Commentary

**A Reasonable Objection? Commentary on “Further Clarity on Co-operation and Morality”**

Conscientious objectors to the killing of others – whether through war, abortion, infanticide or euthanasia usually pay quite a high price for taking such a stand, if only in having to bear the opprobrium of opposing voices; some however lose their jobs altogether or at least the likelihood of promotion even if they remain in post.[[1]](#footnote-1) Leading medical journals[[2]](#footnote-2) [[3]](#footnote-3), including this one[[4]](#footnote-4), have at least up to now appeared increasingly intolerant in recent years of conscientious objection in medicine.

The recently-published consensus statement of an ethics summit on the topic begins, “Healthcare practitioners’ primary obligations are towards their patients, not towards their own personal conscience.” [[5]](#footnote-5) This arguably creates a false antithesis from the start. Conscientious objection to killing is primarily about obligations to patients in the minds of most such objectors. The consensus statement goes on to assert that “The status quo regarding conscientious objection in healthcare in the UK and several other modern Western countries is indefensible”5 in being too unaccountable and the authors make several recommendations as to how the status quo might be changed so that conscientious objectors might consequently be afforded less protection than they experience currently.

It is good then to see such an imbalance somewhat redressed in Oderberg’s measured and thoughtful article which has as its foundational position, “not *whether* secular, pluralistic societies should protect freedom of religion (and conscience) in health care …but *how*”.[[6]](#footnote-6) Even so, Oderberg in this statement and elsewhere in the article, appears to subsume conscience as part of religion or at least being closely linked to it. I would suggest it is the other way around however. Not everyone is religious but everyone has a conscience (even if malfunctioning or stifled). Conscientious objectors may have religious or entirely *secular* views which they consider to be violated by the particular action to which they object.

Many of those objecting to the death penalty for convicted (but not always guilty) prisoners for example, would not always do so on religious grounds and in my experience, many secularists who support legal abortion in principle, nevertheless admit they would not be willing to perform one. It is not just, as Oderberg suggests, ‘in theory’ but in practice too that the issue of conscientious objection encompasses everyone. Whilst it is true that the majority of legal cases in the West involve Christians, perhaps this has more to do with their courage (or recklessness) and ability to fund costly court actions rather than the point of conscience at issue *per se* being restricted to Christians. Oderberg’s identification of *ad hoc* conscience clauses providing insufficient protection for conscientious objectors and of the violation of conscience by co-operation with an immoral act as well as by participation in it, are both crucial in establishing a more robust legal framework to consider specific cases arising from conscientious objection in future.

I share both Oderberg’s concerns about the ‘mere sincerity’ test basis for the judgment in *Hobby Lobby* and also his insistence that the reasonableness of the belief or view should also be taken into account. This interestingly provides some common ground with those broadly opposed to conscientious objection who require that “Healthcare practitioners who wish to conscientiously object to providing medical treatment should be required to explain the rationale for their decision”.5 However, Oderberg may be over-optimistic in assuming that his methodological neutralist might begin to bridle only as she goes down his list of his putative primary beliefs in *Hobby Lobby,* rather than doing so at the very top. I suspect most of those opposing what they consider to be the expanding protection given by conscience clauses in the US[[7]](#footnote-7) would struggle to be neutral about a conscientious objector considering abortion at 12 weeks immoral, let alone considering ‘abortifacient contraception’ immoral.

However Oderberg is surely right in contending that in the absence of a worked-out jurisprudence of co-operation such as his carefully reasoned framework of one based on PDE, conscientious objectors such as the midwives in *Doogan and Wood* are more likely to find themselves out of job rather than getting reasonable accommodation from their employers.

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1. Stammers, T., Bullivant, S. 2012 ‘Secularism’ in Cobb M, Puchlaski C.M, Rumbold B (Eds.) *Oxford Textbook of Spirituality in Healthcare* Oxford: OUP pp 83-88 [↑](#footnote-ref-1)
2. Savulescu, J. 2006 Conscientious objection in medicine. *Br Med J* 332 : 294-295. [↑](#footnote-ref-2)
3. Cantor, J. 2009. Conscientious objection gone awry — restoring self-less professionalism in medicine. *N Engl J Med* 360 : 1484-85. [↑](#footnote-ref-3)
4. Schuklenk, U., Smalling, R. 2016 Why medical professionals have no moral claim to conscientious objection accommodation in liberal democracies *J Med Ethics* doi:10.1136/medethics-2016-103560 [↑](#footnote-ref-4)
5. http://blog.practicalethics.ox.ac.uk/2016/08/consensus-statement-on-conscientious-objection-in-healthcare/ [↑](#footnote-ref-5)
6. Oderberg, D 2016 Further Clarity on Co-operation and Morality *JME* in press [↑](#footnote-ref-6)
7. Charo, R. A. 2005 The celestial fire of conscience: Refusing to deliver medical care *NEJM*  352 2471-3 [↑](#footnote-ref-7)