

The Principles Governing Cooperation and Catholic Health Care: An Overview

(Editor's Note: This is an excerpt from *Catholic Health Ministry in Transition: Handbook for Responsible Leadership* [Revised Edition])

Various forces at work in the contemporary health care environment strongly encourage the development of cooperative arrangements among health care providers. As the *Ethical and Religious Directives for Catholic Health Care Services* point out, this situation offers opportunities for Catholic health care providers in their work of carrying on the healing mission of Jesus Christ: "On the one hand, new partnerships can be viewed as opportunities for Catholic health care institutions and services to witness to their religious and ethical commitments and so influence the healing profession."¹ At the same time, this situation also presents considerable difficulties: "On the other hand, new partnerships can pose serious challenges to the viability of the identity of Catholic health care institutions and services, and their ability to implement these Directives in a consistent way, especially when partnerships are formed with those who do not share Catholic moral principles."²

Because of the potential dangers involved, it is necessary that collaborative arrangements be subject to a thorough moral analysis. The basis for such a moral analysis is provided by the principles governing cooperation in evil as they have developed with the Catholic moral

tradition. These principles offer guidance for situations in which one party (the cooperator), in the course of pursuing morally good purposes, would be lending some kind of assistance in the commission of moral evil by another party (the principal agent).

I. The Different Kinds of Cooperation

The principles governing cooperation help to identify morally licit and illicit types of cooperation through some basic distinctions.

The first distinction is between *formal* and *material* cooperation. Cooperation is *formal* when the one who is cooperating "concurr[s] in the bad will of the other [the principal agent]."³ Such cooperation occurs when the cooperator intends the evil action of the principal agent either for its own sake or as a means. In terms of the traditional distinction between object, intention, and circumstances as sources of the morality of human acts,⁴ in formal cooperation the cooperator agrees either with the evil moral object of the act (*finis operis*) or with the evil intention (*finis operantis*) of the principal agent.

If the cooperator neither intends the object of the act nor agrees with the

intention of the principal agent, but nevertheless contributes in some way to the principal agent's performance of the act, the cooperation is *material*. With regard to the degree of material cooperation in the performance of the immoral activity, moral theologians have developed a second major distinction, that between *immediate* and *mediate* material cooperation. Material cooperation can be defined as *immediate* when it is cooperation in the evil act itself and *mediate* when it is cooperation in an action that in some manner prepares the way for the evil act or aids in its execution.⁵ In addition, mediate material cooperation is called *proximate* if the cooperator's act is close in causal terms to the act of the principal agent and *remote* if causally distant from the principal agent's act.

AN EXAMPLE

A nurse works in a hospital where some abortions are performed. Different actions on her part would aid in different ways in the principal agent's performance of the abortion. The nature of her cooperation can be analyzed using the following questions.

DOES THE COOPERATOR INTEND, DESIRE, OR AGREE WITH THE IMMORAL ACTION?

If **yes**, then the cooperation is **formal**.

The nurse wants the woman to have an abortion. She assists in the procedure itself, handing the doctor each item as needed.

If **no**, then the cooperation is **material**.

The nurse does not want the woman to have an abortion. She does, however, perform some action that will aid in the abortion, because otherwise some good would be either lost or not obtained.

IS THERE COOPERATION IN THE EVIL ACT ITSELF?

If **yes**, then the material cooperation is **immediate**.

The nurse does not want the woman to have an abortion. Nevertheless, she assists in the procedure itself, handing the doctor each item as needed.

If **no**, then the material cooperation is **mediate**.

The nurse does not want the woman to have an abortion. Nevertheless, she attends to the patient during the preparation for or follow-up to the procedure itself.

IS THE ACT OF THE COOPERATOR CLOSELY RELATED TO THE EVIL ACT OF THE PRINCIPAL AGENT?

If **yes**, then the mediate material cooperation is **proximate**.

The nurse prepares the patient for the procedure, including administering pre-operative sedation.

If **no**, then the mediate material cooperation is **remote**.

The nurse at the front office fills out the forms required for the woman to be admitted to the hospital.

II. Assessing the Permissibility of Different Kinds of Cooperation

Formal cooperation is always morally wrong. Immediate material cooperation is also morally wrong. Mediate material cooperation can be morally licit in some cases. While everyone has a moral duty to avoid cooperating in evil as much as possible, sometimes there are situations in which it is permissible to cooperate in a mediate material way in order either to gain some good or to prevent the loss of some good.

The basic conditions for acceptable mediate material cooperation have been summarized by St. Alphonsus⁶:

1) The act of the cooperator must be “in itself either good or indifferent.”

While on one level this might seem self-evident, it also serves as a reminder that one may never perform an intrinsically immoral action even if one hopes by means of this action to obtain some good result.⁷

2) The cooperator must have a reason for cooperating that is “just and proportionate to the gravity of the sin of the other and to the proximity of the contribution that is provided to the performance of the sin.” In other words, any licit act of mediate material cooperation requires a good to be gained or an evil to be avoided that is proportionate both to the gravity of the principal agent’s wrongdoing and to the causal proximity of the cooperator’s act to the act of the principal agent.

Assuming that the cooperator’s act in itself is either good or indifferent, the acceptability of mediate material cooperation thus depends on its evaluation in terms of whether or not the reason for cooperating is proportionate. The greater the gravity of the wrongdoing, the more serious must be the reason for the material cooperation to be licit. Likewise, the greater the gravity of the wrongdoing, the more causally remote must be any cooperation if it is to be morally permissible.

III. Scandal

There is, however, a further issue that must be taken into consideration in cases of material cooperation, that of *scandal*. “Scandal is an attitude or behavior which leads another to do evil.”⁸ While it is obviously wrong to perform an evil act with the intention of inducing another person to perform some evil act, it sometimes happens that one’s act can be a source of scandal to another person even if that act is morally permissible in itself and one has no intention of causing scandal.⁹ Such situations require careful judgment. One is not obligated to refrain from every action that might possibly be taken as scandalous by someone. Nevertheless, charity does require that one avoid giving rise to scandal when this is possible without causing grave inconvenience. The *Ethical and Religious Directives* state: “Cooperation, which in all other respects is morally licit, may need to be refused because of the scandal that might be caused” (no. 71).

Offering an explanation of one's actions can sometimes lessen the danger of scandal. The *Ethical and Religious Directives* point out: "Scandal can sometimes be avoided by an appropriate explanation of what is in fact being done at the health care facility under Catholic auspices" (no. 71). In fact, in any situation of material cooperation, one should do one's best to try to ensure that people do not misunderstand why one is acting in a particular way. Since by definition material cooperation of any kind involves some degree of cooperation in evil, there is always at least some possibility that one's cooperation will be perceived by someone else to imply that one approves of the immoral action. This danger needs to be recognized and counteracted as much as possible.

IV. Institutional Cooperation

An institution can be considered a unitary moral agent, analogous to an individual person, with a responsibility to act ethically. For example, alongside "natural persons," canon law speaks of "moral persons" as well as of "juridic persons": A moral person is a group of natural persons unified in a way such that the collectivity is a kind of moral agent; a juridic person is a moral person that has an explicit status in the Church, possessing canonical rights and duties.¹⁰ A moral person can be defined as "a group or succession of natural persons who are united by a common purpose and, hence, who have a particular relationship to each other and who, because of that relationship, may be conceived of as a single entity."¹¹ Such a

group can consequently be conceived as the subject of moral responsibilities, though this derives ultimately from the moral responsibility of the natural persons who make up the group. "One can speak of a moral person having rights and obligations, but they are the cumulative rights and obligations of the members of the group."¹²

When one applies the principles governing cooperation to instances of institutional cooperation, however, there are certain characteristics of institutional cooperation that may affect the outcome of the moral assessment in significant ways. For example, while both individuals and institutions might engage in cooperation that continues over a long period of time, institutions are more likely to find themselves faced with the question of whether or not to agree to a long-term contractual arrangement. Such legally-binding agreements make it more difficult for a cooperator to withdraw from cooperation at a later point, when the situation may have changed in such a way that the original justification for cooperation is no longer present. Furthermore, with regard to the question of scandal, because of the public profile of institutions, there is usually a greater danger of scandal in instances of institutional cooperation than in those of individual cooperation.

Conclusion

As the *Ethical and Religious Directives* state, the "significant challenges that new partnerships may pose . . . do not

necessarily preclude their possibility on moral grounds.”¹³ Nevertheless, all such collaborative arrangements must be thoroughly scrutinized in terms of their moral implications. Only by a careful application of the principles governing cooperation in evil will Catholic health care organizations be able both to meet the challenges and to take advantage of the opportunities presented by the contemporary context for health care in this country.

¹¹ Robert T. Kennedy, *New Commentary on the Code of Canon Law*, John P. Beal, James A. Coriden, and Thomas J. Green, eds., (New York: Paulist Press, 2000), p. 154.

¹² Ibid.

¹³ *Ethical and Religious Directives*, Part Six, Introduction.

The Committee on Doctrine of the U.S. Conference of Catholic Bishops has reviewed this text of the National Coalition on Catholic Health Care Ministry and found it to be an appropriate explanation of the principles governing cooperation in evil (June 2003).

¹ *Ethical and Religious Directives for Catholic Health Care Services*, Part Six, Introduction, The United States Conference of Catholic Bishops, 2009.

² Ibid.

³ St. Alphonsus Liguori, *Theologia moralis*, I, II, tract. III, cap. 2, dub. V, art. III, n. 63.

⁴ See *Catechism of the Catholic Church*, nos. 1750-56.

⁵ See H. Noldin and A. Schmitt, *Summa theologiae moralis* (Regensburg: Pustet, 1941), vol. 2, p. 117, n. 117.

⁶ St. Alphonsus Liguori, *Theologia moralis*, I, II, tract. III, cap. 2, dub. V, art. III, n. 63.

⁷ Cf. *Veritatis splendor*, no. 81: “Circumstances or intentions can never transform an act intrinsically evil by virtue of its object into an act ‘subjectively’ good or defensible as a choice.”

⁸ *Catechism of the Catholic Church*, no. 2284.

⁹ Cf. St. Thomas Aquinas, *Summa theologiae* II-II, q. 43, a. 1, ad 2.

¹⁰ Can. 113: “§1. The Catholic Church and the Apostolic See have the character of a moral person by divine ordinance itself. §2. In the Church, besides physical persons, there are also juridic persons, that is, subjects in canon law of obligations and rights which correspond to their nature.”