COOPERATION: A PRINCIPLE THAT REFLECTS REALITY

As a follow-up to its March 2012 Theology and Ethics Colloquium, CHA is developing a resource for the ministry on the principle of cooperation. James Keenan, SJ, and Cathleen Kaveny, J.D., were featured speakers at the gathering, and their presentations on the topic have influenced this essay.

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Writing about the principle of cooperation, the British moral theologian Henry Davis said, "There is no more difficult question than this in the whole range of Moral Theology."[1] Not only is the principle of cooperation one of the most difficult in our moral tradition to understand and apply, it is also one of the most esoteric, consisting in terms like "formal" and "material," immediate material" and "mediate material."

In Catholic health care, at least, it is probably also one of the least-liked principles, both because of the challenges it presents and because it is so frequently invoked, consuming enormous amounts of time and energy. The fact that it seems to be detached from any meaning-giving context (at least in the way it is discussed and employed) only adds to displeasure with the principle.

Yet the principle emerges out of an ever-present reality and attempts to provide a way of addressing that reality — a world in which evil and wrongdoing exist alongside with good. How does one do good in the world when one constantly butts up against wrongdoing? Unless one retreats into a hermitage, it is almost impossible to bring about good without brushing against or even becoming somewhat involved in the wrongdoing of others (this is not meant to ignore our own failings, of course, or to suggest that we are saints and others are sinners). And so, there is a certain necessity to the principle of cooperation.

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Whether we like it or not, Catholic health care will need to increasingly appeal to the principle or its basic insights. To name just a few examples: Partnering with physician groups (especially OB/GYNs and urologists) and other-than-Catholic organizations in the formation of accountable care organizations (ACOs); implementing various aspects of health care reform; accommodating the increasing number of drug research protocols; maintaining our relationships with an assortment of philanthropic organizations.

But is there a way to think about cooperation that moves us beyond the bare-bones principle with its esoteric language that has been ripped from any meaningful context? Here are a couple of avenues that may be worth exploring and developing further.

First, "cooperation" becomes an issue for us because of who we are. As Christians, we are called to be disciples; that is, to be committed to and formed by the life and teaching of Jesus, and as a result, to live out a particular way of life. We are called to "go and do likewise," as he directed his disciples, and to participate in advancing the Kingdom of God, that is, God's way in the world.

Discipleship requires certain ways of being and acting. Evil and wrongdoing are contrary realities, but they are part of the reality of living in the world. So how does one advance the Kingdom in the midst of evil and wrongdoing? This is the experience that gives rise to a principle like cooperation. (Cooperation, obviously, is not an issue only for Christians. It is an issue for all people of goodwill, of other faiths or no faith).

Lawyer and moral theologian Cathleen Kaveny puts it this way: "How are Christians to live with the realization that the Kingdom of God has al-

ready been inaugurated, but is not yet fully instantiated?"[2] She responds by saying that Christians need "to respond to those suffering the effects of the sin that is still in our midst, especially to secure justice and mercy for those vulnerable to the wrongdoing of others. On occasion, promoting these goals may require some amount of cooperation with individuals and institutions perpetuating wrongdoing."[3]

When it comes to Catholic health care and cooperation, Kaveny writes: "The goods to be gained (and the evils to be avoided) by the maintenance of a Catholic presence in the American health care system are not merely secular in nature, but touch upon matters intimately connected with the Gospel message. It is these matters that are of acute concern for the Pilgrim on the Way, and it is these matters that can make factors supporting a decision to cooperate very difficult to ignore for someone trying to grow in the virtue of mercy."[4]

German moral theologian Bernard Haring underscores the necessity of some degree of cooperation: "As Christians we have a mission to sanctify all realms in the world which are not in themselves evil. Not only the Apostles but all Christians — especially the laity — have received the word of Christ: 'Even as thou hast sent me into the world, so I also have sent them back into the world' (John 17:18)."[5] He goes on to say that "any hyper-rigorous stance respecting material cooperation ... simply renders the exercise of the lay apostolate totally impossible. Anyone who sets up in his moral code the rigid principle forbidding any actions which might be perverted by others ... will be obliged to remain aloof from many significant areas of apostolic activity."[6]

Hence, the mere fact of being a Christian in the world requires some way to think about how one deals with the wrongdoing that one encounters. Christians cannot flee from wrongdoing or completely ignore those who engage in it if, in fact, they are called to transform the world by instantiating the Kingdom of God. Furthermore, fleeing from or shutting out those who engage in wrongdoing is completely contrary to the mission of Jesus and, therefore, to the mission of his followers, namely, to reach out to sinners, to pursue the lost sheep.

A second consideration has to do with identity and integrity. Ultimately, the principle of cooperation is concerned with maintaining one's identity and integrity; that is, being faithful to who one is and claims to be, and acting accordingly. How does one do so while living in a world in which there is evil and in which institutions and individuals are engaged in wrongdoing? This is the basic concern, the bottom line. Identity and integrity are at risk to lesser or greater degrees when becoming involved in others' wrongdoing. Such engagement has the potential of tainting one's character or identity, of harming others in a variety of ways, of creating division within the self and of acquiescing to the wrongdoing.

Despite these dangers, some degree of involvement with wrongdoing may be necessary in order to achieve good, in order to advance the Kingdom of God and thereby help transform parts of our world.

Intending or approving others' wrongdoing (cooperation in intention) would itself be wrong and would compromise both identity and integrity, possibly quite seriously. It is morally wrong to intend or approve evil.

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Also morally wrong would be substantial involvement in the other's wrongdoing (substantial cooperation in action). Participation in the wrongdoing in ways that contribute significantly to its occurring, making it possible, in essence seems to be taking on the other's wrongdoing, making the wrongdoing one's own. It becomes one's own because one is so intimately or substantially involved in it. Like willing or approving, this too is morally unacceptable and this too wounds one's identity and integrity.

Haring underscores the problem with these types of cooperation when he says: "[T]here is one price we may never pay the world: we may never descend to its level nor be animated by its spirit; we may never do or further the evil works of the world in order to maintain ourselves 'in the world.'"[7]

Every act of permissible cooperation should always ask: How will cooperating in this instance likely affect one's identity and integrity? How will it impact others? Does it advance the Kingdom of Heaven?

As we know, non-substantial cooperation in action — that is, cooperation that does not contribute anything substantial to the wrongdoing — can be morally permissible for a sufficiently serious or proportionate reason. But even here, there needs to be concern for not harming one's identity or integrity. It is for this reason, at least in part, that one's involvement should be as removed as possible from the other's wrongdoing.

Bishop Anthony Fisher of Australia warns of the dangers of "acceptable" cooperation. By cooperating in another's wrongdoing, we might "settle for more comfortable collaboration with the powers of this world"... "instead of offering a distinctively Christian form of witness to the life of God's kingdom" and thereby "compromise our ability to give witness to the true and the good...."[8]

In addition, one's cooperation could harm others, reassuring them in their wrongdoing, misleading them, even corrupting them. Finally, cooperation can corrupt the self in and through the choices one makes. Cooperation can lead to further cooperation or even to cooperation in intention, which is always wrong.[9]

Fischer points to another danger that needs to be taken into account, even though his manner of making this point is judgmental and harsh. He refers to some moral theologians as "tax lawyers." These individuals, he says, "regard the moral law as constraint on human freedom, see their role as helping people find a way around the moral law or at least a way of sailing as close to the wind as possible without falling in the water."[10] And so, what the tax lawyer moralist does is to "ensure that the desired cooperation falls into a category that is not deemed always impermissible (i.e., formal or immediate material). He or she reduces almost all cooperation to material, not formal, and almost all cases of material cooperation to permissible cooperation."[11]

It is not necessary to describe certain moralists as "tax lawyers" in order to recognize that what Fischer describes sometimes does occur. When it does, though it may lead to a desired outcome, one must ask what it has done and is doing to one's identity and integrity, what it has done and is doing to one's living out the Gospel and working toward a greater realization of the Kingdom of God.

While Fischer seems to reject virtually all cooperation and insists instead on purity and witness, some cooperation seems inevitable. But the dangers of cooperation should be a constant reminder that one's cooperation should remain as removed from the wrongdoing as possible and that it be non-substantial cooperation in action, that is, not contribute anything essential to make possible the wrongdoing's occurring.

The principle of cooperation can be a very useful tool, even a necessary tool in today's health care environment. But it would be unfortunate if, in the application of this principle, one lost sight of the more important underlying concerns — individual and/or institutional identity and integrity, and instantiating the kingdom. Every act of permissible cooperation should always ask: How will cooperating in this instance likely affect one's identity and integrity? How will it impact others? Does it advance the Kingdom of God?

The principle of cooperation has taken on a life of its own. It has become detached from its moorings. It needs to be re-grounded and perhaps even re-envisioned for a time that is drastically different from that of its origins.

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NOTES

1. Henry Davis, *Moral and Pastoral Theology*, vol. 1 (London: Sheed and Ward, 1958): 342.
2. Cathleen Kaveny, "Tax Lawyers, Prophets, and Pilgrims: A Response to Anthony Fisher," in *Cooperation, Complicity & Conscience*, edited by Helen Watt, (London: The Linacre Center, 2005): 75.
3. "Tax Lawyers."
4. "Tax Lawyers," 79.
5. Bernard Haring, *The Law of Christ*, vol. 2, (Westminster, Md.: The Newman Press, 1963): 500.
6. *The Law of Christ*.
7. *The Law of Christ*.
8. Anthony Fisher, "Cooperation in Evil: Understanding the Issues," in *Cooperation, Complicity & Conscience*, edited by Helen Watt (London: The Linacre Center, 2005): 58.
9. "Cooperation in Evil," 59-63.
10. "Cooperation in Evil," 56.
11. "Cooperation in Evil," 57.

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