

Report on a Theological Dialogue on the Principle of Cooperation

Executive Summary

Catholic Health Association of the United States

In December 1998, the Catholic Health Association of the United States convened an invitational gathering of theologians of differing viewpoints from academia, health care, and the Church, including several bishops, to seek greater clarity in the interpretation and application of the principle of cooperation. As explained in “The Principles Governing Cooperation and Catholic Health Care: An Overview,” the principle offers “guidance for situations in which one party (the cooperator), in the course of pursuing morally good purposes, would be lending some kind of assistance in the commission of moral evil by another party (the principal agent).”¹ In the 1980s and 1990s, this principle was being employed increasingly in Catholic health care to assess the moral liceity of a variety of collaborations between Catholic and non-Catholic health care organizations.

While the business aspects of such arrangements were complex, more challenging was the fact that many of these potential partners were engaged in activities judged to be morally wrong by the Church. Confronted with this challenge, the ministry turned to the church’s theological tradition for guidance and began utilizing the principle of cooperation as a framework for analyzing and constructing collaborative ventures. While the principle has been part of the theological

¹The National Coalition on Catholic Health Care Ministry, *Catholic Health Ministry in Transition: A Handbook for Responsible Leadership* (Silver Spring, MD: NCCHCM, 2003), resource 9.

tradition for centuries, this particular utilization of the principle was relatively new. This, together with the fact that there has not been unanimity within the theological tradition about both the vocabulary used to articulate the principle and the way in which it was to be applied, set the stage for rather intense theological debate. This gathering was in response particularly to the controversy over the explanation of the principle of cooperation in the 1994 edition of the *Ethical and Religious Directives for Catholic Health Care Services* (ERDs) as well as the interpretation of the principle in a resource paper included in *Catholic Health Ministry in Transition: A Handbook for Responsible Leadership* issued by the National Coalition on Catholic Healthcare Ministry in 1995.

Additionally, in May 1999, the U.S. Conference of Catholic Bishops Committee on Doctrine requested that the dialogue continue and address specific questions about the principle that it had received. In short time, the focus of this phase of the dialogue centered on a possible revision of Part Six and the Appendix of the 1994 edition of the ERDs, a revision requested by the Vatican's Congregation for the Doctrine of the Faith. The Congregation's request came after a review of several arrangements between Catholic and non-Catholic organizations based on applications of the principle of cooperation. Their review resulted in several areas of concern: application of the principle to institutions, the justifiability of immediate material cooperation, and the role of duress in cooperation.

In June 2001, the U.S. Conference of Catholic Bishops adopted a revised Part Six that did not include an appendix. The dialogue had an influence on the revised text.

Because not all issues had been addressed or resolved during the dialogue that preceded the revision, the dialogue was reconvened in November 2001 and continued through March 2005, with a final meeting in May 2007 to review a penultimate draft of the report.

What Did the Dialogue Achieve?

One significant accomplishment was the process itself, informed by the Catholic Common Ground Initiative. Participants in the dialogue represented a wide range of perspectives on the principle of cooperation. The facilitated, structured process, combined with opportunities for socializing and mutually agreed upon ground rules, fostered the development of a "safe harbor" for an honest exchange of differing views, although this did not happen immediately. In addition, greater progress was made when participants ceased trying to defend their own positions and redirected their energies toward trying to better understand the tradition and the meaning of traditional categories.

A second accomplishment was the agreements that were reached. Among the many agreements were:

- The principle of cooperation does apply to institutions, though analogously.
- There are certain factors that need to be considered in applying the principle to particular arrangements (namely, ownership, governance, management, finances, actual performance of the deed, and scandal).

- There is no contradiction between utilization of the principle of cooperation and prophetic witness.

With regard to the latter point, participants agreed that the call to prophetic witness does not require that there be no cooperation with those engaged in wrongdoing. At times, it is simply necessary to cooperate in order to achieve some good or avoid some harm.

A third very significant achievement was the incipient development of new language for the principle of cooperation. Toward the end of the dialogue, it was sensed that participants' commitments to certain thought structures or theoretical approaches was getting in the way of understanding. In light of this, participants attempted to get behind the technical language (e.g., "immediate material cooperation") to discover the meaning it was trying to convey. Participants then sought new words to convey their shared understanding. For example, participants came to a consensus that when the cooperator's action is indistinguishable and inseparable from that of the principal agent, that action constitutes "substantial" cooperation (i.e., immediate material cooperation).

Participants in the dialogue believe that the language of substantial and nonsubstantial cooperation merits further theological reflection and refinement and might well serve, together with the development of additional terms, as a new language for the principle of cooperation. This language seems clearer and more intelligible to a contemporary audience than do the traditional categories. The language of substantial and nonsubstantial cooperation is only a beginning, but it is an important beginning to further theological exploration.

Not all differences were resolved during the course of the eight years. The outstanding issues are the role of duress in cooperation and whether immediate material cooperation (or substantial cooperation) can ever be justified because of duress or the loss of essential goods that could not otherwise be realized. Even here, however, there was an important development, namely, clarifying the fundamental differences between two positions.

The eight-year dialogue on the principle of cooperation achieved much, but it certainly does not mark the end of the conversation. It is for others to pick up where the dialogue left off.

The following core participants in the dialogue on the principle of cooperation have agreed that the full report accurately reflects the discussions that took place over the eight-year period.

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