

## EDITORIAL

Income inequality in the twenty-first century is stark, pervasive, and growing. In a 2012 report on income inequality in the United States, the Congressional Research Service reported that the 20% of households with the highest income received 51% of total household income, with the top 5% of households receiving 22% of total household income.<sup>1</sup> Economists Thomas Piketty and Emmanuel Saez have estimated that the 1% of wealthiest households in the United States account for over 17% of total market income.<sup>2</sup> Furthermore, this accumulation of wealth by the wealthy reflects widely divergent income trajectories for the rich and the poor. From 1979 to 2007, the wealthiest 1% of US households saw average real income rise by 275%, while the 20% of lowest-income US households recorded a mere 18% gain in average real income.<sup>3</sup>

Nor is this situation particular to the United States. A UNICEF working paper from 2011 reports that, as of 2007, the global distribution of wealth resulted in the wealthiest 20% receiving 83% of total global income and the poorest 20% receiving a mere 1% of global income.<sup>4</sup> Even in those countries where inequality is lowest, including Australia, Azerbaijan, France, and Sweden, those in the top quintile of income receive 30%–40% of income while those in the bottom quintile receive less than 10%.<sup>5</sup>

Increasing inequality pushes growing numbers of people, specifically those with the least economic means, to the edges of society. It pushes them out of what are for better or worse, the most important spheres in modern society, namely the political sphere and the market sphere. As wages stagnate while inequality grows, more people live on the precarious edge of a debilitating and deadly kind of poverty. As Pope Francis said in his first apostolic exhortation:

Just as the commandment “Thou shalt not kill” sets a clear limit in order to safeguard the value of human life, today we also have to say “thou shalt not” to an economy of exclusion and inequality. Such an economy kills. How can it be that it is not a news item when an elderly homeless person dies of exposure, but it is news when the stock market loses two points? This is a case of exclusion. Can we continue to stand by when food is thrown away while people are starving? This is a case of inequality.<sup>6</sup>

Inequality is not a novel phenomenon. As two of this issue’s authors, Michael Welker and Adi Libson, remind us, our religious traditions have spent millennia grappling with the moral and structural problem of inequality. In an era of secular legality, religion is often discounted as a source of practical or pragmatic policy solutions—even where some space may be made for the prophetic role

1 Linda Levine, *The U.S. Income Distribution and Mobility: Trends and International Comparisons*, CRS Report R42400 (Washington, DC, Library of Congress, Congressional Research Service, Nov. 29, 2012), 3–4.

2 *Ibid.*, 6 (citing Facundo Alvaredo, Anthony B. Atkinson, Thomas Piketty, and Emmanuel Saez, “The World Top Incomes Database,” <http://g-mond.parisschoolofeconomics.eu/topincomes>).

3 *Ibid.*, 7 (citing Congressional Budget Office, *Trends in the Distribution of Household Income between 1979 and 2007* (Washington, DC, Oct. 2011)).

4 Isabel Ortiz and Matthew Cummins, “Global Inequality: Beyond the Bottom Billion” (working paper, UNICEF Social and Economic Policy, Apr. 2011), at 11.

5 *Ibid.*, 31. Azerbaijan is the exception to the rule, with income among the lowest quintile exceeding 10%. *Ibid.*

6 Francis, *Evangelii Gaudium* [The Joy of the Gospel], Vatican Website, Nov. 24, 2014, para. 53, accessed May 8, 2014, <http://www.vatican.va/evangelii-gaudium/en>.

of religion. In this issue of *JLR*, Welker and Libson offer something else: a symbiosis of the prophetic and the practical.

Welker, writing about the role of the mercy laws within the larger juridical structure of biblical law, says:

Directly impacting the juridical law, the mercy law strengthens and challenges the former's competence. On the one hand, no case can fall outside the purview of the law; no person, however weak, poor, and miserable, can fall beyond the reach of the law. On the other hand, the systematic orientation of the law toward compassion demands the continual refinement of the legal culture and its progression toward universalization.<sup>7</sup>

In Welker's formulation, the mercy law is both normative and prophetic. The mercy law creates norms and duties of care, but it also serves as a call to account of the juridical law—the mercy law calls the juridical law to the protection of all people.

Libson discusses a similar function of the second tithe. As Libson describes it, the second tithe appears, at first glance, to have a solely cultic purpose<sup>8</sup>; however, on closer examination, the role of the second tithe in removing barriers between classes of people emerges. Thus, the second tithe serves to “[embed] in people a psychological recognition of different socioeconomic experiences [that] helps to forge a sense of belonging among people of different classes, both landed and landless.”<sup>9</sup> This cultic law, as Welker might characterize it, also serves a prophetic role. Society is made more just when the boundaries between social ranks or classes are blurred or broken.<sup>10</sup>

Religion plays an important prophetic role by addressing the failure of society, including the legal system, to meet the demands of justice. In many cases, the prophetic voice must come from outside. But, by examining the intersection of law and religion, and especially our religious-normative and religious-legal systems, we can also see the importance of the law's own prophetic voice.<sup>11</sup> Our legal system must be called, from within and from without, to the task of doing justice. Without such a prophetic orientation—without a mercy code to call the law to account for all people—we cannot overcome a pervasive and seemingly intractable injustice such as we find in the global rise of income inequality.

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<sup>7</sup> Michael Welker, *The Power of Mercy in Biblical Law*, *infra* [233].

<sup>8</sup> Adi Libson, *Transforming Social Welfare Policy: The Sages' Reconstruction of the Institution of the Second Tithe as a Model for Social Welfare Policy*, *infra* [260].

<sup>9</sup> *Ibid.*, 274.

<sup>10</sup> *Ibid.*, 273.

<sup>11</sup> For another perspective on the prophetic role of religion in contemporary legal debates, see Drew Baker's review of Judith Butler et al., *The Power of Religion in the Public Sphere*, *infra* [336–39].