

Cooperation with Evil Reconsidered: The Moral Duty of Resistance

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Abstract

The essay presents an argument for critical retrieval of the framework of cooperation with evil used by the moral manualists who dominated Catholic moral theology in the first part of the 20th century. Both “liberal” and “conservative” Christians are concerned with cooperation but differ as to which issues deserve attention and when cooperation becomes problematic. The key to moving beyond the current impasse is balancing the manualists’ tolerance for material cooperation in the face of conflicting responsibilities with the prophetic sensibilities of womanist theologians who are “troubled in their souls” by the suffering of vulnerable human beings and call Christians to take concrete steps to contribute to the decrease of that suffering.

Keywords

casuistry, cooperation, manuals, manualists, moral theology, noncooperation, social sin, womanist theology

In the lead up to the 2016 election, Catholics wrestled with where to put the power of their votes. Early polling suggested that Hillary Clinton would have a large advantage over Donald Trump thanks especially to churchgoing Catholics, who favored Clinton by large margins.¹ Still, dissatisfaction with the candidates among

1. *Evangelicals Rally to Trump, Religious ‘Nones’ Back Clinton* (Pew Research Center, July 13, 2016) chap. 1, “Religion and the 2016 Campaign,” <http://www.pewforum.org/2016/07/13/religion-and-the-2016-campaign/>. A majority of Catholics chose Trump in the end. Gregory A. Smith and Jessica Martinez, “How the Faithful Voted: A Preliminary 2016 Analysis,” Pew Research Center, November 9, 2016, <http://www.pewresearch.org/fact-tank/2016/11/09/how-the-faithful-voted-a-preliminary-2016-analysis/>.

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Catholics was running high and the Catholic blogosphere was full of passionate pleas (with accompanying hashtags) to vote against one candidate or other or avoid voting for either. Some advocates of the latter view cite Alasdair MacIntyre:

When offered a choice between two politically intolerable alternatives, it is important to choose neither. And when that choice is presented in rival arguments and debates that exclude from public consideration any other set of possibilities, it becomes a duty to withdraw from those arguments and debates, so as to resist the imposition of this false choice by those who have arrogated to themselves the power of framing the alternatives.²

Those committed to not voting for one of the major party candidates are sometimes considered radical in their theology or politics, but they may also be viewed as concerned with what the Catholic tradition calls “cooperation with evil.” Though the term remains obscure outside theologically informed Catholic circles, the concept has never been more visible. Not only with regard to voting, but in relation to countless major controversies involving religion and public life, cooperation is at issue.

Conflict centering on Kentucky clerk Kim Davis is a case in point. After spending five nights in jail for refusing to issue marriage licenses, Davis became the new symbol of the battle over religious liberty in the USA. In fidelity to her faith as an Apostolic Christian, Davis objects to same-sex marriages. When the Supreme Court established same-sex couples’ constitutional right to marry, she directed her office not to issue any marriage licenses. According to *The New York Times*, “The central issue for Ms. Davis is that the licenses say they are issued by the Rowan County clerk, and she, as the clerk, will not authorize them.”³ While a compromise to remove her name from the licenses has been reached, it is unsatisfactory both to her and to supporters of same-sex marriage who view the amended licenses as an affront to equal treatment.⁴ Public discussion has focused on whether Davis should receive a religious exemption from ordinary duties or whether she is obliged to disobey a law she considers unjust.⁵ However, the more basic question, framed in Catholic terms, is whether Davis is correct to sense that what she perceives to be material cooperation with evil is not sufficiently remote to be excused.⁶

2. Alasdair MacIntyre, “The Only Vote Worth Casting in November” (2004), <http://brandonmultics.org/library/Alasdair%20MacIntyre/macintyre2004vote.html>.
3. Alan Blinder and Richard Perez-Pena, “Kim Davis, Released from Kentucky Jail, Won’t Say if She Will Continue Defying Court,” *New York Times*, September 8, 2015, <http://www.nytimes.com/2015/09/09/us/kim-davis-same-sex-marriage.html>.
4. “Kim Davis Case: Kentucky Clerk Faces New Legal Challenge,” *BBC News*, September 23, 2015, <http://www.bbc.com/news/world-us-canada-34331759>.
5. See John W. Martens, “Kim Davis, the Bible and Religious Freedom,” *America*, September 9, 2015, <http://www.americamagazine.org/content/good-word/kim-davis-bible-and-religious-freedom>.
6. Though more complex discussion follows below, it is important to note at the outset that official Catholic teaching forbids formal cooperation with evil but allows material cooperation for a proportionate reason under certain conditions. See *Catechism* 1868, http://www.vatican.va/archive/ccc_css/archive/catechism/p3s1c1a8.htm. In this essay, I bracket the question of the morality of same-sex marriage and other actions labeled evil in order to focus on the cooperation of the agent.

The principle of cooperation with evil has, of course, been frequently invoked by US bishops. It plays a central role in the prudential reasoning process recommended by the USCCB in *Forming Consciences for Faithful Citizenship* and is sometimes used by particular bishops in relation to Catholic voters and politicians.⁷ It is also at play in the USCCB's consistent opposition to the Affordable Care Act, which the bishops believe violates religious liberty because it forces opponents of contraception to disregard their consciences and (materially) cooperate with evil.⁸ Many theologians have been critical of these kinds of arguments and there is notable wariness of attempts to apply cooperation to contemporary social problems.⁹

In this essay, I present a critical retrieval of cooperation by turning to the manualists who dominated Catholic moral theology in the first part of the twentieth century. After drawing attention to a growing, widely shared sensitivity to cooperation with the wrongdoing of others, I suggest that the often-maligned moral manuals can provide a framework for thinking clearly about the connection to evil that many people experience as morally troubling but difficult to escape. However, I argue that engaging womanist theologians who call for resistance to a wide range of structural evils is crucial to a viable renewal. Though conscious that theological ethicists with similar concerns prefer the language of complicity, I argue that retaining the framework of cooperation with evil is crucial for social ethics. The key is balancing the manualists' tolerant and complex method of assessing personal responsibility for social sin with the prophetic sensibilities of womanist theologians who are "troubled in [their] soul[s]" by the suffering of vulnerable human beings and committed to resistance to that suffering.¹⁰

A Widely Shared Sensitivity to Contributing to the Wrongdoing of Others

Gaining clarity on when cooperation is and is not morally problematic is particularly important because worries about assisting in the wrongdoing of others are expanding

7. See USCCB, *Forming Consciences for Faithful Citizenship* (2015) nos. 31–39, <http://www.usccb.org/issues-and-action/faithful-citizenship/>; Raymond L. Burke, "Prophecy for Justice," *America*, June 14, 2004, www.americamagazine.org/content/article.cfm?article_id=3636; "Bishop Warns against Voters' Moral Cooperation with Evil," *EWTN News*, October 31, 2012, <http://www.ewtnnews.com/catholic-news/US.php?id=6440>.
8. See USCCB Department of Justice, Peace, and Human Development, "Resources and Background on HHS Rule on Contraceptive Coverage," January 25, 2012, <http://www.usccb.org/issues-and-action/human-life-and-dignity/health-care/>.
9. See, e.g., Cathleen Kaveny, "Catholics as Citizens," "Today's Ethical Challenges Call for New Moral Thinking," *America*, November 1, 2010, <http://americamagazine.org/issue/753/article/catholics-citizens>, and Edward Vacek, "An Acceptable Arrangement: When Cooperation Is Not Complicity," *Commonweal*, August 11, 2016, <https://www.commonwealmagazine.org/acceptable-arrangement>.
10. The phrase is from Emily M. Townes, ed., *A Troubling in My Soul: Womanist Perspectives on Evil and Suffering* (Maryknoll, NY: Orbis, 1993).

on all sides. Increasingly, some Christians support religious liberty claims grounded in concern about how one person's actions assist or ratify the actions of others who fail to respect life or affirm traditional marriage.¹¹ Other Christians aim to avoid fossil fuels, factory-farmed meat, and clothing made in sweatshops. Yet moral theologians offer little to help ordinary Christians assess what is at stake in adopting or avoiding these practices.¹²

Opponents of same-sex marriage, abortion, or contraception who seek accommodations to current laws are worried about cooperation with evil. Plaintiffs in *Burwell v. Hobby Lobby* (2014) claim that because they sincerely believe certain methods of contraception to be immoral, they should not be forced to facilitate their employees' decisions to use these methods.¹³ Similarly, shop owners and employees who feel uneasy selling products they know will be used in same-sex weddings (let alone participating in weddings by renting out a hall, taking photographs, or issuing licenses) appeal to their faith, their moral duty to distance themselves from evil, and their right to live according to conscience.¹⁴ These new cases can be seen as consistent with ongoing conservative worries about Catholic charities working with nonprofit groups advocating contraception or abortion, Catholic hospitals partnering with health systems providing sterilization, and Catholic universities supporting "The Vagina Monologues."

It might seem that the principle of cooperation is a matter of concern only to "conservative" Christians, while toleration is more the concern of "liberals."¹⁵ High-profile examples that fit this pattern include conservative opposition to Catholic partnership with the Girl Scouts and the University of Notre Dame's decision to award the Laetare Medal to Vice President Joe Biden and former House Speaker John Boehner.¹⁶ However, at least implicitly, cooperation is not only invoked by conservatives, but by a wide range of Christians. Arguably, all who worry about contributing to the wrongdoing of

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11. The use of the term "traditional marriage" is common but imprecise. See Stephanie Coontz, *Marriage, A History: How Love Conquered Marriage* (New York: Penguin, 2006).
 12. The lack of casuistry or attention to individual discernment is typical in arguments on a range of issues, from abortion to climate change, and reflects a problematic division between moral and pastoral theology. See David Cloutier, "Moral Theology for Real People: Agency, Practical Reason, and the Task of the Moral Theologian," in *New Wine, New Wineskins: A Next Generation Reflects on Key Issues in Catholic Moral Theology*, ed. William C. Mattison III (Lanham, MD: Rowman & Littlefield, 2005) 119–42.
 13. Robert P. George, "What Hobby Lobby Means," *First Things*, July 1, 2014, <http://www.firstthings.com/web-exclusives/2014/06/what-hobby-lobby-means>.
 14. Jack Healy, "States Weigh Gay Marriage, Rights, and Cake," *The New York Times*, July 7, 2015, <http://www.nytimes.com/2015/07/08/us/states-weigh-gay-marriage-rights-and-cake.html>.
 15. The terms "conservative" and "liberal" are imperfect but I retain them in order to highlight significant differences in how believers construe their faith.
 16. See Justin Petrisek, "Catholic Bishop Slams 'Scandal' of Notre Dame Honoring Pro-Abortion Vice President Joe Biden," *LifeNews*, March 14, 2016, <http://www.lifenews.com>.

others through voting, buying, contributing money to, inviting, honoring, sponsoring, collaborating with, or otherwise lending their support to actions they morally oppose, wrestle with cooperation with evil. Yet we lack an account of how to apply the concept coherently and consistently across a range of social issues.

Liberals who might urge toleration of material cooperation in the cases cited above often seek to encourage greater consciousness of complicity in relation to violence or economic exploitation. The most radical avoid cooperation with violence by refusing to pay the portion of their taxes that goes to war or invest in companies linked to the manufacture of weapons.¹⁷ More common is growing concern about products manufactured in factories in developing countries where workers are overworked, mistreated, and underpaid. Some argue that unless we know otherwise, to buy most conventional products is to benefit from exploitation.¹⁸ Though they might allow that lack of full knowledge, absence of bad intention, distance, and the reality of limited options can make a difference in calculations of moral blame, many progressives feel implicated nonetheless because they know that what goes on in factories makes possible their large wardrobes and their extraordinarily useful collections of technological devices; that violence in warfare enables their freedom and prosperity; that their privilege is linked to the disadvantages of others. Far from encouraging toleration, they seek to convince others of the immorality of actions ordinarily viewed as morally neutral.

Though many are unaware or less convinced of the duty of noncooperation, the idea that we are complicit when we lend support to those who do things we deplore has an undeniable resonance. If assessing culpability is complicated, denying all responsibility for social sin seems inadequate.¹⁹ As Thomas Kopfensteiner rightly points out, when a voter supports a candidate who chooses to tolerate the legalization of an evil action for the sake of public peace, she is several steps removed from the actual evil act.²⁰ Still, many feel they must avoid being “contaminated” by potential association

com/2016/03/14/catholic-bishop-slams-scandal-of-notre-dame-honoring-pro-abortion-vice-president-joe-biden/ and Christine Hauser, “Girl Scouts Face Opposition from St. Louis Archbishop,” *New York Times*, February 25, 2016, <http://www.nytimes.com/2016/02/26/us/girl-scout-cookies-st-louis-catholics.html>. Scandal is more often explicitly invoked, but scandal and cooperation are difficult to disentangle in Catholic moral teaching, as I will show below.

17. See the website of the National War Tax Coordinating Committee, <http://www.nwtrcc.org/>.
18. See William T. Cavanaugh, *Being Consumed: Economics and Christian Desire* (Grand Rapids: Eerdmans, 2008), and Vincent J. Miller, *Consuming Religion: Christian Faith in a Consumer Culture* (New York: Continuum, 2005).
19. Social sin is “the expression and effect of personal sin.” *Catechism* 1869, http://www.vatican.va/archive/ccc_css/archive/catechism/p3s1c1a8.htm. Though some worry about failure to say enough about structural sin, arguably the insistence on personal sin at the root of social sin is an asset of the Catholic tradition that can be amplified through the retrieval of cooperation.
20. Thomas R. Kopfensteiner, “The Man with a Ladder,” *America*, November 1, 2004, <http://www.americamagazine.org/issue/502/article/man-ladder.9-11>.

with a politician's stance or corporation's employment practices.²¹ Others, while not feeling the need to engage in noncooperation themselves, nonetheless affirm the rights of resisters to act according to conscience. On issues that cut across the liberal-conservative divide, many feel responsible even though, strictly speaking, they may not have to. They are not obligated to disentangle themselves from all cooperation with evil and most know it would be impossible to do so, but they cannot shake the feeling of moral compromise.

Yet many questions remain about when to encourage greater recognition of moral responsibility for the wrongdoing of others and when to urge greater toleration of wrongdoing that is not one's own. Given the problematic history of Catholic moral theology, returning to the moral manuals of the early twentieth century for wisdom is not an obvious choice. Most theologians who know the history agree that the sin-obsessed manualist era is best left behind as we move to more positive theological frameworks of analysis within which questions about holiness and Christian responsibility in the modern world can be asked. However, despite their obvious limitations, the manualists should not be dismissed so easily. For Catholics concerned with cooperation, they are an indispensable starting point for moral reflection.

The Manualist Tradition on Cooperation with Evil

Moral theologians who wrote the manuals of moral theology that dominated US seminaries in the twentieth century stepped into a tradition originally developed to help priests discern the sinfulness of actions people brought to their attention in the confessional.²² Their influence was so pervasive, according to Servais Pinckaers, that the casuistic morality for which they are known "was in the end viewed as *the* moral theology of the church."²³

These early moralists defined cooperation with evil as "help afforded another . . . to carry out his purpose of sinning."²⁴ They held that formal cooperation, in which

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21. For a discussion of contamination, see M. Cathleen Kaveny, "Appropriation of Evil: Cooperation's Mirror Image," *Theological Studies* 61 (2000) 280–313 at 304–7, doi:10.1177/004056390006100204.
 22. Critical reviews of this history include: Cathleen Kaveny, *Law's Virtues: Fostering Autonomy and Solidarity in American Society* (Washington, DC: Georgetown, 2012); Charles E. Curran, *The Development of Moral Theology: Five Strands* (Washington, DC: Georgetown, 2013); James F. Keenan, *A History of Catholic Moral Theology in the Twentieth Century: From Confessing Sins to Liberating Consciences* (New York: Continuum, 2010); Servais Pinckaers, *The Sources of Christian Ethics* (Washington, DC: Catholic University of America, 1995); John A. Gallagher, *Time Past, Time Future: A Historical Study of Catholic Moral Theology* (New York: Paulist, 1990); John A. Mahoney, *The Making of Moral Theology: A Study of the Roman Catholic Tradition* (Oxford: Clarendon, 1987).
 23. Pinckaers, *Sources of Christian Ethics* 278.
 24. John A. McHugh and Charles J. Callan, *Moral Theology: A Complete Course*, rev. ed. (New York: Joseph F. Wagner, 1929) 1:616.

one shares the evildoer's intention, was never justified. Material cooperation, in which one performs a good or indifferent action and foresees but does not intend that it will assist an evildoer, could sometimes be justified.²⁵ Some manualists added a third category of immediate material cooperation for when "the external act of the cooperator virtually merges with the external act of the wrongdoer."²⁶ Because this kind of action, regardless of intention, "directly tends to produce the evil effect intended by the principal agent," it is usually wrong, though there are some exceptions in situations of duress or hardship.²⁷ However, most discussion centers on the two major categories, and even those who distinguish a third category allow for exceptions for proportionate reasons.

Most contemporary moral theologians hold a negative view of the manualists' analysis of cases, including those involving cooperation. Conventional wisdom holds that the manuals are not worth going back to because they were overly rigid, insufficiently conscious of social sin, and narrowly focused on the obligation to avoid sin rather than the call to live a holy life. However, studying how the manualists applied principles to cases involving cooperation brings into relief their flexibility, their developing understanding of social sin, and their insistence on a moral obligation to avoid complicity. This reading, which I advance below, shows the value of the manualist tradition for contemporary social ethics.

Flexibility

Though typically remembered as rigid interpreters of a rule-based tradition, case analysis reveals that when the manualists applied the principle of cooperation, they did so with a measure of flexibility and respect for the complexity of the subject matter. Though the manualists gave their opinions on specific cases, they did not necessarily see their judgments as definitive. Henry Davis wrote,

So many factors enter into all questions of material co-operation, that only the most general principles can be laid down. Great varieties of opinion, therefore, on any given case except the most obvious, are inevitable, and *there is no more difficult question in the whole range of Moral Theology*.²⁸

If we today acknowledge that assessing cooperation is difficult, the manualists were not completely unaware of the complexity of the issues before them. Though they can

25. Heribert Jone, *Moral Theology*, trans. Urban Adelman (Westminster, MD: Newman, 1945) 93.

26. Kaveny, *Law's Virtues* 249.

27. See, e.g., Jone, *Moral Theology* 92–93. Others consider mediacy and immediacy as qualifiers to material cooperation. See, e.g., Henry Davis, *Moral and Pastoral Theology*, 4th rev. ed. (London: Sheed and Ward, 1945) 1:341–42, and Thomas Slater, *A Manual of Moral Theology for English-Speaking Countries*, 6th rev. ed. vol. 1, (London: Burns, Oates, & Washbourne, 1928).

28. Davis, *Moral and Pastoral Theology* 342, emphasis mine.

be legitimately criticized as rigid on some issues, with regard to cooperation, the manualists often saw more gray than black and white.²⁹

If any cases reveal the inflexibility for which the manualists are often criticized, it is those considered under the rubric of sexual ethics. Perhaps surprisingly, even here there is some diversity and tolerance. Slater claimed that theologians were divided on the following questions: May a woman who knows her presence at Mass is an occasion of sin for a particular man skip Mass or attend Mass elsewhere? May a friend encourage a man who is determined to commit adultery to engage in fornication instead?³⁰ Dancing was also problematic, though complicated, because for some it was frequently an occasion of sin whereas for others sin followed only occasionally; judgments had to be made accordingly.³¹ Jone is similarly tolerant, allowing that a seamstress may sew an “unbecoming dress” but not a gravely scandalous one, leaving the judgments about the particulars to those in charge of the sewing.³² Davis is sure that “young girls engaged in a certain factory in France making French letters” must quit their jobs to avoid scandal, just “as soon as they can find other work,” which presumably will vary due to circumstances.³³ In all of these cases one can see the obsession with sexual ethics that is often remarked upon along with a reasonable amount of flexibility.

Outside of sexual ethics, there is even more flexibility. The manualists’ desire to recognize ways in which individuals participate in the sins of others is mixed with understanding of individual circumstances. The way the manualists dealt with potential cooperation in the workplace is especially instructive in light of recent controversies over involvement with contraception and same-sex weddings. Jone notes that employees may sometimes have to acquiesce to requests to carry letters to an employer’s lover, transport an employee to the lover’s house, admit a lover to a house, copy or draft statements that will harm others, or even drive customers to “houses of ill-repute.”³⁴ Slater allows that a clerk may sell objects that can be misused, for “a correspondingly serious inconvenience or loss will excuse his selling, especially if his refusal will not hinder the sin on account of the buyer being easily able to procure what he wants elsewhere.”³⁵ Davis is typical in stating that while it is “advisable and sometimes obligatory to try to find another occupation . . . meanwhile, the general principles of remote and proximate cooperation may be applied.”³⁶

29. Assessments of complexity often shaped judgments about the gravity of sinfulness or culpability for sinfulness rather than the objective sinfulness of particular acts, but not always. In their consideration of cooperation, the manualists are more tolerant than one would expect on the morality of various courses of action, as I show below.

30. Slater, *Manual of Moral Theology* 130–31.

31. Ibid. 134.

32. Jone, *Moral Theology* 96.

33. Davis, *Moral and Pastoral Theology* 346.

34. Jone, *Moral Theology* 96.

35. Slater, *Manual of Moral Theology* 133.

36. Davis, *Moral and Pastoral Theology* 349.

In nearly all of these cases, as long as an employee's action is in itself neutral or good and as long as there is a proportionate reason for engaging in the behavior, that action may be judged permissible. The more serious the sin, the more serious a reason is needed to excuse it. Important considerations include whether one only suspects or knows for sure that sin will occur, whether avoiding the work will result in greater harm than doing it, how often one is asked to cooperate, and whether one's job or the success of one's business is at stake.³⁷ If harm to a third party is involved, a grave reason is usually needed to excuse cooperation, but the manualists did not usually determine what counted as "grave."³⁸ Granted, they left specific judgments not to ordinary Christians but to confessors, and their method is deficient on this count.³⁹ Still, while in other areas of the moral life the manualists were quite strict, on cooperation, they applied most rules with respect for the difficult choices that arise when obligations conflict.

Social Sin?

As most critics of the manualists note, inattention to questions of violence and economic injustice, sexism, and racism is deeply problematic.⁴⁰ James Keenan points out that as the 20th century progressed, the manualists became "more and more concerned not with facing the challenges of the world but rather with conforming to the rigors of the Church."⁴¹

Yet, if the manualists protested too much about unbecoming dresses and near occasions of sexual sin, their analysis of material cooperation is not totally devoid of social consciousness. The structure of the manuals' treatment of the moral life is revealing. Each manualist discusses scandal, followed by cooperation, in a section devoted to consideration of the theological virtue of charity.⁴² The driving concern is the possibility that one's action, while morally neutral, assists someone who is sinning and may lead others to sin. Love of neighbor is the foundation of attention to cooperation. Some of this concern is best understood as over-scrupulosity or perhaps just misplaced worry, but affirmation of the responsibility for others' welfare should be noted, as should the tendency to be stricter when cooperation involved harm to others.

The harm that worried the manualists took place not only in the bedroom but also, perhaps most commonly, in the social sphere of the workplace. The manualists gave a good deal of attention to dilemmas of employees: contributors to publications or

37. Ibid. 96–97.

38. Ibid. 349. For Slater there was no general rule as to what constituted just cause "except: the graver the sin the graver the cause needed to excuse cooperation, the more proximate the cooperation the graver the cause needed, the more indispensable the cooperation, the graver the cause needed." Slater, *Manual of Moral Theology* 133.

39. Keenan, *History of Catholic Moral Theology* 30.

40. Ibid.

41. Ibid.

42. Jone, *Moral Theology* 90–98; Davis, *Moral and Pastoral Theology* 333–52; Slater, *Manual of Moral Theology* 129–34.

productions at odds with the Catholic faith; servants asked to assist employers in sinful behavior; workers asked to participate in the manufacture or sale of objects that could be misused; judges asked to enforce unjust laws; and those in the medical field asked to assist in unethical procedures. All of these cases involve employees with limited power who are asked to cooperate in the acts of customers or superiors. It is assumed that the workers in question are not at liberty to change the rules of the workplace. It is understood that they need their jobs and have limited mobility. Yet these situations came to the attention of the manualists because individuals felt responsible for the sins of others and for harm to others. Though the manualists do not treat structural sin as it is understood in contemporary social ethics, neither do they strictly limit moral concern to the private realm. Rather, they try to balance the reality of limited power and influence with the desire of individuals not to participate in the sins of those with whom they interact in public life.

Laws and Obligation?

Nearly all contemporary critics judge the work of the manualists to be of limited value for contemporary moral theology because it is too focused on obligation. Pinckaers laments the focus of the manualists because “the question of true happiness surely stands a better chance of finding an echo in our hearts than the ethicist who can talk nothing but laws and obligations.”⁴³ Keenan’s history of US moral theology bears the subtitle, *From Confessing Sins to Liberating Consciences*, in recognition of the profound shift from “from the action to the person as the norm for morality.”⁴⁴ John Grabowski writes that with the manualists, “the moral life was conceived of as a series of largely unrelated acts that were judged to be good or bad on the basis of law . . . Little attention was given to the *person* and to his or her own moral growth and development.”⁴⁵ Despite considerable disagreement about how moral theology should proceed today, moral theologians seem to agree that the manualists should be left behind so that a person-centered moral theology aiming at holiness can progress.

However, it is important to remember that the manualists did make room for holiness even as they called people to consider their minimal obligations. According to Keenan, although the manualists tried “not to impose burdens heavier than the tradition imposed,” they gradually came to expect less from and excuse more for lay persons.⁴⁶ While Keenan rightly insists on the failure to hold lay Catholics sufficiently accountable, the manualists can be commended for recognizing the role of duress in assessing moral responsibility. With regard to cooperation, they aimed to help people determine what they must *not* do while acknowledging that holiness required far more.

43. Pinckaers, *Sources of Christian Ethics* 279.

44. Keenan, *History of Catholic Moral Theology* 35.

45. John Grabowski, *Sex and Virtue: An Introduction to Sexual Ethics* (Washington, DC: Catholic University of America, 2003) ix, x.

46. Keenan, *History of Catholic Moral Theology* 22, 30.

Jone's analysis of tithing provides a good illustration of the helpfulness and limits of this approach. First, he offers a rule: everyone should tithe two percent. Then, he makes an exception: in cases of extreme need, one should give more. Even still, he says, "only the extreme limits of sin are indicated here. Whoever leads a truly Christian life will certainly do more than this for those in ordinary need."⁴⁷ While defining an obligation that sets a low bar, Jones acknowledges the limitations of his focus and suggests that Christians who are serious about their faith will go beyond the minimum.

Today Christian ethicists typically ground their discussions of justice in a social anthropology, employ the language of virtue, and recognize a universal call to holiness; but they also describe obligations. The positive call to take responsibility is complemented by discussion of what duty requires, though few are as specific as Jones.⁴⁸

A good example is Shawn Copeland's theology, which I will discuss in greater detail below. Copeland's theology is far richer than that of the manualists. Speaking in the aftermath the tragic deaths of nine black church members in Charleston and in light of the larger reality of racism in the USA, she prophetically calls Christians to remember who they are and allow that memory to transform their lives:

We are marked with a sign that neither can be erased nor easily forgotten. The cross of the Crucified Jew traced on our bodies at Baptism initiates us into a promise of new life and reminds us of our intimate and irrevocable relatedness to all creatures in the here-and-now through His name. Christian exercise of memory feeds us and slakes our thirst, challenges us and transforms our perspectives, practices, and daily lives; memory and love require us to act and live *in* history in imitation of the gracious and healing presence of Jesus of Nazareth, who loved human beings and loved being human to the end and loves still.⁴⁹

Recognition of relatedness to every human being through Christ lies at the core of Copeland's call to hear the "beautiful impatience" of activists and embrace "a risky solidarity and active engagement," but imperative language ("We pledge to remember, we are *obliged* to do so") is not therefore rendered unnecessary.⁵⁰ In her celebrated monograph, *Enfleshing Freedom: Body, Race, and Being*, Copeland speaks movingly of how those who acknowledge racist social structures must "shoulder our responsibility" which "*obliges* us to stand between poor women of color and the powers of oppression in society . . . [by taking] intentional, intelligent, practical, steps" to reduce their suffering.⁵¹ Copeland draws heavily on Christology and social analysis

47. Jones, *Moral Theology* 87.

48. David Cloutier is atypical in his embrace of casuistry in social ethics, as is evident in *The Vice of Luxury: Economic Excess in a Consumer Age* (Washington, DC: Georgetown, 2016).

49. Shawn Copeland, "Memory, #BlackLivesMatter, and Theologians," *Political Theology Today*, March 17, 2016, <http://www.politicaltheology.com/blog/memory-blacklivesmatter-and-theologians-m-shawn-copeland/>.

50. Ibid. Emphasis mine.

51. Shawn Copeland, *Enfleshing Freedom: Body, Race, and Being* (Minneapolis: Fortress, 2010) 101, emphasis mine.

of structural sin in order to call for a deep solidarity that begins in remembering our connectedness to others.⁵² Still, in speaking of what she calls “the ethical task,” she points to an “obligation” to act. Though grounded in a more positive and expansive theological vision, obligation retains an important place in Copeland’s work, as in most of contemporary theological ethics.

While the strengths of contemporary social ethics and political theology are considerable, it is necessary to be able to identify when lack of action may become sinful if abstraction is to be avoided.⁵³ Identifying certain courses of action as obligatory in particular situations is also key. Although they fail to see the full range of social sin, in their discussion of cooperation the manualists offer a helpful framework: they point with specificity to minimal obligations the followers of Christ should embrace, maintain a sense of the complexity of people’s lives, and appreciate the demanding nature of Christian discipleship.

Moving Forward with the Manualists

The manualists’ strong sense of moral obligation to others based in love of neighbor, along with the flexibility they adopted in light of the realities of individual lives, are worth retrieving. However, the manualists fall short in their limited view of social sin and thus their framework stands in need of revision. There is a curious and unsettling remoteness to the manualist version of the moral life that can be seen most poignantly in what interested them as well as in what they failed to see. Though their concern for others and worry about assisting with wrongdoing in the workplace should be noted, we have to acknowledge that structures of sin such as economic inequality, racism, sexism, and institutionalized violence barely merited a mention. With Copeland, we must ask, “Have we Christian theologians ‘explained away’ those black bodies ‘piling up’ throughout our nation through force and expropriation, coercion and cruelty? Have we *forgotten* the racialized, shattered, and lynched body that lies at the heart of our religious belief and practice?”⁵⁴

For the manualists, it seems that the individual cannot afford to be moved by a world filled with violence and suffering because there is little one person can do. Jone’s analysis of almsgiving, typical of the manualists, is instructive. After a rigorous discussion of what is owed to those in various stages of need, he judges that “one is obligated under grave sin to help the poor even by sacrificing things necessary for our state of life,” but in a footnote reveals that his seemingly extraordinarily strict principle refers only to people we personally encounter.⁵⁵ The situation “of a whole country

52. Ibid. 100.

53. E.g., Most Catholics today applaud Pope Francis’s embrace of the poor but hesitate to identify particular social sins. See Michael Lipka, “Key Findings about American Catholics,” *Fact Tank* (blog), *Pew Research Center*, September 2, 2015, <http://www.pewresearch.org/fact-tank/2015/09/02/key-findings-about-american-catholics/>.

54. Copeland, “Memory, #BlackLivesMatter, and Theologians.”

55. Jone, *Moral Theology* 86.

stricken with extreme need (China, India)” differs, because “even should he give all he has, such a general evil would not be remedied.”⁵⁶ How can someone be blamed if the commission or omission of his action would not fundamentally change the situation? Hence the focus on things that can be controlled. Necessity did not always limit moral culpability for the manualists, but in cases in which the sin would occur anyway (e.g., the friend intent on adultery or the customer going to the brothel), often there was more tolerance and in cases in which social evil would continue (e.g., hunger, poverty, or unjust war), concern was negligible.

Womanist theologians offer a fresh perspective from which to approach the problem of personal responsibility for social sin.⁵⁷ These Christian thinkers are more troubled by social structures of sin, more certain we bear some responsibility for the evil even when we cannot eradicate it alone, less sure that sacrifices are not obligatory even if the evil in question will continue, and more concerned about resistance to evil than avoidance of sin. It is to their work that we must now turn in order to assess contemporary manifestations of cooperation with evil.

Troubled by Evil and Suffering: From Extrication to Resistance

While the manualist tradition provides a helpful framework for consideration of cooperation with evil, we cannot afford to ignore the voices of those who are most conscious of the scope of human suffering brought about by structures of sin. Catholic moral theology has become increasingly attentive to social issues, yet moral theologians have only recently begun to highlight the many ways Christians contribute to wrongdoing in the public sphere.⁵⁸ I have argued elsewhere that a theology of social sin is a necessary corrective to the manualists and to some recent magisterial statements on cooperation.⁵⁹ However, even with a theology of social sin, a nuanced and

56. Ibid. 87–88. Jone’s blindness to poverty and racial violence in the USA is striking here.

57. According to Emilie Townes, “womanist” was first used by Alice Walker in 1982 to reclaim a term sometimes used in a pejorative way to describe a quality of stubbornness often attributed to black women. Those told they were acting “womanish” would now proudly claim their strength. A womanist “cares about her people” and “recognize[s] her location and responsibility in a community.” Emily M. Townes, *In a Blaze of Glory: Womanist Theology as Social Witness* (Nashville: Abingdon, 1995) 9. Like feminists, womanists analyze structural sexism, but begin with the experience of black women, attend to the intersectionality of oppression, and seek to identify strategies of resistance.

58. Keenan, in *History of Catholic Moral Theology*, shows how 20th-century revisionist theologians who were critical of the manualists tried to ground ethics in Christ, love, and charity. Yet the true turn to social ethics, the subject of Keenan’s final chapter, is relatively recent. See also Laurie M. Cassidy and Alex Mikulich, eds., *Interrupting White Privilege: Catholic Theologians Break the Silence* (New York: Orbis, 2007), the first major work in which white Catholic moral theologians discuss racism.

59. Julie Hanlon Rubio, “Moral Cooperation with Evil and Social Ethics,” *Journal of Society of Christian Ethics* 31 (Spring/Summer 2011) 103–22, <https://www.jstor.org/stable/23562644>.

consistent account of individual responsibility is needed. We can gain insight by attending to more radical theologians and activists who claim personal responsibility for structural sin and offer a challenging witness by calling for noncooperation with evil, engagement with local communities, and alternative ways of living.⁶⁰ Womanist theologians who focus on resistance to structural sin offer an indispensable contribution to the project of retrieving the cooperation framework for contemporary social ethics. They provided needed wisdom that helps clarify why advocates of religious liberty who correctly see broader connections to scandalous social evil nonetheless fail to offer a coherent social ethic.

Womanist Wisdom for Questions of Cooperation with Evil

Womanist theologians offer a fresh approach to the moral issue of cooperation because they speak primarily from the perspective of those who suffer the consequences of social sin. Their choice to begin by locating sin not in individuals but in structures is painfully, obviously correct. Womanist work draws attention to the narratives of African American women slaves who protested the systemic evil of slavery using creative strategies of noncooperation. These stories make obvious both the horrific reality of systemic evil perpetuated by whites and the impossible choices faced by African American women who needed to comply in order to protect their own lives and those of their children.⁶¹ Yet, womanist theologians point out that many black women did not simply “cooperate” with their oppressors. For instance, Shawn Copeland recounts the history of Linda Brent, who decided she could no longer tolerate her master’s sexual abuse and ran away, but then lived for seven years in a tiny, dark garret under her grandmother’s house where she could hear the voices of her children and serve as a “recording witness” of the brutalities of slave life.⁶² Brent made extraordinary personal sacrifices because she refused to cooperate with evil social structures.

Womanist theological analysis extends beyond slavery to all of the many ways black women have faced sexism and racism and found ways to resist the system from the inside. Delores Williams’s reading of the story of Hagar as a narrative of resistance rather than liberation is central to womanist visions of what is possible and necessary in

60. See e.g., “Aims and Means of the Catholic Worker” (1987), which calls for specific actions of “noncooperation with evil” in the face of war. Available at, <http://www.catholicworker.org/cw-aims-and-means.html>. The commitment to noncooperation is also evident in Catholic Workers’ refusal to take money from the government, receive interest for money owed them by the government, become a nonprofit organization, or pay federal income taxes.

61. See Delores S. Williams, *Sisters in the Wilderness: The Challenge of Womanist God-Talk*, 20th anniversary ed. (Maryknoll, NY: Orbis, 2013) and essays in Townes, ed., *A Troubling in My Soul*.

62. Shawn Copeland, “‘Wading through Many Sorrows’: Toward a Theology of Suffering in Womanist Perspective,” in Townes, ed., *A Troubling in My Soul* 109–29 at 115–16.

the face of oppression.⁶³ Not to resist the system would be, according to Rosita Dean Matthews, to “lose ourselves . . . perpetuate their agenda, abide by their rules and embrace their values.”⁶⁴ Rejecting both submission and total noncooperation, black women forge a middle path of resistance within imperfect and sometimes horrific situations. By finding avenues for using what Matthews calls “power from the periphery,” the history of black women is one of “making a way out of no way” through providing for themselves and their families despite the odds while maintaining their integrity and contributing to social change that may be a long time in coming. Copeland names “sass” as a key strategy of resistance for women who could not leave unjust situations. “With sass,” she writes, “Black women defined themselves and dismantled images that had been used to control and demean them. With sass, Black women turned back the shame that others tried to put on them. With sass, Black women survived, even triumphed over emotional and psychic assault.”⁶⁵ Womanists emphasize that when withdrawal is not a possibility, creative resistance to systemic evil is a moral and often courageous choice.

Readers who encounter womanist theology are challenged to consider what troubles them, what they accept, and what they fail to resist. Though womanists do not often use the term “cooperation,” some do speak to the responsibility of the privileged for structural evil that is close to home. Jamie Phelps calls fellow Catholics to attend to “socially constructed evil [which] involves patterns of relationships that are directed toward the denial of the human dignity and value of some human beings for the benefit of other human beings.”⁶⁶ Phelps narrates pervasive racial discrimination in US history and highlights the role of the Catholic Church in the maintenance of sinful structures. She describes how racism manifests in different periods of history, “from slavery, to sharecropping, to low-paying jobs [and Jim Crow],” and illuminates the ways in which racism endures in the form of the de facto segregation of Catholic parishes, white dominance of ministerial positions, and, most significantly, the failure of most Catholics to act on the social justice teachings of the church.⁶⁷ Phelps’s historical and social analysis of US Catholicism reveals the persistence of the intrinsic evil of racism and the reality of what I would call the ongoing cooperation of white Catholics.

The commitment of womanist theologians to strategies of resistance (or noncooperation) challenges manualists who justify material cooperation in light of a greater good without calling for some kind of active resistance. In Gerald Kelly’s classic text,

63. Williams, *Sisters in the Wilderness* 15–31. On Williams’s reading, God does not liberate Hagar but Hagar encounters God in the wilderness and finds strength to return to Sarah, engage in resistance, and survive.

64. See Rosita Dean Mathews, “Using Power from the Periphery: An Alternative Theological Model for Survival in Systems,” in Townes, ed., *A Troubling in My Soul* 92–106.

65. Copeland, “Wading through Many Sorrows” 124.

66. Jamie T. Phelps, “Joy Came in the Morning Risking Death for Resurrection: Confronting the Evil of Social Sin and Socially Sinful Structures,” in Townes, ed., *A Troubling in My Soul* 48.

67. Ibid. 53, 56. See also, Bryan N. Massingale, *Justice and the Catholic Church* (Maryknoll, NY: Orbis, 2010) and La-Reine Marie Mosely, Albert J. Raboteau, and M. Shawn Copeland, *Uncommon Faithfulness: The Black Catholic Experience* (Maryknoll, NY: Orbis, 2009).

Medico-Moral Problems, he takes up the case of the nurse who is asked to assist in illicit operations. One might expect Kelly to be rigorist in his analysis. Instead, he argues that “cooperation is permissible under certain conditions” and holds that determination of permissibility will depend on the nurse’s judgment about how frequently cooperation is required, how inconvenient it would be to get a new job, and how effective her protest of the procedure would be. Moreover, he urges consideration of the good a Catholic nurse can do in a non-Catholic environment and emphasizes that, “this good more than compensates for occasional and unavoidable material cooperation in evil.”⁶⁸

Unlike the manualists, womanists rarely emphasize tolerance in the face of differing individual circumstances for those connected to oppression. Instead, they call white Christians to acknowledge their sinful cooperation with evil systems. Using the language of traditional moral theology mixed with the language of social sin, Phelps writes, “Social injustice, social sins and the perpetuation of socially unjust structures . . . are made possible by the unspoken *cooperation* of the oppressor and the oppressed.”⁶⁹ She tells Catholics to instead “*cooperate* with God’s empowering grace and assume postures of moral fortitude to act to transform these sinful church institutions and organizations.”⁷⁰ In collaborating with God and others in the struggle, people can overcome their blindness “and experience the hope, joy, and love of living in the patterns of right relationships, characteristic of God’s kingdom.”⁷¹ Womanists go beyond tolerance to push for resistance.

The womanist commitment to resistance is grounded in a profoundly social anthropology that differs from manualist theology, and, arguably, much of Catholic moral theology. There is a strong sense of the duty to act, not to avoid culpability, but to avoid cooperating with the social structures that harm vulnerable persons whose connections to me are undeniable. I cannot be in right relation with God if I am involved in denying the rights of others. It is impossible to disconnect their lives from mine. Resistance becomes the only ethical option, though circumstances may determine what shape my resistance takes. Contemporary Catholic thought has increasingly come to embrace a social anthropology and a deeper understanding of solidarity.⁷² Thus, while recognizing the distinctions among the anthropologies at work, I contend that, as it continues to develop, Catholic moral theology is not completely at odds with and therefore can learn from womanist theology’s challenging witness.

Perhaps, some might argue, things are more complicated than womanist theologians allow. Sometimes one simply cannot stop cooperating with evil. Institutions are typically complex combinations of good and evil. They do not change overnight and

68. Gerard Kelly, *Medico-Moral Problems* (St. Louis: Catholic Hospital Association, 1958) 334. Though Kelly’s text is later than those of the other manualists considered in this essay, it reads almost exactly like the earlier texts.

69. Phelps, “Joy Came in the Morning” 57. Emphasis mine.

70. Ibid. 58. Emphasis mine.

71. Ibid. 61. See also, Copeland, “Wading through Many Sorrows” 123.

72. See Meghan J. Clark, *The Vision of Catholic Social Thought: The Virtue of Solidarity and the Praxis of Human Rights* (Minneapolis: Fortress, 2014).

often those who stay within can wield influence. Goods can and often do conflict. Only the most radical refuse to work for sinful institutions, buy from sinful companies, vote for imperfect candidates, or take advantage of the privileges that come their way. With a strong sense of the average individual's lack of institutional power and of the complexities of life, moral theologians have often argued for toleration of evil. For instance Bernard Häring, in a discussion of cooperation with evil structured much like the manualist account, advises that we should "avoid formal cooperation and wisely shun material cooperation, though we painfully permit that our good works now and again be perverted to evil ends. Perversion must not discourage us to the point of withdrawal from our mission in the world."⁷³ More recently, Gerard Magill argues that the principle of cooperation can serve as a "moral compass to distinguish immoral complicity from an honorable commitment to diminish evil by combining hope and realism in a world of compromised values and sinful actions."⁷⁴ In a fallen world, many thinkers suggest, it is sometimes necessary to tolerate material cooperation for the sake of a greater good.

However, most moral theologians allow that cooperation involving harm to others deserves special consideration. Though Häring leaves room for the possibility that an employee in a store might be unaware of how an object she sells might be used and thus could be justified in selling it, overall, he seems less willing to excuse responsibility.⁷⁵ Freedom and responsibility were central to Häring's moral theology, but the experience of living through World War II convinced him that moral theology must prepare people to stand up to evil.⁷⁶ He was particularly concerned with how Christians were to respond to human suffering. Thus, material cooperation which "inflicts unjust damage on a third party is permitted only for the prevention of greater damage to others or to the cooperating agent himself."⁷⁷ A pharmacist or manager selling things to be used for evil ends cannot be excused because he had "no choice" or is just "doing what I'm told," for "[e]xcuses of this kind have been alleged in defense of the most unheard of crimes."⁷⁸ After the suffering of the Holocaust, calls for tolerance ring hollow.

Womanist theologians are even more deeply troubled by the failure of privileged people to challenge structural sin involving harm to other human beings. Unlike the manualists, who never quite grasp the pervasiveness of structural sin, womanists see more evil and more morally problematic forms of cooperation. Both by lifting up the

73. Ibid. 2:500. Bernard Häring, *Law of Christ: Moral Theology for Priests and Laity* (Westminster, MD: Newman, 1961) 2: 496, 500.

74. Gerard Magill, "A Moral Compass for Cooperation with Wrongdoing," in *Voting and Holiness: Catholic Perspectives on Political Participation*, ed. Nicholas P. Cafardi (New York: Paulist, 2012) 135–57 at 150. See also, Joseph J. Piccione, "'Tolerance' as a Moral Concept for Catholic Health Care Ministry in a Pluralist World," *Health Care Ethics USA* 23 (2015) 12–22, <https://www.chausa.org/docs/default-source/hceusa/tolerance-as-a-moral-concept-for-catholic-health-of-interest.pdf>.

75. Häring, *Law of Christ* 503.

76. Keenan, *History of Catholic Moral Theology* 89.

77. Häring, *Law of Christ* 499.

78. Ibid. 503.

stories of black women who resist oppression and by analyzing pervasive complicity with structural sin, they challenge privileged Christians to grow in awareness of forms of participation that perpetuate sinful structures and to own their obligation to resist those structures.

At the same time, womanists' profound understanding of the limited possibilities confronting particular human beings with limited power is also potentially instructive. While it is crucial to make distinctions between those with virtually no power and those with limited power, recognition that partial strategies of resistance are sometimes necessary is important. This prophetic yet complex womanist approach to systemic evil should shape critical retrieval of the traditional framework of cooperation, though it need not force us to abandon the casuistry necessary to make distinctions among cooperators.

Religious Liberty and Cooperation with Social Evil

Like womanist theologians, contemporary Christians focusing on religious liberty issues are seen by some as modern prophets refusing to cooperate with structural evil. Following the US Supreme Court's decision to legalize same-sex marriage in 2015, cases and statutes involving the rights of dissenters have proliferated.⁷⁹ The moral claims of those who refuse service to gay and lesbian couples seeking flowers, cakes, photography, or space for their weddings assume and sometimes explicitly invoke scandal and material cooperation. The photographer in the New Mexico case, for instance, claims she has the right to practice photography "in a manner consistent with her moral convictions," but if she had "to tell the stories of same sex weddings" the government would be forcing her "to celebrate something her religion says is wrong."⁸⁰ Two law professors recently argued that "business owners working in wedding-related fields are asserting complicity-based objections to serving same-sex couples" just as Catholic health-care providers have argued for exceptions from providing abortion and sterilization.⁸¹ They are asking for accommodations so that they will not be forced to cooperate with actions they deem both sinful and scandalous.

However, their claims of forced sinful cooperation are questionable when viewed in light of the Catholic tradition. The moral manuals treat the sale of objects that are neutral

79. See, Adam Liptak, "Supreme Court Bolsters Gay Marriage with Two Major Rulings," *The New York Times*, June 26, 2013, <http://www.nytimes.com/2013/06/27/us/politics/supreme-court-gay-marriage.html>; Adam Liptak, "Supreme Court Makes Same-Sex Marriage a Right Nationwide," *The New York Times*, June 26, 2015, <http://www.nytimes.com/2015/06/27/us/supreme-court-same-sex-marriage.html>.

80. Adam Liptak, "Weighing Free Speech in Refusal to Photograph Lesbian Couple's Ceremony," *The New York Times*, November 18, 2013, <http://www.nytimes.com/2013/11/19/us/weighing-free-speech-in-refusal-to-photograph-ceremony.html>.

81. Douglas Nejaime and Reva B. Siegel, "Conscience Wars: Complicity-Based Conscience Claims in Religion and Politics," *Yale Law Journal* 124 (2015) 2516–91 at 2562, http://www.yalelawjournal.org/pdf/j.2516.NeJaime-Siegel.2591_r4r9q2au.pdf.

in themselves under the category of cooperation rather than scandal, although some forms of cooperation (such as renting rooms for adulterers or communists) are also labeled “scandalous.”⁸² The manualists generally hold that one may sell things that could be misused. If one is absolutely certain misuse will occur, only a grave reason would excuse cooperation, though what counts as grave is not clear. If misuse will result in harm to others, finding a proportionate reason to justify it is much more difficult.

It appears that the manualists would have excused those involved in the wedding industry. The services many are being asked to provide are morally neutral in themselves. The cooperation (about which they may not be certain) would be material rather than formal, important to their business (a proportionate reason, possibly grave), and not strictly necessary (as the necessary material could easily be procured elsewhere). The bakers, florists, and photographers seek to withhold their support from a practice they believe is harmful to others and that is important.⁸³ Yet, though they may be rightly convinced of their moral duty to resist social evil involving harm, the claim that they would be sinning by providing material aid for weddings they deem morally problematic seems at odds with traditional evaluations of similar actions.⁸⁴

Similar problems arise in the case involving Hobby Lobby that went before the US Supreme Court in 2014. Here, too, plaintiffs claim the right not to be forced into sinning via contributing to what they see as social evil. In an amicus brief filed on behalf of Hobby Lobby and Conestoga Wood Specialists, sixty-seven Catholic scholars argued that the Protestant plaintiffs correctly understood their religious liberty as being violated because providing insurance coverage for contraception could rightly be seen as material cooperation with evil. They judged this cooperation to be sinful because of the gravity of the sin involved, the “substantial and direct causal contribution” of the companies to the gravely sinful action, the necessity of that contribution, and the lack of a proportionate reason to justify cooperation.⁸⁵ Justice Samuel Alito’s brief even included a reference to manualist Henry Davis’s definition of cooperation.⁸⁶

82. See e.g., Davis, *Moral and Pastoral Theology* 346–47; Jone, *Moral Theology* 96–97; and Slater, *Manual of Moral Theology* 133. Häring’s analysis is similar though somewhat stricter. See *Law of Christ* 507–10.

83. That claim is highly disputed. See, e.g., Jimi Adams and Ryan Lifht, “Scientific Consensus, the Law, and Same Sex Parenting,” *Social Science Research* 53 (September 2015) 300–10, doi:10.1016/j.ssresearch.2015.06.008.

84. Edward Vacek makes a similar argument about Little Sisters of the Poor in Vacek, “An Acceptable Arrangement.” More proximate forms of cooperation (such as the photographer’s participation) may be more morally problematic.

85. “Brief of 67 Catholic Theologians and Ethicists as Amici Curiae in Support of Hobby Lobby Stores, Inc., and Conestoga Wood Specialists Corp.,” January 28, 2014, http://www.americanbar.org/content/dam/aba/publications/supreme_court_preview/briefs-v3/13-354-13-356_hl-cws_amcu_67-cte.authcheckdam.pdf.

86. Supreme Court of the United States, *Burwell, Secretary of Health and Human Services, et al. v. Hobby Lobby Stores, Inc., et al.*, 573 U.S. 36, 41 (2014) notes 34, 36, https://www.supremecourt.gov/opinions/13pdf/13-354_olp1.pdf. Alito allows that while the literature on cooperation addresses complicated situations involving facilitating the wrongdoing of

However, it is not clear that the Catholic tradition requires employers to protest their connection to their employees' use of contraception mandated by the Affordable Care Act. From a legal perspective, Kaveny points out the importance of asking if a religious liberty claim is substantial, which will mean evaluating the actual harms involved to all parties.⁸⁷ Though the desire to avoid evaluating such claims is understandable, determining when cooperation becomes morally problematic is crucial both to finding resolution to religious liberty cases and for helping ordinary Catholics form their consciences and act ethically in the world.⁸⁸ Though employers in the Hobby Lobby case claim that filing an exemption request triggers a problematic process that morally implicates them, the connection between their action and a morally problematic act is, in traditional terms, remote and unnecessary. Justice Ginsberg argues in her dissent in *Burwell* that "any burden on the Greens' and Hahns' religion was too attenuated to qualify as substantial."⁸⁹ Citing a prior decision by the court, she suggests that no employee's decision to use contraception "is in any meaningful sense [her employer's] decision or action."⁹⁰ She makes this judgment with sensitivity to the difficulties involved if the government were to make exceptions for all of the many ways religious people might feel compromised by their remote connections to the actions of others.⁹¹ Her conclusion is in line with manualist analysis of similar cases.

In the manualist tradition, the sort of cooperation claimed in the same-sex marriage and ACA cases has traditionally been tolerated unless it involved scandal. Scandal is defined "the incitement to sin" by participation in activity that is sinful or appears sinful, whether sin actually follows or not.⁹² Out of love of neighbor, Christians are expected to refrain from scandalizing others unless there is a good reason for engaging in potentially scandalous actions. The manualists' examples included: wearing unbecoming clothes, viewing sexually suggestive art, dancing, or shows; associating with groups unfriendly to the church; leaving money where a servant may find it in order to test his or her honesty; and advising a friend to commit a lesser sin.

others, since "the Hahns and Greens and their companies sincerely believe that providing the insurance coverage demanded by the HHS regulations lies on the forbidden side of the line, . . . it is not for us to say that their religious beliefs are mistaken or insubstantial." Ibid. note 37.

87. Kaveny, "A Minefield."

88. Recent attempts to find common ground have been unsuccessful. See John Gehring, "False Choices and Religious Liberty," *Commonweal*, June 21, 2016, <https://www.commonwealmagazine.org/false-choices-religious-liberty>, and Rick Garnett, "A Response to Michael P. and 'Religious Liberty in the Culture Wars,'" *Mirror of Justice*, June 22, 2016, <http://mirrorofjustice.blogs.com/mirrorofjustice/2016/06/a-response-to-michael-p-and-religious-liberty-in-the-culture-wars.html>.

89. *Burwell*, *Secretary of Health* 573 US at 22 (Ginsburg, J., dissenting).

90. Ibid. 23.

91. Any accommodation claim has to consider the potential harm to others that might come about if their desire for noncooperation is honored. Nejaime and Siegel argue that those potential material and dignitary harms are considerable. "Conscience Claims" 2566–78.

92. Davis, *Moral and Pastoral Theology* 333.

More recently, a broader understanding, which allows that scandal can be given by “laws or institutions, by fashion or opinion” has been advanced in Catholic circles.⁹³ In her book on scandal in the Catholic Church, Angela Senander notes with approval growing “attentiveness to institutions as a source of scandal.”⁹⁴ This is precisely the notion of scandal that has led some Catholic scholars to reject any cooperation related to same-sex marriage and contraception. Senander worries that Catholics have failed to integrate the broader understanding of scandal called for by *Gaudium et Spes*, which situates the church more firmly in the modern world.⁹⁵ This failure accounts for a narrow focus on cooperation with a limited set of moral evils. In social ethics, scandal is associated with a broader range of evils, including racism, violence, and exploitation.⁹⁶ Outrage is directed not at individual actions that might lead others to sin, but at the failure of Christians to live the Gospel message of love and justice, as well as the flagrant lack of respect for human dignity.

The work of womanist theologians, who operate with a “social ethics” view of scandal, suggests that disentanglement from morally problematic situations may be less important than resistance, or participation in actions designed to alleviate suffering. Womanists highlight the connections between individual action (or inaction) and social evil. However, even as they recognize personal responsibility for social sin, they stress responsibility over purity. Scandalized by human suffering, they rightly feel responsible for their cooperation with it and reject an uncritical embrace of toleration that might allow us to perpetually excuse ourselves. Yet questions of whether or not a person is sinning or leading someone else to sin are less important than questions of what one is doing to alleviate one’s contribution to others’ suffering. The work of womanist theologians suggests that disentanglement from morally problematic situations may be less important than participation in actions designed to alleviate suffering.

Catholic moral theology can gain from listening to womanist theologians because they encourage focus not on scandalous association with sinful behavior but on tangible connection to structures that harm vulnerable persons. They discern the broad reach of moral responsibility and the need for resistance to evil.

To the extent that traditional Catholics worry along these lines and challenge moral complacency, their claims deserve a hearing. There is something important in the underlying intuition that business is not just business and religion is not simply private. Christians ought to feel responsible for social evil to which they are connected, however remotely. Yet, because there are so many ways in which individuals contribute to social evil and because avoiding all of them is impossible, personal responsibility for lessening social sin must be considered alongside the reality of conflicting goods and the potential harm to others arising from accommodation. Moreover, given the limitations of any one person, resistance to evil may need to take a variety of forms.

93. *Catechism* 2286, http://www.vatican.va/archive/ccc_css/archive/catechism/p3s2c2a5.htm.

94. Angela Senander, *Scandal: The Catholic Church in Public Life* (Collegeville, MN: Liturgical, 2012) 25.

95. *Ibid.* 53–54.

96. *Ibid.* 79–80.

This is where the need for womanist wisdom becomes clear. The manualists are only partially helpful. They can offer toleration in light of limited options, but in the face of social evil this position will sometimes seem inadequate. The problem with their analysis of tithing, for instance, is that the assignment of full responsibility when the person in extreme need is close by is juxtaposed with virtually no responsibility for the very poor who live farther away. Advocates of religious liberty improve upon this tradition by acknowledging responsibility for distant others but often perceive a limited set of remote connections to social evil and fail to acknowledge conflicting goods. In contrast, womanist reflection illuminates a greater range of problematic paths of cooperation, recognizes the impossibility of avoiding all evil, and allows us to perceive a stronger moral call not to extricate ourselves from scandalous situations but to resist the suffering of the most vulnerable. Encounter with their work allows for a retrieval and reformulation of the traditional framework of cooperation with evil in relation to social sin.

Conclusion: Cooperation or Complicity?

It may seem that by arguing for encounter with womanist theology, I am attempting to move from cooperation to complicity. As I noted in the introduction, some argue that a traditional cooperation framework is ill-suited to modern problems. Given the complexity of social issues and the need for individual discernment, might it be advisable to leave the highly structured framework of cooperation behind and speak more generally about complicity? Would this not allow for the complex analysis I suggest is necessary? Although complicity occupies a crucial place in Christian social ethics, I contend that the traditional framework of cooperation should be retained as a method of assessing personal responsibility for structural sin and pointing individuals toward particular actions of resistance.

Alex Mikulich, Laurie Cassidy, and Margaret Pfeil use the term “scandal of white complicity” in their recent book on hyper-incarceration.⁹⁷ This book builds on their previous, prophetic work on white privilege, in which they called white Christians to greater awareness of their connection to racist structures, arguing that “being white is having the privilege of functioning in a society blind to the system into which one is born and from which one benefits.”⁹⁸ They challenge readers to understand how whites “have been crippled by [our] formation and complicity in white privilege . . . Left unexamined and unchallenged, my whiteness continues to function as a form of social violence and therefore renders me incapable of truly

97. Alex Mikulich, Laurie Cassidy, and Margaret Pfeil, eds., *The Scandal of White Complicity in US Hyper-Incarceration: A Nonviolent Spirituality of White Resistance* (New York: Palgrave Macmillan, 2013).

98. Ibid. 147. For example, “white privilege has made white theologians unable to notice the theological significance of the suffering of black human beings” and blinded them to “patterns that connect white existence and black suffering.” Ibid. 152.

opting for the poor.”⁹⁹ If we do not attend to the blindness, we cannot claim to be resisting complicity.

Mikulich, Cassidy, and Pfeil explicitly question the usefulness of the category of cooperation with evil. While acknowledging that the principle as retrieved by contemporary theologians is helpful in its ability to encourage people to consider their unintentional participation in social sin, they worry that the cooperation framework assumes “we are innocent; the evil is ‘out there’ in the social system,” whereas in truth, “systems of oppression are a matrix within which we live—they are us and we are in them.”¹⁰⁰ Instead of beginning with the innocent subject, Christians should begin to understand whiteness itself as unintentional, unconscious complicity with evil and ask not “What can I do?” but “How can I listen to and form alliances with people of color?”¹⁰¹

While the traditional framework of cooperation does not consider systemic social evil, I have argued that the manualists did not envision an innocent subject. Rather, they considered many varied forms of cooperation with evil in the public sphere, but if an action was not definitely sinful, they left room for prudential judgment. Some rightly accuse them of being too lax in this regard though they might also be regarded as appropriately realistic. However, because of their limited sphere of moral concern, it is only by attending to the realities of social sin that the principle of cooperation can be usefully applied to the many dilemmas modern Christians face. On that count, Cassidy, Mikulich, and Pfeil offer an important corrective because they capture the pervasiveness of the evil we swim in and the far reach of our participation in it.

Yet, I contend that the principle of cooperation is still helpful. The starting point of complicity—appropriately broad and yet overwhelming—can be combined with the traditional framework of cooperation. Catholic social teaching has often “lacked teeth” because it does not identify particular sins or leave people feeling individually responsible for the continuance of social evil. Using cooperation as a lens, we can begin to see how each of us is implicated in specific ways by the seemingly innocent things we do or fail to do every day (e.g., failing to give enough to organizations that empower those who are poor, supporting organizations with policies at odds with our values, working for companies with morally ambiguous missions, etc.). Identifying particular connections need not be the end point. Rather, once I begin to see how I am involved, I can slowly make my way into broader understandings, not of my innocence, but of my complicity.

99. Margaret R. Pfeil, “The Transformative Power of the Periphery: Can a White US Catholic Opt for the Poor?” in *Interrupting White Privilege: Catholic Theologians Break the Silence*, ed. Laurie M. Cassidy and Alex Mikulich (Maryknoll, NY: Orbis, 2007) 127–46 at 129.

100. Laurie Cassidy and Alex Mikulich “Introduction,” in Mikulich, Cassidy, and Pfeil, eds., *The Scandal of White Complicity in US Hyper-Incarceration* 1–28 at 8, 9. My prior work on cooperation is specifically engaged.

101. Ibid. 10.

Still, I worry about letting cooperation with evil fall out of consideration of social sin. The broad language can unintentionally let us off the hook. It can make it too easy to fail to notice the particular sins that are more proximate in one's own life, the specific responsibilities that are mine because of the nature of my extended family, my neighborhood, my community, my work place, my profession, and my country. It is important for each of us to take responsibility for the sins of those institutions to which we are most closely connected. The language of cooperation, while imperfect, helps us to do this. It illuminates the lines connecting persons to the particular social structures to which they contribute and from which they benefit.

This is why returning to the manuals remains important. Despite their many shortcomings, precisely because they were designed to aid priests in the confessional, they never let us forget that sinful social structures are constructed and maintained through personal sin. They keep our gaze on our specific connections to social evil, making it impossible to think that structures are anything less than our creation and our responsibility.

Yet the manualists draw attention to cooperation without losing sight of the complexity of living ethically in a fallen world. They hold people accountable for structural sin while acknowledging that individuals are limited by the circumstances of their lives, their family responsibilities, their professions, and the realities of living in a society in which their views are not widely shared. Though the manualists' lack of confidence in the abilities of lay people can rightly be questioned, their realism is not so far off the mark. Some material cooperation with evil is unavoidable. The duty to avoid unintended evil is greater "the more the duties of our state of life or of our vocation command us to prevent such evil effects."¹⁰² While the manuals limit the scope of moral responsibility too much, their respect for human limitation should not be lost.

Complicity is endless, but individual responsibilities are particular and limited by location. We cannot avoid all connection with evil and those who seek total nonparticipation face certain frustration as well as limited opportunities for doing good amid imperfection. The manuals' approach to cooperation with evil should be carried forward as realistic, balanced, and responsible.

At the same time, the impulse to feel more responsible for suffering should not be dismissed. Most of us should be more, not less, scandalized by the magnitude of evil in the world and our connection to it. Both womanist theologians and traditional Catholics distressed by cooperation are helpful insofar as they encourage us to feel the weight of our moral responsibilities. Womanist theologians are particularly important because they have a strong sense of the power of evil and yet know the impossibility of innocence. They see how the most ordinary of our actions connect to evil social structures and contradict fundamental faith commitments. They feel the culpability that many would deny. Yet, because they know that the scope of cooperation and scandal is wide, they also see that there is no hope of avoiding it altogether. Purity will always be elusive. Most of our choices are far more gray than black and white. Once

102. Häring, *Law of Christ* 293.

we become aware of structural sin, both the import and the ambiguity of our moral choices become clear. As Elizabeth Vasko puts it, we are often in the position of making choices that are good for us but “support the dehumanization or degradation of others,” and knowing this allows us to see “the ambiguous nature of sin and grace within daily life . . . [T]here are few spaces of innocence (if any) and few spaces completely deprived of grace.”¹⁰³ Yet the moral imperative of resisting evil remains.

Listening to womanist theologians can help us begin to see ourselves rightly and acknowledge the duty of resistance but we still have to think systematically about cooperation. As we grow into knowledge of ourselves as non-innocent, complicit cooperators, we will be able to begin discerning where we might lessen cooperation with evil in our own very particular circumstances. Just as important, we will be able to discern where we might increase cooperation with good, again, beginning with what is closest to us.¹⁰⁴ With both kinds of cooperation, we can remember the manualists and discern whether our participation is necessary, proximate, and proportional, and yet, recalling the wisdom of womanist theologians, we can concentrate on resisting serious harm to persons rather than extricating ourselves from scandalous associations. The language of cooperation is not perfect, but, when combined with a womanist emphasis on resistance, allows us to nuance the overwhelming language of complicity, leaving us with a specificity and weightiness appropriate to the situation of non-innocent people of good will in a complicated modern world.

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103. Elizabeth T. Vasko, *Beyond Apathy: A Theology for Bystanders* (Minneapolis: Fortress, 2015) 147.

104. An important recent example is Georgetown University's decision to atone for selling slaves, see David J. Collins, “Georgetown University, Learning from Its Sins,” *New York Times*, August 31, 2016, http://www.nytimes.com/2016/09/01/opinion/georgetown-university-learning-from-its-sins.html?smid=fb-nytopinion&smtyp=cur&_r=1. Knowing the names of the slaves helped illuminate cooperation in the midst of complicity.