

A Few Words about Appeal of the Conscience

Siniša Franjić*

Independent Researcher, Croatia

***Corresponding Author:** Siniša Franjić, Independent Researcher, Croatia.

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Abstract

Appeal of the conscience is an individual's decision to refuse to perform an obligation imposed on him by the legal system. The right to appeal of the conscience derives from freedom of conscience, which is guaranteed by Article 18 of the Universal Declaration of Human Rights. Due to their ethical, religious or moral beliefs, the doctor has the right to appeal of the conscience and refuse to diagnose, treat and rehabilitate the patient, if it does not violate the rules of the profession and if it does not cause lasting health consequences or endanger life patient. Doctor must inform the patient of his decision in due time and refer him to another doctor of the same profession.

Keywords: *Conscience; Medicine; Health Care; Doctors; Patients*

Introduction

Philosophical interest in consciousness has tended to focus on specific states of consciousness—for example, the kinds of conscious states that one is in when experiencing pain, looking at a sunset, or feeling depressed [1]. Theorists have discussed whether the phenomenal character of such states can be captured by appeal to their intentional contents; they have considered why such states might be conscious at all; and they have explored ways in which such states might be accommodated within a physicalist conception of the world. This focus has led to much progress in understanding the nature of specific conscious states, but this progress has been accompanied by the neglect of many other components of consciousness.

The right thing to do only becomes a matter of conscience when spoken by the self to the self [2]. By virtue of its reflexive nature conscience is also about freedom. Freedom of conscience means that externally imposed norms will not necessarily determine behaviour unless they have been taken on as one's own.

The appeal of conscience is allowed legal act of disobedience which justifies the conflict between certain parts of law enforcement and deep religious, moral, philosophical or political beliefs of the person that work should be done [3].

Abortion

Abortion or termination of pregnancy is a spontaneous or induced termination of pregnancy by removing or expelling embryos or fetuses from the uterus before the ability of the fruit of the uterus for life [4].

In many jurisdictions, abortion has been, or continues to be, prohibited unless legal exceptions apply [5].

The purpose of pre-natal diagnosis is to discover as much as possible about the unborn child and, in particular, to detect any abnormality or illness [6].

Harms and burdens

Depending on the situation, when a physician, nurse, or pharmacist refuses to provide a legal and professionally accepted good or service for reasons of conscience, patients can experience harms and/or burdens that they would not have experienced if the health care professional had provided the good or service [7].

Health care

Until recent times, the practice of medicine was mostly a matter of free enterprise [8].

If religious or conscience-motivated physicians are unable to carry out a procedure that is prescribed by law, then perhaps they should not be practising medicine at all, or at the very least, maybe they should not be practising in specialties that might place them in a position in which they might be asked to carry out MAID [9].

Doctors

It is almost universally accepted that there is more to being a good doctor or nurse than the possession of clinical skills [10]. The health care professions are committed, explicitly or implicitly, to certain basic ethical values. Medicine, for example, is generally regarded as having certain ethical goals and as bound by certain principles in the pursuit of those goals. In addition, a widely shared assumption is that in order to promote the values of medicine, practitioners need personal virtues, such as honesty, benevolence and justice. In this, medicine is different from certain other types of legitimate employment. For example, although the welfare of the consumer is not the main concern of a business trying to sell a product at a profit, the welfare of the patient is central to the good practice of medicine.

Accordingly, most health care professionals place considerable importance upon acting with integrity in their work. This entails acting upon their moral principles and doing what they consider to be right. Usually this coincides with what their profession and patients expect from them. But there are occasions when such expectations conflict with the demands of professionals' personal conscience. Many people believe that acting with integrity involves more than doing things which merely happen to be right. It also means following one's own conscience and not doing what one believes to be wrong. Largely for that reason, doctors and nurses often have the right to refuse participation in certain procedures, on grounds of conscientious objection.

What we might call the 'effectiveness proviso' limit on the right of conscientious objection might also come into play in relation to the duty to refer, in the right circumstances [11].

What, say, of the wife who seeks a termination of pregnancy without her husband's knowledge? Here, there can be little doubt that the doctor is firmly bound by his duty of confidentiality to his or her patient [12]. Both legally and ethically, pregnancy is regarded as being such an intimate matter for the pregnant woman that her husband or partner has no intrinsic right to interfere in its management - despite the fact that he has an equal genetic relationship to the child within the uterus. But what if the wife seeks sterilisation on the same terms? A conscientious practitioner may well feel that this is not a decision that should be taken unilaterally. The doctor's first responsibility may well be to attempt to convince his or her patient that this should be a joint decision. This having failed, however, the answer does not lie in breach of confidentiality which, in the absence of danger, could seldom, if ever, be justified. Rather, the doctor may fall back on the well-accepted principle that there is no compulsion to provide treatment that he or she cannot approve - and, sometimes, as we have already noted, such 'opting out' has the backing of statute. Nevertheless, as the duty to refer the patient to another practitioner still remains, 'opting out' then becomes something very like 'passing the buck'. This is a less than ideal moral ploy - but it may be the only alternative to a deeply held conscientious or professional objection to providing a specific form of treatment under the veil of secrecy.

Patients

Obstetrician-gynecologists and family physicians can spare patients unnecessary additional burdens at a time of increased vulnerability if they do not wait until patients consider or request an abortion to inform them of their conscience-based objections [7]. To prevent unnecessary burdens, physicians can give prospective patients an opportunity to learn about their objection to abortion during the first appointment. To be sure, patients can initiate a discussion, ask questions, and so forth. However, they may be reluctant to inquire about the physician's willingness to perform abortions, or it may not be a concern to them at the time. Hence, physicians with conscience-based objections to abortion bear the responsibility for giving patients an opportunity to learn about their unwillingness to perform the procedure. Pamphlets listing services that a physician does and does not provide can help to inform prospective patients that abortion is not among the services that a physician offers.

Circumstances may not warrant advance notification. However, when it is feasible and apt, it can reduce patients' burdens and harms and enable them to select and establish relationships with health care providers who are willing to provide goods and services that are consistent with patients' health needs and preferences.

Conclusion

Legislation in developed countries guided by the protection of human freedom, identity, conscience and dignity allows for the appeal of conscience as legally permissible acts of limited scope. In doing so, for the appeal of the conscience to be legitimate, it must be based on the moral principles of the individual who understands the meaning of legal norms, and not on personal interests.

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