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MODERN USURY: THE MORAL CHALLENGE OF CREDIT CARDS IN LIGHT OF
CATHOLIC TEACHING AND PRACTICE IN THE PAST AND THE PRESENT

by

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SCHOOL OF THEOLOGY-SEMINARY
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has successfully demonstrated the use of
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in this paper

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Catholic social teaching and Christian ethics are being challenged on many fronts in the twenty-first century. Bishops, pastors, moral theologians, and indeed all humans, are confronted with issues unimaginable forty years ago due to changes in technology, the sciences, and economics. The nature of macro-economics and personal economics has changed dramatically since the latter half of the last century. The preferred method of conducting personal monetary transactions within the United States has shifted from a cash basis to the predominant medium of electronic transactions relying heavily on credit based instruments.¹ “Between 1989 and 2006...credit card debt in the US more than tripled from \$211 billion to \$876 billion.”² The shift from a primarily cash based economy to a credit based economy has given rise to a new and virulent form of usury that presents moral challenges for both the lender and the borrower. These challenges include not violating the dignity of the human person by charging usurious rates of interest, thereby impeding the ability of the borrower to repay the debt; the lender being in potential violation of the seventh commandment by charging usurious rates on extended credit, aberrant fees associated with billing practices, and other associated fees; and the borrower not violating the seventh commandment by irresponsibly using credit as a potential form of avarice in acquiring unnecessary or unneeded material goods. Usury and avarice have always been closely associated in church teaching.³

Usury has also historically been discouraged in church teaching. The esteemed ethics scholar John T. Noonan Jr. maintains that “no biblical or ancient Christian text by itself, nor

¹ In this paper I will only address credit card transactions. The growing practice of the use of debit cards and the challenges this presents in light of usury are beyond the scope of this paper.

² Center for Responsible Lending, “Credit Cards – Overview,” <http://www.responsiblelending.org/issues/credit/> (accessed March 27, 2009).

³ “The early church fathers reiterated scriptural teachings, condemning interest-taking because it was rooted in avarice and resulted in exploitation of the poor.” Amata Miller, IHM, *Usury: Once a Sin, Now Good Stewardship in Rome Has Spoken: A Guide to Forgotten Papal Statements, and How They Have Changed Through the Centuries*, eds. Maureen Fielder and Linda Rabben, (New York: The Crossroad Publishing Co., 1998), 203.

Aristotle, nor economic conditions or interests, but the vital present authority of the teaching Church stands at the head of all later developments on usury.”⁴ A literal reading of relevant passages in both the Old and New Testament passages supports Noonan’s remarks on Scriptural citations and he is correct in that Church tradition looked upon usury as being harmful.⁵ The church still formally holds to this doctrine, but its toleration of the practice has evolved over the years in a manner analogous to the doctrine of just war.⁶ The history of usury in relation to credit card debt will be addressed briefly later in this paper.

My purpose in this paper is to present a threefold line of reasoning: I maintain that (1) as currently configured and regulated, credit card interest rates are usurious and harmful. This presents the potential for undermining the dignity of the human person, of both the lender and the borrower. (2) The church needs to recognize and return to its own teaching *and praxis* in regards to this matter. The church has increasingly tolerated usury especially over the last one hundred years. Usury in all its forms is contrary to natural law and may lead the borrower and lender into morally untenable situations. This is a matter of national concern, but since credit card interest rates are set by each state there has been no comprehensive statement addressing the subject by the US Conference of Catholic Bishops.⁷ (3) Pastors, bishops, and moral theologians have an obligation to bring this matter to the attention of governmental leaders, business leaders, and the people who are borrowing (potentially unethically). I contend that government, in

⁴ John T. Noonan Jr., *The Scholastic Analysis of Usury* (Cambridge, MA: Harvard University Press, 1957), 14.

⁵ “The [early] church’s condemnation of interest-taking was rooted in Old Testament prohibitions. In the ancient Jews’ agricultural economy, lending was primarily an obligation of charity among members of the community, to enable satisfaction of basic needs.” Miller, *Usury: Once a Sin, Now Good Stewardship*, 202.

⁶ In addition to Scripture, early patristic writings and early conciliar statements generally prohibited usury. The church’s doctrine of “just war” and toleration of usury began to be formed in the late third and fourth centuries C.E. For an excellent overview of the history of the church’s doctrine of usury in the early Middle Ages see John T. Noonan Jr., *A Church That Cannot Change: The Development of Catholic Moral Teaching* (Notre Dame, IN: University of Notre Dame Press, 2005), esp. pp. 127-142.

⁷ According to Thomas Shellabarger, Policy Advisor, Office of Domestic Social Development, USCCB, “The USCCB has not addressed the issue of usury and credit card debt that I know of. Cardinal [Theodore E.] McCarrick did cite the Catechism of the Catholic Church (para. 2409) in his claim that some of the subprime lending practices were ‘usury,’ and ‘morally illicit.’” Thomas Shellabarger, e-mail message to author, November 3, 2008.

concert with both lending institutions and borrowers needs to work towards finding an equitable solution to solving irresponsible unsecured borrowing practices. I will limit the discussion of this problem to the United States, although it is quickly becoming a world-wide phenomenon.⁸

For the purposes of this paper, usury is defined as: “the fact or practice of lending money at interest; especially in later use, the practice of charging, taking, or contracting to receive, *excessive* or illegal rates of interest for money on loan.”⁹ In modern understanding the latter definition prevails almost exclusively.¹⁰ In the early church any interest charged on a loan was considered usury. From the Scholastic period until the reform of canon law in 1983, charging interest on loaned money, except for the purpose of recouping administrative costs, was considered usury.¹¹ The church held this position in canon law and in fact until the latter part of nineteenth century during the papacy of Leo XIII. However, for all practical purposes the church’s teachings on usury were ignored after the French Revolution. “C’est au fond la Revolution française qui, en légalisant le prêt à intérêt (le 12 octobre 1789), a porté le coup de grace à la doctrine ecclésiastique sur l’usure.”¹²

⁸ Anuj Chopra, “Debt Weighs on Indian Middle Class,” *The Christian Science Monitor*, March 24, 2009, <http://features.2009.csmonitor.com/economyrebuild/2009/03/24/indian-middle-class-stuck-in-credit-card-%e2%80%98debt-trap%e2%80%99/> (accessed March 25, 2009). In India “outstanding loans on credit cards reached \$6 billion at the end of 2008, up 85 percent from the previous year, according to CRISIL, a ratings agency.” According to the same report, “in the past six months, credit card default has risen between 50 and 70 percent.” The same phenomenon is being repeated across the world in countries such as Turkey, Egypt, and nations in Eastern Europe.

⁹ *Oxford English Dictionary*, 2d Edition, s.v. “Usury,” (Oxford: Oxford University Press, 1989), Online Edition, (accessed March 21, 2009). (My italics).

¹⁰ A classical definition of usury “frequently noted,” was: “When gain of fruit is sought, without labour, cost or risk, from the use of something which is not fruitful.” See Lewis Watt, S.J., *Usury in Catholic Theology* (Oxford: Catholic Social Guild, 1945), 9.

¹¹ *Ibid.*, 10.

¹² Raymond de Roover, “Les doctrines économiques des scholastiques: a propos du traité sur l’usure d’Alexandre Lombard,” [The Economic Doctrine of the Scholastics: The Usury Treatise of Alexandre Lombard] *Revue d’histoire ecclésiastique* 78, no. 3-4 (1964): 866 “It was basically the French Revolution that, by legalizing loans with interest, (12 October 1789), was the coup de grace to the church usury doctrine.” (My translation).

A Brief Examination of Usury in Scripture, Tradition, and Church History, and Usury in Relationship to Current Church Teaching¹³

There are only a handful of scriptural passages that prohibit or refer to usury in lending (Exod 22:25-26; Lev 25:37; Deut 23:20-21; Sir 29; Neh 5:10; Ezek 18:8,13; and Luke 6:34-35). The passages from Exodus, Leviticus, and Deuteronomy prohibit usury only in transactions with fellow Israelites. The early church fathers determined that the teachings of the Old Testament coupled with a literal interpretation of Luke 6:34-35, bound Christians to exercise charity with others and not charge interest on any debt. “Jerome maintained that the prohibition in Deuteronomy had been universalized by the Prophets and the New Testament, as Christians had been enjoined to treat everyone as ‘brother.’ Augustine placed [usury] in the category of a crime as theft under the seventh commandment.”¹⁴ Similar prohibitions against usury were propagated by Tertullian, Clement of Alexandria, Gregory of Nyssa, John Chrysostom, and Basil the Great.¹⁵ Although the early church railed against usury, especially by the rising class of clerics, the reality of commerce often swept aside the teaching of the nascent church hierarchy. No significant changes in the church’s teaching about usury took place until the dawn of the Scholastic period.

The revival of commerce in the eleventh and twelfth centuries coupled with the retrieval of Aristotelian philosophy brought about a reexamination of the church’s doctrine of usury formed in the patristic era. Noonan concisely summarizes the history of usury and the church:

¹³ This paper is not intended to provide a complete overview of the long history of the church’s teaching regarding usury. The subject is far too encompassing to cover here. Noonan’s *The Scholastic Analysis of Usury*, still provides one of the best sources in English for intensive study of this subject.

¹⁴ Susan L. Buckley, *Teachings on Usury in Judaism, Christianity and Islam*, vol. 85 of *Texts and Studies in Religion* (Lewiston, NY: The Edwin Mellen Press, 2000), 99.

¹⁵ *Ibid.*, 98-99.

The rule on usury proclaimed by three general [ecumenical]¹⁶ councils of the church and a dozen popes rested on the belief that by divine law...profit on a loan was a mortal sin, and that by natural law it was intrinsically unjust to sell money in a loan at a price higher than its face value, for the law fixed its value, and the value of the use of money could not be separated from the value of the principle.¹⁷

The prohibition on usury was reiterated and refined in the Scholastic period of the church. St.

Thomas Aquinas found usury in lending money to be intrinsically harmful. Aquinas writes:

“Making a charge for lending money is unjust in itself, for one party sells the other something non-existent, and this obviously sets up an inequality which is contrary to justice.”¹⁸ Although

officially condemned by church teaching, charging interest on borrowed money was an accepted practice under civil law.¹⁹ The practice of usury even permeated clerical and monastic orders to

the point where it was condemned repeatedly by several popes and later councils of the church.²⁰

The Scholastic concept of usury prevailed until relatively late in the history of the church.

Raymond de Roover outlines the basic tenets of Scholastic thought regarding usury:

“Contrary to fairly widespread opinion, the problem of usury does not address the heart of the economic doctrines of scholastics. In reality, they were concerned above all [with] rules of fairness (communitive justice) that should govern social relations and government, in particular the exchange of goods and the distribution of wealth and revenues (distributive justice). The latter took into account the inequality of conditions and was not based on absolute principles, but varied with

¹⁶ The three ecumenical councils were the First Council of Nicaea (325), the Third Lateran Council (1179), and the Second Council of Lyons (1274). Noonan does not cite which councils and seems to use the term “general” in place of the more official “ecumenical.” An ecumenical council is presided over by the pope. The church recognizes twenty-one ecumenical councils through Vatican II. See Karl Rahner and Herbert Vorgrimler, *Theological Dictionary*, ed. Cornelius Ernst, O.P., trans. Richard Strachan (New York, NY: Herder and Herder, 1965), s.v. “Council,” 103-104. Also see footnote 18 below.

¹⁷ John T. Noonan Jr., “Usury: The Amendment of Papal Teaching by Theologians,” in *Change in Official Catholic Moral Teachings*, Readings in Moral Theology No. 13, ed. Charles Curran (New York/Manwah, NJ: Paulist Press, 2003), 81.

¹⁸ St. Thomas Aquinas, *Summa Theologiae* vol. 38, (2a2ae; q.78, art.1): *Latin Text and English Translation*, ed. and trans. Marcus Lefebure, O.P. (New York: Blackfriars/McGraw-Hill Book Co., 1975), 235.

¹⁹ Although usury was technically illegal under Roman law, it was widely practiced. Practice of usury in commerce (charging interest on loaned money and other goods) continued throughout the history of the Roman Empire and continues to the present day. Roman law attempted to regulate interest rates with varying degrees of success. See Buckley, *Teachings on Usury in Judaism, Christianity and Islam*, pp. 95-97, esp. footnote 17.

²⁰ These councils included Nicaea (345); Second Lateran (1139); Third Lateran (1179); Fourth Lateran (1215); and Fifth Lateran (1512-17). Papal statements condemning usury were made by Nicholas V (1452) and Innocent XI (1679). As late as 1821, the Holy Office issued a letter “stating that usury is against natural law.” See Miller, *Usury: Once a Sin, Now Good Stewardship*, 198-201

the times, places, circumstances, and especially with the political structure and social development of human societies. Commutative justice was based against the principle of equivalence between what is received and what is provided in exchange.”²¹

This passage shows that the principles of distributive and commutative justice were at least considered by the church and its theologians long before the present. These factors should again be considered in the arena of modern day banking and commerce.

As late as the mid-seventeenth century and to a point through the eighteenth century, usury in all forms was still actively condemned by the church. However, as the nature of commerce changed, and concurrently with the rise of capitalistic economies, church law grew more tolerant of the practice of charging a reasonable amount of interest on loans. For example “The 1917 Code of Canon Law still listed usury – excessive interest – as a sin, but the 1983 Code did not.”²² In summary, the 1917 Code, Canon 1543 stated: “It is always allowed to make an agreement for the legal rate of interest provided such a rate is not manifestly exorbitant. Such exorbitance would have to be determined with respect to all circumstances of place, time, and persons. Unless it is clear that the legal rate of interest is excessive, it is presumed that it is licit.”²³ The limitation placed on the presumption of a “licit” interest rate will become relevant in the recent history of usury in the United States.

²¹ Raymond de Roover, “Les doctrines économiques des scolastiques,”: 855. A l’encontre d’une opinion assez répandue, le problème de l’usure ne formait pas le cœur des doctrines économiques des scolastiques. En réalité, ceux-ci se préoccupaient avant tout des règles d’équité qui devaient régir les relations sociales et gouvernaient en particulier l’échange des biens (justice commutative) et la distribution des richesses et des revenus (justice distributive). Cette dernière tenait compte de l’inégalité des conditions et n’était pas fondée sur des principes absolus, mais variait avec les temps, les lieux, les circonstances et, surtout, avec la structure politique et sociale des sociétés humaines. La justice commutative, par contre, se basait sur le principe de l’équivalence entre ce qui est reçu et ce qui est fourni en échange. (My translation).

²² Amata Miller, *Usury: Once a Sin, Now Good Stewardship*, 205.

²³ T. Lincoln Bouscaren, S.J. and Adam C. Ellis, S.J., *Canon Law: A Text and Commentary*, (Milwaukee: The Bruce Publishing Co., 1946), 787.

The 1983 Code merely acknowledges that interest is to be paid on debts incurred by religious institutes.²⁴ As society changed, church teaching seems to have tacitly evolved. However, the teaching church, including moral theologians, has failed to follow the signs of the times and respond to the changes in the financial transactions system and to apply its teachings to the credit card industry regarding usury. In defense of the church the rise of usurious interest rates in relationship to credit card interest is a fairly recent phenomenon.

A Summary Overview and Analysis of Unsecured Credit Card Debt and its Economic Impact on American Families

Personal credit card debt in the United States is currently almost one trillion dollars. As of 2006, the average family in the U.S. carried slightly under \$5800 in credit card debt.²⁵ The average borrowing rate for banks that issue credit cards has varied between 2.25 annual percentage rate (APR), two years ago to approximately 0.25% APR over the last year. The average credit card interest rate for borrowers with good credit ranges between 8-15% APR and as high as 30% APR (or higher in some instances) for those with bad credit or those who have fallen behind in payments. The average rate for credit cards across all consumer sectors jumped to 14.17%, the highest rate thus far in 2009, and credit card default rates are currently at their

²⁴ Canon Law Society of America, *Code of Canon Law: Latin-English Edition* (Washington, D.C.: Canon Law Society of America, 1983), Can. 639, §5, p. 241: “Religious superiors are to be careful that they do not permit debts to be contracted unless it is certain that the interest on the debt can be paid...” This begs the question whether the Religious Institutes (and other church entities) can receive *and* charge interest on loaned money. Many religious orders offer annuities (both variable and fixed) as a normal part of their sustainment operations. For example, a Google search on “Franciscan Annuities” yielded approximately 9500 “hits” on a recent search.

²⁵ Kristie M. Engemann and Michael T. Owyang, “Extra Credit: The Rise of Short-term Liabilities,” *The Regional Economist* (April 2008) Federal Reserve Bank of St. Louis, <http://www.stlouisfed.org/publications/re/2008/b/pages/extracredit.html> (accessed March 27, 2009).

highest level in twenty years.²⁶ Banks issuing credit cards are reaping profits between 5.75% to 29.75% gross profit from their customers.²⁷ A gross profit bordering on 30% seems excessive to the point of avarice. Avarice is considered a capital vice by the church since it can lead to other vices like greed and may lead to adverse social consequences such as injustice. A 6 to 15% rate of profit would seem to be morally reasonable. A gross profit set in this range will allow issuers maintain a reasonable operating profit and to provide a fair return to their shareholders while maintaining competitive with other institutions like credit unions. Issuing banks looking to make higher profits are usually targeting high risk credit customers to start with. Unreasonable profits wreak misery on humans. Pope Benedict XVI recently wrote: “*Every economic decision has a moral consequence.*”²⁸ High interest credit cards and their unilaterally onerous agreements are an example of moral consequences. Behind these numbers are the faces of human beings who are potentially being adversely affected by lenders who may be charging interest at usurious rates.

In 2005, over six billion pre-screened credit card applications were sent out and over one billion credit cards were issued the previous year.²⁹ The recent decline in the American economy has brought to the fore the dangers of dependence upon unsecured credit.³⁰ The decline in the economy has been coupled with an unprecedented increase in the interest rates charged by credit

²⁶ The average interest rate was taken from the website Index Credit Cards, Credit Card Monitor, Weekly Averages: April 6, 2009, <http://www.indexcreditcards.com/creditcardmonitor/> (accessed April 7, 2009).

²⁷ I have singled out credit card issuing banks in this paper and have not addressed credit cards issued by credit unions. “In most cases, credit unions are member owned and as a result generally charge lower interest rates on credit cards. Obviously, there are exceptions to this general statement since the credit card holder’s interest rates are determined using a number of factors including income levels and past credit history among others.” David L. Smoker, member of the Board of Directors, United Educational Credit Union, Battle Creek, MI, interview by author, Coldwater, MI, June 20, 2009. In the interest of full disclosure, Mr. Smoker is my father.

²⁸ Benedict XVI, *Caritas in Veritate (Charity in Truth)*, no. 37, (Washington D.C.: USCCB Publishing, 2009), (original italics).

²⁹ Jose A. Garcia, *Borrowing to Make Ends Meet: The Rapid Growth of Credit Card Debt in America* (Demos: A Network for Ideas & Action, 2007), 13, <http://www.demos.org/pubs/stillborrowing.pdf> (accessed March 23, 2009).

³⁰ Credit card debt is considered unsecured credit in that it is not backed by any collateral security. An example of secured credit debt is a vehicle loan which is secured by the vehicle itself. The lending agency owns the title to the vehicle until the loan is paid in full. A mortgage is also an example of secured debt.

card issuers. As alluded to in the introduction, the interest rates charged on credit cards are no longer meaningfully regulated. At one time, most states had laws against usury and interest rates on monetary borrowing were set by statute or state banking commissions. These rates were often set according to the Federal Funds rate plus “basis points” in order to allow the lender a reasonable profit. “Supreme Court rulings [in 1978 and 1996] and Congressional legislation all but eliminated interest rate and fee limits for credit card holders.”³¹

Prior to the court’s rulings, state limits on all interest rates averaged between 1.5 to 11% between 1975 and 1982. Certain states like New York were exceptions to this rule. Card issuers and other institutions could not offer financial products that exceed the interest rates in the states where their financial products were offered. For example, companies who issued cards in New York at 18% could offer credit cards in Arkansas, but could only charge a maximum of 10% interest. After the court rulings, the rates in New York and Arkansas increased to 25% and 17% respectively.³² Since the changes enacted by the courts took place, *de jure* and *de facto* deregulation has allowed credit card issuers and other lenders to exploit people in all income classes and to charge interest rates to credit card borrowers that would have been considered usurious thirty years ago. However, credit cards can have legitimate useful purpose.

When used responsibly credit cards provide a safe way to make large purchases without carrying large amounts of cash. As “point of sale” systems linked directly to the bank clearing houses have proliferated paying by credit card has become a systematic way to track personal spending. Credit cards also allow a person to purchase a high value item and pay for it on installments. However, with the increased extension of “easy” credit to many people who had

³¹ Garcia, *Borrowing to Make Ends Meet*, 3.

³² Aaron J. Chatterji and Robert C. Seamans, “How Do Credit Card Interest Rates Impact Entrepreneurship?” *Financing Entrepreneurship* (March 15, 2009), p. 27, Figure 1 and p. 7, <http://faculty.haas.berkeley.edu/seamans/FinancingEntrepreneurship.pdf> (accessed September 24, 2009).

questionable ability to repay their bills over the last decade, many people overextended the amount of credit they could afford to readily re-pay. Increasingly, people used and use credit cards for unanticipated or emergency expenses and even for basic living expenses. This has resulted in a high debt to income ratio for many families and individuals. “While credit card companies provided many households with an economic safety valve to deal with income shortfalls and emergency expenses, this debt may often aggravate financial distress...as credit card practices have become increasingly punitive and costly.”³³ Fees associated with late payments or over-balance fees often range as high as \$30 to \$60 or as much as 3% of the total balance of the outstanding debt. As unemployment increases, families and individuals have been charging high-dollar expenses such as mortgage payments, tax payments (occasionally with prodding from the government), and medical bills. By paying these bills with credit cards interest often accumulates on other interest bearing debt. Since these types of expenses tend to be a large portion of the individual or family budget the amount of high interest debt can quickly accumulate.

An additional contributing factor to credit card usury has been the relatively unrestricted and unregulated rise in punitive interest and fees associated with late or missed payments. All major credit card issuers now automatically raise a cardholder’s interest rate to 30-34% if payment is late. The new interest rate is often applied retroactively to the entire balance the person may owe on the credit card. A late fee ranging from approximately \$30-\$40 is also charged. This often results in the application of what is known as the “universal default” rule. Late payment on any credit card account or any other bill reported to credit reporting agencies may result in a person being charged the higher interest rates listed above on all their credit card

³³ Ibid., 1.

accounts. In 2005 alone these fees generated \$8 billion in revenue for credit card companies.³⁴ Credit card holders across all income boundaries have been affected by these changes to credit card interest rates and the fees associated with them. Often the person incurring these charges does not have savings to fall back on to pay the now exponentially growing debt.

Although some of the more onerous problems associate with credit card interest and the associated egregious fees will change under the Credit Card Accountability, Responsibility, and Disclosure (CARD) Act signed by President Barak Obama on May 22, 2009, most changes will not become effective until July 1, 2010.³⁵ Among other changes under the new legislation,

Companies must spell out all terms that apply to the card for the first year. During that time, interest rates will not increase unless a payment is more than 60 days late. Companies are required to give cardholders at least 45 days' notice before interest rates are increased. That provision would take place *90 days after the bill is signed into law*. Under the new rules, the initial fees can be no more than 25 percent of the card's credit limit. Further, in the first year, no more than 50 percent of the original credit limit can be charged to the card to cover fees. Card issuers that violate these new restrictions will face significantly higher penalties than under current law, which should make violations less likely in the first place.³⁶

In spite of the potential relief offered under this legislation, since the enactment of the CARD Act, credit card issuing banks have been raising their interest rates at an unprecedented and furious pace.

³⁴ Ibid., 13. Also, a recent news article stated that the credit card powerhouse Capital One Bank's profit margin was significantly affected by a recent downward trend in fees associated with late payment. "Capital One has a large share of customers who have low card limits, and relies more than its competitors on collecting fees when customers exceed their limits, analysts said." Jonathan Starkey, "Feeling the Pinch of Fewer Late Fees," *Washington Post*, in *Minneapolis Star Tribune*, August 11, 2009, D 3. This article shows that at least Capital One relies and *anticipates* significant revenue generation from fee income.

³⁵ There are several pending bills before both the U.S. House of Representatives and the Senate to move the implementation date of this bill to an earlier effective date.

³⁶ Data gleaned from various sources especially from the U.S. Senate Document, "The Credit Card Accountability, Responsibility, and Disclosure Act of 2009," http://banking.senate.gov/public/index.cfm?FuseAction=Files.View&FileStore_id=721389f5-62b0-46b5-b855-85621d0a8d69, (accessed June 15, 2009), and The White House, Office of the Press Secretary, Fact Sheet: "Reforms to Protect American Credit Card Holders: President Obama Signs Credit Card Accountability, Responsibility, and Disclosure Act," May 22, 2009, http://www.whitehouse.gov/the_press_office/Fact-Sheet-Reforms-to-Protect-American-Credit-Card-Holders/, (accessed June 15, 2009). (My italics).

The leaders in raising rates have included CitiBank, Capital One Bank, Bank of America, American Express, and USAA Federal Savings Bank, to name a few, all have announced or implemented interest rate hikes for credit card customers in anticipation of the implementation date of the CARD Act. These rate hikes are taking place across the board to all customers regardless of credit history. Concurrently, credit cards that were variable interest rate cards are now being unilaterally converted to fixed rate cards by the issuing banks. Credit card agreements are also being unilaterally modified by these institutions. The customer must accept the new terms of agreement or pay the full balance on the account prior to the effective date of the new use agreement. These banks have demonstrated by their actions that their only concern is with maximizing profits while they can with little regard to the intent and spirit of the CARD legislation. It is notable that all the banks listed above, with the exception of USAA Bank,³⁷ have received billions of dollars under the governments Troubled Asset Relief Program (TARP), at very favorable interest rates.

As would be expected, low income households and minorities who possess negligible savings have been adversely affected by the increased interest rates and overuse of credit cards. Those in lower income brackets are particularly affected. The following data demonstrates the adverse affects on those with the least ability to pay:

In 2004, the average credit card-indebted family allocated 21% of its income to servicing monthly debt compared to the 13% dedicated to debt payments among all households. From 1989 to 2004, credit card debt among very low-income households quadrupled from an average of \$622 in 1989 to \$2750 in 2004. African-Americans [84%] and Latinos [79%] have a higher percentage of credit card indebted households when compared to 54% of white households.

³⁷ USAA Bank is owned by USAA, an insurance, banking, and investment conglomerate, which primarily serves members, retirees, and families of the uniformed services. In the interest of disclosure, I am and twenty year member of the organization and my own credit card rates were increased just prior to the passage of the CARD Act earlier this year. I received my own “new” terms of agreement in late March.

Americans over age 65 have incurred the largest percentage increase in credit card debt over the same period.³⁸

The decline in available disposable income, the problem of non-standard mortgages, rising unemployment, and the recent loss of personal and retirement investments in the recent 2008 stock market crash are factors that have contributed to individuals and families increased reliance on credit instruments to meet household expenses. People, especially those with least ability to repay this debt, are being forced into a modern form of indentured servitude. They are working to pay only the interest with little probability of paying the principle on this type of debt.

The ultimate result can be a continuing cycle of mounting debt resulting in bankruptcy or even poverty. Since the reform of bankruptcy laws in 2005, it is very difficult to discharge credit card debt in the bankruptcy process.³⁹ The end result is that the borrower and the lender have both been placed in a position of moral compromise. The borrower has incurred a debt that she/he cannot reasonably pay in a timely manner, if at all. The lender is charging interest rates on the credit card which often precludes timely payment of both interest and principle at a reasonable and equitable rate. The lender is entitled to a reasonable profit, but an unreasonable profit is tantamount to stealing especially from the disadvantaged and the poor. Three questions present themselves. What is a reasonable profit? Who should govern this matter? What is the role of the church? I will attempt to answer these questions at the conclusion of this paper. This short summary of the scope of the problem of credit card debt demonstrates that a moral problem exists and needs to be addressed.

³⁸ Garcia, *Borrowing to Make Ends Meet*, 1.

³⁹ The Bankruptcy Abuse Prevention and Consumer Protection Act (BAPCA) of 2005, severely limits discharge of credit card debt. Under the previous bankruptcy statute, the debtor had easier access to Chapter 7 discharge, which allowed for complete discharge of most debt. The reform of 2005, limits most people filing bankruptcy to Chapters 11 or 13 filings and debtors are subject to a strict means test to determine their ability to repay debts. Under the reform payment to unsecured creditors must continue for up to five years after filing bankruptcy and must consist of a minimum of 25% of available income after allowed deductions. According to the 2005 Act, credit card debt takes priority in repayment over child support payments. See Public Law 109-8, 119, Statute 23, Enacted April 20, 2005, effective October 17, 2005.

A Moral Analysis of the Issue of Credit Card Debt in Relation to Usury

If a credit card lender knowingly extends credit to those who are unlikely to repay loans in a timely manner, or charges usurious interest rates making repayment almost impossible, then the lender may be violating the intention of the seventh commandment. It is clear that the church now allows interest to be charged on loans, but if the interest is exorbitant and harms the borrower, then the lender has potentially violated the dignity of the person. “Every economic decision and institution must be judged in light of whether it protects or undermines the dignity of the human person.”⁴⁰ The dignity of the human person is a prevailing tenet of modern moral theology. Any ethical decision made by an individual or a business entity affects the entire community. Since the use of credit instruments as a primary means of conducting transactions in the market at the personal level is a fairly recent phenomenon, (primarily over the last thirty years) neither the magisterium nor most current literature in moral theology has specifically or adequately addressed this growth as a moral concern.⁴¹ The silence of moral theologians and the pastoral leaders of our church should be addressed and in all probability changed. In light of the inherent dignity of every human reevaluation of church teaching on usury in relation to credit card debt, indeed usury in all its modern forms, should be undertaken. The answers to the questions posed above are rooted in the virtues of justice, charity, generosity, temperance, and prudence.

⁴⁰ National Council of Catholic Bishops, *Economic Justice for All: Pastoral Letter on Catholic Social Teaching and the U.S. Economy* (November 13, 1986), no. 13 <http://www.usccb.org/sdwp/international/EconomicJusticeforAll.pdf> (accessed March 2, 2009).

⁴¹ A fairly exhaustive search of academic literature in the fields of moral theology, church teaching, and religious ethics proved virtually fruitless in discussing this challenge. Two minor exceptions were found, one which addressed sub-prime lending and social justice from a biblical perspective and a pastoral explanation of usury, its history, and its implications for families. The vast majority of the academic literature regarding usury and moral theology/ethics is historical in nature or addresses the subject from a legal viewpoint.

Even though it is a general concept justice is the first virtue that both the borrower and lender should examine in the credit card lending process. “The classic definition of justice... [is] a constant and perpetual will to render to each his or her due.”⁴² Too often the use of a credit instrument is viewed by both parties as a simple economic transaction. In reality it is an agreement between two parties to conduct a *just* and *equitable* business transaction. However, it is very rare that either the borrower or the lender consciously discerns whether purchases made using credit or the resulting interest charged on those purchases is just. If these actions are unjust then they are unlikely to be rooted in true charity.

Charity is one of the premier theological virtues. “The paradigmatic act of charity, unsurprisingly, is love, more specifically the love of God and of ourselves and others.”⁴³ Charity’s etymological roots are based in the Latin Vulgate’s occasional translation of the koine Greek *ἀγάπη*, which is interpreted as both charity and love in the New Testament.⁴⁴ As shown in Scripture, charity and love are mutually concurrent virtues given through grace which cannot exist independently of each other. The Scripture passage Luke 6:34-35, is immediately preceded by the Beatitudes and Woes and the command to “love your enemies” (Luke 6:20-33). This pericope in Luke is a paradigm for living a life of charity. Realizing that the words of Jesus in Luke were probably meant to convey an ideal, there is no reason that charity cannot govern equitable business practices today. In later Scholastic analysis, usury was considered to be less of an uncharitable act than as an act that was unjust similar to the way many people view usury

⁴² Jean Porter, *Nature as Reason: A Thomistic Theory of the Natural Law* (Grand Rapids, MI: William B. Eerdmans Publishing Co., 2005), 217.

⁴³ *Ibid.*, 391.

⁴⁴ *Oxford English Dictionary*, 2d Edition, s.v. “Charity,” (Oxford: Oxford University Press, 1989), Online Edition, (accessed 16 June, 2009).

today.⁴⁵ Then, as now, a legalistic view of usury prevailed. However, as we are so often reminded today, even if something is lawful, it is not necessarily moral.

“Because Scholastic theologians were also legally minded themselves, justice of trade was envisaged under contract, largely borrowed from Roman law. Thus the theory of just price was set forth according to the *emptio venditio* or contract of sale. The usury was a *mutuum* or loan, and so on. The scholastics therefore gave undue weight to the norms of law, but they did not care enough for their practical application. For them, the big question was to determine what is lawful or unlawful, without always understanding the economic system. The issue of usury specifically has given us the best example. As the scholastic compromises were incompatible with the rigor of their principles, they soon found themselves caught in a maze of quibbles and contradictions in the seventeenth and eighteenth centuries resulting in a thorough and complete discrediting of their doctrine.”⁴⁶

The later Scholastic tendency to view usury from a legal standpoint contributed to a separation of the virtue of charity from the daily transactions of the market place. If an action was deemed to be legal it therefore could not in most cases be unjust.

The Pope has recently recognized that we may be losing sight of what true charity is. “I am aware of some of the ways in which charity has been and continues to be misconstrued and emptied of meaning, with the consequent risk of being misinterpreted, detached from ethical living and...undervalued.”⁴⁷ While justice towards others should also govern all our actions charity should still be the foundation of all our relationships whether they be personal or in the realm of business. However, the renewal of moral theology has changed the way we should approach problems such as credit card usury. There is a need “to move moral theology away

⁴⁵ Noonan, *The Scholastic Analysis of Usury*, 30.

⁴⁶ Raymond de Roover, “Les doctrines économiques des scholastiques,”: 855. A cause de l’esprit juridique des scholastiques, tant des théologiens que des juristes proprement dits, la justice des échanges était envisagée dans le cadre des contrats, empruntés en grande partie au droit romain. Ainsi la théorie du juste prix était-elle énoncée à propos de l’*emptio venditio* ou du contrat d’achat-vente. L’usure relevait du *mutuum* ou du prêt, et ainsi de suite. Les scholastiques accordaient donc une importance excessive aux normes du droit, mais ils ne souciaient pas assez de leur application pratique. Pour eux, la grande question était de déterminer ce qui est licite ou illicite sans se demander toujours comment fonctionne le système économique. La question de l’usure nous en fournit précisément le plus bel exemple. Comme les scholastiques avaient fait des compromis incompatibles avec la rigueur de leurs principes, ils se virent bientôt pris dans un dédale d’arguties et contradictions qui, au XVII^e et XVIII^e s., aboutirent à jeter sur leur doctrine le discrédit le plus complet. (My translation).

⁴⁷ Benedict XVI, *Caritas in Veritate*, no. 2.

from legalism and minimalism towards personal freedom and responsibility in relationship to God” and to the “other.”⁴⁸ As the church teaching regarding usury progressed from one of total intolerance as a violation of Scripture and charity, to the Scholastic interpretation as an act of injustice, and finally to one of silent tolerance and even tacit assent, we have lost sight of equitable relations with the “other.” If both the borrower and the lender are practicing charity in the fullest sense of the virtue, then justice will naturally follow. Acts performed in true charity are acts which encompass the entire spectrum of virtues since God, the person performing the act, and all others who may be affected are taken into consideration. The application and assessment of charity in relation to all aspects of the issuance, use of, and billing policies in conducting credit card business could completely revolutionize the whole industry and reduce or eliminate many of the abuses addressed in this paper. A charitable approach to the subject by all could result in greater generosity.

Generosity is considered to be the antithesis of avarice. While not generally recognized as a classical virtue⁴⁹ generosity presumes that neither the individual nor the corporation is motivated by an inordinate desire to acquire goods or wealth. The primary responsible party for exercising generosity in the credit card business is the issuing institution. These entities have a responsibility to set interest rates that will allow them to make a reasonable profit while at the same time not charging the individual using the bank’s services an exorbitant interest rate or associated fees.

On the part of the individual, temperance and prudence in acquiring goods is a virtue in itself even in today’s uber-consumer society. Responsible use of credit mandates that purchases

⁴⁸ Kathleen A. Cahalan, *Formed in the Image of Christ: The Sacramental-Moral Theology of Bernard Haring*, C.Ss.R. (Collegeville, MN: Liturgical Press, 2004), 19.

⁴⁹ Generosity has been classically termed as one of the “Twelve Fruits of the Spirit,” that “the Holy Spirit forms in us as the first fruits of eternal glory.” United States Catholic Conference, *Catechism of the Catholic Church*, *Libreria Editrice Vaticana* (St. Paul Books & Media, 1994), no. 1832.

be made in light of the means test of affordability and actual need. Since credit cards usually carry interest rates that are much higher than secured loans the individual should avoid relying on these instruments for emergency expenses other than those that can be paid off almost immediately. Spending beyond one's means, especially unnecessary spending, potentially denies goods and services to others who may need them more. The person incurring the debt also has other associated responsibilities. If one has become financially over extended due to a malformed ideal that accumulation of goods will bring happiness, then the individual must reassess their own possible culpability in avarice. Examination and application of the virtues of justice, charity, and generosity coupled with temperance and prudence can provide a good start to addressing the most grievous consequences of credit card usury for both the lender and the borrower. The responsibility for prudence and temperance lies with both parties and is therefore both a personal and communal responsibility.

In light of the recent economic crisis perhaps it is time for the church to revisit its original teachings on usury and to academically and pastorally explore the implications that modern forms of usury have on people. At the Padua conference in 2006, American moral theologians addressed many pertinent challenges in moral theology to the U.S. church, but usury was not one of them. I do not believe that this is due to a lack of awareness. In an article unrelated to the Padua Conference that addresses sexual discipleship, Christina Traina observed that "'do not steal' used to forbid interest charges on loans, but it now forbids only exorbitant interest."⁵⁰ Perhaps the standard has been set too low and we have approached the subject with a legalistic and minimalist attitude. Legalism and minimalism are not conducive to helping others live a full moral life nor do they contribute to helping us to realize the full dignity of the human

⁵⁰ Christina L.H. Traina, "Under Pressure: Sexual Discipleship in the Real World," in *Sexuality and the U.S. Catholic Church: Crisis and Renewal* eds. Lisa Sowell Cahill, John Garvey, and T. Frank Kennedy, S.J., (New York: The Crossroad Publishing Co., 2006), 70.

person. In light of the economic crisis facing America now may be an appropriate time to reexamine the church's longstanding interpretation of the history of usury in light of Scripture. This *ressourcement* would allow the application of scriptural passages and tradition to reshape our perspective and to return to our original values in Christian life.⁵¹ In light of the breadth and scope of the problem of modern usury, and specifically credit card usury, I propose three basic steps be taken to begin to address solving the moral problem outlined here.

First, the government should continue to work with the credit card industry and the banking industry to determine what reasonable interest rates and fee structures should be. To an extent the government is taking steps in this direction now although credit card reform is far from being comprehensive. The reforms enacted under the recent CARD Act are a good beginning. However, as previously stated these rules will not be implemented until July 2010, and in effect provide no meaningful change in the regulation of interest rates. The government should consider a reexamination of the entire industry to study whether interest rate determination for the credit card industry is equitable in light of a reasonable profit for the lender. This study should also determine whether interest rates as they are now configured place, or have the potential to place, the person using credit cards at an unreasonable economic risk. Perhaps a means test to determine if an individual can reasonably be expected to pay off their credit card debt (both the interest and the principle) could be applied before extending credit to the person. This means test would have to be more comprehensive than current statistical credit analysis of an individual's ability to repay debt. However, recent history has shown reluctance on the part of the government to regulate private markets too closely and there

⁵¹ cf. Luke Timothy Johnson and William S. Kurz, S.J., *The Future of Catholic Biblical Scholarship: A Constructive Conversation* (Grand Rapids, MI: William B. Eerdmans Publishing Co., 2002), 44.

is no indication that this will radically change in the immediate future. Therefore, the borrower's responsibility in this matter is crucial.

This brings us to the second step in addressing this issue. Whereas the government's regulation of moral issues does not always conform to a Christian understanding of morality the person can take steps to conform their behavior in a moral manner. Responsible spending and conscientious use of credit instruments is the first step in this process. An examination of the virtues outlined earlier in this paper in relation to spending can also be of assistance to the individual and family in determining whether or not and when credit cards should be used. Reading relevant Scripture passages to determine the intent behind the Old and New Testament teachings on usury and an examination of the church's tradition may also assist in helping to discern how to use credit responsibly could be a valuable tool in this endeavor. Diocesan or parish affiliated or sponsored credit counseling would be an innovative endeavor to assist people who need assistance. A quick glance at the back of any parish bulletin will show that attorneys, accountants, and investments advisors who are parish members often advertise their commercial services. Perhaps they could find an unconventional ministry that would utilize their vocation as a type of avocation to those who do not possess their knowledge or abilities.

Finally, the church should reexamine its own long tradition on usury as it applies to modern concerns such as credit card debt and other potentially usurious practices and determine whether a return to the intent of the original tradition may merit consideration. Bishops, pastors, and moral theologians in concert should consider undertaking a thorough examination of how the problem of modern usury affects the lives of all people especially the poor and disadvantaged. For all practical purposes we have been silent about the subject. Since the church no longer directly influences civil law as it once did it should employ its ability through its teaching office

to help the people of God live responsibly in matters pertaining to economics. This teaching should be addressed to both the members of our local communities and to the leaders of the banking industry. Perhaps the U.S. Conference of Catholic Bishops should consider publishing a “white paper” addressing the moral use of credit cards and other flagrant and outrageous lending practices such as “pay day” lending, and “interest only” mortgages to name a few. Also, a thorough examination of this subject by moral theologians should be undertaken. An academic examination of the topic in light of natural law, Scholastic thought, and virtue ethics similar to critical examinations of other moral issues such as church teachings on sexual ethics is in order. Although immediate changes may not take place awareness of the subject could increase. The tenets of Islam and its practical application in the Islamic banking world could provide our church with a working model of fair credit card lending in our numerous Catholic credit unions around the United States.

There are other moral issues facing the world and the church today that may deserve our attention more than this matter. Poverty, the more despicable aspects of globalization, the HIV/AIDS crisis, the environment, and a host of other issues confront us on a daily basis and compete for resources to solve the challenges they present to humanity. However, since the scourge of modern usury is adversely affecting the lives of people it too merits attention. The problem is one that merits attention not only in the United States, but also in other countries as well. We are obligated as church, as fellow human beings on a common journey, to live moral and just lives and to attempt to address all issues that challenge us morally. These efforts should lead us to work for the greater common good and for the glory of God. Let us reconsider the words of the prophet Nehemiah, “Let us put an end to this usury” (Neh 5:10, *NAB*).

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