Dignity

THE NEWSLETTER OF THE CENTER FOR BIOETHICS AND HUMAN DIGNITY

VOLUME 9
NUMBER 2
SPRING 2003

Addressing Issues of Moral Complicity: When?, Where?, Why?, and Other Questions

Robert D. Orr, M.D., C.M., Director of Ethics, Fletcher Allen Health Care, University of Vermont College of Medicine; Director of Clinical Ethics, The Center for Bioethics and Human Dignity

Should a mother consent to having her child immunized with a vaccine that was developed many years ago from aborted fetal tissue? Should a physician who believes abortion is immoral sign the authorization form required by an HMO for his patient to be referred for an elective abortion, a "covered service" under the patient's contract? Should a medical student use an anatomy atlas that includes drawings that likely used hundreds of dissected cadavers from the Nazi death camps as models? Should an Oregon pro-life family physician who is unwilling to prescribe a lethal drug at the request of a dying patient refer her to another physician who he knows will give her the prescription? Should a woman who is imminently dying of intractable heart failure consent to a heart transplant if she knows the new heart has been retrieved from a young man who was murdered a few hours ago? Should a physician use research data to benefit her patient if she knows that the data was obtained in experiments that were clearly unethical (e.g., risky research done without consent on developmentally disabled children)?

"Old Testament examples of possible moral complicity and Jesus' teachings about avoiding evil and taking personal responsibility do not easily lead to rules we can reference by chapter and verse."

What do these dilemmas have in common? Conversely, in what morally significant ways are they different? The common thread in these scenarios is the question of moral complicity. Does person B bear any moral culpability for some association with the immoral act of person A? Is the information gained or material obtained from the original immoral act "tainted"? Will person B become tainted through this association? While these six scenarios do have the common element of possible moral complicity, they do not appear to be morally equivalent for several reasons.

First there is the issue of *timing*. It seems intuitive that facilitation of a future immoral act [e.g., signing an authorization for an abortion and referring a patient for a lethal drug] would incur more moral culpability than association with an act that has already been completed. After all, in the absence of that signature or that referral, the subsequent immoral act might never occur.

A second issue is the matter of *proximity or remoteness*. The cloud of blame for a single act of abortion might be shared by many individuals, e.g., the physician doing the procedure, the nurse who assists, the clinic staff, the authorizing physician, the referring physician, the legislators or judge who made abortion legally available, etc. The question of remoteness raises the related question of degree of culpability. Does the physician who performs the abortion procedure bear more blame than the others mentioned above? Are there some individuals with such remote association that they might be free of actual blame, e.g., an employee of a contracting cleaning service who washes the windows of the doctor's office where an occasional abortion is done?

A third factor that could help differentiate these dilemmas with respect to moral complicity is the degree of *certitude*. If it is clearly

Continued on page 5

Inside:

THE CENTER FOR BIOETHICS AND HUMAN DIGNITY

2065 Half Day Road
Bannockburn, IL 60015 USA
847.317.8180 (PHONE)
847.317.8101 (FAX)
info@cbhd.org (EMAIL)
www.cbhd.org (WEB SITE)

"Moral Complicity" Continued from page 1

known that an immoral act has taken place [e.g., a recent murder], the associated act [e.g., heart transplantation] would seem to have greater potential for complicity than would an act of uncertain immorality [e.g., suspected source of models for the anatomy atlas]. If the historical facts in question are unknowable but suspicious, does person B need to avoid involvement "just in case" in order to avoid the appearance of evil?

A fourth and related factor in determining moral complicity would be *whether person B knows about* the immoral act and its association with the current act. For example, if a mother were unaware of the source of a vaccine administered to her child, it would be difficult to hold her accountable for consenting to an immunization developed from aborted fetal tissue. However, when there is clear knowing involvement, e.g., the physician who signs

"We should attempt to cope with the gray areas of moral complicity by careful collection of important information, prayerful consideration of our own moral complicity, and hesitancy in judging the moral complicity of others."

the abortion authorization or the doctor who refers a patient so that she can obtain the lethal prescription he is unwilling to write, the presence or degree of blame seems more clear. While the truism that "ignorance of the law is no excuse" is usually valid, reasonably unavoidable ignorance of circumstances might be an adequate excuse.

Perhaps the most important element which helps to determine the presence or absence (or amount) of guilt by association is the issue of *intent*. It might be possible to remove any concern about moral complicity in those situations where there is a clear separation between the intention behind the immoral act of person A and the intention of person B. For example, in the vaccine example, the intention of person A was to end a pregnancy, not to develop a vaccine. Development of the vaccine by person C was a noble act that happened to be possible because of the earlier immoral act of person A. Thus, use of the vaccine by person B is clearly separated from the immoral act, so that person B should bear no moral culpability. Similar reasoning applies to the scenario with the prospective transplant patient to absolve person B in consenting to receive a heart retrieved from a murder victim. However, if the murderer was the husband of the recipient and he killed the victim so that a heart would be available, the recipient (provided that she was aware of this fact) could well be morally complicit. It is important to recognize that even in situations where there is a clear difference in the intent behind two actions, a person may not be absolved of moral complicity unless the immoral act was performed to achieve a different goal than that of the later (morally neutral or commendable) act; otherwise, the immoral act is later being implicitly encouraged. Similarly, if the possible beneficial uses of fetal tissue are an essential part of the motivation behind an abortion, then those who use that tissue have in effect encouraged that abortion, and some degree of moral complicity is involved.

Furthermore, no absolution from complicity is possible in a situation where person B is merely trying to wash his hands of guilt (a la Pontius Pilate) by allowing someone else to do the evil deed. The Oregon pro-life physician who refers his patient to another doctor so that she can obtain assistance with her suicide must bear some of the blame.

So the issues of timing, proximity, certitude, knowledge, and intent would seem to have some bearing on the presence or absence, and possibly on the degree, of moral complicity. I suspect you have noticed by now that I have used "seem to," "intuitive," "reasoning," "possible," and other words to indicate my lack of certainty about these judgments. But what do we know for certain? Does scripture or Christian tradition teach us anything about moral complicity?

Caroline Pura* has observed that Old Testament examples of possible moral complicity and Jesus' teachings about avoiding evil and taking personal responsibility do not easily lead to rules we can reference by chapter and verse. God has made us as free moral agents with clearly demarcated moral boundaries in regard to some thoughts, attitudes and actions, but has given us some discretion to act within a range of options with respect to others. In these discretionary matters, it is not clear to me that each Christian will always draw the same boundaries. Some might choose to use the anatomy atlas with likely connections to Nazi abuses or the research data obtained from unethical experiments, while others might choose not to use them. Some might choose to avoid the administration of a vaccine derived from aborted fetal tissue, while others would conclude that the separation of intent absolves them of moral complicity.

We should attempt to cope with the gray areas of moral complicity by careful collection of important information, prayerful consideration of our own moral complicity, and hesitancy in judging the moral complicity of others. This issue warrants much further work, and those interested in addressing it as part of CBHD's ongoing research can e-mail me at Robert.Orr@vtmednet.org or the Center's Director of Research Linda Bevington at lbevington@cbhd.org.

*For further thoughts on this issue, see:
Pura, Caroline. 4-part series in *Crux* (vol. 2, nos. 2-4; vol. 3, no. 1). Available at: http://thecbc.org. ■

"An American Death" Continued from page 4

ment—considering that the image left in their minds is that of a man suffocating himself with a plastic bag. However, something more subtle is going on here. The question implicitly being asked is: "Is *this* how you want to die? It's your choice: a bag over your head, or a simple, quick, lethal injection." Can you see how similar this is to another debate that raged a couple of decades ago before abortion was legalized? The question and emotions behind it are essentially the same: Is abortion by hanger or suicide by plastic bag really the best for society?

This film should give us great pause. We ought never be naive enough to assume that popular media has little effect on society. Whereas *Ich Klage an* is a fictional depiction of physician-assisted suicide, this documentary allows viewers to see with their own eyes Sam Niver expire by his own hand. They are cajoled into believing that this is everyone's right. The film provides us with a fresh challenge not only to articulate and defend, but to vividly portray, a very different, Christian vision of what it truly means to die with dignity. ■