

# Caritas in Communion

## Reflections on the Principle of Cooperation

By PETER J. CATALDO, PhD

**C**aritas in Communion: *Theological Foundations of Catholic Health Care*, by M. Therese Lysaught, PhD, originally a white paper commissioned by the Catholic Health Association, generally provides a helpful conceptual framework within which those involved in the ministry of Catholic health care may revisit the idea of Catholic identity and assess both its theoretical and practical meanings in health care's changing landscape.<sup>1</sup>

*Caritas in Communion* examines three fundamental issues, as Lysaught explains: "(1) the theological foundations of *Catholic identity* in Catholic health care; (2) the theological foundations of the *principle of moral cooperation* insofar as it is the primary framework used to address partnerships between Catholic, faith-based, and secular organizations; and (3) the theological foundations of Catholic economic thought as they relate to the question of *for-profit corporate status*."<sup>2</sup> This article will focus on the second issue and evaluate Section IV, "Theological Foundations of Cooperation."

There is a tendency to misinterpret the principle of cooperation by conflating it with meanings that are not part of its makeup. This problem is evident when, for example, any contribution to the wrongdoing of another is conflated with illicit cooperation, or when the meaning of "cooperation" as it functions in the principle of cooperation is not distinguished from "collaboration" as it functions in the positive obligation to act in char-

ity with others. Another problem in the interpretation of the principle of cooperation pertains to the relation of individual cooperation in wrongdoing to institutional cooperation.

Such problems can have important consequences both for a proper understanding of the principle of cooperation and for its correct application in specific issues. The traditional principle need not be understood in these problematic ways, and it may be used to support the notion of fraternal collaboration articulated in *Caritas in Communion*.

### INSTITUTIONAL VS. INDIVIDUAL COOPERATION

While helpful on several points, Lysaught's account of the principle of cooperation reflects some of the problems. She correctly points out that the principle of cooperation historically developed as a tool for confessors to evaluate the moral status of a penitent's (the "cooperator") actions that in themselves are good or indifferent but contribute in some way to the immoral action of another (the "principal agent").<sup>3</sup>

However, because the principle of cooperation was used to evaluate individual actions, Lysaught makes the invalid inference that, "applying the principle in an institutional setting thus becomes more complex and ambiguous than with individuals. Institutional characteristics may affect the outcome of the analysis of cooperation in significant ways."<sup>4</sup>

There are a few problems with this view. First, to suggest that an institutional application of the principle of cooperation is *per se* problematic

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because of the way it historically was developed and applied is to conflate an accidental quality about the principle with the nature of the components of the principle itself. The historical context of the principle of cooperation does not necessarily preclude it from being applied to institutional actions.<sup>5</sup>

Second, the institutional application in actual cases of the principle of cooperation bears out the latter point. Cooperation analyses of proposed affiliations and mergers are, in general, less ambiguous to the extent that institutional cooperation may be assessed on the basis of such factors as reserved powers, board of director responsibilities or financial accounting. The precise language found in documents such as legal agreements, ICD (International Classification of Diseases) codes, policies and even the *Ethical and Religious Directives*

for Catholic Health Care Services is also quite conducive to the moral analysis of institutional cooperation.

Third, institutional characteristics *per se* are not obstacles to the successful institutional application of the principle, because those characteristics are analogous to human action.

The notion of a corporate person long has been recognized in civil and canonical law and in Catholic moral and social teaching.<sup>6</sup> Qualities such as purposiveness, intentionality and foresight found in natural persons may legitimately be predicated in an analogous way to an institution and its actions, which allows the principle of cooperation to be validly applied.<sup>7</sup>

Indeed, the components of legal agreements between Catholic and other-than-Catholic partners speak to what is and is not intended on the part of the institutions. Moreover, without the concept of corporate personhood, the notion of

“structures of sin” found in Catholic social teaching would lack an essential element.

It also is important to note that the principle of cooperation did not develop in isolation from other integral components of the Catholic moral tradition, and that it incorporates those components. These include the principle of the double effect, free choice of the will, foreknowledge, the relation between moral responsibility and causation and the three fonts of the moral act: object, intention and circumstances.

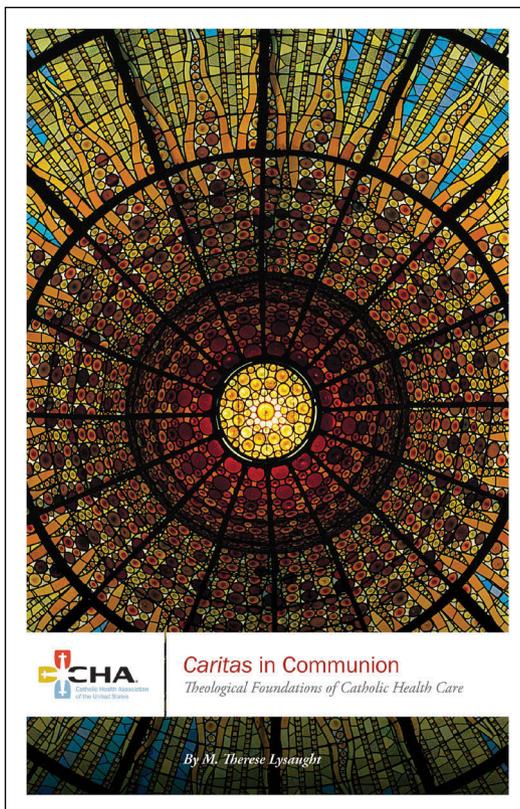
For example, the principle of cooperation was developed as an application of the principle of the double effect to the actions of a cooperator in which cooperation in the wrongdoing of another has the double effect of preserving some good

or avoiding some harm on the one hand, and also contributing to the wrongdoing of the principal agent on the other. The four conditions of the principle of the double effect would then be applied to the cooperator’s action.

#### COLLABORATING WITH OTHERS VS. COOPERATING IN WRONGDOING

Lysaught also states, “What has often been missing from these recent discussions of the principle of cooperation has been the richer understanding of cooperation that has been part of the church’s social tradition . . . One question that arises with regard to the principle of cooperation is whether Christians have a positive obligation to creatively cooperate with others in the world for the common good.”<sup>8</sup>

It is true that treatment of the principle of cooperation would benefit from a more thorough account of how it relates to Catholic social teach-



ing on collaboration with others and on the positive obligation to collaborate in charity. However, in her attempt to relate the principle of cooperation to this aspect of Catholic teaching, Lysaught gives inadequate attention to a fundamental distinction, the result of which are misunderstandings about both the principle of cooperation and the church's social tradition on collaboration.

I am referring to the distinction between two dimensions of the charitable action of a Catholic health care partner in its collaboration with an other-than-Catholic partner to meet the health care needs of a community. Such an action may achieve love of neighbor, yet also contribute in some way to the immoral action of the other-than-Catholic partner. Thus the act has these two moral dimensions — the positive obligation to collaborate with others and the distinct obligation to avoid cooperating illicitly in the wrongdoing of another. In this context, “collaboration” refers to the joint provision of health care as a matter of charity, while “cooperation” refers to the moral status of such action insofar as it contributes to the wrongdoing of another.

I submit that the distinctive meanings of these terms warrant that they not be used interchangeably in the context of affiliations.<sup>9</sup> Their distinct usage is important for several reasons, and not simply as an issue of academic interest.

First, for a Catholic health care provider to use collaboration and cooperation interchangeably risks making the incorrect assumption that there is less need to ensure separation from any immoral activity simply because the obligation to collaborate has been fulfilled.

Second, conflating the two meanings can lead to the false notion that the positive obligation of collaborating in charity does not include minimizing one's contribution to the wrongdoing of a partner to the extent possible under the circumstances.

Third, instead of preserving the preventative nature of the principle of cooperation, the lack of a clear distinction between collaboration and cooperation misconstrues the principle's purpose. It

was never meant to be a positive obligation to contribute to the wrongdoing of another as long as the contribution is indirect.<sup>10</sup>

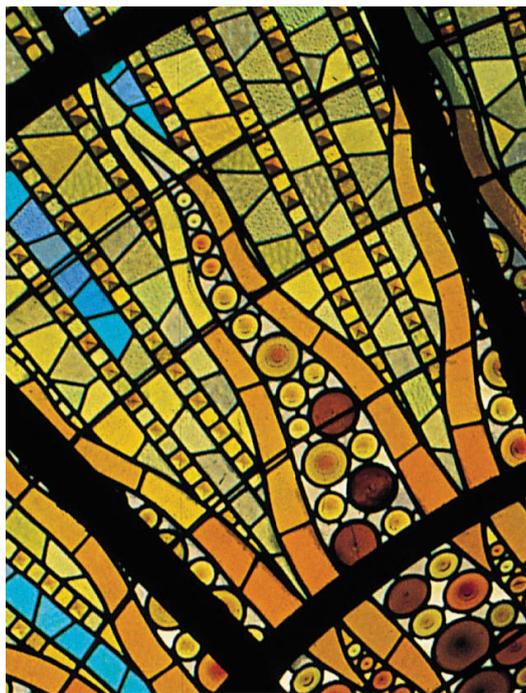
In a footnote, Lysaught correctly explains that the “magisterial tradition privileges the term *cooperation*.”<sup>11</sup> However, that fact seems to reaffirm my point that there is an important distinction between collaboration in charity and cooperation as contributing to wrongdoing.

Lysaught highlights many magisterial texts from the Second Vatican Council and from popes who use the term “cooperate” to teach

that cooperation between and among the church and the state, individuals, peoples, communities and institutions is integral to love of neighbor. However, in every instance, these texts are using the term “cooperate” with the sense of “collaborate.” In fact, one text from *Gaudium et Spes* uses both “cooperation” and “collaboration” in the same sentence, and similarly, the section from *Caritas in Veritate* Lysaught uses to reference “fraternal collaboration” also references “fraternal cooperation” such that the latter has the sense of the former.<sup>12</sup> Pope Francis in *The Joy of the Gospel* also distinguishes between collaboration and complicity.<sup>13</sup>

In other places, magisterial texts make use of or allude to the traditional principle of cooperation. This is evident, for example, in the *Catechism of the Catholic Church* and in the teachings of Pope Benedict XVI and Saint John Paul II.<sup>14</sup> The fact that these sources use the term “cooperation” in reference to its meaning in the principle of cooperation shows that they recognize the conceptual distinction between collaboration and cooperation in wrongdoing.

More significant are texts in which both the call to *caritas* in communion and the obligation



not to illicitly cooperate are present. This is evident in the following text from Saint John XXIII:

In their economic and social activities, Catholics often come into contact with others who do not share their view of life. In such circumstances, they must, of course, bear themselves as Catholics and do nothing to compromise religion and morality. Yet at the same time they should show themselves animated by a spirit of understanding and unselfishness, ready to cooperate loyally in achieving objects which are good in themselves, or can be turned to good.<sup>15</sup>

The juxtapositioning in this text on cooperation as a spirit of understanding and unselfishness in working with others, together with the obligation not to compromise religion and morality, shows two critically important points. It shows that the term “to cooperate” as it is used in the text has the meaning of collaboration distinct from the avoidance of illicit compromise that may occur through collaboration. It also shows that collaboration is inextricably bound up with avoidance of illicit compromise, not as representing one and the same principle, but as being based on distinct complementary principles. For example, Saint John XXIII explains that “at the same time” that Catholics engage with others, they also should “bear themselves as Catholics” in not violating their faith. It is love of neighbor that at once works with others for the common good and also avoids illicit cooperation in wrongdoing.<sup>16</sup>

What this analysis of the magisterial texts shows is that while the church’s teaching and tradition may privilege the *term* “cooperation” in its treatment of *caritas* in communion, it does not follow that there is no clear distinction between the positive obligation to collaborate in charity and the obligation to avoid illicit cooperation (as guided by the traditional principle of cooperation) in that effort.<sup>17</sup> Moreover, we need not assume that calling attention to the distinction between the two de-emphasizes or diminishes their connection. In fact, their connection is strengthened by the distinction.

#### THE PRINCIPLE OF COOPERATION AND STRUCTURES OF SIN

Lysaught concludes that her analysis “seeks to expand the context of considerations around

cooperation beyond simply material cooperation in reproductive acts to broader issues such as the ways potential partnerships may draw Catholic organizations into structures of sin. It seeks to integrate the principle of cooperation with the principles of Catholic social thought, particularly in relationship to the promotion of the common good and the proper subsidiarity of other-than-Catholic partners.”<sup>18</sup>

In a footnote, she adds that “the principle of cooperation provides few resources for thinking about the participation of Catholics or Catholic institutions in structures of sin.”<sup>19</sup>

This view of the principle of cooperation is based upon the incorrect assumptions identified earlier regarding the historical use of the principle and the institutional application of the principle. In addition to these problems, it does not take into account two other aspects of the principle.

First, because Lysaught conflates the positive obligation to collaborate in charity with the prin-

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ciple of cooperation, she ascribes a function to the principle that it does not have and need not have in order for the principle to function in a helpful way. Because the positive obligation to collaborate is distinct from the principle of cooperation, it is neither the job of the principle nor its application to promote “the common good and the proper subsidiarity of other-than-Catholic partners.” This is the job of various virtues and their respective obligations, such as the virtues of charity, justice, solidarity or the obligation to collaborate.

Such virtues and obligations provide the impetus to achieve the common good. The principle of cooperation can help to guide that impetus to its fulfillment by identifying possible pitfalls along that trajectory. Rather than functioning as a positive principle, the principle of cooperation undergirds the promotion of *caritas* in communion by articulating how certain charitable efforts may illicitly contribute to the wrongdoing of others, and how others do not. Nothing prevents the traditional principle from functioning in this supportive role to *caritas* in communion.

This point leads us to the second additional problem, which is the claim that the principle of cooperation does not provide sufficient resources for “thinking about the participation of Catholics or Catholic institutions in structures of sin.” This assertion misplaces the function of identifying structures of sin as coming under the principle of cooperation when, in fact, the function belongs to the work of virtues such as charity, solidarity and justice.

Saint John Paul II acknowledged this fact about identifying structures of sin when he wrote, “these attitudes and ‘structures of sin’ are only conquered — presupposing the help of divine grace — by a diametrically opposed attitude: a commitment to the good of one’s neighbor with the readiness, in the Gospel sense, to ‘lose oneself’ for the sake of the other instead of exploiting him, and to ‘serve him’ instead of oppressing him for one’s own advantage (cf. Matthew 10:40-42; 20:25; Mark 10:42-45; Luke 22:25-27).”<sup>20</sup>

As with the principle of the double effect, the principle of cooperation presumes a previous identification of the goods and evils at stake, whether they are attributed to individuals or to structures. The appropriate response to these goods and evils is then guided by the principle. An appropriate response also must take account of the potential for theological scandal, which Lysaught’s analysis does not consider. While in any given affiliation there may not be illicit cooperation, the potential for scandal associated with structures of sin may warrant forgoing the collaboration.

As for the parts of the principle of cooperation, they are just as well suited for an analysis of the appropriate response to possible assistance in structures of sin as they are for analyzing the response by Catholic health care to fulfilling the common good through collaboration with others. For example, through an analysis of possible implicit formal cooperation, we can determine whether the Catholic partner will establish the specific conditions that help make structures of sin to function so that the performance of the particular wrongdoing is made possible; or through an analysis of immediate material cooperation, we are able to determine if the Catholic partner contributes any essential circumstance to immoral action by way of structures of sin.

Another critical component of the principle of cooperation is in the standards for determining

whether there is a justifying reason for the contribution to the wrongdoing of another. These standards weigh not only the gravity of the wrongdoing against the good to be achieved or harm to be avoided, but they also hold in balance the stronger or weaker influence that the cooperator has on the wrongdoing of the principal agent.<sup>21</sup> This feature of the principle allows for serious moral consideration of the broader social issues (to which Lysaught rightly calls attention) as compris-

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ing the great goods to be achieved and harms to be avoided through collaborative arrangements.

The way in which *caritas* in communion is best served is not through a conflation of related but distinct moral elements — the positive obligation to collaborate with others in charity, and the principle of cooperation. Nor is it served by relegating the principle of cooperation to the evaluation of individual actions. Rather, the obligation to *caritas* in communion is advanced in an important way by recognizing how it differs from the principle of cooperation and allowing those differences to complement each other.<sup>22</sup>

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### **NOTES**

1. M. Therese Lysaught, *Caritas in Communion: Theological Foundations of Catholic Health Care* (St. Louis: The Catholic Health Association of the United States, 2014).
2. Lysaught, 4.
3. Lysaught, 57.
4. Lysaught, 58. See Lysaught, 69, for a similar assessment that the historical application of the principle for individual actions precludes it from being an adequate method to evaluate “institutional agents in the social sphere.”
5. The recent document from the Congregation for the Doctrine of the Faith, *Some Principles for Collaboration with Non-Catholic Entities in the Provision of Healthcare Services*, Feb. 17, 2014, helpfully confirms the legitimacy

of applying the principle of cooperation to institutions.

6. See, for example, *Catechism of the Catholic Church*, n. 2244; Pontifical Council for Justice and Peace, *Compendium of the Social Doctrine of the Church*, n. 157 and n. 338.

7. For a fuller discussion of this point, see Peter J. Cataldo, "State-Mandated Immoral Procedures in Catholic Facilities: How is Licit Compliance Possible?" in Edward J. Furton, ed., *Live the Truth: The Moral Legacy of John Paul II in Catholic Health Care* (Philadelphia: The National Catholic Bioethics Center, 2006): 258-61. *Some Principles for Collaboration with Non-Catholic Entities in the Provision of Healthcare Services* also recognizes the moral agency of institutions; see Peter J. Cataldo, "CDF Principles for Collaboration with Non-Catholic Health Care Entities: Ministry Perspectives," *Health Care Ethics USA* 22, no. 3 (Summer 2014): 24-27.

8. Lysaught, 58-59.

9. See Peter J. Cataldo, "Applying the Principle of Cooperation to Collaborative Arrangements" in Edward J. Furton, ed., *Walk as Children of Light: The Challenge of Cooperation in a Pluralistic Society* (Boston: The

National Catholic Bioethics Center, 2003): 139-40; Peter J. Cataldo and John M. Haas, "Institutional Cooperation: The ERDs" *Health Progress* 83, no. 6 (November-December 2002): 49-57; 60.

10. These problems are exacerbated by Lysaught's reference to the principle as the "principle of moral cooperation" (Lysaught, 4). A different sort of confusion, not found in *Caritas in Communion*, but one that is on the rise, is the conflation between *any* contribution to the wrongdoing of another and *illicit* cooperation. This is particularly unhelpful for a proper understanding and application of the principle of cooperation.

11. Lysaught, 58, n. 78.

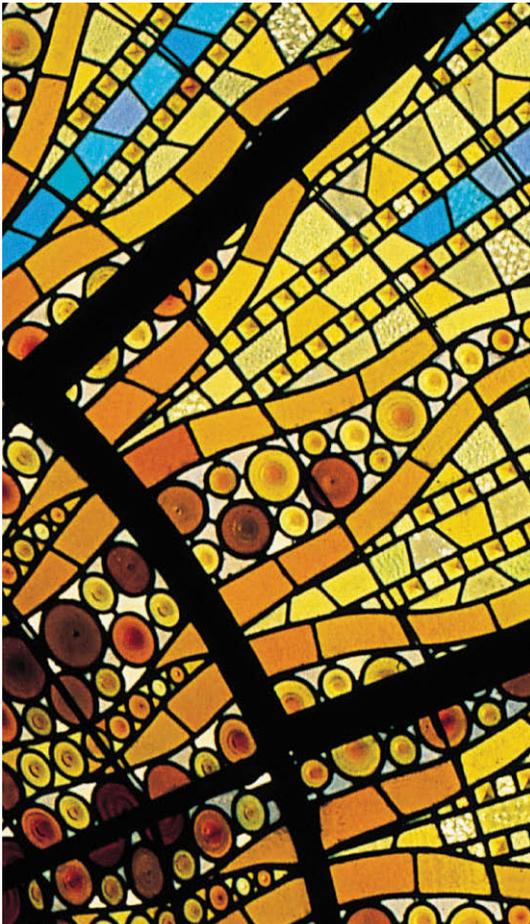
12. See Lysaught, 60 and 62; see Benedict XVI, *Caritas in Veritate*, n. 57. See also Pius XI, *Quadragesimo Anno*, n. 84; Pius XII, Christmas messages for 1939 and 1941 quoted in Wilfrid Parsons, "Intercredal Co-Operation in the Papal Documents," *Theological Studies*, 4, no. 2 (June 1, 1943): 171-72; various speeches of Pius XII quoted in John Courtney Murray, *The Pattern for Peace and the Papal Peace Program* (Washington, DC: Paulist Press, 1944).

13. Francis, *The Joy of the Gospel*, Nov. 24, 2013; for a reference to complicity, see n. 211; for texts on collaboration see nn. 46, 49, 67, 87-89, 177, 182-83, 220-21, 238-41, 250-51, 271; for texts that reference both "collaboration" and "cooperation" with the sense of "collaboration," see "Address Of Pope Francis to The Bishops of the Episcopal Conference of Ethiopia and Eritrea on Their 'Ad Limina' Visit," May 9, 2014, and "Address Of Pope Francis to Participants in The Conference on 'International Religious Freedom and the Global Clash Of Values,'" June 20, 2014.

14. See, for example, *The Gospel of Life*, n. 74; Benedict XVI, Apostolic Letter Issued "Motu Proprio" *On the Service of Charity*; Cardinal Joseph Ratzinger, "Letter to U.S. Bishops," 2004; *Catechism of the Catholic Church*, n. 2272.

15. Saint John XXIII, *Mater et Magistra*, n. 239. In the previous paragraph (n. 238), Saint John XXIII has a message for Catholics in their internal dealings that is as relevant, if not more relevant, for Catholics today: "Differences of opinion in the application of principles can sometimes arise even among sincere Catholics. When this happens, they should be careful not to lose their respect and esteem for each other. Instead, they should strive to find points of agreement for effective and suitable action, and not wear themselves out in interminable arguments, and, under pretext of the better or the best, omit to do the good that is possible and therefore obligatory."

16. The limitations of space will not allow other similar examples from the popes. See, for example, Paul VI, *Ecclesiam Suam*, nn. 41 and 42; Benedict XVI, "It is in the Gospel that Christians find inspiration for their daily lives and their involvement in worldly affairs . . . Chris-



tians shouldn't shun the world; they should engage with it. . . . [M]uch fruitful cooperation is possible between Christians and others. . . . [It is] because they [Christians] are free from the constraints of ideology and inspired by such a noble vision of human destiny that they cannot collude with anything that undermines it" (Benedict XVI, *Financial Times*, Dec. 20, 2012).

17. Lysaught rightly cites the work of John Courtney Murray, SJ, on intercredal cooperation as further historical evidence of the obligation to collaborate with others in charity. She also states that this work "follows the logic of formal and material cooperation in wrongdoing" regarding the kinds of intercredal cooperation permitted and not permitted (Lysaught, 64, n. 92). However, following the logic of the principle of cooperation in this issue does not entail that the obligation to collaborate is intrinsic to the very meaning of the principle or that Murray held this view. In fact, Murray's analysis relies on the encyclical of Pius X, *Sigulari Quadam*, which is on the moral permissibility of "workingmen's associations." The encyclical is another example of a papal document that explicitly uses the term "collaborate" in reference to achieving the common good, justice, and charity, but also issues a caution to avoid cooperation in wrongdoing as a general matter related to, but distinct from, the obligation to collaborate. Moreover, Murray recognized the importance of the balance between avoiding the dangers of interconfessionalism and having "a social concern for the common good." This parallels the balance between the principle of cooperation and collaboration that I am emphasizing; see John Courtney Murray, "On the Problem of Co-operation: Some Clarifications: Reply to Father P. H. Furfey," *The American Ecclesiastical Review* 112 (March 1945): 198. Murray also used the

terms "cooperation" and "collaboration" interchangeably in the same text; see John Courtney Murray, *The Pattern for Peace and the Papal Peace Program* (Washington, DC: Paulist Press, 1944).

18. Lysaught, 69.

19. Lysaught, 69.

20. Saint John Paul II, *Sollicitudo Rei Socialis*, n. 38.

21. Traditionally there were five standards for assessing the sufficiency or adequacy of the reason for cooperation in the wrongdoing of another: (1) the graver the wrongdoing committed by the principal agent, the graver the reason should be for the cooperation; (2) the greater the causal influence on the principal agent's act by the cooperator's act, the greater the reason should be for the cooperation; (3) the greater the dependence of the principal agent's act on the cooperator's act, the greater the reason should be for the cooperation; (4) the more certain it is that the principal act will occur with the assistance of the cooperation, the greater the reason should be for the cooperation; (5) the more of an obligation that the cooperator has to avoid or prevent the principal agent's act, the greater the reason should be for the cooperation. No one standard is sufficient by itself to judge the adequacy of the reason for cooperating. See, for example, John A. McHugh, and Charles J. Callan, *Moral Theology*, vol. 1, Edward P. Farrell, ed. (New York: Joseph F. Wagner, 1958): 623.

22. Their complementary functions are critical for answering the fundamental question articulated by J. Bryan Hehir, ". . . how to preserve identity and still participate effectively in the society of which we are a part." ("Identity and Institutions," *Health Progress* 76, no. 8, (November-December, 1995): 18.

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