FEATURE ARTICLE

Some Thoughts on Conscience in the Delivery of Catholic Health Care

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Conscience is on the mind of bioethicists these days, religious and secular alike.[1] This interest is spawned, in part, by reports of patient and consumer encounters in which health care professionals decline to prescribe or fill prescriptions or participate in a course of care they deem ethically inappropriate.[2] These denials typically arise around areas of heated social debate. Stories of patients or consumers stymied in their attempt to obtain legally sanctioned medications such as emergency contraception and Viagra populate newspaper columns and professional journals, bringing to the fore the question of whether health care professionals should allow their moral commitments to restrict treatment options within their practice. State legislatures are weighing in as well, in some cases protecting, through legislative actions, a health care professional's right of conscience and, in other cases, mandating that conscience not frustrate the delivery of legally sanctioned medications and socially accepted clinical interventions.[3]

Arguments against Conscience in Health Care

Arguments against conscience in health care gather around two related concerns. The first concern about conscience in the clinical encounter bears upon the nature of conscience itself and whether it has a place in the practice of medicine. It is argued that the admittance of conscience into the clinical encounter offers safe harbor for physician bigotry, idiosyncrasy and bias under the umbrella of conscience.[4] Conscience, it is feared, may serve as an unassailable and wholly private "moral" refuge. It is frequently cast as unreasoned in its thinking and potentially at odds with the professional duties of the physician to meet the needs of his or her patient.

Others worry that the rise of conscience signals a blurring of the line between one's personal moral commitments and one's professional obligations.[5] Some have suggested that conscience should be prohibited from influencing the clinical encounter based on an accepted demarcation of private morality from public and professional roles. In this framework, physicians have a professional obligation to provide all legally sanctioned medications when patients' requests align with clinical indications regardless of their own personal moral reservations.

Conscience in the Catholic Tradition: Communally Informed and Character-Forming

The concept of conscience in Catholic health care is, at the very least, familiar to those of us who work in this ministry. It is, perhaps, most evident to us in our public and practiced stance against various clinical interventions like abortion and sterilization that are contrary to the Catholic vision of the human person. More broadly, we abide by the *Ethical and Religious Directives for Catholic Health Care Services* that guide our daily practice and inform both our institutional consciences as well as the consciences of individual health care providers who work within our facilities. But the recent, resurgent interest in the topic of conscience in the clinical encounter offers us a chance to consider again the significance of conscience for Catholic health care as we work to understand our ministry in relation to the morally pluralistic world in which we practice.

In contrast to a perception of conscience as wholly individual and private, Catholic thinking on conscience might begin with the recognition that the origin of the word "conscience" is communal in character. Its Latin roots — *con-scientia* — lead us to an idea that translates as "knowing together" or "joint-knowledge." A Catholic conception of conscience, then, is already at some distance from the perception of conscience as wholly private and individual. Prior to becoming Pope Benedict XVI, Cardinal Joseph Ratzinger wrote two essays on conscience, joined together in a volume published by the The National Catholic

Bioethics Center under the title, *On Conscience*.[6] He speaks to the communal nature of individual conscience when he considers that Catholic conscience is fed by four sources: one's own natural inclination to discern and do the good and avoid evil, the shared experience of the community in which one lives, reality itself and, finally, divine revelation.

Conscience, then, in the Catholic tradition, is yet another way of speaking about the moral life in general, one that is shaped by the Natural Law, lived experience, the community of which we are a part, and the deposit of faith we share as a believing community. While a person makes a moral judgment as an individual, his or her conscience is informed and nurtured by the sources of the tradition and community from which it comes. In this way, a Catholic position of conscience is neither hidden nor atomistic, but open to critique, intellectually accessible and shaped in conversation and thinking within a larger moral tradition. Moreover, because conscience in the Catholic tradition is not a wholly subjective judgment of personal preference, but rather a moral judgment informed by and tested against a moral community and tradition, it is not prone to harbor bigotry or personal bias. For these reasons, one of the first steps in reasonably engaging our secular colleagues and each other in this discussion of the appropriate place of conscience in health care will entail our working to understand the various definitions of conscience employed. It may be the case that different conceptions of conscience are speaking past each other in this important dialogue.

The fact that thinking about conscience in the Catholic tradition is a perspective from which to view the moral life in general indicates that one cannot be expected to abandon conscience and, therefore, act amorally in one's professional role. Any human decision that bears upon the goodness or badness of human action in reality is, in this sense, an act of conscience. An intellectually coherent sense of the moral life requires, then, that we, as integrated persons, maintain the fundamental moral commitments of our lives across the various roles we embody. Banning conscience from the clinical encounter is impossible if we hold to the idea that the moral life is more than mere personal preference that could be temporarily suspended to fulfill the expectations of one's professional role, thus meeting the personal preferences of one's patients or clients. The Catholic tradition recognizes in the human person the capacity for truth, which sets an objective standard for the moral life. As Cardinal Ratzinger wrote, "conscience signifies the perceptible and demanding presence of the voice of truth in the subject himself."[7] One, then, cannot be expected to do that which he or she knows to be wrong despite the fact that social mores may expect otherwise.

The importance of this claim becomes clearer if we consider a component of conscience that is too often overlooked in the current discussion, namely, the formative element of conscience for the moral agent. Detractors of conscience in health care have suggested that conscience is wielded not for a higher moral purpose but as a weapon in the culture war, and thus intended to impose one's morals on another. This perception of conscience does not adequately account for a Catholic conception of conscience. For us, moral judgments consist not only of a consideration of the consequences of our actions on others, but also the affect they have on us as moral agents. Our moral faculties can dull over time to the extent that we habitually choose against our moral inclinations.

Conscience and Human Freedom

There is little question that the moral commitments of Catholic health care are increasingly viewed as alien to the values of our dominant culture. We should, then, anticipate that challenges to both individual and institutional conscience will continue to arise. While adherence to conscience may, from time to time, create an uncomfortable tension in our lives and our work, the truth that we know takes priority over accommodating the wishes of others or preserving a consensus that one knows to be morally detrimental. If we as a society are sincerely interested in protecting moral pluralism, then we need to protect the possibility of authentic moral disagreement not only at the level of theory but also in practice. Conscience must have freedom to function. It constitutes the moral center of the human person, whether religious or secular in orientation. This freedom of moral deliberation and judgment cannot be restricted to one's "private" life as morality transcends social and professional boundaries. While there is little doubt that its presence will create tension, frustration, inconvenience and ongoing disagreement, it is an absolute necessity if we are to understand ourselves as free human beings.

Abuses of Conscience

While the Catholic tradition seeks to protect the right of conscience for all people, we need to be attentive to the

potential abuses that can occur when physician conscience arises in the clinical encounter. Conscience should not mask malicious intent to embarrass or humiliate patients who disagree with a physician or who come with the expectation that there requests will be met. For this reason, some have recommended that physicians should notify patients in advance about the kind of medical practice they run so that patients can choose to go elsewhere for their medical care if they disagree with a physician's mode of practice. This raises a related and difficult challenge posed by the enactment of conscience in health care, namely, the problem created by geographical or financial scarcity as it pertains to health care access. There is a social good that inheres in making legally sanctioned medications available to the public. This good needs to be considered in conjunction with the good of individual's consciences. Therefore, accommodations may need to be made that simultaneously protect conscientious objection in health care and the social good of equitable access.

We must remember that that those who sincerely disagree with us are potentially acting from positions of conscience as well. While we may disagree with the conclusions at which they have arrived and the sources from which they have formed their respective consciences, authentic conflicts of conscience between persons exist. Even the erroneous conscience binds us at the level of judgment, which leaves open the possibility of real moral disagreement. The challenge for our culture comes in determining how to manage and protect the value of these disagreements as they are an integral part of a morally pluralistic culture in which persons are free to act upon their moral commitments.

For those of us who work within the Catholic tradition, it is critically important that we remember that all moral acts are not equal. While we certainly should guard against our consciences becoming dull or insensitive, we should also consider the dangers of having an overly scrupulous conscience. The reality of health care delivery today offers no shelter from the moral vagaries of the human lives we enter as health care professionals — nor should it. Catholic teaching has long relied upon the principle of cooperation in helping to determine the moral weight of human actions and our moral culpability in participating in them.[8] We ought not to set up an illusory hope for maintaining an inauthentic moral purity when neither our world nor God's work allow for it. Conscience is close to the heart of our ministry in Catholic health care. We should continue to foster it with equal measures of confidence and humility.

NOTES

1. See for example the articles in the June 2007 issue of *The American Journal of Bioethics* 7, no. 6: 8-36; and the articles in the May 2006 issue of *Virtual Mentor: Ethics Journal of the American Medical Association* 8, no. 5; and M. Wicclair, "Pharmacies, Pharmacists and Conscientious Objection," *Kennedy Institute of Ethics Journal* 16 (September 2006): 225-50.
2. See Julie Cantor and Ken Baum, "The Limits of Conscientious Objection: May Pharmacists Refuse to Fill Prescriptions for Emergency Contraception?" *The New England Journal of Medicine* 351 (November 4, 2004): 2008-2012; and Farr A. Curlin et al., "Religion, Conscience, and Controversial Clinical Practice," *New England Journal of Medicine* 356 (February 8, 2007): 593-600.
3. Stacy Forster, "Lawmakers Push for Conscience Clauses," *Milwaukee Journal-Sentinel,* Mar. 5, 2005; and Dirk Johnson and Hilary Shenfeld, "Swallowing a Bitter Pill in Illinois," *Newsweek,* April 25, 2005.
4. See for example Julian Savulescu, "Conscientious objection in medicine," *BMJ* 332 (February 4, 2006): 294-297.
5. See for example R. Alta Charo, "The Celestial Fire of Conscience—Refusing to Deliver Medical Care," *New England Journal of Medicine* 352 (June 16, 2005): 2471-2473.
6. Cardinal Joseph Ratzinger, *On Conscience* (San Francisco: Ignatius Press, 2006).
7. Ratzinger, 25.
8. For an excellent collection of reflections on this principle, see the recently released Report on a Theological Dialogue on the Principle of Cooperation sponsored by CHA. The report can be found at www.chausa.org/coopdialogue.