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Material cooperation and Catholic institutions: An inquiry into traditional moral principle and its meaning for Catholic institutions today, with reference to Catholic hospitals in Australia

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INTRODUCTION

A Case Study

In September 1927 the Sisters of Saint John of God bought a colonial homestead and opened a hospital in Bunbury, then a small rural port in south-west Western Australia. As the town grew, so did the hospital: by 1939 it had become an 80-bed general and maternity facility; a new five-floor hospital was built in 1972 to cater for 110 patients (83 general and 27 maternity); and a major building program in 1988 added surgical and casualty services.¹

But by the late 1980s the provision of rural health care in Western Australia had become not only a public health priority but also a ‘hot’ political issue.

One of the problems facing the John of God Health Care System as a whole, and the Bunbury hospital in particular, is the difficulty of planning for the future because of the frequency of changes in government health policy, especially with regard to the location of public hospitals. If a new public hospital is situated beside a St John of God hospital, it is clearly not advisable to spend millions of dollars on a new private hospital at precisely the same time. In the short term the hospital will examine possible working opportunities with the government’s health department in extending health care services to public patients.²

Over sixty years the St John of God Hospital had become an important thread in the fabric of life in Bunbury. In numerous country towns in Western Australia and elsewhere the Sisters had been among the first to provide hospital-based nursing care. Some of the St John of God Sisters had dedicated their entire religious lives to serving the people of Bunbury in that particular hospital. Their commitment to

¹ Data on the history and development of St John of God Hospital Bunbury were kindly provided by Sr Mary Eugenia Brennan SJG of the St John of God Heritage Centre in Subiaco, Western Australia, in private communication with the author. See also her publication to mark the centenary of the Sisters in Australia, The Love of Christ Urges Us. (Subiaco WA: Sisters of St John of God, 1994). Information on negotiations with the State Government of Western Australia, on various proposals examined and on the final configuration of the collocated health care campuses was kindly provided by Mr Don Good, Trustee of St John of God Health Care, in private communication with the author.
excellence in health care combined with sincere respect for the dignity of all patients had made them valued members of the growing rural community. The people of the region did not want to lose the St John of God Hospital, yet by the early 1990s that had become a real possibility.

For at that time the State Government announced that it would replace its existing Bunbury Regional Hospital with an entirely new public facility capable of meeting the needs of the town into the next century. At virtually the same time, St John of God Health Care realised that its 1988 renovations would be inadequate to meet present or future needs, which raised the possibility of St John’s having to build an entirely new hospital themselves. It was evident that Bunbury could not support two new facilities of such size and quality, so St John of God Health Care began discussions with the State Government on a number of proposals which might meet increasing community needs, while also preserving the presence of a Catholic hospital in the town. Realising that its original plan was too ambitious and expensive, the Government came to view a joint facility as a cost-effective way of delivering the required upgrade of medical services in Bunbury.

The first proposal (Proposal 1) was for St John’s to build and manage a single new public hospital. Obviously some morally objectionable procedures (such as terminations of pregnancies and contraceptive sterilisations) could not be conducted in a facility under Catholic management, so the Government was prepared to build a separate clinic on another site to deliver these services.

It will become plain that not all Catholic moralists would have been content with this arrangement.³ In any event Proposal 1 did not proceed, due in no small part to overwhelming public reaction against the perceived privatisation of regional hospital care. But since subsequent public consultation revealed considerable support for both public and private facilities in the town, other possible configurations were considered:

- Proposal 2 would have seen the development of two completely separate hospitals, with a full range of medical services apportioned between them. But

³ In particular see 3.1.4.2 below.
because this would have necessitated a duplication of some paramedical and ancillary services which would not have been cost-effective, Proposal 2 was rejected.

- Proposal 3 would have seen the Government build a major public regional hospital with a private wing in which St John’s could provide a limited range of care. There were obvious management problems with this proposal, but the definitive objection came from the private health insurance industry: this arrangement would have been prohibitively expensive to fund.\(^4\)

So the preferred option, Proposal 4, became ‘collocation’: there would be two separate hospitals located on the same site; each would manage its own administration and admissions, and each would maintain its own medical and hospital services, but between them they would provide the full range of services required in Bunbury. Furthermore, each hospital could ‘bid’ for the provision of a single set of ancillary services, which is where cost-savings would be made. Equally, of course, each hospital could ‘opt out’ of services it did not wish to deliver.

In terms of medical services, then, Proposal 4 sees each hospital provide its own children’s, obstetric, general medical and surgical wards, as well as delivery suites, operating theatres and day surgery units. The public regional hospital provides Accident and Emergency, intensive care and psychiatric services, while St John’s provides renal dialysis, oncology and palliative care. As for ancillary services, the public hospital is under contract to provide instrument sterilisation services to St John’s, while St John’s is under contract to provide catering and maintenance services to the public hospital. St John’s also maintains a separate medical centre, in which many of Bunbury’s medical specialists have rooms. The collocated campuses of the Bunbury Regional Hospital and the St John of God Hospital Bunbury accepted their first patients in 1999.

\(^4\) Under existing health insurance legislation in Australia, a public patient admitted to a public hospital attracts a fixed payment from Medicare (the national public health insurer) which is made to the hospital and the treating practitioner; a private patient in a public hospital attracts a slightly lower Medicare payment; but a private patient in a private hospital can only be funded by private health insurance - at a substantially higher level. Theoretically, a public hospital with a ‘private’ ward could admit private patients to that ward and reap higher financial rewards from the private insurer than from Medicare. This arrangement is strenuously resisted by private health insurers, who believe that this would eventually drive them out of business.
The outcome of this arrangement is that the State Government has been able to provide better quality hospital facilities for Bunbury at a fraction of the original capital cost; the people of Bunbury now have access to a much greater range of health services and more up-to-date facilities; and the Sisters of St John of God have been able to continue their particular vocation to the people of Bunbury and so maintain a Catholic health-care ministry in the south-west of Western Australia.

Material Cooperation and Catholic Institutions

As in the Bunbury case, the cost of providing quality hospital care in the developed world is a major factor impelling Catholic and non-Catholic health facilities toward cooperative arrangements. Another factor, from the Catholic perspective, is changing patterns in membership of religious orders which have traditionally provided hospital care. Not to put too fine a point on it, for Catholic health care facilities the choice has sometimes come down to ‘collaborate or close’.

But the challenges posed by institutional collaboration are not limited to financial or religious concerns, nor even to the central question of health care provision. From the Catholic institution’s point of view there is also a critical ethical question, which might be put as follows: in view of some of the medical and surgical procedures conducted at public health facilities - procedures which the Catholic Church considers gravely immoral - should this Catholic institution enter into formal collaboration with this public health facility? Is such structured institutional cooperation justifiable in view of the immoral procedures which the public facility will inevitably provide? The ethical question is not whether a collaborative arrangement can be forged, but whether it should be forged. It is the question of institutional cooperation in evil.

As suggested, not all Catholic moralists would have been happy with Proposal 1 in the Bunbury case, largely because it would have tied a Catholic institution officially and structurally to procedures such as abortion and contraceptive sterilisation. It could be argued, of course, that the Catholic hospital
A similar concern has greatly exercised the minds of the Catholic bishops of the United States of America, where many such collaborative arrangements have already been made. It is the same vexed question which prompts the present study.

Fortunately the Catholic moral tradition has long since developed a principle which sheds some light on these complexities: the Principle of Legitimate Cooperation in Evil. This principle is difficult to state in a few words — indeed, reference is sometimes made to ‘the principles which govern cooperation in evil’, because analysing instances of cooperation requires application of a number of more fundamental moral norms. For the time being, however, the following will serve as a ‘definition’ of the Principle of Legitimate Cooperation in Evil:

Cooperation in evil, as distinct from actually doing evil oneself, occurs when one moral agent consents in the evil deed of another. Cooperation is formal if one agrees (either directly or indirectly) with the other’s evil deed: for example, a gunsmith willingly supplies a gun to a bank robber, with the intention of assisting the robber in his evil deed. Cooperation is material if one does not agree with the other’s evil deed, but only innocently provides some goods or services which the other abuses in order to perform the deed: for example, to sell petrol to a bank robber, who subsequently uses his car for the getaway. Formal cooperation is always wrong, because to cooperate formally is to adopt the evildoer’s end as one’s own. Depending on the relationship between one’s own act and that of the other agent, material cooperation may be permitted if one holds a sufficiently serious reason for cooperating.

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5 For example, this is the position of American philosopher Germain Grisez - see 3.1.4.2 below.
6 See 4.2.2.2 and 4.3 below.
7 Different authorities entitle this the ‘Principle of Cooperation’, the ‘Principle of Legitimate Cooperation’, or the ‘Principle of Material Cooperation’. For all practical purposes these refer to the same principle, and in the present study these titles will be used interchangeably.
8 See the National Conference of Catholic Bishops, Ethical and Religious Directives for Catholic Health Care Services (1994), Appendix. This is discussed in 4.2.2.2 below.
This definition will undergo considerable refinement as the present work unfolds. One of the major aims of this work is to explore the meaning of cooperation in evil through studying the evolution of the principle over the last 400 years.

It will be noted that the principle as stated applies to individual moral agents rather than to groups or institutions. This is consistent with the history of the principle, and is one of the reasons why it can be said that the principle only ‘sheds light on’ rather than ‘resolves’ instances of institutional cooperation. There are significant differences between individual moral agents and institutions as moral agents. Another major aim of the present work is to explore the relationship between ‘cooperation in evil between individual moral agents’ and ‘cooperation in evil between institutional moral agents’, and to suggest how the traditional principle might be applied to institutions.10

It will also be noted that the principle as stated ‘permits’ material cooperation for a serious reason. The ‘permission’ of material cooperation emphasises the fact that, were circumstances otherwise, one would not cooperate at all. But given the circumstances which prompt Catholic and non-Catholic health care facilities to consider cooperative corporate arrangements, another question might legitimately be put: could a Catholic institution ever be compelled to cooperate with another doing evil? A third major aim of the present work is to suggest a framework within which one might consider this question.11

The present work, accordingly, falls into three broad sections. The focus of the first part (Chapters One and Two) is the way in which the principle of legitimate cooperation evolved in history and was presented in Catholic moral theology up to the time of the Second Vatican Council. Chapter One examines the origins of the principle in the sixteenth, seventeenth and eighteenth centuries and follows through its preservation in the moral manuals. What emerges is a picture of one process by which moral principles evolve, are clarified, and sometimes atrophy unless re-

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10 See below, 4.3.
11 See Chapter Five below, in particular 5.2.
examined periodically in the light of contemporary moral questions. Chapter Two seeks to unfold the principle in terms of the traditional metaphysics of human action, as the principle had come to be defined prior to Vatican II, and to unfold the meaning of the principle’s central terms: ‘intrinsically evil acts’ and ‘sufficiently serious reason’. These two chapters reveal that, as happens so often in moral reasoning, morally right answers were reached before satisfactory explanations of their rightness were developed.

The focus of the second part (Chapters Three and Four) is the evolution of the principle of legitimate cooperation since Vatican II. Chapter Three reviews the principle as it appears in the successors to the moral manuals and in magisterial teaching, revealing both innovative approaches on the part of some modern moralists and an increasingly proactive role on the part of the magisterium. In Chapter Four a double transition is made: from ‘moral theology conducted within the confines of the Catholic Church’ to ‘moral theology conducted in dialogue with the modern world’; and from ‘cooperation among individual moral agents’ to ‘cooperation among institutions’. These two chapters bring the discussion more or less up to date and place it in the context of the contemporary renewal of moral theology. Here too one notes what is, at least at the time of writing, a major point of controversy: the meaning and legitimacy of ‘immediate material cooperation’ by Catholic institutions.

The focus of the third part (Chapter Five) is the renewal of moral theology sought by Vatican II, and in particular the question of Catholic institutions entering into cooperative arrangements with non-Catholic bodies. Drawing on the insights of some recent trends in theology in general - in particular, transcendental Thomism - a theological framework is developed for interpreting institutional cooperation. The aim of this chapter (and of the work as a whole) is not to arrive at fixed solutions for particular cases - indeed, it will be argued that questions of cooperation in evil cannot be answered in the abstract - but to suggest an additional level of meaning which may shed light on institutional cooperation.

This arrangement of material permits a comparison to be drawn between the principle as it appeared in the ‘traditional’ Catholic moral theology, and its treatment
in light of Vatican II’s call for a renewal in the discipline. Nevertheless this study is only more or less chronological, and some anomalies are inevitable: for example, some theologians studied in Chapter Four are contemporaneous with those studied in Chapter Three; and a consideration of specifically institutional cooperation does not occur until late in Chapter Four. Further comments on the ordering of material will be made in the text.

While the present work is wide-ranging in some respects, its aims are quite tightly circumscribed. The intention is not to present a comprehensive study of the origins and development of the principle of cooperation, because such studies have been made previously. Nor is it to analyse the entire manual tradition of cooperation, but only to sample a selection of manuals which were once influential in this country. A complete metaphysics of human action is likewise beyond the scope of this work, as is a fuller treatment of ‘intrinsically evil acts’ and ‘sufficiently serious reason’ - although it will be necessary to arrive at an adequate understanding of all of these. The temptation to develop a more comprehensive analysis of trends in the emerging renewal of moral theology has also been resisted, in order to stay focused on the major question under investigation.

It is recognised that the interpretation of the principle of material cooperation which is offered here is neither exclusive of other interpretations nor exhaustive in itself - but it will be sufficient to ground the theological view offered in the final chapter. Furthermore, the present work does not claim to resolve controverted questions nor settle every argument which might be mounted for or against the immediate material cooperation of Catholic institutions in such procedures as in-vitro fertilisation. It claims only to develop a framework within which these matters might be addressed.

In terms of sources, selections have been made according to various criteria, including influence on the practice of moral theology in Australia, relevance to the specific question of institutional cooperation, and impact on contemporary thinking on material cooperation. There are further specifications of sources in the text.
The present work will have achieved its aim if it is able to demonstrate that a truly theological interpretation of legitimate institutional cooperation in evil can be, at one and the same time, grounded in the Catholic moral tradition and responsive to the Second Vatican Council’s call to a renewal of moral theology.