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Cooperation: Toward a Revision of the Concept and its Application

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Questions of cooperation arise when a person — either an individual person or a moral person — works together with another in producing a particular action. Ethical problems result when the person is asked to cooperate in

Father Curran's discussion revolves around the limitations imposed on the individual's freedom to act according to the dictates of his conscience. He directs his attention primarily to the questions of sterilization, abortion and the cooperating physician.

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an act which he believes to be wrong. Such problems will frequently occur in a pluralistic society where there are conflicting ethical beliefs.

Cooperation has been an important topic in Catholic moral theology especially in the twen-

tieth century. To illustrate this point one can readily find in the literature of moral theology many references to questions involving cooperation. Journals published for priests in all languages generally contained a section in which a moral theologian responded to ethical problems and questions, and problems of cooperation were frequently discussed. For example, John McCarthy in the 1950's published two volumes belonging to the genre of responses to cases of conscience.¹ These responses had originally been published by him for the guidance of priests and confessors in the *Irish Ecclesiastical Record* in the fifteen year period before their publication in book form.

On at least ten different occasions in these volumes McCarthy responds to questions involving problems of cooperation in various areas — cooperating in giving a Protestant minister bread and wine for a communion service; financial support for the building of Protestant churches; cooperat-

ing in the Oxford Group movement; abortion; cooperation of a landlady in the acts of her tenants; cooperation of a worker with an employer who asks him to cheat; restitution coming from cooperation; a spouse cooperating with the use of artificial contraception; a lawyer and his client; a doctor and his patient.²

Medical ethics obviously furnishes many questions of cooperation. The Catholic textbooks in medical ethics invariably outline the accepted teaching within the Catholic Church on cooperation, often in the context of general principles which will then be applied to the specific questions of medical ethics. Edwin Healy, for example, devotes more than ten pages to the discussion of cooperation and treats such practical cases as illicit operations, abortion, contraception, sterilization, medical partnership, summoning a non-Catholic clergyman for a dying patient, calling attention to mistakes in surgery.³ Questions of this type are obviously still arising at the present time.

In the more recent periodical literature on the American scene there is great emphasis today on the role of Catholic hospitals. Catholic hospitals adhere to the *Ethical and Religious Directives for Catholic Health Facilities* proposed by the American bishops in their present form in 1971.⁴ Many people in society in general and some within the Roman Catholic Church do not agree with all the teachings contained in these directives.⁵ Legal cases have been

brought against Catholic hospitals to perform sterilizations. Some fear that Catholic hospitals may be faced with court orders to perform other types of now forbidden operations including abortions. While there is a feeling among a few that Catholic hospitals will not be able to continue to exist in this country in the future if they adhere to their ethical code, others maintain there is a legal and constitutional right for Catholic hospitals to continue to exist and to act in accord with their stated religious code of ethics.⁶

Problems involving the Catholic hospital are very complex, since they involve matters of federal funding and the rights of non-Catholics. Much of the discussion has been in terms of the legal aspects of the question, but it is important to recognize the moral and ethical aspects. This present paper cannot attempt to solve definitively these very complicated issues, but it will try to clarify the understanding of cooperation and thus provide indications for solutions to these questions.

The Teaching of The Manuals on Cooperation

The teaching of the manuals of moral theology and of medical ethics on cooperation follows the same pattern and comes to the same general conclusions although there is occasionally different terminology. Cooperation is often defined as the concurrence with another person in an act which is morally wrong. Cooperation may

be either positive or negative, but the more important distinction exists between formal and material cooperation. Formal cooperation, by which the cooperator consents to the sin or the bad will of the principal actor (either explicitly by intending the sin or implicitly by immediate cooperation in an action which is intrinsically wrong), is always wrong. Some authors, e.g., Merkelbach, describe the second type of cooperation as immediate material cooperation because one does not explicitly join his will with the evil will of the principal actor, but such cooperation is nonetheless always wrong.⁸ Material cooperation, since it helps one perform an evil action but does not involve concurrence with the bad will, is wrong but can be justified if proportionate reasons exist with more serious reasons required when the cooperation is more involved in the act of the principal agent.

Catholic ethicists developed a casuistry to indicate how prudence should decide different cases of material cooperation.⁹ Remote and nonnecessary cooperation can be justified by a slight reason; for example, an orderly can work for a hospital in which abortions are performed merely because of the salary he receives. Remote, necessary or proximate, nonnecessary cooperation can be justified for a grave reason, whereas proximate, necessary cooperation can be justified only for a notably grave reason. Thus a doctor may serve

as a first assistant at an illicit operation if he fears that otherwise he might lose his position provided that he not do the actual illicit operation itself. Catholic nurses, whose cooperation is somewhat less proximate, may assist at illicit operations in a state institution even though they could find employment elsewhere because they can do much good in these institutions and thus compensate for the occasional and unavoidably material cooperation in evil.¹⁰ Proximate, necessary cooperation in an act which harms a third person can be justified only to avoid a similar or slightly less evil to one's self. Thus a pharmacist may give poison to a man who is going to kill his wife if the man threatens the pharmacist with a gun if he refuses to cooperate. Cooperation which is proximately necessary for a grave public evil cannot be justified by any private advantage.

The general teaching on cooperation as well as the rules of prudence are proposed in just about the same way by all the authors of textbooks. The manuals of moral theology which generally follow the pattern of the ten commandments in their structure (especially those of the Jesuit and Redemptorist schools) treat cooperation as one of the sins against charity. Cooperation is thus closely associated with scandal, another sin against charity, which is defined as any deed or word which is sinful or seemingly sinful and affords another

the occasion of spiritual ruin.¹¹ Benedict Merkelbach and other authors following the Dominican tradition consider cooperation under external causes of sin, whereas scandal is discussed under the virtue of charity.¹² However these are comparatively minor questions of structure and do not affect the general agreement found among all authors.

History of The Concept

Although there is general agreement on the meaning and rules affecting cooperation, this teaching as it exists in the manuals does not go back to the explicit teaching of Thomas Aquinas. Aquinas does not make the distinction between material and formal cooperation with the respective definitions as found in the manuals. In one place in the *Summa Theologiae* Thomas discusses cooperation in the context of restitution. Here Aquinas accepts the traditionally enumerated ways in which one can cooperate in the act of another. The Angelic Doctor maintains that in five cases the one who helps in the act of another is held to restitution although the primary obligation of restitution rests with the primary cause of the act (II-II, q.62, a.2). In another context Aquinas accepts the fact that the artisan commits a sin in making things such as idols which cannot be used by others without sin (II-II, q.169, a.2, ad.4).

Thomas Sanchez, one of the most important figures in the history of moral theology who died at the beginning of the 17th cen-

tury, considers cooperation as a particular case of scandal but does raise questions about cooperating with acts that are indifferent and with acts that are intrinsically wrong. Although Sanchez talks about intrinsically wrong actions, there is ambiguity about whether his terminology refers to acts understood in their essence or acts which are intrinsically wrong in the concrete circumstances. It was up to later theologians to differentiate theoretically in a more accurate manner between cooperation and scandal and also to introduce the accepted terminology of material and formal cooperation.¹³

The seventeenth and eighteenth centuries in Catholic moral theology witnessed a struggle between laxists and rigorists which was marked by papal intervention condemning extremes on both sides.¹⁴ In 1679, sixty five propositions were condemned by the Holy Office, many of which had originally been proposed for condemnation at the University of Louvain.¹⁵ One condemned proposition stated that a servant who knowingly helped his master to climb through a window to ravish a virgin does not sin mortally if he does it through fear of great harm or loss.¹⁶ Subsequently theologians debated about the exact meaning of this condemnation and the reason for it. Is this act condemned because it is intrinsically wrong in all circumstances or is it condemned because there is not a sufficient reason to justify it in this case? Before St.

Alphonsus the vast majority of theologians held the former opinion, but some few did maintain the latter.¹⁷ St. Alphonsus Liguori, the outstanding moral theologian of the eighteenth century, who was later declared a doctor of the Church and patron of moral theologians and confessors, in the first edition of his moral theology (which was basically a commentary on the text of Herman Busembaum) proposed the opinion that such acts were intrinsically wrong.¹⁸

In subsequent editions of his moral theology, however, Alphonsus adopted the second opinion. Such a development set the stage for a discussion of the meaning of an intrinsically wrong act and for pointing out the differences between material and formal cooperation. Alphonsus argues that the acts of the servant are not intrinsically wrong so the cooperation is only material. But the crime of ravaging a virgin is so monstrous that only a reason of extreme necessity such as a fear of death could excuse and justify the cooperation. In his theoretical exposition Alphonsus distinguishes between formal and material cooperation, describing the formal as concurring with the bad will of the other which is always wrong. Material cooperation, on the other hand, concurs only to the bad action of the other. Formal cooperation always involves an influence on the will of the principal agent, but this can take place in a twofold manner — by

intending the evil or by cooperating immediately in an act which is intrinsically wrong and thus influencing the will of the other. In material cooperation the act itself cannot be intrinsically wrong but must be good or indifferent.¹⁹

Alphonsus thus presents the framework within which cooperation has been discussed in Roman Catholic theology to the present time. The only theoretical point of difference in the contemporary discussions, as pointed out above, concerns whether or not cooperation in an intrinsically wrong act is formal cooperation or immediate material cooperation. In practice, however, there is no difference because no author would justify cooperation in such a case despite the difference in theoretical understandings. It is precisely this question of cooperation with an act which is intrinsically wrong which has been frequently emphasized in the Roman Catholic teachings on cooperation with non-Catholic worship services, the publishing of immoral books, cooperation in onanism or cooperation in medical operations which are judged to be intrinsically wrong.

In my judgment there is an element missing in the accepted understanding of cooperation, and the inclusion of this element calls for theoretical and practical changes in this teaching. The missing aspect refers to the subjectivity and rights of conscience of the person who is acting. The

older definitions assume that one concurs with either the bad will or the bad act of the principal actor. But the important thing is to realize that one is cooperating with a person and not just with an act or a will. Thus one must consider the rights of the person in this case and not merely the factor of a bad will or a bad act although these do remain important considerations but not the only ones. A comparison with the newer teaching on religious liberty in the Roman Catholic Church should indicate why one must begin to see cooperation also in terms of the person and not just in terms of the will or the act.

The Teaching On Religious Freedom

The older approach within Roman Catholic theology denied religious liberty in the name of objective truth. The Roman Catholic Church sees itself as the one, true Church of Jesus Christ and all persons, as well as the state, have an obligation to accept that truth. To the plea that there should be freedom of conscience in this matter so that people can worship God according to the dictates of their own conscience, the reply was frequently given that error has no rights. In practice for prudential reasons of avoiding even greater problems, however, one could tolerate the separation of church and state and the existence of religious liberty in the state.²⁰

The Declaration on Religious Freedom of Vatican II begins by recognizing that the dignity of the human person has been impressing itself more deeply on contemporary human consciousness with the resulting demand that men should act more and more on their own judgment in responsible freedom and not driven by coercion. Today there is a great demand for freedom in human society especially in those things pertaining to the human spirit and the free exercise of religion.²¹

There are three aspects of the teaching of this document that are of particular importance for our present considerations. First, the document very early defines the meaning of religious liberty and how it fits in with the self-understanding of the Roman Catholic Church. The final and approved text very quickly asserts that the one, true religion subsists in the Roman Catholic Church and all men are bound to seek the truth. Religious liberty based on the dignity of the human person involves immunity from external coercion so that no one is forced to act contrary to his beliefs, nor is anyone to be restrained from acting in accord with his religious beliefs. This right inheres in the dignity of the person and therefore continues to exist even in those who do not live up to their obligation of seeking the truth and adhering to it. Religious liberty does not mean that the individual person does

not have the obligation to seek the truth as revealed to us by God in Jesus Christ.²²

Secondly, the document wisely does not solve a problem that was and continues to be debated among Catholic thinkers — the theoretical basis for religious liberty. The document bases religious freedom on the dignity of the human person as this is known through human reason and revelation, but it prudently does not attempt to give any one theoretical reason and mentions a number of arguments that were proposed at that time — the right and duty to follow conscience which was included in the final document in a subsidiary and not in the central place; the dignity of the human person and the constitutional principle of the limitation of the state in matters of religion, which through the efforts especially of John Courtney Murray had become central in the third and fourth texts of the declaration, was mentioned in the final document but does not receive primacy;²³ the argument from freedom based on a scriptural approach is also included: the argument from the right and duty to seek the truth has primary place in the final document both in terms of position and in terms of the number of lines devoted to it, but the other reasons given above are also mentioned.²⁴ This indicates there is still quite a bit of work to do in trying to discover the exact theoretical basis for the teaching on religious

liberty although all are agreed that the teaching rests on the dignity of the human person as known through faith and reason even though the precise form of its justification remains open to discussion.

A third important question concerns the limits on religious freedom. Obviously in any society the rights of some people might conflict with the rights of others or society itself. The document rightly sees the primary limitation in terms of the personal and social responsibility of the individual. The rights of others as well as our duties toward them must be respected. In addition, society itself has the duty to defend itself, but government interference cannot be arbitrary and must be in conformity with the objective moral order. The Declaration sees the justification of interference by the state in terms of the criterion of the public order.²⁵

The question of the limitation of the right to religious liberty developed in the course of the discussions and of the drafts before the final document was approved. The first criterion proposed in the historical evolution of the text was the common good, but it was felt that this term was too broad and open to possible arbitrariness and abuse. The criterion of the objective end of society was proposed and rejected for the same reasons. The term public order, which is frequently

used in the constitutions of many modern states and which bears some similarity to the concept of penal laws of the state employed as a criterion in a similar case by Pope Pius XII, was finally adopted.²⁶ Public order is that fundamental part of the common good which is confided to the political authorities.²⁷ To overcome the fear of some that the concept of public order was too limiting in its understanding of the role of the state especially in matters of social justice, the second introductory report of the *textus re-emendatus* (the fourth schema)²⁸ emphasized that the concept of public order was applied to questions of religious freedom and did not concern matters of social justice and the way the state should act in achieving such justice.

According to the final document public order embraces three essential elements — to safeguard the rights of citizens (an order of justice), to maintain the public peace and to protect public morality.²⁹ It should be noted that the public morality here referred to is not an agreement on all matters of morality but those minimal standards of public morality which are required for human beings to live together in society.³⁰ Thus an objective criterion is determined for the state's right to interfere in the religious liberty of its subjects. For example, the state thus could prohibit the use of human sacrifice in a particular religion because this goes against the order of justice which re-

quires the safeguarding of the right to life of all citizens. In the light of this criterion one must consider the action of the state concerning polygamy or blood transfusions for children of Jehovah's Witnesses.

A Revised Understanding of Cooperation

The teaching on religious liberty has both similarities and dissimilarities with the question of cooperation. First it is important to point out the dissimilarities. Cooperation refers to the fact that the individual positively concurs in the act of the principal agent. In the case of religious liberty there is no concurrence with the act of the other person but rather there is the recognition that society has to allow the person to perform those acts based on his religious beliefs. Also religious liberty concerns the relationship of the government to the individual and not the relationship of one individual to another. In addition, religious liberty is not exactly the same as all other kinds of liberty. Since religious freedom refers to matters of such great importance, it can be somewhat differentiated from other types of freedom.

The argument for a changed understanding of cooperation does not rest on an exact parallel with the question of religious liberty. However, the analogy with religious liberty is used to indicate that in both cases the dignity of the human person and the rights of the human person to act with

responsible freedom must be taken into account. The older approach denying religious liberty emphasized the concept of objective truth rather than the dignity of the person. Roman Catholic moral theology in general has rightly been criticized for the fact that its moral teaching in the last few centuries has given so much emphasis to the objective and even the physical that it has not given enough importance to subjectivity and freedom. The newer approach to religious liberty recognizes this fact and indicates a dimension that had not heretofore been considered. In the case of cooperation it seems that one must also consider the right of the individual person to act in accord with one's own decision of conscience.

The older approach to cooperation understood the action of the cooperator as concurring with the will or the act of the other person. If the will was bad or if the act was bad, then there was either formal or material cooperation. But is it adequate to describe the action merely as cooperating with a bad will or a bad action? This could be a partial explanation, but a more adequate description understands cooperation as concurring not primarily with a will or with an act but with a person. The person, however, may have a bad will (e.g., a criminal planning a robbery) or may do a bad act (write a knowingly false article). The point is that the full understanding of cooperation must take

account of the dignity of the other person and that person's right to act in accord with his own responsible freedom. Nevertheless, one cannot ignore the elements of a bad will or a bad act which have been part of the consideration in the past.

There is another factor which should also change somewhat the traditional teaching on cooperation. As mentioned, one of the most important parts of the Roman Catholic teaching has been the fact that one cannot cooperate with an action which is intrinsically wrong. However, there is much dispute today even within Roman Catholic theology about the whole question of what, if anything, is intrinsically wrong.³¹

At the very minimum, we are often dealing with cases in which the individual person does not believe that his or her action is in any way wrong although I might believe it is wrong. In these cases even in accord with the older understanding it is impossible to speak about the bad will of the primary agent. The older Catholic theology recognized that there could be invincible ignorance in these cases. There can be no formal cooperation when the individual involved does not have a bad will. There are two other factors that must be mentioned. Above all, there is the right of the cooperator to act in accord with his conscience so that he cannot be forced to do something he believes is wrong. Also there are

limits on the rights of the principal agent which in my judgment are similar to the limits placed on religious freedom and governed by the criterion of public order with its threefold content of an order of justice, an order of peace and an order of common morality.

The Doctor

How does this understanding of cooperation work in practice? Take as example the doctor who believes in his own conscience that sterilization is wrong when done for contraceptive purposes but has a patient who believes it is morally and medically good.³² Here is a conflict of rights — the rights of both to follow their own conscience. In normal circumstances one can readily uphold the right of both persons to act in accord with their own conscience. The doctor in conscience can refuse to do what he believes to be wrong, and the patient can find another doctor to perform the operation. Obviously society profits very much if we respect the freedom of individuals in these matters. Moral integrity certainly calls for people to act in accord with their conscience, and the neutral outsider can applaud the actions of both.

Could the doctor come to a different conclusion? In the past the traditional approach of Roman Catholic theology would not allow the doctor to come to another answer because the act is intrinsically wrong. However, the doctor can do such an operation without

cooperating with the bad will of the patient because the patient has no bad will in this case. The doctor could argue that although he thinks the action is wrong the patient has the right to obtain the needed medical care that one needs and wants. In this society we daily live with people who do things we believe are wrong. Without unduly sacrificing his own conscientious principles, the doctor could argue that in this case he is providing the service for which this individual person has a right even though he himself disagrees with the operation from a moral perspective. The doctor by his action is not saying that this particular operation is right but he is saying that the person has the right to this particular operation even if the doctor is opposed to it on moral grounds.

Does not such a solution open the door to justifying any type of cooperation? No. There are limits on the cooperation as proposed in the criterion of public order. One should not cooperate with another if this harms the public order — the rights of other innocent persons, the peace and common morality of society. Thus one could not immediately cooperate in lying or stealing which are opposed to the common morality necessary for public order.

The above argumentation in no way implies that the doctor is just a conduit or robot who has

no freedom in this matter. There is no doubt that in this case the doctor is an immediate cooperator, and he could refuse such cooperation because of his own conscience claims. But by accepting the fact of a pluralistic society and the rights of the other person he could in good conscience perform the sterilization for someone who believes it is medically and morally indicated.

Could the doctor perform an abortion in similar circumstances? The patient believes there is nothing wrong with such an abortion in this particular case, but the doctor believes it is the immoral killing of an innocent human being. There remains a great difference between this and the case of sterilization, for here harm is done to a third, innocent party. If the doctor truly believes abortion to be the killing of innocent persons, I do not see how he could ever perform such an operation except in the most extreme cases. One cannot immediately cooperate with another person to act in accord with this person's conscientious decision if such an action is going to cause disproportionate harm to another person or to society. Thus in this question the limits of cooperation, which are somewhat similar to the limits proposed in the case of religious liberty, become determinative. In this case it is not simply the right of the doctor and the right of the patient but also the right of the innocent third party (at least according to the

doctor's belief) that must be taken into consideration.

Catholic Hospitals

What about the case of Catholic hospitals today? Recent discussions of this question have concentrated on the legal perspective. Court cases have been brought against Catholic hospitals to make them perform operations which they believe are illicit, but as of early 1974 there has been no final decision ordering a Catholic hospital to perform a sterilization.³³ In the case of abortion the Supreme Court in the Georgia case upheld the constitutionality of a conscience clause permitting exemptions both for personnel and hospitals from performing abortions if it was against their conscientious beliefs.³⁴

From the legal perspective one can argue that the situation of the Catholic hospital is now changed because often it is a hospital serving the total community and because it receives much money from government sources in terms of Hill-Burton funds, exemptions from personal income and property taxes, and tax dollars in Medicare and Medicaid. Therefore the state has the right to make sure all citizens can be served in these hospitals and can have operations which are medically indicated even though against the moral code of the sponsoring agent of the hospital. The opposite side argues that the right to practice religion in the dispensation of health care is a constitutional right protected by

the First Amendment. If the corporate by-laws of Catholic hospitals show their adherence to a moral code, these rights to practice in this way must be upheld by society.³⁵

The discussion in this article will consider only the moral aspects of the problem although these are quite intertwined with some of the legal aspects. No one can deny the right of the Catholic hospital to exist and to follow its own moral code. Does the fact that they serve a total community and receive government funds do away with this right? Here again there is a collision of rights — the right of the Catholic hospital to exist and put into practice its own moral teaching and the right of all citizens to have the medical care and treatment deemed appropriate. There is no doubt that in many situations in large metropolitan centers both rights can be guaranteed without harm to others. Collisions could arise and will arise where the Catholic facility is the only one serving a particular area. Here a possible conflict arises.

One could make a case for the Catholic hospital's right to live by its moral code even in the midst of our pluralistic society. I would urge a more nuanced approach to the question and distinguish again between the cases of sterilization and of abortion. The Catholic hospital could maintain its own prescribed teaching on sterilization and still recognize the rights of other people to act

in accord with their own personal decision. Since no innocent persons would be hurt by such a procedure and since the society as such would not be hurt, I see no reason why Catholic hospitals could not in good moral conscience make the decision to allow people to have sterilizations in Catholic hospitals. The cooperation of the hospital is less proximate than that of the doctor doing the sterilization. Once again in this case one can argue that the Catholic hospital in no way approves the particular action taken but acknowledges the right of the individual to act in accord with conscience provided that the rights of other innocent persons and of society are not harmed.

There are other considerations which also argue in favor of this position. Above all, one must recognize the fact that within Roman Catholicism today there is much dissent on the question of sterilization. Many Roman Catholic theologians and people believe there is nothing morally wrong with contraceptive sterilization in many circumstances.³⁶ In theory one must admit the possibility of dissent in the question of contraceptive sterilization. Is it possible then for the Church to operate Catholic hospitals in which Catholics are not able to exercise their right to dissent? This intra-Catholic disagreement at the present time is an even stronger reason for allowing sterilizations in Catholic hospitals.

Some of the arguments pro-

posed by Catholics to sustain their moral and legal right to operate hospitals according to their ethical code properly point out that other religious groups within society are also striving to maintain their rights to act in accordance with their own principles. For example, mention is frequently made of the practice of the Mennonites and Amish with regard to education. I applaud the defense of the religious freedom of these groups, but there are differences. The problem concerns the non-Catholic in Catholic hospitals and the freedom of that person. There is also an important ecclesiological difference between Roman Catholicism and many forms of sectarian Christianity. Roman Catholicism as a Church has opted for a stance of cooperation with the world even though it recognizes at times it should and must disagree with what is happening in the world. On the other hand the sectarian groups in Christianity have generally based their beliefs on a withdrawal from the world and the recognition of an inherent incompatibility between the world and the gospel message. Thus, from an ecclesiological viewpoint one cannot make a perfect identity between the sects who wish to follow their own teaching and the Catholic Church which by definition has always been much more open to cooperation with the world.

What about abortion? Just as in the case of the individual doc-

tor so too in the case of the hospital there is an important new element in this case. Present Catholic teaching believes that one must act as if human life is present from the very beginning of conception. Therefore abortion is looked upon as the killing of innocent human life. One could argue very strongly in this case that the Catholic hospitals should never cooperate with abortion because to do so would bring harm to the innocent human being who Catholic ethical teaching believes to be present. Here it is not just a question of providing the person with the opportunity to act in accord with the personal decision that has been reached, but there is the added factor of the innocent human life. Thus I believe a distinction can and should be made between cooperation in cases of sterilization on the part of the Catholic hospital and cooperation in cases of abortion.

The argument can also be made from the ethical perspective that society should always respect the conscience of the individual when it comes to a matter of taking human life. In many ways it has been one of the principal reasons proposed by those, including the American bishops, who have argued in the United States for the existence of selective conscientious objection to participation in war.³⁷ It is admitted that in a pluralistic society there are bound to be conflicts of beliefs and of rights but society also recognizes that the most important value we

have is the value of human life. To uphold the belief of those who do not want to participate in what they believe to be the wrong killing of human life is one very important way in which society can promote the sanctity and dignity of human life. In this regard it seems that the action of the Supreme Court in the Georgia case asserting the right of conscientious exemption in the matter of abortion is in accord with the best ethical understanding of society and the role of government in society.

One must also raise here the fact that even on the matter of abortion there can be dissent within the Roman Catholic Church. As a matter of fact, there is some dissent on abortion but less than in the matter of sterilization.³⁸ However, because of the nature of what is involved I believe even those who dissent should be willing to uphold the right of the majority of Roman Catholics at the present time to give this communal witness in our society.

This article has attempted to revise the theoretical understanding of cooperation in evil in the light of the teaching proposed in the Declaration on Religious Freedom.³⁹ By accepting both a qualified right of the individual to act in accord with the dictates of his conscience and the limitations which can be placed on that right a different concept of cooperation has been proposed and applied to the cooperation of doctors and

Catholic hospitals in the questions of sterilization and of abortion.

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19. de Liguorio, Alphonsus, *Theologia Moralis*, ed. Leonardus Gaude (Romae, 1905), 1.2, t.3, c.2, d.5, a.3, nn.61ff.

20. For an exposition and refutation of this position, see John Courtney Murray, *The Problem of Religious Freedom* (Westminster, Md.: Newman Press, 1965), pp. 7-17; also Eric D'Arcy, *Conscience and Its Right to*

Freedom (New York: Sheed and Ward, 1961).

21. Declaration on Religious Freedom, n.1. This document and all the documents of Vatican Council II may be conveniently found in *The Documents of Vatican II*, ed. Walter Abbot (New York: Guild Press 1966).

22. Declaration on Religious Freedom, n. 1,2. For a succinct commentary on these paragraphs, see Pietro Pavan, "Declaration on Religious Freedom," in *Commentary on the Documents of Vatican II*, ed. Herbert Vorgrimler (New York: Herder and Herder, 1969), IV, 63-68. For a fuller commentary with emphasis on the historical development of the final text through the earlier schemas, see Richard Regan, S.J., *Conflict and Consensus: Religious Freedom and the Second Vatican Council* (New York: Macmillan, 1967).

23. For a synthetic exposition of Murray's position, see *The Problem of Religious Freedom*. For Murray's own analysis of the difference between the first two schemas and the third schema, see John Courtney Murray, "The Declaration on Religious Freedom: A Moment in its Legislative History," in *Religious Liberty: An End and a Beginning*, ed. John Courtney Murray (New York: Macmillan, 1966), pp. 15-42.

24. Declaration on Religious Freedom, n. 3; Regan, pp. 171-174.

25. Declaration on Religious Freedom, n. 7.

26. Pavan, Pietro, "Le droit a la liberté religieuse en ses éléments essentiels," in *La liberté religieuse*, ed. J. Hamer (Paris: Editions du Cerf, 1967), pp. 184-187.

27. Hamer, Jérôme, "Histoire du texte de la déclaration," in *La liberté religieuse*, pp. 101-103.

28. Regan, p. 124.

29. Declaration on Religious Freedom, n. 7.

30. For Murray's understanding of these terms, see footnote 20, p. 686

in Abbott which is not an official footnote of the text but one made for the English translation by Murray; also, Murray, *The Problem of Religious Freedom*, pp. 42-44.

31. For a summary of some recent thinking on this question, see Richard A. McCormick, "Notes on Moral Theology" which appear once a year in *Theological Studies*.

32. I believe that one can be a good Roman Catholic and still hold that contraceptive sterilization is often morally right. However, in this case I am presupposing that the individual doctor in his conscience believes that such sterilization is wrong.

33. Schulte, *Hospital Progress*, LV (February 1974), pp. 52-56.

34. Blaes, Stephen M., "Litigation: Preparation and Response," *Hospital Progress*, LIV (August 1973), 70-72.

35. Regan, *Hospital Progress*, LV (February 1974), 66-68.

36. For my reasons in favor of contraceptive sterilization, see "Sterilization: Roman Catholic Theory and Practice," *Linacre Quarterly*, XL (1973), 97-108.

37. "Declaration on Conscientious Objection and Selective Conscientious Objection," available from the Publications Office of the United States Catholic Conference.

38. For the most publicized example of dissent, see Bruno Ribes, "Les chrétiens face à l'avortement," *Etudes*, CCCXXXIX (1973), 405-423; 571-583.

39. For approaches to cooperation which seem to imply the reasoning developed in this article, see "Report of the CTSA Commission," *Proceedings of the Catholic Theological Society of America*, XXVII (1972), 263-265; Edward J. Ryle, "Pregnancy Counseling and the Request for Abortion: Tentative Suggestions for Catholic Charities Agencies," *The Catholic Charities Review*, LVII (June 1973), 8-15.