

Forum Article

Coercing Conscience: Professional Duty or Moral Integrity

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Abstract

In response to a recent NASW document about conscience clauses, the author argues that framing an issue like abortion as one of personal versus professional values, or moral qualms versus professional duty, trivializes conscience. Respecting the conscience rights of professionals is important for the moral integrity both of the practitioners concerned and of the profession itself.

Key words: conscience, exemptions, integrity, abortion, values

“Does private conscience trump professional duty?” asks an editorial in the *Journal of Medical Ethics* (LaFollette & LaFollette, 2007, p. 249). The answer for any person of integrity is yes, it must. In this essay, I want to defend that answer, although it is not the one given by the editorial or by the National Association of Social Workers (NASW) in the recent statement from its Legal Defense Fund (2010).

The issue of coercing the conscience of professionals in the health and helping professions has come to the fore in recent years as a result of the discovery, invention, or promulgation of new rights in matters of life and death, and also sex, marriage, and family. Behaviors that were illegal or socially stigmatized for millennia have been declared legal and have become rights. This is not

simply a victory for tolerance of, or bearing with, particular behaviors contrary to the views and values of the majority of the population. It is also a claim, supported by the force of law, for equal recognition and respect, subject to anti-discrimination measures equivalent to those that apply in the case of race, age, or sex. Insofar as such recognition demands the participation or collusion of professionals, even in actions specifically forbidden by those professions until recently, it is a source of increased state coercion in civil society.

For more than two millennia, physicians have sworn by the Hippocratic Oath not to engage or collude in practices like abortion, euthanasia, or assisted suicide that involve the deliberate taking of human life. In the twentieth century in the U.S., this ethic of aiming always to heal, never to harm, came

under intense pressure from the eugenics movement that, in alliance with the birth control movement led by Margaret Sanger (1922; 1932), sought to reduce the undesirable population of defectives, dependents, and delinquents - Sanger's "human weeds" - through birth control (Franks, 2005). This movement was taken up enthusiastically by the Nazis in Germany (Black, 2003). In revulsion at the serious violations of the Hippocratic ethic by Nazi physicians, the World Medical Association's (1948) Physician's Oath affirmed "I will maintain the utmost respect for human life from the time of conception, even under threat." The legally binding United Nations Declaration of Human Rights and the 1959 UN Declaration of the Rights of the Child affirm the rights of the child before as well as after birth (Joseph, 2009). These reaffirmations of universal rights of adults and children were a strong response to the eugenics movement in the U.S. and Germany and the horrors of World War II that discredited that movement for decades.

1. Intolerant Tolerance

In the space of just half a century, however, the millennia-old oath has been turned on its head, so that physicians, nurses, social workers, and pharmacists face coercion and risk losing their jobs for adhering to its ethic of life (for one poignant example, see Baklinski, 2009). What was until yesterday forbidden for health care providers as a matter of professional ethics becomes a duty enforced by threats to job, licensure, and career. An ethical obligation not to take life suddenly becomes a duty to take life, reversing more than two thousand years of professional ethics.

With astonishing speed, legal protections of children before birth have been swept away in either letter or spirit. UN officials have been attempting to pressure sovereign member states to establish abortion as a legal right

(Tozzi, 2008). Far from resisting these threats, professional associations have revised the Hippocratic and other oaths to eliminate the prohibitions on killing—whether through abortion, euthanasia, or assisted suicide. They have transformed their own professional ethics from codes forbidding abortion and other life-terminating measures to all but making direct or indirect participation in them a requirement of professional practice (American College of Obstetricians and Gynecologists [ACOG], 2007; Kaczor, 2008).

Many or most people in the United States, and especially orthodox and observant religious individuals and communities, continue to regard abortion in most circumstances as a grave evil, assisted suicide and euthanasia as morally impermissible, marriage as the proper context for sex and for raising the children that result from it, homosexuality as intrinsically disordered, and sexual behavior (of any kind) outside marriage as wrong. These are now the areas of greatest division in society, the battlegrounds of the culture wars in which state and civil society, professionals and their clients, elites and masses, are most commonly and sharply divided (George, 2001; Hodge, 2003; Neuhaus, 2009).

New rights, established mainly by judicial rulings, make previously forbidden behaviors lawful, thereby expanding the options for those who wish to engage in them. But what is optional behavior for clients or patients rapidly becomes mandatory for professionals in the form of participation or collusion in the newly permitted behavior. An argument for tolerating certain behaviors has become a case for intolerance--of those who refuse to be personally or professionally complicit in them (Pell, 2009).

2. Your Right to End Life and My Right not to Help You

One response is to acknowledge and protect the consciences of those practitioners who regard their own involvement in such behaviors as gravely evil. This is what conscience exemptions attempt to do. Freedom of conscience in these matters is often a matter of religious liberty and so, it is argued, protected by the First Amendment. You may have a legal right to an abortion but I have the right not to assist you in having one. Many physicians, nurses, and social workers participate directly or indirectly in providing abortions and do so with untroubled conscience. But what allowance should be made for those to whom the practice is abhorrent and who wish to continue to practice according to the Hippocratic Oath as understood for many centuries down to the last one? Whether in terms of abortion or assisted suicide, does your right to death (your own or your baby's) imply my duty to assist you?

The argument against such conscience exemptions for health care professionals (physicians, nurses, social workers) is typically framed as a conflict between an individual's (or institution's) right to refuse treatment and patients' rights to treatment. The client's right to treatment, to a full range of services, may be linked to professionals' willingness to provide them, especially in rural areas. As the chair of the ethics committee of the American College of Obstetrics and Gynecology put it, the "reproductive health needs" of women should trump the moral qualms of doctors (Bioedge, 2009).

Here it is noteworthy how the language of the anti-exemptionists—like that of abortion rights advocates generally—depends heavily on euphemism. Abortion is part of the "full range" of "reproductive health care" or of meeting "reproductive health needs," although it is anti-reproductive, is not (except in rare cases) about health, is seldom remotely definable as a medical need, and terminates

care (and life) for one of the two patients involved. (In obstetrics textbooks, traditionally, the physician is said to have two patients, the mother and her unborn baby. Abortion by definition is never safe for one of them.) This strategy of obscuring the reality of what is taking place through bland medical metaphors and descriptions is endemic to the discourse of abortion advocates, who talk of removing biological material or tissue rather than causing the death of the tiniest and most vulnerable persons among us.

Indeed as Brennan (2008) shows, "much of the success of the death culture depends upon the corruption of language in the form of dehumanizing stereotypes imposed on the victims and euphemisms designed to disguise what is done to them" (p. xv). The medical term "fetus," is never used when a mother is invited to see her baby's ultrasound image, only when abortion is under discussion. As philosopher John Finnis (2010) recently argued, "The word 'fetus' is offensive, dehumanizing and manipulative."

Proponents of abortion rights say they are not pro-abortion, but "pro-choice," as if the taking of innocent human life were a matter solely for the person responsible for the care of that life to decide. It is as if I were to say that I am not pro-slavery but simply defend your right to choose to buy and own slaves should you decide to do so. A law that upheld that right would not be neutral or pro-choice, but pro-slavery. (On the impossibility of state or legal neutrality in such grave moral matters, see Sandel, 2009.)

In this discourse, the personal is contrasted with the professional, the idea being that a professional has a duty to provide whatever services are legal and demanded by clients. The conscience of the professional is invariably given short shrift and subordinated to the supposed rights of the client to

treatment. I say “supposed” because it is not clear how the legal right to have an abortion in itself gives anyone a legal right to demand its provision, let alone legally obliging anyone else to carry it out. In a shift characteristic of contemporary rights discourse, a right to freedom from state interference (a “right to privacy”) is transformed into a claim on public provision (Arkes, 2002).

In part, the failure of professional organizations like NASW to protect the conscience rights of their members is justified by an implicit rejection or trivializing of the very concept of conscience. In its place we find a contrast of public (or professional) and personal “values.” Here values have no intrinsic authority or foundation beyond being the opinions or beliefs of those who hold them. If this is so, then why should the personal opinions (values) of a practitioner *not* be subordinated to those of the state that licenses and funds the professional or institution?

To see the logic of this position and how it corrupts ethical discourse in the professions, I want briefly to examine the concept of conscience in the context of abortion. This is far from the only issue at stake, but if a case for conscience exemptions cannot be made in the case of abortion, it cannot be made anywhere.

3. Conscience and Exclusion

Opponents of conscience exemptions give little or no weight to the gravity of requiring individuals either a) to act against their conscience, or b) to leave their profession or be denied admission to it and hence to its schools. But the choice to act against one’s conscience can never be right. It is to choose to do what one believes to be wrong, and in the case of abortion, gravely wrong. For a Christian, it means to put one’s immortal soul in jeopardy; for a Catholic Christian, it means

to excommunicate oneself from your Church and its sacraments.

In its hotly disputed Opinion #385, entitled “The limits of conscientious refusal in reproductive medicine,” the ethics committee of the American College of Obstetricians and Gynecologists (2007) recommends the position that pro-life physicians must refer patients seeking an abortion to other providers, must tell patients in advance of their views though not explain or argue for them, and must in emergency cases involving the patient’s physical *or mental* health, actually perform abortions. It treats conscience as one value among others, which means it can and should be overridden in the interest of other obligations that outweigh it in a given circumstance.

As Kaczor (2008) remarks, this peculiar account of conscience runs counter to the traditional understanding of the term, according to which “conscience is the supreme proximate norm for human actions precisely because it represents the agent’s best ethical judgment all things considered.” One could never be morally obliged to act against one’s own conscience or best ethical judgment. It is hard to see how a notion of conscience as one value among others from which a professional should choose could be other than incoherent. On what ethical basis could such a choice be made?

Some opponents of conscience exemptions respond by saying, “Fine, if you cannot in conscience meet the expectations and duties of the profession, leave it or choose a different line of work.” This may indeed be the only option facing conscientious individuals where no accommodation is made. Conscience also trumps career.

Exclusion of pro-life physicians, nurses, social workers, and pharmacists from their professions and the closing down of

institutions that respect life and adhere to Hippocratic ethics have practical consequences. But my argument here against exclusion does not depend on the empirical reality that religious professionals and institutions—e.g., faithful Catholic physicians, nurses, social workers, and pharmacists as well as hospitals and clinics—play an important role in the American health care system. Their exclusion would involve a tremendous loss of talent, knowledge, skill, aptitude, and dedication for the healing professions. It would also substantially reduce health care services of all kinds and therefore the access of patients to such services. The argument here, rather, is that the coercion of conscience of professional health care providers is morally corrupting for the profession and its practitioners. This is so in at least four respects.

First, compared with simply *allowing* the professional participation of members in abortion, *mandating* such participation makes the profession even more complicit in a culture of death that betrays social work's (as well as the medical and nursing professions') core values. It is a culture in which the dignity of the human person is restricted in ways that exclude precisely the most vulnerable and dependent members of society—born and unborn babies, those with severe physical and intellectual disabilities, those whose quality of life others deem inadequate.

Second, justifying such an abdication of the defense of human dignity as a core social work value entails a kind of self-deception. The view that the child in the womb is not a person or a human being seems not more but less and less tenable in light of scientific advances since *Roe v. Wade*. These show ever more clearly that the unborn child is a separate being with his or her own DNA and own principle of existence (George & Tollefsen, 2008; Lee, 1995). It seems a truth not easily evaded

without a level of self-deception that is itself morally corrupt, that the fetus is the baby we all once were and we are alive now in part because our mothers did not have us killed at that stage of our lives (George & Tollefsen, 2008).

In any case, *if* the profession as a whole accepted the evidence and logic of the position that children in the womb were as fully human as those with severe disabilities or those just born or close to death or suffering advanced dementia, but abortion remained a legal right of pregnant mothers, would NASW require its members to refuse participation, direct or indirect, in the taking of human life in any or all of these conditions? Or, on the contrary, would it still fail to defend either the most vulnerable among us or the conscience rights of its members?

Third, the idea that if an action is legally permissible and demanded by a client, the social worker (or other health professional) has the duty to provide or participate in providing the requested service itself represents a fundamental shift in the balance of rights and powers between professional and client. It strips the professional of her full moral responsibility and reduces her to a kind of machine or robot that delivers what the customer demands. The professional's right and duty to use her judgment about what is required or indicated or morally permissible in the situation is stripped away in favor of a kind of client "empowerment" that radically disempowers, even dehumanizes the social worker.

Fourth, forcing those opposed to the taking of innocent life at all stages of human development out of a profession that proclaims a mission of promoting human well-being and social justice requires those who justify such a stance to trivialize conscience itself. Supporters of abortion rights, with some

exceptions like the utilitarian ethicist Peter Singer (1999), deny that the child in the womb is a person or human being. But for the persons whose conscience is to be coerced in the absence of adequate legal protection, killing - the deliberate taking of innocent human life - is precisely the action in which they are being told to participate. Dismissing their moral objections as personal qualms reduces the seriousness of the matter to something like squeamishness at the sight of blood.

The kind of case against conscience clauses made by NASW, Hilary Rodham Clinton, and Planned Parenthood (Clinton & Richards, 2008) corrupts by trivializing conscience itself and reducing it to “personal values,” something idiosyncratic that the physician, nurse, and social worker have to check at the door when professional duty calls. It reduces the first axiom of all ethics, to do good and avoid evil, to something dispensable in face of the requirements of one’s profession. To exclude those who want to maintain their moral integrity in face of strong pressures to surrender it is to do further serious moral damage to the profession itself, as well as to the individuals and institutions excluded.

4. A Duty to Refer?

There are less draconian policy options. One idea is that the conscientious objector may be excused from direct involvement in a legal and available procedure like abortion, but must in the event of such refusal, refer the patient to others who are willing to perform it. The argument for mandatory referral may appear persuasive at first glance, when it is posed in terms of the patient’s right to information about her options. But a refusal to refer a client to an abortionist is not the same as blocking her access to information. The fact that the mandatory referral alternative can be advanced as a reasonable solution—a

compromise that any reasonable practitioner should be willing to accept—is arguably itself an indication of a certain moral obtuseness on the part of opponents of strong conscience exemptions. It is not simply a disagreement on the moral significance of abortion. It is also a failure to take seriously the conscience and moral integrity of practitioners.

In the case of abortion, the matter at stake is the fundamental moral proscription on the intentional taking of innocent human life. This has been a basic principle of ethics for millennia, an exceptionless norm which binds the consciences of all in societies where conscience is acknowledged at all. To kill justly requires *at least* that the person not be, in a definable sense, innocent (as in capital punishment or enemy soldiers in a just war); or that the individual not be a fully human person (as has been argued by defenders of racism, anti-Semitism, and sexism, as well as abortion—see Brennan, 2000; 2008); or that killing not be the intent but an unintended, proportionate, and secondary side effect (as with deaths of some nearby civilians from the bombing of a military target—or with the foreseen but unintended death of the fetus resulting from some medical procedures aimed at saving a mother’s life).

Of course, moral relativists, situationists, consequentialists, and ethical emotivists may deny the existence or binding nature of such a proscription on the killing of innocents. Singer (1999), the renowned if controversial ethicist and philosopher of animal rights, accepts that there is no moral difference between a fetus and a fully born infant but, in line with his denial of human exceptionalism, sees the intentional killing of either as justifiable in certain circumstances, even to save a healthy animal.

Here I will not take up the objections to these stances in moral philosophy, but simply note that *if* it is wrong to kill a person, then it is

also wrong to get someone else to do it. If it is, as I believe, a grave evil for me to murder my spouse, it is no less wrong to hire someone else to do it for me. If it is wrong for me to help you kill your inconveniently long-lived rich parents, it is also wrong for me to refer you to a professional hit-man.

Opponents of conscience clauses and exemptions sometimes pose the matter in terms of religious professionals' wanting to impose their views on clients or patients. This is a misunderstanding. None of the case for conscience exemptions has anything to do with imposing my will on the client. Patients and clients have an uncontested moral right to informed consent and informed refusal.

But this is not the issue. The client may find abortion morally permissible and it is certainly legally permissible at present in the United States. I respect the client's right under law to decide to have an abortion and will not condemn, moralize, or argue with her. My right not to participate in what I believe is grave wrongdoing does not imply or depend on a right to impose my belief on the client. "Conscientious objection," as Pellegrino (2008) says, "implies the physician's right not to participate in what she thinks morally wrong, even if the patient demands it. It does not presume the right to impose her will or conception of the good on the patient" (p. 299).

Whether someone's right to engage in a behavior entails an obligation on anyone else's part to assist her in the process has important implications for all professionals, but especially those supposed to be helping or healing their clients. For any professional social worker from any faith tradition or none, such a legally mandated obligation is a serious potential threat to their conscience and as such, to their humanity as moral agents.

5. References

American College of Obstetricians and Gynecologists [ACOG]. (2007). The limits of conscientious refusal in reproductive medicine. ACOG Committee Opinion # 385. *Obstet. Gynecol.*, 110, pp. 1203-1208.

Arkes, H. (2002). *Natural rights and the right to choose*. Cambridge: Cambridge University Press.

Baklinski, T.M. (2009, July 28). NY Catholic nurse forced to participate in abortion describes her ordeal. LifeSiteNews.com. Retrieved January 11, 2011 from <http://www.lifesitenews.com/news/ny-catholic-nurse-forced-to-participate-in-abortion-describes-ordeal>

Bioedge. (January 2, 2009). Last-minute conscience rule grants protection to abortion objectors. Retrieved June 10, 2010 from http://www.bioedge.org/index.php/bioethics_article/8433

Black, E. (2003). *War against the weak: Eugenics and America's campaign to create a master race*. New York: Four Walls Windows.

Brennan, W. (2000). *Dehumanizing the vulnerable: When word games cost lives*. Toronto, ON: Life Cycle Books.

Brennan, W. (2008). *John Paul II: Confronting the language empowering the culture of death*. Ave Maria, FL: Sapientia Press of Ave Maria University.

Clinton, H.R., & Richards, C. (2008, September 19). Blocking care for women. *New York Times*. Retrieved November 20, 2008 from <http://www.nytimes.com/2008/09/19/opinion/19clinton.html?sq=hillary%20clinton%20op-ed>

[%20abortion&st=cse&scp=1&pagewanted=print](#)

Finnis, J. (2010, October 29). The word 'fetus' is offensive, dehumanizing and manipulative. *MercatorNet*. Retrieved October 28, 2010 from

http://www.mercatornet.com/articles/view/the_word_fetus_is_offensive_dehumanizing_and_manipulative/

Franks, A. (2005). *Margaret Sanger's eugenic legacy: The control of female fertility*. Jefferson, NC: McFarland.

George, R.P. (2001). *The clash of orthodoxies: Law, religion, and morality in crisis*. Wilmington, DE: ISI Books.

George, R.P., & Tollefsen, C. (2008). *Embryo: A defense of human life*. New York: Doubleday.

Hodge, D.R. (2003). Value differences between social workers and members of the working and middle classes. *Social Work*, 48(1), 107-119.

Joseph, R. (2009). *Human rights and the unborn child*. Leiden/Boston: Martinus Nijhoff.

Kaczor, C. (2008). Pro-life doctors: A new oxymoron? Retrieved April 8, 2008 from <http://www.firstthings.com/onthesquare/?p=1021>.

LaFollette, E., & LaFollette, H. (2007). Private conscience, public acts. *Journal of Medical Ethics*, 33, 249-254.

Lee, P. (1995). *Abortion and unborn human life*. Washington, DC: Catholic University of America.

National Association of Social Workers. (May, 2010). Legal Defense Fund. Social workers and conscience clauses. Legal Issue of the Month. Retrieved June 10, 2010 from

https://www.socialworkers.org/ldf/legal_issue/2010/201005.asp?back=yes

Neuhaus, R.J. (2009). *American Babylon: Notes of a Christian exile*. New York: Basic Books.

Pell, G. (2009). Intolerant tolerance. *First Things*. Retrieved July 22, 2009 from <http://www.firstthings.com/article/2009/07/intolerant-tolerance>

Pellegrino, E.D. (2008). *The philosophy of medicine reborn : A Pellegrino reader*. H. T. Engelhardt, Jr., & F. Jotterand (Eds.). Notre Dame, IN: University of Notre Dame Press.

Sandel, M. (2009). *Justice: What's the right thing to do?* New York: Farrar, Straus & Giroux.

Sanger, M. (1922). *The pivot of civilization*. Retrieved March 24, 2010 from <http://ia331316.us.archive.org/3/items/thepivotofcivili01689gut/1689-h/1689-h.htm#2HCH0005>

Sanger, M. (1932, April). A plan for peace. *Birth Control Review*, pp.107-108.

Singer, P. (1999). *Practical ethics*. 2nd edition. New York: Cambridge University Press.

Tozzi, P.A. (2008, November 28). Vatican tells United Nations to quit pressuring countries to legalize abortion. *LifeNews*. Retrieved June 10, 2010 from <http://www.lifenews.com/int1003.html> .

World Medical Association. (1948). Declaration of Geneva Physician's Oath. Retrieved June 16, 2010 from <http://www.cirp.org/library/ethics/geneva/>