



# Conscience, conscientious objections, and medicine

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Published online: 4 December 2019  
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## Abstract

To inform the ongoing discussion of whether claims of conscientious objection allow medical professionals to refuse to perform tasks that would otherwise be their duty, this paper begins with a review of the philosophical literature that describes conscience as either a moral sense or the dictate of reason. Even though authors have starkly different views on what conscience is, advocates of both approaches agree that conscience should be obeyed and that keeping promises is a conscience-given moral imperative. The paper then considers exemplars of conscientious objection—Henry David Thoreau, Mohandas Gandhi, and Martin Luther King Jr.—to identify the critical feature of conscientious objection as willingness to bear the burdens of one’s convictions. It concludes by showing that medical professionals who put their own interests before their patients’ welfare violate their previous commitments and misappropriate the title “conscientious objector” because they are unwilling to bear the burdens of their choices and instead impose burdens on their patients and colleagues.

**Keywords** Conscientious objection · Conscience · Medical professionals · Patients · Medicine · Promise · Henry David Thoreau · Mahatma Gandhi · Martin Luther King Jr. · Duty

## Introduction

The concept of conscience has a long and controversial history in moral philosophy. Recently, the concept has gained prominence in the political arena and taken on an important role in bioethics. The central issue in these disputes is whether claims of “conscientious objection” allow people to refuse to perform tasks that would otherwise be regarded as part of their job and whether denial of service would count as a failure of duty, abandonment, or negligence.

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In the United States today, it may be that people's understanding of the concept of conscience has been influenced more by Jiminy Cricket than by the scholars who have wrestled with the concept over the centuries. Jiminy is an insect in a blue hat who serves as the conscience for a puppet who wants to become a real boy in Walt Disney's 1940 animated film, *Pinocchio* [1]. The concept of conscience expressed in that cartoon evokes the traditional Platonically inspired account: Conscience is bathed in the Blue Fairy's ethereal light, and its supernaturally bestowed authoritative inner voice enables one to tell right from wrong. People who have absorbed that view are inclined to privilege actions performed in obedience to the voice of conscience. At the same time, however, the ordinary understanding of ethics also privileges moral laws, such as *do not break a promise*, which some of the most influential moral philosophers have regarded as the dictates of conscience.

The inherent conflict between these unexamined ideas about what conscience is needs to be recognized and explored in order to develop a defensible stand on today's issues. The competing conceptions of conscience and claims of conscientious objection require examination with the critical tools of moral analysis. I will therefore begin by reviewing some of the historical views that have played an important role in the theological and philosophical literature.

## **Conscience: some historical background on the concept**

Most of the positions on conscience fall into one of two camps. As is the case in most of the long-standing arguments in philosophy, one camp is rooted in the philosophy of Plato while the other is rooted in the philosophy of Aristotle. The discussions of conscience bear all the traditional marks of these two philosophers' positions on the source of knowledge.

## **Conscience as the innate, natural sense of right and wrong**

The concept of conscience that is most consonant with today's ordinary language use of the term can be traced back to Platonic roots. In most of its incarnations, this concept is closely tied to the idea that truth is absolute, unchanging, and closely associated with God, the Word of God, or the divine imprinted upon our souls. We gain access to this source of moral knowledge by exploring what is within us. Since early Christianity, from the Christian Platonists to the Cambridge Platonists to twentieth-century authors such as C.S. Lewis, conscience has been understood to express God's relation to individual humans and each person's deep, innate, and natural sense of right and wrong. Although there is some variation in how the concept is described, and what it is called, conscience is typically taken to represent something short of innate knowledge and more like an ability "to receive the simple ideas of approbation or condemnation" [2, p. 269]. As Jean-Jacques Rousseau (1712–1778) explains in his *Emile, or on Education* (1762), "Conscience is the voice of the soul.... Too often reason deceives us. ... But conscience never deceives; it is man's

true guide. It is to the soul what instinct is to the body; he who follows conscience obeys nature and does not fear being led astray” [3, pp. 286–287].

This concept of conscience has a long history in Christianity. Saint Augustine’s *Confessions* is commonly read as a quest for understanding by searching within oneself to comprehend the Word of God. Although Augustine does not present a fully articulated conception of conscience, he does say: “But when a deep consideration had from the secret bottom of my soul drawn together and heaped up all my misery in the sight of my heart; there arose a mighty storm, bringing a mighty shower of tears” (*Conf.* 8.12.28, in [4, p. 152]). Theologians of the early Latin Middle Ages shared the Augustinian view that full understanding of the deepest truths is accessible to all through scriptural revelation, simple faith, and the spirit of grace.

The idea of conscience as an authoritative inner voice or true heart is associated with Protestant Reformation thinking dating back to Martin Luther (1483–1546) and John Calvin (1509–1564). Both of these reformers were inclined toward Augustinian ideas, both were opposed to the central authority of the Pope and the Catholic Church, and both held the view that each person could be his own priest and read the Bible for himself.

In his *Philosophical Commentary*, Pierre Bayle (1647–1706) provides a fulsome account of the concept of conscience in French Protestantism of the early modern period. After offering six principles related to conscience, he concludes:

That the first and most indispensable of all our obligations, is that of never acting against the Instincts of conscience; ... There is therefore an eternal and immutable law, obliging man, upon pain of incurring the guilt of the most heinous mortal sin that can be committed, never to do any thing in violation and in despite of conscience. [5, p. 227]<sup>1</sup>

The Cambridge Platonists, a group of British moralists writing in England during the same period, held similar views on conscience, its divine origin, and its moral authority [6].<sup>2</sup> Henry More (1614–1687), in *An Antidote Against Atheism* (1652), maintains that “natural remorse of conscience and a fear and disturbance from the committing of such things ... intimate that there is a God” [7, p. 184]. As he sees it, the mental experiences of fear and confusion that arise when considering alternative possible actions actually prove the existence of God. He writes, “Wherefore I conclude from natural conscience in a man that puts him upon hope and fear of good and evil from what he does or omits, ... that there is an intelligent principle over universal nature that takes notice of the actions of men—that is, that there is a God; for else this natural faculty would be false and vain” [8, p. 186]. Benjamin Whichcote (1609–1683) expresses a comparable view in his *Moral and Religious*

<sup>1</sup> Here and elsewhere, word-initial capitalization of common nouns in early modern texts and translations has been reduced to reflect modern English orthographic conventions.

<sup>2</sup> C.E.M. Joad describes this “moral sense” view of conscience as *objective intuitionism*. He includes Joseph Butler, Lord Shaftesbury, Richard Cumberland, Ralph Cudworth, Samuel Clarke, William Wollaston, and Francis Hutcheson in the group of authors who share similar views of conscience [7, pp. 175–225].

*Aphorisms*: “Both Heaven and Hell have their foundation within us. Heaven primarily lies in a refined temper, in an internal reconciliation to the nature of God and to the rule of righteousness. The guilt of conscience and the enmity to righteousness is the inward state of Hell. The guilt of conscience is the fuel of Hell” [9, p. 424]. In the same vein, Lord Anthony Ashley Cooper (1671–1713), the third Earl of Shaftesbury, offers:

To have the reflection in his mind of any *unjust* action or behavior, which he knows to be naturally *odious* and *ill-deserving* ... is alone properly called CONSCIENCE; ... it has its force however from the apprehended moral deformity and odiousness of any act, with respect purely to the divine presence, and the natural veneration due to such a supposed being. [10, pp. 185–186]

In the seventeenth century, when the authority of conscience was an important issue in theology and political philosophy, both Anglican Reverend Samuel Clarke (1675–1729) and Bishop Joseph Butler (1692–1752) cited Saint Paul in the Epistle to the Romans as biblical authority for the idea that conscience is imprinted in human hearts by God [11, p. 203; 12, p. 346].

For when the Gentiles, which have not the law, do by nature the things contained in the law, these, having not the law, are a law unto themselves: Which shew the work of the law written in their hearts, their conscience also bearing witness, and their thoughts the mean while accusing or else excusing one another. (Rom. 2:14–15, KJV)

Sometimes, the word *conscience* is explicitly used in discussions, but other terms are employed as well, with the same author often using multiple different expressions to denote roughly the same concept. For example, British moralist, Francis Hutcheson (1694–1746) sometimes writes about “conscience,” but he also refers alternately to a “superior,” “moral,” or “secret” sense [13, pp. 263, 264, 266]; talks about “approbation,” a “perception of moral excellence,” and an “opinion of natural goodness” [13, p. 264]; and exhorts men to “consult their own breasts” [13, p. 261]. Another British moralist, Thomas Reid (1710–1796) sometimes refers to “conscience” and other times speaks of “our constitution” or the “sense of duty” [14, pp. 267–268, 270].

British moralist Joseph Butler presents a more complex view of conscience in his *Fifteen Sermons* and *Dissertation of the Nature of Virtue* [12, 15]. Like the Cambridge Platonists, Butler conceives of conscience as a distinct faculty—one that, by nature, is superior, supreme, or chief and carries moral authority. In sermon 3, “Upon the Natural Supremacy of Conscience,” Butler states:

Conscience does not only offer itself to show us the way we should walk in, but it likewise carries its own authority with it, that it is our natural guide; the guide assigned us by the Author of our nature: it therefore belongs to our con-

dition of being, it is our duty, to walk in that path and follow this guide. [12, pp. 357–358]<sup>3</sup>

Thus, obedience to conscience is “the business of our lives, as it is absolutely the whole business of a moral agent, to conform ourselves to it” [12, p. 330].

The inner voice idea of conscience is vulnerable to serious lines of criticism. There is no way to determine just what the source of the inner voice is. When we consider various cultures in which exactions of vengeance or shame killings are acts dictated by conscience, it is reasonable to doubt the authenticity of conscience claims and instead regard them as social artifacts or products of cultural influence. There is also no way to discern whether the inner voice is spoken by a demon or a deity. Suspicions about the origin of the alleged moral sense, and hence its message, become more pronounced in view of the observation that people who sincerely claim to act from conscience often passionately disagree with one another. It is hard to believe that people who regard conscience as the voice of God would also accept that God speaks with a forked tongue or issues conflicting messages. Yet even today, there are people who claim to be acting on the dictates of conscience when they provide abortions, just as there are people who are at least as passionate in following the dictates of conscience when they refuse to provide them.

### Conscience as right reason

These sorts of concerns led three prominent scholars in the history of ethics to expound a radically different understanding of what conscience is—namely, Saint Thomas Aquinas (1225–1274) in *Summa Theologica* [21], Thomas Hobbes (1588–1679) in *Leviathan* [22], and Immanuel Kant (1724–1804) in *Metaphysical Principles of Virtue* [23]. These authors take similar positions in that they conceive of conscience as a rational, cognitive, and propositional element of morality, rather than as an intuitive, noncognitive, and non-propositional inner sense. Each of them considers the rules reached by right reason based on his observations and experiences of the world to be morally authoritative. Each counts those dictates of reason to be conscience properly understood. These authors also recognize the possibility that the inner voices or feelings people experience, as well as reflections that they do not formulate or ground in terms of moral law, are called conscience in error. Both inner voices and moral sense can be mistaken when they deviate from right reason. As Aquinas explains:

Since conscience is a kind of dictate of the reason (for it is an application of knowledge to action), to inquire whether the will is evil when it is at variance

<sup>3</sup> Although Butler is clear on the authority of conscience, he is somewhat unclear on what he takes conscience to be. Reflecting the ambiguity in this text, the ethics literature of the mid-twentieth century features disagreement over just how Butler’s position on conscience should be read. For example, according to Thomas McPherson, “This, then, is Butler’s idea of human nature: a hierarchy of principles, with conscience or reflection at the top” [16, p. 320]. The arguments over Butler’s understanding of conscience concern two issues: first, whether conscience is primarily intuitive [7, 16, 17], primarily rational [18], or both [19, 20]; and second, whether conscience is a superior principle to self-love but not always superior in strength [18, 20] or whether conscience and self-love coincide [16].

with erring reason, is the same as to inquire “whether an erring conscience binds.” ... If a man’s reason or conscience tells him that he is bound by precept to do what is evil in itself; or that what is good in itself, is forbidden, then his reason or conscience errs. ... We must therefore conclude that, absolutely speaking, every will at variance with reason, whether right or erring, is always evil. [21, 1a2ae.19.5]

Aquinas observes that because the non-propositional dictates that people regard as conscience are fallible, following them does not excuse evil action. Rather, for Aquinas, right reason is the highest authority and therefore the ultimate arbitrator.

For Hobbes the moral authority of conscience is not a side issue, but a central question which his moral and political philosophy aims to resolve. Hobbes’s views are especially important because for one hundred years they were the target of many of the authors mentioned above, particularly the Cambridge Platonists. In his works, Hobbes regards the careful use of language, and vigilant correction of its misuses, as critical for right reason—and indeed, linguistic precision is a crucial element of his argument in *Leviathan*. Although Hobbes’s position on conscience is repeated throughout the work, it is clearly and directly addressed in chapter 29, where he lists the first “poison of seditious doctrines” as the notion that “every private man is judge of good and evil actions” [22, p. 249] (similarly on [22, p. 233]). His second listed seditious doctrine is that “whatsoever a man does against his conscience, is sinne” [22, p. 249]. He goes on to explain, “For a mans conscience, and his judgement is the same thing; and as the judgement, so also the conscience may be erroneous” [22, p. 249].<sup>4</sup>

Like Aquinas, Hobbes is deeply suspicious of conscience as an inner sense or voice because there is no way of telling whether or not the sense or voice belongs to God or the devil. He sees the God-given ability of natural reason to be “the undoubted word of God.... And therefore not to be folded up in the napkin of an implicate faith, but employed in the purchase of justice, peace, and true religion” [22, p. 286]. In chapter 8, Hobbes identifies “inspiration, called commonly, private spirit” as a defect in intellectual virtue [22, p. 58], apparently to distinguish reason-based, law-giving conscience from what others erroneously refer to as conscience. As a defect in intellect, inspiration or private spirit is anything but a reliable guide for action.

In part 3 of *Leviathan*, Hobbes engages in Biblical explication to show how his moral and political views are consonant with Christianity and the obligations of Christians. He cautions that in trying to understand biblical texts, “we are not to renounce our senses, and experience; nor (that which is the undoubted Word of

<sup>4</sup> Hobbes accounts for this sort of defect of intellect and for why conscience is mistakenly taken to be authoritative, explaining:

This opinion of inspiration, called commonly, private spirit, begins very often, from some lucky finding of an error generally held by others; and not knowing, or not remembering, by what conduct of reason, they came to so singular a truth (as they think it, though it be many times an untruth they light on,) they presently admire themselves; as being in the speciall grace of God almighty, who hath revealed the same to them supernaturally, by his spirit. [22, pp. 58–59]

God) our naturall reason” [22, p. 286]. Hobbes’s general view is that we can deduce the laws of nature with right reason and that the laws of nature are immutable and eternal. His laws of nature direct people to obey their civil sovereign, who has the authority to make civil law and dictate limits on religious practices. He therefore maintains regarding the civil laws:

As far as they differ not from the laws of nature, there is no doubt, but they are the law of God, and carry their authority with them, legible to all men that have the use of naturall reason: but this is no other authority, then that of all other morall doctrine consonant to reason; the dictates whereof are laws, not *made*, but *eternall*. [22, p. 300]

Hobbes’s ultimate position on conscience is that “we are not every one, to make our own private reason, or conscience, but the publique reason, that is the reason of Gods supreme lieutenant, [is] judge” [22, pp. 344–345]; he is especially concerned that people should not be led astray by false beliefs and false religious leaders who are out to advance their own interests [22, pp. 537, 541]. With a long list of examples, he cautions readers to be wary of being taken in by false prophets, concluding that “if one prophet deceive another, what certainty is there of knowing the will of God, by other way than that of reason?” [22, p. 288] (similarly on [22, p. 335]).

Kant’s position on conscience is similar to the views of Aquinas and Hobbes. For him, conscience is an inner moral court of judgment that determines whether a maxim, a description of a proposed action, can be willed as a categorical imperative, a law to govern everyone who is similarly situated: “Conscience is practical reason, holding up before a man his duty for acquittal or condemnation in every case under a law” [23, p. 59]. He goes on to explain:

Every concept of duty contains objective constraint through the law (as moral imperative restricting our freedom) and belongs to the practical understanding, which gives the rule. ... All of this takes place before a tribunal (*coram judicio*) called a court of justice (*forum*), as though before a moral person who gives effect to the law. The consciousness of an internal court of justice within man (“before which his thoughts either accuse or excuse one another”) is *conscience*. [23, p. 100]

These views, which equate conscience with the God-given faculty of reason, lack the emotional appeal of conscience as a moral sense. They also lack the personal and self-aggrandizing status of being directly informed by God’s voice. Reasoning with principles to guide action is hard intellectual work that smacks of elitism. It is therefore no surprise that this conception of conscience as right reason is less popular with the masses than the view of conscience as a moral sense or inner voice of God.

## Conscience: the upshot

Even though the two groups of theorists reviewed above have very different views on what conscience is and how to recognize what it requires of us, they both agree that the dictates of conscience must be accepted as either directing or limiting action, and people who regard themselves as being bound by conscience must conform their actions with what conscience requires of them. In other words, a person who commits herself to following the dictates of conscience regards herself as obliged to follow the direction of conscience. This approach to morality essentially derives moral authority from the act of binding oneself. It is an overarching perspective on ethics as arising both from accepting the responsibility to act morally and from binding oneself to uphold the commitments that one makes.<sup>5</sup> Stated in simple terms, it means that we should keep the promises that we make to ourselves and keep the promises that we make to others. Therefore, someone who regards certain actions as being contrary to the dictates of conscience should not commit herself to performing them. Put differently, someone who undertakes an obligation commits herself to fulfilling that obligation. And in Kantian terms, a person should not “promise anything without intending to keep it” [24, p. 15].<sup>6</sup>

## Conscientious objection

The nature of conscience and its authority in directing action are especially important topics in the ethics literature of the seventeenth and eighteenth centuries, and they continue to be important to some later authors. For example, the early twentieth-century author C.S. Lewis (1898–1963) identifies conscience as the “internal witness” [25, p. 187]; and with similar import, late twentieth-century bioethicists have identified the inner sense of conscience with what they call the “wisdom of repugnance” [26] or the “yuk factor” [27, 28]. And so, conscientious objection remains a controversial issue in today’s bioethics.

In *A Discourse of Natural Religion*, Cambridge Platonist Samuel Clarke lays out how conscience leads to moral dilemmas in personal morality and the political domain. Ethically, the question is whether a person who acts from the inner sense of conscience can be doing something wrong when the action violates a moral law. Politically, the question is whether a person should follow the dictates of private conscience, obey the political sovereign and the civil law, or obey a religious leader. Clarke’s position is that conscience should determine assent, and one should always act in accordance with one’s moral sense. He explicitly states:

For the judgement and conscience of a man’s own mind, concerning the reasonableness and fitness of the thing, that his actions should be conformed to

<sup>5</sup> Stephen Darwall takes a similar view on this issue [20].

<sup>6</sup> Kant regards keeping promises as a perfect duty [23, p. 31, note 14].



such or such a rule or law; is the truest and formallest *obligation*; even more properly and strictly so, than any opinion whatsoever of the authority of the giver of a law, or any regard he may have to its sanction by rewards and punishments. For whoever acts contrary to this sense and conscience of his own mind, is necessarily self-condemned; and the greatest and strongest of all obligations is that, which a man cannot break through without condemning himself. [11, p. 202]

In other words, Clarke, as well as those with similar views, holds that an individual should always follow her moral sense.

The restrictions on conscience are more limited for Aquinas, Hobbes, and Kant. For them, people should never violate the moral law, but they are free to act as they see fit so long as their actions do not transgress the rights of others. For Aquinas, the moral law is what the Bible commands that we must not do. For Hobbes, the laws of nature tell us what we must not do. And for Kant, we must not act on maxims that cannot be categorically willed.

Thus, even though the theorists discussed above have very different views on what conscience is and how we can recognize what it requires of us, they all agree that the dictates of conscience must be accepted. Actions that conscience prohibits must not be performed.

## Conscientious objectors: prominent exemplars

### Henry David Thoreau

Disgusted by slavery and the war that would spread slavery into Mexico's territory, American intellectual Henry David Thoreau (1817–1862) published an essay on “Civil Disobedience” in 1849. In it he argues that people should not permit government to overrule their conscience and that they have a duty not to acquiesce and thereby enable government to make them agents of injustice. Thoreau demonstrated his conscience-directed nonviolent resistance to the Mexican–American War by refusing to pay his taxes and choosing to be jailed instead. Taking a stand that directly opposes Hobbes's view on the substance of what conscience dictates, and aligning himself with the inner sense view, Thoreau asks:

Must the citizen ever for a moment, or in the least degree, resign his conscience to the legislator? Why has every man a conscience, then? I think that we should be men first, and subjects afterward. It is not desirable to cultivate a respect for the law, so much as for the right. The only obligation which I have a right to assume, is to do at any time what I think right. It is truly enough said, that a corporation has no conscience; but a corporation of conscientious men is a corporation *with* a conscience. Law never made men a whit more just; and, by means of their respect for it, even the well-disposed are daily made the agents of injustice. [29, pp. 190–191]

## **Mahatma Gandhi**

Mohandas “Mahatma” Gandhi (1869–1948) was influenced by Thoreau’s position on nonviolent civil disobedience, and he held a similar view of conscience. He maintained that “in matters of conscience the Law of Majority has no place” [30, p. 3]. Gandhi employed nonviolent resistance in his struggles to overcome oppression, first on behalf of Indians living in South Africa and then later in India. In India he initiated a non-cooperation movement involving marches and fasts, and called upon his fellow Indians to withdraw from British institutions, return honors conferred by the British, and learn self-reliance. His conscientious objection and non-violent activism culminated in his call for Indian independence from British rule in 1942. In response, the British government held Gandhi under arrest until after the end of World War II.

## **Martin Luther King Jr.**

Martin Luther King Jr. (1929–1968) was a Baptist minister who became a US civil rights activist early in his career largely because his Christian beliefs committed him to following his conscience. Gandhi’s achievements inspired him to organize a nonviolent movement of civil disobedience. With a call for a coalition of conscience, King led nonviolent marches and massive protests to end racial segregation and racial discrimination and to promote justice and human dignity, declaring that “there comes a time when one must take the position that is neither safe nor politic nor popular, but he must do it because conscience tells him it is right” [31, pp. 276–277]. In the course of his civil rights activism, King underwent a house bombing, nearly thirty arrests, at least four assaults, and ultimately assassination.

## **Government employees under Trump’s family separation policy**

In June 2018, a number of US federal and state employees became conscientious objectors when they refused to participate in President Trump and Attorney General Jeff Sessions’ policy orders to separate children from their asylum-seeking parents [32]. When these workers recognized that what they were being ordered to do was immoral and unlawful and chose to abide by the limitations imposed by their consciences, they risked their jobs, prosecution, and other unknown penalties. Nevertheless, they refused to participate in wrongdoing and were willing to bear the burdens of their decisions.

## **Conscientious objectors in medicine today**

Most recently, conscientious objection has become a hot-button cause championed, primarily, by political right-wing moral conservatives. In the medical arena, they invoke conscience to exempt health care workers from participating in the provision

of legal abortion services, medical aid in dying, or life-sustaining treatment withdrawal, and they advance state and federal legislation to protect health care providers' conscience rights. In the United States, a series of federal health care provider conscience protection statutes [33]—in particular, the Church Amendment of 1973 [34], the Coats–Snowe Amendment of 1996 [35], and the Weldon Amendment originally adopted in 2004 [36]—prohibit recipients of certain federal funds both from compelling individuals to participate in abortion or sterilization procedures that run contrary to their religious or moral beliefs and from discriminating against health care professionals who refuse to participate in them on grounds of religious or moral objections. Additionally, the 1996 Coats–Snowe amendment to the Public Health Service Act prohibits the federal government and any state or local government receiving federal financial assistance from discriminating against health care entities based on their refusal to participate in training, performance, or arrangements related to induced abortions. The Weldon Amendment, which has been incorporated into each iteration of the Health and Human Services appropriations act since 2004, extends refusal protections to include “an individual physician or other health care professional, a hospital, a provider-sponsored organization, a health maintenance organization, a health insurance plan, or any other kind of health care facility, organization, or plan” [36]. The 2010 Patient Protection and Affordable Care Act even includes conscience protections within the health insurance exchange program, providing that “no qualified health plan offered through an Exchange may discriminate against any individual health care provider or health care facility because of its unwillingness to provide, pay for, provide coverage of, or refer for abortions” [37].

These conscience protections should be challenged and rejected on two counts. First, a person who makes a choice for self-serving reasons and imposes burdens on others is not a conscientious objector. Second, a conscience-based refusal to provide a medical service that is both lawful and consistent with the standard of care is not an acceptable choice for a medical professional. Allow me to explain each of these objections in turn.

### First objection

Traditionally, as the examples above illustrate, people who invoke conscience as their reason for refusing to abide by a civil law or the commands of an authority are willing to bear the burdens of their moral commitments. Pacifists in World War I who refused to take violent action against others accepted particularly dangerous service as medics on the battlefield rather than violate their beliefs. Thoreau, Gandhi, and King accepted their incarceration because that was the price for the civil disobedience that their consciences compelled them to perform. The US government employees who refused to participate in a policy of separating children from their parents at the border accepted the unknown penalties of their conscientious objection.

Today's medical professionals who assert a conscience-based refusal ask to be protected from bearing the burdens of their inner discomfort. In doing so, they are willing to impose burdens of compromised health and liberty on patients. They

show no compunction for the offense caused by their judgmental refusals, no empathy for the inconveniences posed by the process of finding another doctor, and no compassion for the extra financial costs incurred as a result of having to miss more work, obtain child care, and pay additional transportation expenses. For the sake of their own comfort, they are also willing to encumber the shrinking population of medical professionals who continue to put their patients' interests before their own with increasing risks to their safety and their lives.

In sum, today's medical professionals who claim conscientious objection in refusing services to patients are unwilling to sacrifice anything for their beliefs. They are, therefore, not entitled to be counted as conscientious objectors because in any other context they would be more accurately described as selfish egoists. They misappropriate the term and abuse the language to claim the moral high ground when their behavior is at odds with the phrase's esteemed historical legacy of self-sacrifice.

## Second objection

There are some duties that everyone has by dint of living in a human community: to be truthful, to be kind, to avoid harming others, to keep promises, and so forth. Other duties are distinctive obligations that must be met only by those who voluntarily undertake them. The duties of parenthood, of repaying a debt, of hosting a guest, and so forth become responsibilities inasmuch as one chooses to accept them. These are special duties arising from personal commitments, and they bind only those who assume them.

People who take on special responsibilities are often allowed special powers, privileges, and immunities, but they also give up certain freedoms. For example, people who choose to become parents are accorded the power to discipline their offspring and compel them to complete household chores; they are permitted the privilege of naming their babies and choosing whether to raise them with religion and, if so, which one; and they are afforded immunity from prosecution for kidnapping when they move their reluctant brood away from their friends to another state. At the same time, in the act of choosing to become parents, people give up certain freedoms such as sleeping through the night, using all of their money on themselves, and spending all of their after-work hours being alone and doing as they please. By freely accepting their role as parents, people who might otherwise have preferred to avoid messes and unpleasant odors become obliged to change their infants' dirty diapers and clean them up when they vomit.

Individuals who voluntarily take on special duties that involve interactions with others give people good reason to rely upon them to carry out their obligations and fulfill the responsibilities of the jobs that they have freely accepted. The person who agrees to water your plants or look after your pet assumes those obligations and must, therefore, fulfill them even when the tasks turn out to be inconvenient or when they find the chores obnoxious or repulsive.

Societies grant professions distinctive powers, privileges, and immunities that require professionals to do things that no one else may do. Thus, choosing to become

a professional is taking on special and distinctive professional responsibilities.<sup>7</sup> For that reason, someone who loves uniforms, medals, military parades, and big war machines and chooses to become a soldier is not free to assert her claim to conscientious objection as a pacifist. Taking on special role obligations entails giving those duties at least the presumption of priority over other commitments. We would find it outrageous if firefighters or police officers with moral convictions in opposition to extreme right-wing nationalism refused to render those who subscribe to such ideologies the aid that they were otherwise due. This is because firefighters and police officers assume the responsibilities of their station.

As the American Board of Internal Medicine, American College of Physicians Foundation, and European Federation of Internal Medicine declare in their 2002 statement, “Medical Professionalism in the New Millennium: A Physician Charter,” medical professionalism “demands placing the interests of patients above those of the physician” [39, 40]. Every ethical code, each oath taken by medical professionals, and all of the discussions of medical professionalism that I have encountered similarly assert the primacy of medicine’s commitment to its fiduciary responsibility and to putting the welfare of patients over the welfare of medical professionals [41–48]. Furthermore, only members of the medical profession are allowed the powers, privileges, and immunities required for the performance of pregnancy termination and sterilization procedures, and in the states that allow aid in dying, only physicians can provide the prescriptions. Because they have chosen to be medical professionals, and because they uniquely possess the powers, privileges, and immunities required to perform these tasks, they are obliged to apply their distinctive license in serving patients. There is no obvious reason why soldiers, police officers, firefighters, teachers, and members of other professions should be duty-bound to fulfill their responsibilities even when they might prefer not to, while medical professionals are allowed to invoke conscience and opt out at the expense of others.

In his *Letter Concerning Toleration*, philosopher and physician John Locke (1632–1704) asserts that “promises, covenants, and oaths ... are the bonds of human society” [49, pp. 52–53]. Hobbes also notes the moral importance of promise-keeping when he sets it out as the third law of nature—“that men performe their covenants made” [22, p. 110]. And in his *Grounding for the Metaphysics of Morals*, Kant argues that making a promise with the intention of breaking it would be a violation of the moral law [24, 31]. The list of like-minded moral theorists, theologians, and others who share that basic view goes on and on.

To become a physician is to make a commitment to patients and society and take on the medical profession’s special obligations. As physician Edmund Pellegrino notes in his paper “Professionalism, Profession and the Virtues of the Good Physician”:

“Profession” means ... to declare aloud, to proclaim something publicly. ... Professionals make a “profession” of a specific kind of activity and conduct to which they commit themselves and to which they can be expected to conform.

<sup>7</sup> The distinctiveness of professional obligations is described in my paper “Why Not Common Morality?” [38].

... When the Oath is proclaimed, ... it is taken seriously as a binding commitment to place one's special knowledge and skill at the service of the sick.... At this moment, one enters a moral community whose defining purpose is to respond to and to advance the welfare of patients. [50, p. 379]

Pellegrino recognizes that “the doctor voluntarily promises that he can be trusted and incurs the moral obligations of that promise” [50, p. 379]. He also explains that “The profession is ‘declared’ ... in the daily encounter with patients. Every time a physician sees a patient and asks ‘What can I do for you, what is wrong, what is the problem?’ he or she is professing ... to use [his or her] competence in the best interests of the patient” [50, p. 379].

Although this view of the medical profession is widely endorsed by physicians and the public in most contexts, some people allow the insight to be shrouded or cast aside when they approach the issues of abortion and aid in dying. For example, Pellegrino clearly understands what a physician's professional commitment entails when he considers the obligations of physicians broadly and even when he focuses on specific challenges like the duty to provide medical care for patients living with HIV. In his paper “Altruism, Self-interest, and Medical Ethics,” Pellegrino argues that physicians are not entitled to make individual, personal judgments about the dangerousness of treating HIV-positive patients [51]. Instead, he asserts that each physician must provide treatment because, according to the judgment of the profession, the risk of infection is not significant enough to defeat professional duty. Pellegrino's conclusion—that personal values and individual assessments of risk have no place in professional medical practice—amounts to a general principle of medical ethics.

Unfortunately, the clarity of Pellegrino's insight lapses when he considers abortion and takes a stand that is inconsistent with his other writings in defending the supremacy of personal morality over professional responsibility. In a 1987 paper, “Toward a Reconstruction of Medical Morality,” Pellegrino falls back on an argument that other physicians brandish when they refuse to provide medical services based on claims of conscientious objection—specifically, he maintains that each of the parties in the doctor–patient relationship “must respect the dignity and values of the other” [52, p. 14] and that physicians should not be expected to sacrifice their own values in the service of their patients so long as they “announce in advance their positions on the more crucial human life decisions” [52, p. 14].

This strikes me as having your cake and eating it too. Yes, each party in a relationship should respect the values of the other—neither party should disparage the other's private values and both parties should continue to treat each other with respect. But nothing in that truth suggests that either party should be released from fulfilling her obligations to the other. A person who acts with dignity honors her commitments and fulfills her obligations. So I understand respectful interactions to require both parties to uphold their part and abstain from shirking the duties that they have undertaken. In other words, people who choose to become medical professionals need to consider whether or not the commitments entailed are consistent with their values. If not, they should pursue another career path, and we “must respect the dignity and values” that led them to their choice.

A similar phenomenon is evidenced in a paper by physician-philosopher Daniel Sulmasy, “Tolerance, Professional Judgment, and the Discretionary Space of the Physician” [53], which draws on Locke’s *Essay Concerning Toleration* [54].<sup>8</sup> Sulmasy rightly highlights Locke’s claim that we should tolerate the “practical principles or opinions by which men think themselves obliged to regulate their actions with one another” [54, p. 100]. He correctly points out that Locke argues for tolerating different religious views so long as they are not “apparently destructive to human society ... because the conscience, or persuasion of the subject, cannot possibly be a measure by which the magistrate can, or ought to frame his laws, which ought to be suited to the good of all his subjects, not the persuasions of a part” [54, p. 111].

It seems, however, that in relying upon Locke’s support of religious tolerance to defend doctors who exempt themselves from their professional responsibilities, Sulmasy overlooks the distinction that Locke draws in his *Letter Concerning Toleration*—namely, the distinction between the professional duties of magistrates and the liberties of other individuals whom Locke refers to as “private persons” (e.g., [49, pp. 19–21]). In Locke’s day, the extension of the term *magistrate* included judges, legislators, and monarchs [49]. Locke is pointedly focused on distinguishing the professional duties of magistrates created by their “promises, covenants, and oaths” from the responsibilities of other private persons when he remarks, “In the last place, let us now consider what is the magistrate’s duty in the business of toleration, which certainly is very considerable” [49, p. 26]. He then asserts that “the publick good is the rule and measure of all law-making” [49, p. 34].

Whereas Locke defends toleration of private beliefs, he argues that those who take on professional obligations must uphold them, and they should not be exempt from any of their obligations by invoking conscience. In fact, Locke goes on to say that it is wrong for magistrates to impose their personal values on others and that attempts to do so should not be tolerated: “As the *private judgment* of any *particular person*, if erroneous, does not exempt him from the obligation of law, so the *private judgment* (as I may call it) of the *magistrate* does not give him any new right of imposing laws upon his subjects” [49, pp. 48–49] (emphasis added). He continues to caution against individuals who deliberately misuse language to their own advantage and thereby show intolerance of others.

Another more secret evil, but more dangerous to the commonwealth, is, when men arrogate to themselves, and to those of their own sect, some peculiar prerogative, covered over with a specious shew of *deceitful words*, but in effect opposite to the civil right of the community. ... These therefore, and the like, who attribute unto the faithful, religious and orthodox; that is, in plain terms, unto themselves; any peculiar privilege or power above other mortals, in civil concernments; or who, upon pretence of religion, do challenge any manner of authority over such as are not associated with them in their ecclesiastical communion; I say these have *no right to be tolerated by the magistrate*; as neither

<sup>8</sup> See also Sulmasy’s contribution in this special issue, “Conscience, Tolerance, and Pluralism in Health Care” [55], which similarly draws on Locke.

those that will not own and teach the duty of tolerating all men in matters of meer religion. [49, pp. 50–51] (emphasis added)

Locke then comments on individuals who claim conscientious objection and refuse to perform actions that would otherwise be required.

What if the *magistrate* should enjoyn any thing by his authority that appears unlawful to the conscience of a *private person*? ... Such a *private person* is to abstain from the action that he judges unlawful; and he is to undergo the punishment, which it is not unlawful for him to bear. For the private judgment of any person concerning a law enacted in political matters, for the publick good, does not take away the obligation of that law, nor deserve a dispensation. [49, p. 48] (emphasis added)

In other words, Locke's position is that a conscientious objector should be willing to bear the burdens of personal commitments.

These statements show that Locke's perspective on tolerance is at odds with the claims that Sulmasy makes in his name. In addition to maintaining that people with conscientious objections should bear the burdens of their commitment themselves, Locke holds that people who have undertaken professional responsibilities and then impose their private value-based restrictions on others overstep and abuse their authority and thereby display intolerance.

## Hospital claims of conscientious objector status

Taking the argument a step further, it is important to note that hospitals as well as physicians are expected to fulfill all medical obligations to the extent that their resources allow.<sup>9</sup> Thus, people who are brought to emergency departments by ambulance, and people who follow blue and white road signs with a large letter *H* to deliver an ill passenger who requires medical attention, have reason to expect care that is consistent with medical standards regardless of the hospital's ownership. Hospitals that refuse to provide emergency contraception to rape victims or abortion to patients with a medical need for the procedure neglect their responsibilities and fail to function as we reasonably expect medical facilities to respond. Society would not allow an institution that chooses to withhold blood from patients who require transfusions to call itself a hospital, even if it were owned by Jehovah's Witnesses, precisely because withholding that service is inconsistent with good medical practice.

Limiting hospital services to accord with religious beliefs is especially egregious and intolerant when patients are not aware of an institution's deliberate deviations from standard practice and not informed of the unwanted constraints that are imposed by the religiously affiliated owners. It is also intolerant of physicians whose

<sup>9</sup> Lawrence Nelson makes the point that arguments opposing conscientious objection claims also apply to hospitals [56].



consciences direct them to serve their patients and provide the medical services that they need. In 2016, at least 14.5% of hospitals were owned by the Catholic Church. As reported by Julia Kaye and colleagues, “Today, one in six hospital beds in the United States is in a Catholic hospital. In some places, such as Washington State, more than 40 percent of all hospital beds are in a Catholic hospital, and entire regions have no other option for hospital care. Catholic hospitals also receive billions in taxpayer dollars” [57, p. 6].

These hospitals’ imposition of religious doctrines to limit the care that they provide to patients who need it is ethically untenable. Society grants hospitals numerous privileges (financial and legal) because of the valuable services that it relies on them to provide. It is therefore fair to expect them to meet their responsibilities to society and its members. Operating as a hospital is a voluntarily undertaken obligation to provide essential services, whereas hospital ownership is neither an essential function of religions nor an inherent element of religious practice. In other words, prohibiting hospital owners from imposing religious restrictions is not a violation of religious freedom.

If any religious group finds the performance of legal and professionally accepted medical procedures to be in opposition to their core religious beliefs, they can get out of the hospital business. It is unacceptable for them, or any group that will not live up to their voluntarily assumed obligations, to operate a medical facility. Operating a hospital that refuses to fulfill its legal and social obligations is unethical because, in doing so, the owners are making a promise that they do not intend to keep.

## Conclusions

Neither the conception of conscience as moral sense or inner voice nor the notion of conscience as right reason can defend the obfuscating claims of “conscientious objection” made by members of medical professions or health care institutions today. Because the claimants are unwilling to bear the burdens of their choices, and instead impose burdens on others so that they may be excused of their responsibilities, their use of the term should be identified as what it is: the exercise of *deceitful words* to manipulate public opinion and promote their self-interest.

People who view conscience as a moral sense or inner voice regard being true to their word as a conscience-given moral imperative that must be followed. People who consider keeping promises and honoring commitments to be required by moral laws produced by right reason also conclude that they must abide by their conscience and stay true to their word. In sum, both perspectives recognize the immorality of undertaking commitments without the intention of fulfilling them.

When an individual recognizes that the performance of certain professional responsibilities would conflict with her conscience, she has a moral decision to make. She may either accept the full responsibilities of the profession or bear the burdens of her own conviction and choose another path in which her personal beliefs could be better reconciled with her occupational tasks. Men who are drawn to the priesthood but foresee that they would not want to remain celibate must not

join, and priests who come to realize that they cannot uphold their commitment to celibacy must resign. They must accept these outcomes regardless of how much they enjoy other aspects of their priestly role. In the same way, people who want to become medical professionals need to consider whether or not the commitments of medical professionals are consistent with their own values. Some career choices are limited by one's financial resources; some are restricted by one's aptitudes and faculties; some are confined by one's tastes and aversions. In the same way, some career alternatives are constrained by one's personal values and religious commitments. No injustice is involved in these circumstances.

Becoming a medical professional is, in essence, taking on professional obligations. The duties of medical professionals are defined by the profession in view of society's legitimate expectations: the scope of professional responsibility is not stipulated by personal opinions or individual sensitivities. Therefore, individuals who freely pledge their adherence to the profession, and accept all of the social trappings that accompany it (e.g., a state license to practice medicine, hospital privileges, a white coat, an email signature followed by the letters MD), and yet expect to withhold legal and professionally accepted medical procedures from patients based on their own idiosyncratic interpretations of what being a medical professional entails or for their own sense of inner comfort, violate the fundamental standard of morality by making a promise that they do not intend to keep. When acting as medical professionals, their conscience should direct them to uphold the duties of the profession.

In sum, because the people in our society trust medical professionals and hospitals to fulfill all of their obligations and rely upon them to put patients' interests before their own, individuals and institutions that choose not to fulfill the duties of their station should recognize that what they are doing is immoral. They should not take on roles that are incompatible with their personal values when they intend not to satisfy their voluntarily undertaken duties. Instead, they should limit their choices to commitments that they are willing to honor. A true conscientious objector does not ask others to suffer the burdens of her commitments but accepts the consequences of the principles that she values and commits herself to uphold.

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