JUST BECAUSE IT SHOCKS DOESN'T MAKE IT SCANDAL

In the last issue of *Health Progress*, Ron Hamel discussed the principle of cooperation and its intricacies, suggesting that it is one of the most difficult principles in our Catholic moral tradition to understand and to apply.[1] I agree with Ron's assessment, but I also believe that the Catholic understanding of scandal is a close second as far as both intricacy and misunderstanding are concerned.

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It, too, is a difficult concept to understand and to apply. Like the principle of cooperation, the technical theological meaning of the term "scandal" differs significantly from its normal English usage. And, in a manner similar to the analysis of the principle of cooperation, the Catholic tradition has employed a myriad of distinctions in examining the notion of scandal. In fact, the tradition often treats both concepts together.

What is often forgotten in contemporary considerations of these concepts is the theological and ethical context in which both have been examined in the Catholic moral tradition — that is, the virtue of charity. In his *Summa Theologiae*, St. Thomas Aquinas made this point very concisely: "Scandal seems especially opposed to charity."[2] There is a strong scriptural basis for this observation, which the tradition has continually emphasized. The Gospel of Matthew, for example, condemns those who cause the "little ones" to sin: "... but whoever causes one of these little ones who believe in me to sin, it would be better for him to have a great millstone fastened around his neck and to be drowned in the depth of the sea."[3] Similarly, the epistles of St. Paul twice explain what the "strong" owe the "weak" out of Christian love.[4] The passage from his Letter to the Romans, in fact, culminates with an explicit mention of love: "If your brother is being injured by what you eat, you are no longer walking in love."[5] Thus Catholic teaching regarding scandal arises within the larger theological and ethical consideration of what Christians owe one another out of love.

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It is this frame of reference regarding Christian love that helps to clarify the theological meaning of scandal. St. Thomas Aquinas, following St. Jerome, described scandal as "something less rightly said or done that occasions spiritual downfall."[6] Following this tradition, the contemporary moralist Fr. Bernard Häring, CSsR, has suggested, "We must distinguish between 'scandal' and shock or anger. By comparison to real scandal this shock is essentially rather superficial."[7] Similarly, ethicist Germain Grisez maintains, "*Scandal* has some irrelevant senses. In current English, the word often is used to refer to sins people consider especially shameful, whether or not they occasion someone else's sin."[8] The evil of true scandal in all of these citations concerns the fact that one's word or action becomes the occasion that leads another to spiritual harm. Technically, from a specifically theological point of view, it is not scandal if one is already inclined to do evil, nor is it scandal if a person cannot be so seduced by the other's bad example. The moralist Henry Davis says it succinctly: "Scandal is not given to one who is already determined to sin; nor to one who would not at all be induced to sin by the bad example given."[9]

Acknowledging this theological meaning of the term, it is also important to understand the various distinctions that the tradition has developed in relation to the notion of scandal. Again following St. Thomas Aquinas, moral theologians have categorized the various kinds of scandal as active or passive, direct or indirect, and "scandal

of the weak" (or, following Matthew, "of the 'little ones'") or "pharisaical" scandal.[10] Active scandal is one's *giving* scandal to another — that is, giving bad example that leads another into wrongdoing — while passive scandal is *taking* scandal from the actions of another. Direct scandal occurs when the wrongdoing of another is *intended* by the one giving scandal. It is indirect if one does not intend to lead another into wrongdoing, even though this might be foreseen.[11]

Scandal of the weak is a form of passive scandal "committed out of ignorance or frailty on the occasion of another's good or indifferent action."[12] There are times when perfectly good or at least neutral actions are misinterpreted by another. In the example, suppose the graduate student and professor collaborated on the paper published by the professor. Furthermore, this collaboration was explained in the paper itself. Based on misinformation, however, a student believes the author cheated, and because of this, believes he is justified in plagiarizing. This would be an example of scandal of the weak.

Pharisaical scandal is passive scandal by which one intentionally misconstrues the actions of another due to the malice of the one who takes scandal. In this circumstance, the one scandalized "wrests one's good or indifferent action to his own hurt by perverse misconstruction."[13] Using the example again, suppose a professor has heard that some of her students believe she used a student's paper as her own, and she explains what actually happened. A student who chooses to disregard the explanation and plagiarize his final paper because of what he believes happened is guilty of pharisaical scandal. Regarding this last category, Grisez instructs, "As Jesus' example makes clear, nobody need forgo doing good merely to avoid such scandal."[14]

In justice and charity, those of us involved in Catholic health care need to be very concerned about giving scandal, but we also need to appreciate the many nuances involved in the concept.

Note, by the way, that is these last two examples, we are talking about the person who *takes scandal* from the actions of another and not about the person who is performing the action.

Can these kinds of distinctions help those in Catholic health care who must make difficult ethical decisions? In justice and charity, those of us involved in Catholic health care need to be very concerned about giving scandal, but we also need to appreciate the many nuances involved in the concept. We must try as much as possible to avoid giving scandal — that is leading others to wrongdoing through our words and actions, or those of our institutions. Furthermore, it goes without saying that those involved in Catholic health care will never be involved in direct active scandal — that is *intending* to influence another to do wrong by means of our words or actions.

UNDERSTANDING THE NUANCES OF 'SCANDAL'

An example may help: It is an open secret at the university that a noted faculty member has published a paper written by one of his graduate students as if it were his own. The school administration has decided not to do anything about this because of the prominence of the professor and the embarrassment to the school. Several students in his class, who otherwise would never have thought about plagiarizing their final papers, have in fact done so, based on the actions of the professor and the school administration. In this situation, the wrongdoing of the professor and administration that gave students the impression that they, too, could plagiarize without suffering consequences was active scandal, while the wrongdoing on the part of the students, following the example of the professor, was passive scandal or scandal taken.

If the professor boasted about getting away with his activity, saying, "It's really no big thing, and nothing happens even if you get caught," it would be direct scandal. If, on the other hand, the professor's actions were simply interpreted by the students, without any encouragement on the part of the professor, this would be an example of indirect scandal.

There are circumstances, however, where legitimate decisions and activities on the part of Catholic health care can become occasions for scandal — decisions that involve, for example, the choice of vendors, actions performed by physicians who have privileges in our institutions, particular contracts we enter for the benefit of the poor and marginalized.

Even though the activity may be morally correct, those involved in the decision may still appropriately decide to forgo the action out of concern that it might be a source of scandal. The activities that we contemplate might involve such a nuanced understanding that it could easily lead others to *misunderstand* the activity and engage in wrongdoing.

Following the words and example of St. Paul, the Catholic health care executive may decide to forgo a particular activity out of concern for the "weakness" of the other. The motivation for doing this is Christian love and concern for the "weak" who might be misled by otherwise legitimate actions. An example here might be a limited agreement a hospital considers making with another provider to ensure that very particular services are available for the poor of the community. This second provider may contract in other geographic areas with a third entity that performs procedures that would not be acceptable to the Catholic entity.

Although entering into the limited agreement is legitimate, the Catholic hospital might choose not to contract with the provider out of fear of scandal taken by people who might consequently (and somewhat illogically) believe that the Catholic Church is not concerned about the actions of the third party.

Although it can be appropriate to refrain from actions out of concern for giving true scandal, there are occasions when those involved in Catholic health care have reasonable cause to engage in the activity for the good of others in spite of the possibility of scandal. Again, Davis explains this reasoning:

> We may . . . sometimes permit, though never desire, the sin of another, if our action has a twofold effect, one, and that the primary, being a good effect, for if we were always bound to prevent the sins of another, even when we could, life in the world would be impossible. In fact, we are sometimes even bound to act in spite of the foreseen sin of others.[15]

In these circumstances, the same charity that motivates our concern for the weak also motivates our decision to continue an activity that might cause passive scandal, provided that that the action (1) is good or at least morally indifferent, (2) that it truly benefits others, especially the poor, and not merely ourselves and (3) there seems to be no less harmful way to achieve the benefit. It is here that the suggestion of the *Ethical and Religious Directives for Catholic Health Care Services* is helpful: "Scandal can sometimes be avoided by an appropriate explanation of what is in fact being done at the health care facility under Catholic auspices."[16]

Undue concern about the possibility of causing scandal ought not paralyze a Catholic health care organization from making appropriate ethical decisions.

Recent discussions regarding scandal usually end here, simply with consideration of active scandal or scandal given. The other elements of the tradition do not seem to be taken into consideration at all, including the ethical responsibility of those who take scandal.

As noted above, passive scandal or scandal taken can be occasioned by weakness or by malice (pharisaical scandal). If an appropriate and adequate explanation is given regarding the actions of a person or an institution, as suggested by Directive 71, there seems to be an obligation on the part of the hearer to take this into serious consideration. As Davis cautions, "It is consonant with charity . . . to explain that our action is morally upright. Scandal taken thereafter will be pharisaical."[17]

Thus ethical responsibility rests on more than simply the person or institution who might cause active scandal. Undue concern about the possibility of causing scandal ought not paralyze a Catholic health care organization from making appropriate ethical decisions.

Finally, something needs to be said regarding pharisaical scandal. St. Thomas Aquinas explains, "Scandal . . . sometimes proceeds from malice, for instance when a person wishes to hinder those spiritual goods by stirring up scandal. . . . We ought to treat such scandal with contempt."[18]

The same virtue of charity that guides the evaluation of scandal given needs to be a consideration when discussing passive scandal. The good or indifferent acts of those involved in health care can sometimes be intentionally misconstrued by others for their own less than charitable ends. This form of scandal, as well, should not keep Catholic health care organizations from making appropriate ethics decisions out of fear of what some people might say. Looking again at the issue of collaborating with the provider mentioned above, the hospital administrator may conclude — having given an adequate explanation — that any scandal that might be taken is not the result of ignorance but rather malice. She might choose not to become a party to what she believes is pharisaical scandal.

Ron Hamel concluded his essay by suggesting that the principle of cooperation has taken on a life of its own, detached from its moorings, and he challenged ethicists to re-ground it theologically and even re-envision it. Similarly, while Catholic health care ethicists need to attend to the real evil that can be done by active scandal — even by indirect scandal occasioned by inadequate explanation of the actions or policies of an institution — we also need to reappropriate the larger moral tradition that grounds the theological notion of scandal.

In being attentive to this larger context, we help not only our Catholic health care institutions but the larger church as well.

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NOTES

1. Ron Hamel, "Cooperation: A Principle that Reflects Reality," *Health Progress*, 93, 5 (September-October 2012): 80.
2. Thomas Aquinas, *Summa Theologiae*, II-II, Q 43.
3. Mt 18:6
4. See 1 Cor 8:7-13 and Rom 14: 1-19.
5. Rom 14: 15.
6. *Summa Theologiae*, II-II, Q 43, a.1; Thomas quotes St. Jerome's Commentary on Matthew, 15:12ff.
7. Bernard Häring, *The Law of Christ, Volume 2: Special Moral Theology* (Westminster, Md.: The Newman Press, 1963), 473.
8. Germain Grisez, *The Way of the Lord Jesus, Volume 2: Living a Christian Life* (Quincy, Ill.: Franciscan Press, 1993), 232.
9. Henry Davis, *Moral and Pastoral Theology*, Fourth Edition, Volume 1 (London: Sheed and Ward, 1945), 333.
10. See, for example, Davis, 333-334. See also H. Noldin and A. Schmitt, *Summa Theologiae Moralis, Volume 2: De Praeceptis* (Regensburg: Oeniponte, 1938), 106-107. St. Thomas Aquinas' references to these distinctions can be found in his *Summa Theologiae*, II-II, Q 43, a. 1, a. 4 and a. 7.
11. Davis, 334.
12. Davis, 334.
13. Davis, 333.
14. Grisez, 234.
15. Davis, 335; see also Noldin-Schmitt, 109.
16. See U. S. Conference of Catholic Bishops, *Ethical and Religious Directives for Catholic Health Care Services*, Fifth Edition (Washington, D.C.: USCCB, 2009), Directive 71.
17. Davis, 335.
18. *Summa Theologiae,* II-II, Q 43, a. 7.

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