

# Private conscience, public acts

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## Does private conscience trump professional duty?

In the US, ambulance drivers have refused to transport patients for abortions, a fertility clinic refused to assist a gay woman and a pharmacist refused to give the morning-after pill to a rape victim.<sup>1</sup> In the UK, the Catholic Church claims to be exempt from laws forbidding adoption agencies from discriminating against homosexuals.<sup>2</sup> A growing number of professionals now assert a right of conscience, a right to refuse to do anything they deem immoral, and to do so with impunity. Such claims emerged 40 years ago when some doctors and nurses claimed a right to refuse to perform (or assist in performing) an abortion. Since then other medical professionals have followed suit, with pharmacists leading the way. Doctors now report “a stampede of pharmacists” claiming such a right.<sup>3</sup> As one pharmacist explained it: “While they have the right to obtain the prescription, as an individual I always have my own rights not to fill it.”<sup>4</sup>

Although numerous people have criticised these medical professionals, few openly challenge this “right of conscience”. Rather, they have argued that these professions should establish mechanisms to ensure that people (usually women) who need healthcare are not obstructed or inconvenienced. This suggests that even their critics assume professionals have a right of conscience. In many ways, this is not surprising. There are good reasons why a government should not run roughshod over an individual’s conscience.

### RESPECTING CONSCIENCE

#### Benefits of conscience

There are personal and social reasons why a society should not ignore, quash or demean individual conscience. Individuals want to live their lives as they think best, and for many of us our moral beliefs are especially important. Most of us rebel against the idea that we can legitimately be forced to do what we think immoral. We empathise with those who are so compelled.

There are also four social benefits of respecting conscience.

#### It empowers individuals to think and act morally

Since we are fallible creatures, the best way for us to discover the truth (moral or

otherwise) is to think for ourselves, and, when appropriate, to act accordingly. Forcing everyone to act and believe the same lessens the chances that we can discover moral truth.<sup>5</sup>

#### It encourages use of reason rather than force

If individuals are encouraged to think and act for themselves, they will be more inclined to use reason to resolve moral disagreements. Conversely, if they know their expressions of conscience are likely to be quashed, they may resort to force when their views are in a minority.

#### It exemplifies and encourages tolerance

A pluralistic democracy will more likely flourish if individuals are permitted, whenever possible, to reach their own moral views and then act on what they decide.

#### It encourages moral action

People who are permitted to act on their decisions are more likely to act morally, whereas people who are not encouraged to do so are more likely to blindly adopt the prejudices of the society in which they live.

#### Some historical examples

We have all heard of brave individuals who refused immoral orders on grounds of conscience. Some Nazi doctors refused to kill their patients.<sup>6</sup> Some South African police officers refused to participate in the torture and killing of blacks during Apartheid. A Soviet Lieutenant Colonel refused to launch multiple nuclear missiles at the US, contrary to his instructions.<sup>7</sup> Any number of whistle blowers have risked their jobs to expose inappropriate governmental corporate behaviour. We are indebted to these moral heroes who acted on conscience even though they faced reprisals. However, these examples should not lead us to unquestioningly embrace an unqualified right of conscience advocated by some healthcare professionals.

#### Not all conscience is created equal

Although acting on conscience is sometimes heroic, it is not always so. One of

the essay’s authors grew up “conscientiously” opposed to admitting African-Americans to white public schools and to letting black and white people drink from the same water fountains. No one should have respected his conscience since he was merely mouthing the prejudices of his day. Not all conscience is created equal; not all conscience should be treated equally. Conscience differs in several relevant ways:

- Focus: Is it primarily self-regarding (private) or does it also significantly affect others (public)?
- Choice: Did the person volunteer to be in the position where she faces the obligation from which she now wishes to be exempt?
- Centrality: How important is this belief to the agent requesting the exemption?
- Sincerity: Is she sincere?
- Morality: Is her belief a moral belief?
- Plausibility: Can she explain and offer a plausible justification for her belief or is she just parroting the views of others?
- Seriousness: To what extent will respecting her conscience affect others?
- Role: Is this an action the person is expected to perform in the normal course of her profession?
- Reciprocation: In asking others to respect her conscience, does she show similar respect to other members of her civil society?

We explore each of these in the remainder of the paper, in the order mentioned here. We begin by discussing the first. If some behaviour is truly private, then we cannot imagine ever barring the person from acting on conscience. To give three examples,

1. One of the authors is a vegan. We cannot envision that he should ever be required to eat meat.
2. If a normal adult thinks having a blood transfusion is immoral, then we should not force her to have that transfusion, even if the doctors deem it medically necessary.
3. If a pharmacist thinks that taking some medication would be immoral, she should not be forced to take it, even if a doctor advises her to do so. It does not matter if others fail to see the wisdom in her moral views.

Would things change if the vegan thought that he should be able to force others to become vegans, the adult thought that she should be able to stop her young child from getting a medically necessary blood transfusion or the

pharmacist thought that he should be able to stop others from taking prescribed medications? No. They can think what they will, as long as they do not act on those thoughts.

However, once these people act on their beliefs in ways directly affecting others, then their actions come within society's purview. As Mill put it on page 53 of his famous defense of liberty:

No one pretends that actions should be as free as opinions. . . . Acts of whatever kind, which, without justifiable cause, do harm to others, may be, and in the more important cases absolutely require to be, controlled by the unfavorable sentiments, and, when needful, by the active interference of mankind.<sup>5</sup>

For instance, some people still think inter-racial marriage is immoral. However, if their restaurant is open for public business, they cannot refuse to serve an inter-racial couple, no matter what their conscience tells them. If they find the thought of serving the couple too painful, then they can just close their restaurant (if they own it) or work elsewhere (if they are employees). We should not legally or morally recognise their claim of conscience.

Since medical professionals' behaviours inevitably affect others, their claims should be carefully scrutinised. That does not yet show that their claims are false. However, it does show that they should not baldly assert—and we should not automatically grant—an unqualified right of conscience.

### The pharmacist's conscience

To better understand medical professionals' claims of a right of conscience, we examine the case of pharmacists since they have been the most vocal advocates for this right. The main US organisation representing and regulating pharmacists explicitly states that they have a right of conscience,<sup>8</sup> whereas its UK counterpart implies that they have such a right.<sup>9</sup> Pharmacists' advocates want them to have a legal right to refuse to perform any aspect of their jobs to which they object "on personal, ethical, moral or religious grounds", and to be protected from legal repercussions and employers' actions.<sup>10</sup>

Pharmacists' "conscientious refusals" have become so widespread that some governments have intervened on behalf of patients. In 2005, "Illinois Governor Rod R Blagojevich filed a rule requiring Illinois pharmacies to dispense all such prescriptions immediately and without question".<sup>4</sup> As the debate about conscientious refusals rages, it is imperative that

we understand and evaluate this claimed right of conscience. We begin by exploring the long-recognised right of conscientious objection to war (COW). Understanding the rationale for, conditions on, and limits of COW helps us better comprehend the pharmacists' claims, especially since they frequently cite COW in defence of their position. We will then be better equipped to understand other medical professionals' claims to a right of conscience.

### CONSCIENTIOUS OBJECTION TO WAR

Many Western nations grant a right to conscientious objectors during times of war. That is as it should be. However, the common rationale for and conditions on COW relevantly differ from the claimed right of COP in at least five ways. Some differences are so obvious that it seems contrived to even mention them. However, COP advocates do not seem to notice them. Moreover, by isolating these differences, we can better see what is wrong with this particular proposal, and we can identify the constraints on any proposed right of conscience.

The most obvious difference is that those claiming COW standardly want to be exempt from conscription, while those advocating COP want to be exempt from demands of a profession they entered voluntarily. This difference alone could be sufficiently significant to undermine the case for COP.

### Conscripted, not chosen

Citizens selected in a draft do not choose to enter the military. Still, they must serve as combatants unless they can establish that killing others in war violates their deeply held religious or moral views. In contrast, pharmacists volunteered to pursue their profession. If, at any point, a pharmacist does not want to do what she is required to do, she may simply quit. Of course, no one wants to have to quit her job to do what she thinks is right. However, if she quits, at least she will not be court-martialled or criminally prosecuted—unlike an individual conscientiously opposed to war who is not granted CO status. A draftee is put in this position simply because he is a physically fit male of a certain age. If the pharmacist is in this position, it is because she chose her career.

Despite this profound difference, COP advocates claim that they have a right to refuse any professional duty to which they conscientiously object. They should not be fired or reprimanded, nor should they lose promotions or potential merit raises because of their refusals. Their demand is akin to someone who voluntarily enters the military, announces that

he morally objects to shooting at the enemy, demands that the military respect his claims of conscience, and expects not to lose any raises or promotions. No one does or should take such a claim seriously.

A defender of COP might try a different tack. The pharmacist, she might contend, is not opposed to dispensing all prescriptions, only some. The pharmacist's choice is more like a soldier who disobeys an order she deems "illegal." This is not a plausible tack. First, the "illegal orders" defence in the military is permitted rarely. It is not something most soldiers could plausibly expect to claim even once over an entire career. In contrast, any pharmacist entering the profession in the past decade knows that she will be expected to fill prescriptions for the morning-after pill; any pharmacist entering the profession in the past 40 years would expect to dispense oral contraceptives.

Second, when a soldier disobeys an order on these grounds, he will have to defend his action to the military, showing how the order directly violates current standards of military practice. He would have to show that any reasonable soldier in the same circumstances should refuse to follow said orders. Failing that, he will be court-martialled. A pharmacist could never defend her refusal based on current standards of pharmaceutical practice, because these drugs are legal.

### Establishing the plausibility, sincerity and centrality of one's beliefs

No one has a right to be exempt from military service simply by asserting that he is conscientiously opposed to war. He must demonstrate to a neutral administrative body that he thinks participating in war is immoral—that is, he must give a clear rationale for his beliefs, and show that this belief is a central or core belief, consistent with other things he says and does.<sup>11</sup> Although the British procedures are more vague, in practice they are very similar.<sup>12</sup> Thus, the military tribunal or draft board would be sceptical about an applicant who was a vocal advocate for capital punishment. Perhaps that applicant could explain why he supported capital punishment while being categorically opposed to war. We suspect that would be difficult to show. However, it is something that he would have to show.

In contrast, the objecting pharmacists want to assert (not establish) that they are conscientiously opposed to dispensing some drugs, and then to be straightway exempt from filling those prescriptions. Were COP and COW treated similarly, pharmacists who object to filling the morning-after pill or oral contraceptives

on the grounds that those taking the pill are killing another human should oppose taking human life except under demonstrably justified circumstances. So, barring a convincing argument, these pharmacists should oppose capital punishment and modern warfare, because 90% of the casualties are civilians.<sup>13</sup>

Finally, one evidence of the sincerity and centrality of a person's belief is her willingness to sacrifice for her convictions.

### The cost of conscience

If an individual establishes that he is opposed to killing in war, he is exempt from serving in combat. However, that does not mean he is wholly free of his responsibility. If drafted in the US, he must either serve within the military (eg, as a medic) or do "alternative service" (in some charitable setting outside the military—eg, as an emergency room orderly). Although UK law does not demand it, most tribunals make similar requirements of COWs. He must serve as long as he would have served in combat, usually 2 years. Few people find either option attractive. Serving as a medic is one of the most dangerous military assignments, while the person who does alternative service does not receive veterans' benefits. In short, a CO to war must sacrifice for his convictions. In contrast, advocates of COP want to be exempt from filling prescriptions they find morally objectionable at no personal cost.

We require conscientious objectors to war to perform alternative service for two reasons. One, it demonstrates the applicant's sincerity; two, it demonstrates his commitment to democracy, tolerance and the common good. In contrast, COP advocates do not think that a pharmacist should be formally required to compensate for her failure to discharge her professional responsibilities. These pharmacists want their conscience respected, but are unwilling to reciprocate by respecting the conscience of other members of their civil society, especially those who need these prescriptions.

### Evaluating the claim to an unqualified right

The arguments so far show that what objecting pharmacists expect—and not infrequently get—is far more than what conscientious objectors to war get or expect. The COW can obtain an exemption from the armed services only if (a) he convinces an administrative body that he sincerely believes that such service is immoral, (b) he can defend that belief and (c) he can show the centrality of that belief by, among other things, his willingness to serve his country in another

way. In contrast, the objecting pharmacist wants to simply state that she is conscientiously opposed to filling certain prescriptions, without having to give any account of her views and without having to do anything in lieu of discharging her professional duties—duties she voluntarily assumed. This asymmetry is indefensible. These medical professionals do not have an unqualified right of conscience. That should be obvious.

### We could not consistently recognise such a right

We should not recognise claims of rights ad hoc. We should have publicly promulgated rules specifying when and where such claims should be recognised. Were we to grant pharmacists the right not to fill a prescription for the reasons and the ways they want, we must, on grounds of consistency, permit conscientious objection for similar reasons in similar cases. We should also grant rights of conscience to:

- vegans who do not want to serve meat at Burger King;
- firemen who do not want to extinguish a fire at a Santeria Church;
- electricians who do not want to make repairs at an abortion clinic<sup>14</sup>;
- policemen or prosecutors who do not want to investigate or prosecute gay bashing;
- emergency medical technicians who do not want to treat Wiccans;
- public defenders who do not want to defend a child molester;
- real estate agents who do not want to sell a house to an inter-racial couple;
- telephone linemen who do not want to connect services for Muslims; and
- teachers who do not want to teach atheists.

Obviously, we could not excuse all these people from performing part of their normal duties just because they claim to be conscientiously opposed. Neither should the state protect them from reprisals by their employers. In short, we should not recognise an unqualified right of conscience for people in critical jobs, particularly the paradigm professions. Medical professionals who think otherwise are mistaken.

This is true of all professionals, not just ones whose actions we personally find suspect. Suppose that a construction worker is opposed to building an amunitions factory because she thinks that in so doing she facilitates something immoral. Although it is arguably morally laudable for her to refuse to participate on moral grounds, she has no unqualified right of

conscience. She should not automatically be exempt from such work and legally immune from action by her employer. Perhaps her employers might think that she is a sufficiently valuable employee and that they will accommodate her as a courtesy. Or perhaps she has a qualified right.

### DO PROFESSIONALS HAVE A QUALIFIED RIGHT OF CONSCIENCE?

The argument so far shows that professionals do not have an **unqualified** right of conscience like that advocated by the Pharmacists for Life. Could we extend the previous argument to show that they have a **qualified** right of conscience? That is, do medical professionals have a right to be exempt from some of their responsibilities if they defend their claims and are willing to do "alternative service"? Certainly this claim is far more plausible. Were pharmacists limited to making this qualified claim, we are confident that far fewer of them would assert such a right, and that the negative impact of their doing so would be far smaller. Still it is worthwhile asking whether or when someone might plausibly have a qualified right of conscience.

Assuming that COW is defensible, we have at least one circumstance where people have such a qualified right—namely, when the state conscripts them. To explore this possibility, we examine three further differences between COW and COP. Each gives us further reason to reject the unqualified right to COP. The third gives a profound reason to reject the claimed right and also, at least in some cases, the qualified right. All help us to better understand the scope of a right of conscience.

### Further differences between COP and COW

#### Doing wrong or facilitating wrong

Even if taking the morning-after pill does kill someone, dispensing the pill does not. Although the conscientious objector to war wants to be exempt from actually killing someone, the pharmacist objector wants to be exempt from doing an action that she (the pharmacist) thinks might facilitate someone's death. However, to say that one facilitates—rather than does—an immoral act is to acknowledge that someone else must actually perform the immoral act. So, although facilitating an immoral act may be immoral, it is not the same thing as doing the immoral act oneself.

However, some might argue that the moral gap between doing and facilitating may be miniscule if the pharmacist has good reason to think that the patient will take the pill, that taking the pill will stop



implantation of a fertilised egg and that stopping implantation is murder. However, the gap widens as our doubts about each element increase. And we have serious doubts about each. Many gynaecologists recommend that women of childbearing years keep these pills on hand in case they have unprotected sex or in case they have reason to think that their regular birth control failed (the diaphragm or intrauterine device became dislodged or the condom burst). Hence, a number of patients who purchase these prescriptions will not take them. Then, some of these who take the pills would not have become pregnant; hence, taking the pill will not stop implantation. In short, many (and perhaps the majority) of the women who get these prescriptions will not stop the implantation of a fertilised egg.

Of course neither will every soldier kill another person, not even during war. Yet we allow conscripted soldiers to be exempt from serving in combat given the probability that they will have to kill an enemy soldier. So why, advocates of COP might wonder, should not we treat pharmacists similarly? This is a fair question if stopping implantation were a clear instance of killing another human being. It is not. We think that claim is almost certainly false. The current argument, though, does not depend on its being false. It is enough that the claim is highly contentious. That dramatically distinguishes COP from COW. Although people may think that killing in war is justified, no one denies it is killing. In contrast, most people, even in a conservative country like the US, deny that an early abortion is killing, let alone a murder. An even greater percentage deny that preventing implantation is killing.

### The locus of moral disagreement

A belief can be a matter of conscience only if it is a moral belief. Not just any belief is a moral belief. We do not wonder if a belief is a moral one if its content mirrors common views. If someone claims that murder, robbery, rape or assault is immoral, we will assume that these are moral beliefs. However, those are not the circumstances in which people claim a right of conscience. They claim such rights only when their moral views clash with those of the majority. In these cases we must distinguish “between positions we must respect, although we think them wrong, and positions we need not respect because they offend some ground rule of moral reasoning”.<sup>15</sup> Minimally, we expect people must give reasons for their moral position.<sup>15</sup> However, not every purported reason is a reason. Reasons cannot merely express

a prejudice or emotional reaction; neither can they merely parrot the views of others or be based on demonstrably false empirical claims.<sup>16</sup>

Although these are plausible limitations on purported reasons, there are often profound disagreements about whether a view is merely a prejudice or whether someone is simply parroting another’s views. That is why, at least in the legal arena, we should be as generous as possible in our interpretation of these demands. Minimally, however, we do demand that someone who claims to be taking a stand on conscience has views and employs reasoning reflecting values and empirical beliefs broadly similar to recognisable moral views. Otherwise, it makes the notion of a “moral belief” meaningless. If someone said that she was conscientiously opposed to feeding their children or stopping at traffic lights, then, barring some powerful explanation, we would not think that they are forwarding moral beliefs, no matter how sincerely uttered. If someone said that she was conscientiously opposed to paying parking fines because it killed humans, then, barring some powerful explanation, we would likewise deny that she is forwarding a moral claim. In neither case would or should we accommodate such “claims of conscience.” Even if their views were not quite so foreign, they would still be required to explain and defend their position.

This requirement resembles the legal notion of the “reasonable person”. For instance, we have laws protecting people from nuisances. However, we do not let each individual determine what counts as a nuisance. Someone’s behaviour is a legal nuisance only if a reasonable person would consider it so. Loud music outside a person’s window at 3 am would be a nuisance (in the legal sense), whereas someone’s belching while walking down the street would not be. That is not to deny that many of us might be annoyed if the person walking in front of us continuously belched loudly. However, this is an annoyance we should tolerate. Anyone who was seriously annoyed would be unduly sensitive, and the law should not accommodate such sensitivities.

Similarly, the law of self-defence claims that someone can use deadly force to defend herself only if a reasonable person in her shoes would fear serious bodily harm. Thus, someone could use deadly force to defend herself from a grown man wielding a magnum, but not from a 3-year-old wielding a celery stalk. That is not to deny that some unusual person might be frightened of this celery-toting toddler. However, although the courts would allow the first person to kill

her attacker in self-defence, they would surely charge the second person with at least manslaughter.

Why does this matter for the current discussion? Because while COW advocates clearly hold moral beliefs, COP advocates may not. The conscientious objector to war agrees with society (a) about what the relevant act is (killing another person) and (b) that that act, unless justified, is morally wrong. Although he disagrees whether war provides an exception to the general prohibition against killing, he shares significant moral and factual beliefs with the majority. That is why we have no doubt that he holds a moral belief, even if we disagree with it. Even so, we still require him to state and defend his view—and to do alternative service—before exempting him from combat.

By contrast, the society does not think that filling these prescriptions kill a human or that filling the prescriptions, unless specially justified, is wrong. The public holds empirical beliefs that differ relevantly from those the COP advocates. Few people think that preventing fertilisation or implantation are killings, let alone the killing of a human being. Although, this does not necessarily mean that the advocates of COP do not hold moral views, it explains why their need to demonstrate that these are sincere moral beliefs is even higher than for the COW advocate.

Finally, the objecting pharmacist must show how accommodating her conscience does not impermissibly harm others. That will be especially difficult since she voluntarily chose her career, and since she is a member of a paradigm profession.

### The nature of a profession

Defenders of COP often claim that their professional status gives a compelling reason why they should not be required to do what they think immoral.

A pharmacist is not an automaton or a physician’s valet, but a necessary member of the health care team. Pharmacists complete at least 6 years of rigorous education and clinical training and prove their knowledge by passing a licensure examination. Medicines are dangerous. To manage the risks of adverse outcomes or treatment failure, most patients need an informed, vigilant and caring pharmacist to exercise independent, professional judgement. Wouldn’t we question the competence or diligence of a pharmacist who unquestioningly dispensed prescriptions as written,

who rarely found any prescriptions “objectionable” on therapeutic grounds?<sup>17</sup>

Do we want pharmacists who never “found any prescriptions objectionable on therapeutic grounds”? Of course not. Do we want pharmacists who will stay current about possible contraindications for drugs, detrimental effects of which the physician might not be aware? Of course. That is precisely why they are licensed. However, these factors have nothing to do with claiming a moral exemption from some professional duties. The objecting pharmacist does not claim that there is some interaction or contraindication of which the doctor is ignorant. She has no biomedical facts to which the prescribing doctor is not privy. She is not using scientific methodology or making a pharmaceutical judgement based on her rigorous education and clinical training. She objects to the prescriptions solely on religious or moral grounds. Were that not so, it would make no sense for her to claim an exemption on grounds of conscience.

However, although it is appropriate for her to let her conscience be her guide when she is acting as a private individual, when she is performing her professional duties, she should act and reason as a pharmacist, as a member of a justified profession in a democratic and largely just society. We establish professions to perform activities (a) that serve a vital public interest, (b) which cannot be safely and competently performed by just anyone and (c) for which we have some reliable mechanism to determine aspiring professionals’ competence. The profession is justified only in as much as it serves those public interests, and individuals are permitted to be professionals only if they act to effectively serve those interests. Her role within the profession gives her some special rights (in this case, exclusive right to dispense controlled medicines). It also imposes special responsibilities: to serve the interests of their clients even if it clashes with what they, as individuals, might do.

This responsibility can be generalised to any person performing a job in which she (a) protects a vital public interest, and (b), in virtue of her position, has the principal if not sole power or authority to promote those interests. When the need for the service is acute, these workers uniquely determine whether citizens’ vital interests are protected. If a fireman’s company is called to put out a fire at an abortion clinic, a fireman who stands by while the clinic burns should immediately lose her job. If someone died in that fire, she might well be charged with manslaughter. The same is

often true of policemen, emergency room physicians, EMTs and ambulance drivers. When the need for action is immediate, we cannot tolerate a rule authorising exceptions on the spot.

Of course there may be circumstances in which those served by the professionals are not harmed, and perhaps not even inconvenienced. Other professionals might be able and willing to perform their job. For instance, if the pharmacists state their objections in advance, defend their claims and are willing to do alternative service, then some pharmacy owners might work out procedures to ensure that the prescription is filled. In these limited cases, where the pharmacist shows reciprocal regard for other members of a democratic society, we might be able to accommodate her claims of conscience. However, this would be, at most, a highly qualified right of conscience, not the unqualified right these professionals assert.

Nothing we have said implies that we should never recognise claims of conscience, at least for those who wish to be exempt from behaviours tangential to their jobs. Suppose an employer does not want her workers to wear hats. Nonetheless, she should permit Jewish workers to wear their yarmulkes if doing so does not directly interfere with their job. However, when the actions which people do not want to do are central requirements of their jobs, they should not demand nor expect to be exempt, especially when those they serve will be negatively effected.

### Revisiting the private and the public

We are not saying that professionals should never morally evaluate what they are expected to do as professionals. Nonetheless, they must understand that their moral responsibilities as professionals are not identical to their responsibilities as individuals. As individuals they may legitimately do things they should not do as professionals. One can (and, indeed, in most cases should) drive by the scene of an accident when the police are already present. In contrast, a doctor should stop and see if her services are needed. On the other hand, professionals may legitimately do things individuals should not do. A lawyer can (and should within the rule of law) diligently work to get her client acquitted, even if the client is guilty. As an individual (say, a witness to a crime) she should not.

Put differently, although my private conscience may tell me that I should not perform an act, I should not straightforwardly infer that it is also improper for me to do that act as a professional. Professions are established to serve vital public interests; those interests can be best served only if professionals have

responsibilities and obligations (as well as rights) that the rest of us lack. Someone is legitimately deemed a professional only if she fulfills her professional roles. As such, she may be required to do things she would not do as an individual. One way to see this is to think of the choices civil servants face.

During their careers, most civil servants will work for different elected governments. They will personally support some and disagree with others. When they are working for governments with whom they disagree, they will sometimes be asked to do things that they think would be immoral of them to do were they acting as individuals. They may be asked to support a policy that would cut critical funding to underprivileged children and send that money to support a war they think morally questionable. In so doing, they would facilitate what they consider immoral actions.

However, they are not acting as individuals; they are fulfilling a vital professional role. In that capacity, they cannot reasonably refuse to do everything with which they disagree. A democratic government can survive only if civil servants standardly fulfil their assigned duties, even when they help implement what they consider an immoral action.

Of course some civil servants might think that the government is morally bankrupt. If so, then arguably they should refuse to fulfil (some of) their assigned duties. However, if they do, it would then be silly for them to expect that this (presumably) unjust government would permit them to do so with impunity.

### CONCLUSION

Society should not regularly constrain, quash, or ignore conscience. However, not all conscience should be treated equally. If a matter of conscience affects only the agent, then the state has no business interfering with that person’s choices or actions. Once her actions significantly affect others, then we should determine whether her claims are sincere, plausible and consistent, and whether she shows reciprocal respect for others. We should determine the degree to which her exercise of conscience harms others, especially if she is a member of a justified profession in a democratic and basically just society.

Some medical professionals want to follow their private consciences without having to sacrifice their livelihood. We understand that. However, since their actions standardly affect others, often profoundly, we should not straightforwardly let them act on that conscience, especially since in their roles they

uniquely satisfy some public needs. We should not recognise—nor should medical professionals claim—an unqualified right of conscience.

Could they have a qualified right of conscience? Might it be that we should exempt them from fulfilling some part of their professional duties if they can articulate and defend their views, show that they live their lives according to such views, and that they are willing to do alternative service demonstrating their reciprocal respect for others? That claim is far more plausible. But also far from overwhelmingly convincing, in large part, because they entered the profession voluntarily, and because what they are being asked to do is a core part of their respective professions.

There is also a third option. These medical professionals could request that the rest of us respect their conscience rather than claim this right of conscience. If medical professionals were willing to state and defend their views and agree to some alternative service, then the public might be willing to find ways to accommodate them, at least if

those accommodations did not burden their clients—almost always women. However, this would not be a claim of right, but rather a request of one's fellow citizens.

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#### REFERENCES

- 1 **Stein R.** A medical crisis of conscience: faith drives some to refuse patients medication or care. *Washington Post* 16 Jul 2006;A1.
- 2 **Hurst G.** Catholics refuse to accept Gay Adoption Law. *London Times* 23 Jan, 2007.

- 3 **Peck P.** AMA: physicians charge pharmacists with interference in medical care. *MedPage* 2005.
- 4 **Cowan T, Harris M.** Pharmacists 'denying birth control'. *BBC News* 2005.
- 5 **Mill JS.** *On liberty*. Indianapolis, IN: Hackett Publishing Company, 1985/1885, (Chapters 2&3).
- 6 **Lipton RJ.** *Nazi doctors: medical killing and the psychology of genocide*. New York: Perseus Publishing, 2000 (Chapter 3).
- 7 **Hoffman D.** I had a funny feeling in my gut. *Washington Post* 10 Feb, 1999:A19.
- 8 **American Pharmacists Association.** Conscience clause. *J Am Pharmacists Assoc* 1998;**38**:417.
- 9 **Royal Pharmaceutical Society of Great Britain.** *Code of ethics and standards*. London: Royal Pharmaceutical Society of Great Britain, 2006.
- 10 **Pharmacists for Life.** *Pharmacist's Model Conscience Clause* 1988.
- 11 **Selective Service.** *Conscientious objections and alternative service*. Washington, DC: Selective Service Administration, 2005.
- 12 **Pollard RSW.** Conscientious objectors in Great Britain and the Dominions. *J Comp Legis Int Law* 3rd Ser 1946;**28**:72–82.
- 13 **Bell M.** *Through gates of fire: a journey into world disorder*. London: Phoenix, 2003:4.
- 14 **Pavone F.** Conscientious objection. *Priests Life Newsllett* 2002;**12**.
- 15 **Dworkin RM.** *Liberalism and moralism, Taking rights seriously*. Cambridge, MA: Harvard University Press, 1977:249.
- 16 **Harris J.** Introduction. *Bioethics*. Oxford: Oxford University Press, 2001:10–13.
- 17 **Hepler CD.** Balancing pharmacists' conscientious objections with their duty to serve. *J Am Pharmacists Assoc* 2005;**45**:434.

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