

CONSCIENCE AND CATHOLIC HEALTH CARE: FROM CLINICAL
CONTEXTS TO GOVERNMENT MANDATES—SELECTED SESSION

Topic:	Conscience and Catholic Health Care: From Clinical Contexts to Government Mandates
Convener:	David DeCosse, Santa Clara University
Moderator:	Thomas Nairn, O.F.M., Catholic Health Association
Presenters:	Roberto Dell'Oro, Loyola Marymount University Lisa Fullam, Jesuit School of Theology of Santa Clara University M. Cathleen Kaveny, Boston College

In his paper, “Conscience After Vatican II: Theological Premises for a Discussion of Catholic Health Care,” Roberto Dell’Oro engages the fundamental changes in the theology of conscience made at the Second Vatican Council and considers the implications of these changes for Catholic health care. Dell’Oro’s paper considers the discussions of conscience in *Gaudium et spes* and *Dignitatis Humanae* and shows the profound shift that took place at the Council in the movement from conscience being understood as a deductive judgment on a singular moral act to conscience being considered as a moral and spiritual entity representative of the deepest meaning of a person as such. He concludes his paper by reflecting on the need for the integration of this change in the theology of conscience into the *Ethical and Religious Directives for Catholic Health Care*. Among the theoretical issues that Dell’Oro engages is the relationship of conscience to moral truth. Conscience indeed does attain moral truth, he argues, but it does not do so with the certainty presumed to be possible by Catholic moral thought before the Second Vatican Council.

Lisa Fullam’s paper, “Dealing With Doubt: *Epikeia*, Probabilism, and the Formation of Medical Conscience,” tackles the specific challenge of conscience seeking moral truth in medical matters. What, she asks, can the conscience of a medical practitioner do when she is confronted with enduring moral doubt? This may be doubt raised by the medical complexity of the case at hand or by rapid technological changes relevant to treatment or by confusion about the application of traditional moral norms to a new and unforeseen situation. To address such doubt, Fullam goes back to the Catholic moral tradition to recover the virtues of *epikeia* (a disposition for acting in justice when a traditional norm does not apply) and skepticism (understood *not* as all-encompassing doubt but instead as a fruitful and open-ended disposition to consider a wide range of arguments in the face of a new and unforeseen challenge).

In her paper, “Law, Religion, and Conscience in a Pluralistic Society: The Case of the Little Sisters of the Poor,” Cathleen Kaveny considers the case of the Little Sisters as a representative instance of the contemporary way in which moral and theological concerns about conscience are primarily contested in a sphere of law and litigation. Kaveny asks, what is the relationship between the litigation strategy of the lawyers arguing on behalf of the Little Sisters and the Catholic moral and theological tradition of conscience that is at issue in the case? Also, how might the arguments in the case affect the development of the moral and theological tradition around conscience? Kaveny has written extensively elsewhere about the moral principle of cooperation, which in the Catholic tradition is used to assess the degree of moral culpability in complex situations when the wrongdoing of one agent appears to be aided by the actions of a second agent; the lawyers argued that for the Little Sisters to sign a form

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saying they opposed contraception was in fact an unacceptable and immoral instance of “cooperation” with the evil of using contraception. Kaveny calls use of the principle of cooperation on behalf of the Little Sisters as “nothing short of nonsensical” and goes on to review other aspects of the case that present significant challenges for the Catholic moral tradition.

We had a robust discussion of the papers, including a focus on the need for a more complex theological approach to conscience understood in light of moral truth, moral complexity, responsibility, and role-related ethics.

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