ETHICS OF RIGHT RELATION: ALL ARE RESPONSIBLE FOR ALL

In the September-October 2010 issue of *Health Progress*, my colleague Ron Hamel, who alternates writing this column with me, discussed the unfinished business of health care reform.[1] Among the items he mentioned was that a concern for the common good has been lacking in the debate. He ended his essay by suggesting that Catholic social teaching can be a resource for resolving the unfinished business of health care reform.

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I would like to take up the challenge and further investigate the relationship between health care reform and an aspect of Catholic social teaching — the Catholic understanding of the common good — by focusing on two elements of our Catholic moral tradition. The first is the notion of distributive justice; the second is the moral parameters for understanding what is owed to people who are seriously ill and dying.

Specifically, I will note some problems in Catholic social teaching related to adjudicating individual claims over and against society and show that the common good can more readily be achieved when we act from our solidarity with one another.

DISTRIBUTIVE JUSTICE

The traditional definition of justice, used from the time of Aristotle, is that each person should be given his or her due. Within this tradition, distributive justice has been understood as that species of justice that "distributes common goods proportionately" among those to whom those goods are due.[2] St. Thomas Aquinas further explains that "in distributive justice something is given to a private individual, insofar as what belongs to the whole is due to the part. ... Hence in distributive justice the mean is observed, not according to equality between thing and thing, but according to proportion between things and persons."[3]

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It is this sense of "proportion between things and persons" that created the difficulty mentioned above: How does one determine what proportion of common goods is owed a particular person? How does one adjudicate this sense of proportion among individuals equitably? In attempting to answer these questions, Catholic moral theology described distributive justice in terms of an individual's *claims* over and against the larger society. For example, Henry Davis, a prominent moral theologian in the 1940s, explained, "The rights that an individual may claim from society, or a part of society claim from the whole, constitute the object of distributive justice."[4]

Similarly, in his classic text on moral theology, Fr. Bernard Häring, CSSR, noted that distributive justice "regulates the measure of privileges, aids, burdens or charges, and obligations of the individual as member of the community. The individual member has *fundamental rights over and against the community*, rights which the community must preserve and guarantee for him."[5]

In both of these explanations, the claims of the individual are measured *over and against* society as a whole. This becomes problematic in adjudicating particular claims of individuals. Ethicist and public health advocate Norman Daniels, for example, admits that "acceptable general principles of [distributive] justice fail to give us determinate answers about fair allocation."[6] When one attempts to adjudicate such claims, it often results in charges of crude utilitarianism; that is, simply

giving the greatest good to the greatest number without consideration for those who are not in this majority. Agreeing at least in part with this charge, Daniels explains that "settling moral disputes simply by aggregating preferences seems to ignore some fundamental differences between the nature of values and commitments to them" and basing decisions on "tastes or preferences." He adds that the "aggregate conception seems insensitive to how we ideally would like to resolve moral disputes."[7]

As long as one understands distributive justice in terms of the claims an individual or group makes over and against society, the difficulty remains. One may ask, however, whether this is the only understanding consistent with the broader tenets of Catholic social teaching. In his articulation of a consistent ethic of life, Cardinal Joseph Bernardin of Chicago challenged the church to understand distributive justice not in terms of the claims we make over and against one another but rather in terms of what we *owe* to others. Quoting the theologian Fr. Philip Keane, SS, he explained: "Justice shifts our thinking from what we claim from each other to what we owe each other. Justice is about duties and responsibilities, about building the good community." In this perspective, distributive justice is the obligation which falls upon society to meet the reasonable expectations of its citizens so that they can realize and exercise their fundamental human rights."[8] By understanding distributive justice in terms of solidarity, Cardinal Bernardin avoids the charge of utilitarianism and offers a solution based on the best of Catholic social teaching.

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JUSTICE AND THE SERIOUSLY ILL

Another unresolved difficulty in the tradition deals with care for the seriously ill and dying, including the use of expensive "last chance" therapies. One of the values articulated by Catholic health care has been care for people who are poor and vulnerable. When one speaks of responsibilities to the vulnerable in our midst, it would seem that the seriously ill and dying are among the most vulnerable and therefore deserving of as much medical care as possible. This attitude — and an expansive understanding of medical care — has led to the development of technologies to keep such patients alive longer and longer, often at great expense and with marginal real benefits. As health care economists remind us of the vast amounts of money that are spent in the last weeks and months of a person's life,[9] some ethicists explain that with the development of these technologies "no convenient excuse exists for failing to save all who can be saved."[10] At the same time other ethicists maintain that outlays of such funds are unsustainable and therefore ethically problematic.

The movement from understanding distributive justice as a matter of claims over and against society to the notion of what we owe one another in solidarity may again offer some resolution to these disagreements. Although the Catholic tradition of health care exhorts that we are "always to care," it also explains what true care means: "The task of medicine is to care even when it cannot cure. Physicians and their patients must evaluate the use of technology at their disposal. Reflection on the innate dignity of human life in all its dimensions and on the purpose of medical care is indispensable for formulating a true moral judgment about the use of technology to maintain life. The use of life-sustaining technology is judged in light of the Christian meaning of life, suffering, and death."[11]

It is within this context of care that the church has described the traditional distinction between ordinary and extraordinary means.[12] The traditional articulation of this principle explained that "exquisite means" and "extraordinary expense" are not mandated.[13] This acknowledgement is not a statement regarding the value of life but rather a description of the limits of technology. People are able to make these decisions because care transcends attempts to cure. In making such decisions, people do not abandon their loved ones but continue to care for them in ways beyond those

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attempts to prolong death by increasingly burdensome measures that offer only marginal success. Paradoxically, the ordinary/extraordinary distinction witnesses to the true sacredness of life by witnessing to the naturalness of death.

CONCLUSION: A ROBUST UNDERSTANDING OF SOLIDARITY

Pope John Paul II explained that solidarity is a "firm and persevering determination to commit oneself to the common good" by acknowledging that "we are all really responsible for all."[14] As a virtue, solidarity is a disposition of the person that expresses itself in those acts that commit the person to the true well-being of others. It is this virtue of solidarity that can help resolve the "unfinished business" of the lack of concern for the common good, transforming an ethics of strangers who make claims over and against each other into an ethics of right relation.

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NOTES

1. Ron Hamel, "The Work Ahead: Bring Catholic Social Teaching Back into Health Reform," *Health Progress* 91, no. 5 (September-October, 2010):84-86. This column is also in response to two lectures I recently heard, the first by Norman Daniels, who spoke on "Just Health Care: Where Are We Now?" at the 2010 CHA Theology and Ethics Colloquium, and the second by Daniel J. Daly, who spoke on "Unreasonable Means: A Proposal for a New Category in End-of-Life Ethics" at a conference on Catholic Theological Ethics in the World Church in Trent, Italy, in July of this year.
2. Thomas Aquinas, *Summa Theologiae*, II-II, Q 61, a 1.
3. Thomas Aquinas, *Summa Theologiae*, II-II, Q 61, a 2.
4. Henry Davis, *Moral and Pastoral Theology*, V. 1, *Human Acts, Law, Sin, Virtue* (London: Sheed and Ward, 1945), 262.
5. Bernard Häring, *The Law of Christ*, Volume One, (Westminster, Md.: The Newman Press, 1961), 517. Emphasis added.
6. Norman Daniels and James E. Sabin, *Setting Limits Fairly* (New York: Oxford University Press, 2002), 30.
7. Daniels and Sabin, 35.
8. Cardinal Joseph Bernardin, "The Consistent Ethic of Life and Health Care Reform," in *The Seamless Garment: Writings on the Consistent Ethic of Life* (Maryknoll, NY: Orbis Books, 2008), 243. Bernardin quotes from Philip Keane, *Health Care Reform: A Catholic View* (New York: Paulist Press, 1993), 134.
9. See, for example, Christopher Hogan, et al., "Medicare Beneficiaries' Costs of Care in the Last Year of Life," *Health Affairs* 20, 4 (2001): 188-195.
10. Leonard Fleck, *Just Caring: Health Care Rationing and Democratic Deliberation* (New York: Oxford University Press, 2009), 57.
11. United States Conference of Catholic Bishops, *Ethical and Religious Directives for Catholic Health Care Services*, Fifth Edition (Washington, DC: USCCB Publishing, 2009), "Introduction to Part Five."
12. *Ethical and Religious Directives*, Directives 32, 56 and 57.
13. See, for example, Daniel A. Cronin, "The Moral Law in Regard to the Ordinary and Extraordinary Means of Conserving Life" in Russell E. Smith, ed., *Conserving Human Life* (Braintree MA: Pope John XXIII Center, 1989), 107-110.
14. Pope John Paul II, *Sollicitudo rei socialis*, par 38.

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