

Judge Napolitano P. Napolitano is a former judge of the Superior Court of New Jersey, a "[Mises Institute Distinguished Scholar](#)," and also a [judicial analyst for Fox News](#). On December 4 (2013), he wrote an article in the *Washington Times* titled "[Pope Francis should be saving souls, not pocketbooks](#)."

Here I'll examine Judge Napolitano's article section by section. After a few introductory paragraphs, he writes:

His encyclical is about economics, and it reveals a disturbing ignorance.

It is worth pointing out right away that *Evangelii Gaudium* is not an encyclical, but an apostolic exhortation. In order to criticize a document, it is important to know what sort of document it is. Second, his claim that the document "reveals a disturbing ignorance" is a personal criticism (i.e. that Pope Francis is ignorant about economics), so the question to consider as reading through the article is whether Judge Napolitano demonstrates that Pope Francis is ignorant of economics.

Judge Napolitano writes:

He is morally and juridically capable of speaking ex cathedra — that is, infallibly — but only after surveying and distilling traditional Church teachings and only on matters affecting faith and morals. Thank God, so to speak, that his teaching authority is limited to faith and morals, because in matters of economics, he is wide of the mark.

Again Judge Napolitano claims that in matters of economics, Pope Francis is "wide of the mark." But so far, Judge Napolitano has not demonstrated that Pope Francis is "wide of the mark;" he has only asserted this to be the case. Judge Napolitano then writes:

His encyclical, titled "Joy of the Gospel," attacks free-market capitalism because it takes too long for the poor to get rich. "They are still waiting," the pope wrote.

This is inaccurate for two reasons. First, Pope Francis never uses the term 'capitalism' in the document. Second, as Pope Francis explains in the document, the problem to which he is drawing our attention is a structural problem, not merely a pragmatic problem. Judge Napolitano here misconstrues the Pope's criticism by treating it as merely a criticism of the slowness of free markets to alleviate poverty, when in actuality Pope Francis is speaking of an inherent structural problem that is not addressed simply by waiting longer for the growing economy to rectify the condition of the poor.

Judge Napolitano continues:

Without capitalism, which rewards hard work and sacrifice, they will wait forever. No economic system in history has alleviated more poverty, generated more opportunity and

helped more formerly poor people become rich than capitalism.

The truth of those two sentences is fully compatible with everything Pope Francis says in his apostolic exhortation. Nor does the truth of these two statements demonstrate any ignorance on the part of Pope Francis.

Judge Napolitano continues:

The essence of capitalism goes to the core of Catholic teaching: the personal freedom of every person. Capitalism is freedom to risk, freedom to work, freedom to save, freedom to retain the fruits of one's labors, freedom to own property and freedom to give to charity.

All this too is fully compatible with what Pope Francis says in his apostolic exhortation. Nor does it reveal or demonstrate any ignorance on the part of Pope Francis.

Judge Napolitano continues:

The problem with modern capitalism — a problem that escaped the scrutiny of His Holiness — is not too much freedom, but too little. The regulation of free markets by governments, the control of the private means of production by government bureaucrats, and the unholy alliances between governments, banks and industry have raised production costs, stifled competition, established barriers to entry into markets, raised taxes, devalued savings and priced many poor out of the labor force.

Here Judge Napolitano claims that the problem with modern capitalism is too little freedom. Judge Napolitano here uses a sophistical technique of criticizing an author of "failing" to do something that in fact the author did not intend to do. Pope Francis is not attempting to address unhelpful bureaucratic restrictions on the free market. But insofar as Judge Napolitano is claiming that these restrictions are "the" problem with modern capitalism, and thus the only problem with modern capitalism, he is denying that the structural problem Pope Francis refers to exists. However, he does not argue that this structural problem does not exist, or give any evidence that this structural problem does not exist; he merely asserts (by implication) that it does not exist. And that does not demonstrate any ignorance on the part of Pope Francis.

Judge Napolitano continues:

The pope would do well to pray for those who have used government to steal freedom so as to satisfy their lust for power, and for those who have bowed to government so as to become rich from governmental benefits and not by the fruits of their own labors.

That's true, but is fully compatible with what Pope Francis says in his apostolic exhortation.

Judge Napolitano continues:

Traditional Catholic social teaching imposes on all of us a moral obligation to become our brothers' keepers. But this is a personal moral obligation, enforced by conscience and church teaching and the fires of hell — not by the coercive powers of the government.

Here Judge Napolitano presents a dichotomy between personal moral obligation, and civil obligation imposed by the power of the government. He claims that according to traditional Catholic social teaching, our obligation to be our brother's keepers is a personal moral obligation, not something to be required or enforced by civil authority. But this dichotomy overlooks a third possibility, namely, the obligation of the civil authority as such to defend and uphold the common good, which includes defending and providing when necessary the rights and basic needs for human dignity of the least among us. That **is** a part of Catholic social teaching, as Pope John XXIII explained:

It often happens that in one and the same country citizens enjoy different degrees of wealth and social advancement. This especially happens because they dwell in areas which, economically speaking, have grown at different rates. Where such is the case, justice and equity demand that the government make efforts either to remove or to minimize imbalances of this sort. ([*Mater et Magistra*](#), 150)

According to *Mater et Magistra*, the government does have an obligation under justice to make efforts to remove or minimize economic imbalances for the sake of the common good. So again, nothing Judge Napolitano has written so far shows any ignorance or error on the part of Pope Francis.

Judge Napolitano continues:

Charity comes from the heart. It consists of freely giving away one's wealth. It is impossible to be charitable with someone else's money. That's theft, not charity.

It is true that charity comes from the heart, and that freely giving away one's wealth is one way of expressing charity. But again, Judge Napolitano is presupposing that the public authority has no responsibility to aid positively the marginalized and impoverished. So the first thing to say is that according to Catholic social thought, as shown above, the public authority does have such a responsibility. The second thing to say is that in Catholic social teaching property possession is qualified, not absolute, as Pope John Paul II explains:

At the same time, the Church teaches that the possession of material goods is not an absolute right, and that its limits are inscribed in its very nature as a human right. While the Pope proclaimed the right to private ownership, he affirmed with equal clarity that the "use" of goods, while marked by freedom, is subordinated to their original common

destination as created goods, as well as to the will of Jesus Christ as expressed in the Gospel. Pope Leo wrote: "those whom fortune favours are admonished ... that they should tremble at the warnings of Jesus Christ ... and that a most strict account must be given to the Supreme Judge for the use of all they possess"; and quoting Saint Thomas Aquinas, he added: "But if the question be asked, how must one's possessions be used? the Church replies without hesitation that man should not consider his material possessions as his own, but as common to all...", because "above the laws and judgments of men stands the law, the judgment of Christ." ([*Centesimus Annus*](#), 30)

This is the Church's teaching of the "universal destination of goods," by which

the right of having a share of earthly goods sufficient for oneself and one's family belongs to everyone. The Fathers and Doctors of the Church held this opinion, teaching that men are obliged to come to the relief of the poor and to do so not merely out of their superfluous goods. If one is in extreme necessity, he has the right to procure for himself what he needs out of the riches of others. ([*Gaudium et Spes*](#), 69)

This is why, according to Catholic social teaching, when the public authority, abiding by the principle of subsidiarity, takes fairly (i.e. proportionately) from the goods that are common, even if privately possessed, what is necessary to procure the basic needs of the poor and alleviate their suffering, this is not stealing; this is serving and advancing the common good, all other things being equal. What is often missed, in discussions of this sort is the legal justice obligation of each citizen to the common good, under which obligation distributive justice is to be carried out under the authority of the civil authority who has care for the society.

Judge Napolitano continues:

If you give until it hurts, freely and out of love, and seek nothing temporal in return, you have built up treasure in Heaven. However, if the government takes from you and redistributes your wealth to those whom the government has decided to benefit — rich and poor alike — what merit is there in that for you?

Whether there is or isn't merit for "you" when the government does this, is fully compatible with what Pope Francis says in his apostolic exhortation, and again does not demonstrate any ignorance on the part of Pope Francis.

Judge Napolitano continues:

If you give a poor person a fish to eat, in a day, he'll be hungry. If you show him how to catch fish and teach him how to acquire the tools needed to do so, he can become self-sufficient and perhaps one day rich enough to help others. If the government takes money from you to buy the person a fish, half of the money will be wasted.

That may be, but again, all of this is perfectly compatible with everything Pope Francis said in his apostolic exhortation being true. And none of it demonstrates any ignorance on the part of Pope Francis.

Judge Napolitano continues:

The pope seems to prefer common ownership of the means of production, which is Marxist, or private ownership and government control, which is fascist, or government ownership and government control, which is socialist. All of those failed systems lead to ashes, not wealth. Pope Francis must know this. He must also know that when Europe was in turmoil in 1931, his predecessor Pius XI wrote in one of his encyclicals: "[N]o one can be at the same time a sincere Catholic and a true Socialist."

Except Pope Francis does not say that. In this document he says nothing about "common ownership" and nothing about the "means of production." Nor does anything he actually says entail that he prefers common ownership of the means of production. On the contrary, he explicitly affirms the "the private ownership of goods." (EG, 189) And the whole of Catholic social teaching, going all the way back to *Rerum Novarum* repeatedly affirms the right to private ownership. Judge Napolitano's remarks here undermine his credibility, because he speculates about what Pope Francis "seems" to prefer, rather than showing exactly what in Pope Francis's writings is false. He also oversimplifies the possible alternatives to *laissez-faire* capitalism by treating the only other private ownership possibility as that of fascism, as though there is no middle position between *laissez-faire* capitalism and fascism. That's an obvious false dilemma.

Next Judge Napolitano writes:

The church does not teach just for today, but for the life of man on Earth. That's why the essence of the papacy is not contemporary problem-solving, but preservation of truth and continuity of tradition. For this reason, popes do not lightly contradict their predecessors. If it was sacred then, it is sacred now.

All that is true, and all compatible with everything Pope Francis wrote. But here Judge Napolitano not so subtly implies that Pope Francis has contradicted his predecessors. However, Judge Napolitano in no place shows that what Pope Francis wrote contradicts anything written by his predecessors. Nor still to this point has Judge Napolitano shown that Pope Francis is ignorant of anything, let alone economics.

Then Judge Napolitano writes:

Cardinal Timothy Dolan, the archbishop of New York, recently discovered serious structural problems with St. Patrick's Cathedral that will cost \$200 million to repair. He will soon have that bill paid. Where did that money come from? It came from the disposable income of rich Catholic capitalists. Who will benefit from this? The blue-collar

workers whom the restoration project is employing now have jobs, and everyone — rich and poor — who attends Mass at the refurbished St. Patrick's will do so in comfort and beauty.

All that is likely true, but the problem for Judge Napolitano is that it is all fully compatible with everything Pope Francis said in his apostolic exhortation, nor does it show any ignorance on the part of Pope Francis.

Finally, Judge Napolitano writes:

What shall we do about the pope and economics? We should pray for his faith and understanding and for a return to orthodoxy. That means the Holy Mother Church under the Vicar of Christ — saving souls, not pocketbooks.

Here what Judge Napolitano writes entails, if it were true, that Pope Francis has departed from orthodoxy, and the implication is that he has departed from the Catholic faith. (Hence the injunction that we should "pray for his faith.") Judge Napolitano also implies that Pope Francis has departed from "Holy Mother Church." These are very strong and serious claims. However, the problem for Judge Napolitano is that he has not demonstrated in the least that Pope Francis has departed from orthodoxy or departed from the Catholic faith or departed from the Catholic Church. Nor has Judge Napolitano provided even one piece of evidence demonstrating that Pope Francis is ignorant regarding economics. So he has made some serious negative accusations against Pope Francis, but he has failed to provide any evidence for the truth of those accusations. And that is both unjust and uncharitable.

Judge Napolitano's recommendation that the pope should be "saving souls, not pocketbooks" suggests that he [Judge Napolitano] is unaware that part of the gospel is caring for the poor, and engaging in the corporal and spiritual works of mercy for the sake of the poor. That is part of what Christ's gospel of salvation is all about, not just the soul, but the body as well. In that case it is Judge Napolitano who should be learning from and conforming to Pope Francis's apostolic exhortation, not calling on the Pope to conform to his own theological opinions.

Bryan R. Cross, Ph.D.
Assistant Professor of Philosophy
Mount Mercy University
1330 Elmhurst Drive NE
Cedar Rapids, Iowa 52402-4797
319-363-1323 ext. 2600
<https://www.mtmercy.edu/bryan-cross>