii Nuntiandi*, §§13, 14, 27, 29, 31, 41; John Paul II, *Centesimus Annus*, §§5, 54; Benedict XVI, *Message of His Holiness Benedict XVI for the World Mission Sunday*, http://www.vatican.va/holy_father/benedict_xvi/messages/missions/documents/hf_ben-xvi_mes_20110106_world-mission-day-2011_en.html; Francis, *Evangelii Gaudium*, §§176–87; and *Compendium of the Social Doctrine of the Church*, §§62–67.

¹⁷⁰ Gustavo Gutiérrez, “The Option for the Poor,” in *Mysterium Liberationis: Fundamental Concepts of Liberation Theology*, ed. Ignacio Ellacuría and Jon Sobrino (Maryknoll, NY: Orbis Books, 1993), 248–49.

their lives.”¹⁷¹ Thus, if the majority of adjuncts maintain that unionizing will better foster the recognition of their rights as workers on Catholic campuses, they should be heard and acknowledged. Catholic teaching insists that workers have the right to unionize themselves or not. According to the USCCB, administrators, bishops, managers, and trustees at Catholic institutions may not usurp that right for any reason.¹⁷² Fears of increasing labor costs, whether real or unfounded, cannot legitimize violating the right of adjuncts to unionize.

Catholic teaching holds that when certain basic human rights, such as the right to unionize, are not protected by law, they remain in jeopardy. In order to truly protect a human right, its realization must not be left up to the predilection of those who hold power over other human beings. According to CST, the state and other institutional structures must defend such basic rights today, just as the state needed to defend the rights of workers during earlier phases of “primitive capitalism.”¹⁷³ Therefore, the church and church-related institutions such as Catholic universities should work with the state to strengthen the right to unionize. If necessary, Catholic institutions should promote changes to parts of the NLRA that do not advance worker-management partnerships and employee participation. Hiding behind a religious exemption from the legal protection of workers’ right to unionize enshrined in the NLRA undermines the credibility of Catholic institutions of higher education, especially when many adjuncts are already denied the right to a just wage and health care. Catholic universities have a mission that includes the promotion of solidarity and justice both in society and within their own walls.

¹⁷¹ Francis, *Evangelii Gaudium*, §§187, 198; see also §190.

¹⁷² United States Conference of Catholic Bishops, *Respecting the Just Rights of Workers*, 3.

¹⁷³ John Paul II, *Centesimus Annus*, §40; see also §48; and *Laborem Exercens*, §18. John Paul deems the belief that the market alone can satisfy all human needs “idolatry of the market” (*Centesimus Annus*, §40). For further discussion of the role of the state and other duty bearers in fulfilling human rights, see J. Bryan Hehir, “The Modern Catholic Church and Human Rights: The Impact of the Second Vatican Council,” in *Christianity and Human Rights: An Introduction*, ed. John Witte Jr. and Frank S. Alexander (Cambridge; New York: Cambridge University Press, 2010), 155–58; and Beyer, *Recovering Solidarity*, 38–43, 93–94, 100–105.