Protection of Conscience: Yesterday, Today and Tomorrow

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Outline

My talk this afternoon is called *Protection of Conscience: Yesterday, Today and Tomorrow*. I will be referring to developments in Britain and the United States, but my focus today is Canada.

Under the heading *Yesterday* I will discuss protection of conscience as it relates to early abortion legislation and subsequent developments.

When we come to the situation *Today*, I will explain that there is much more to be concerned about than abortion, and introduce you to the Protection of Conscience Project.

For *Tomorrow*, I will not play the prophet, but I will suggest some key issues that need study.

I will conclude with some general remarks, and take questions from the audience.

This is merely an overview. There are also gaps in my information. The Protection of Conscience Project is very much a work in progress.

Introduction

Conflicts of conscience in medicine are not new. However, the potential for conflicts of conscience increased exponentially with the legalization of abortion in the 1960's.

YESTERDAY

Yesterday: Law in Great Britain

In 1968, Britain enacted the first liberalized abortion law in the English speaking world. The problem of conflict of conscience was recognised there from the beginning.

The *Abortion Act* provided that no person should be under any duty to participate in abortion, except when necessary to save the life of the mother, or to prevent grave permanent injury to the health of a pregnant woman.

With those exceptions, health care workers could not be made to participate in abortions, by contract, statute "or other legal requirement".

Conscientious objectors were thus protected from civil liability (they could not be sued) and from criminal responsibility (they could not be prosecuted).

But the law - did not - and does not - prohibit discrimination. As we shall see presently, this was a significant weakness in the law.

Yesterday: Law in the United States

Developments in North America mirrored those in Britain.

In 1967, Colorado became the first American state to liberalize its abortion law, followed two weeks later by North Carolina. Laws in both states included protection of conscience exemptions.

In Colorado, hospitals were not required to admit for abortion, nor were they required to appoint abortion committees. This provided some institutional protection, but, unlike the British *Abortion Act*, no protection for individuals. In North Carolina there were exemptions to protect both physicians and hospitals.

In later years most states would adopt some kind of protection of conscience law, most of them concerning abortion.[1]

Yesterday: Law in Canada

In the mid-1960's, Canada was also moving toward liberalization of its abortion law. Remarkably, given subsequent developments, abortion reform advocates frequently portrayed themselves as champions of freedom of conscience.

The *Globe and Mail*, for example, in 1965, demanded liberalization of the law "to enable doctors to perform their duties according to their conscience and their calling."[2]

Two years later, in 1967, an editorial in the *Globe and Mail* stated that the Government had decided "that where religious moralities conflict, the State should support none, but leave the choice to individual conscience. It is a policy that should also be followed with abortion."[3]

Two Private Members Bills on abortion were introduced in1967, and referred to the House Standing Committee on Health and Welfare. One of these, Mr. Herridge's bill, had a conscience clause almost identical to British *Abortion Act*.[4] And M.P. Grace MacInnis, sponsor of the other bill, assured the committee in its fall hearings that "nobody would be forcing abortion procedures on anybody else", suggesting that abortions should be up to the individual conscience.[5]

In December, 1967, the Omnibus Bill was introduced in the House of Commons. This included what later

became Canada's new abortion law. It did *not* include a protection of conscience clause, but its absence did not set off any alarms.

For example, the Canadian Welfare Council, considering new abortion law, stated:

> At the risk of labouring the obvious, no woman will be required to undergo an abortion, no hospital will be required to provide the facilities for abortion, no doctor or nurse will be required to participate in abortion.[6]

Nor was the Catholic Hospital Association concerned:

> We note that there there is no question of [our hospitals] being obliged to change their present norms of conduct. On the contrary, proponents of a 'liberalized' abortion law admit that it should exempt those who object to being involved in procuring abortions.[7]

The progress of Omnibus bill was interrupted by the election of 1968, but returned to the Commons the following year, with Pierre Trudeau as Prime Minister, and John Turner as Minister of Justice.

The abortion debate began in April, 1969. The Progressive Conservatives and Creditistes had put forward almost fifty amendments. Seven of these were intended to guarantee the right of conscientious objection to individuals or institutions. It was agreed that debate on one of the amendments would dispose of all seven. What was then debated was to the following effect:

> Nothing in the new law shall be construed as obliging any hospital to establish a therapeutic abortion committee, or any qualified medical practitioner to procure an abortion, or any member of a hospital staff to assist in abortion.[8]

This conscience clause, by the way, was proposed by Robert McCleave, an M.P. who was *in favour* of abortion.[9]

John Turner responded that the proposed law imposed no duty on hospitals to set up committees, imposed no duty on doctors to perform abortions, and did not even impose a duty on doctors to initiate an application for an abortion.[10] I will not go into the details of the debate today. The protection of conscience clause was rejected. One of those voting against it was Liberal MP Stanley Hadaisz, whose name some of you may recognise.[11]

Review

By the early 1970's, then, Britain, Canada and many of the United States had liberalized their abortion laws. Britain and the U.S. had protection of conscience legislation, but Canada had none. Let's see what happened.

Yesterday:
Developments in the United Kingdom

Looking back over first year of the operation of the new law, some thought that the 'conscience clause' needed strengthening, while others complained that its operation was interfering with the provision of abortions.[12]

A survey of Obstetrician Gynaecologists noted that 77% had encountered reluctance from nursing staff - "the principal problem being nurses' religious views" - and 41 % had encountered reluctance from medical and other staff, most commonly with anaesthetists.[13] Despite these levels of reluctance, correspondent C.K. Varton, writing in the *British Medical Journal* in 1971 - only three years after law was enacted - stated that those who are not prepared to perform abortions should train in some other branch of medicine.[14]

In 1972, only four years after the *Abortion Act* was passed, the Lane Committee, reviewing its operation, received a report of extensive discrimination against Catholic applicants for obstetrical and gynaecological positions. The evidence presented included a letter from a 33 year old Catholic, with five years postgraduate training in obstetrics and gynaecology, who had applied for the position of Registrar at three university teaching hospitals. At each interview he was quizzed on his abortion views, and each time stated his conscientious objection to abortion on demand. He was unsuccessful on all three occasions.

After last interview, a Catholic member of panel took him aside:

> . . . although I was the most senior and well-qualified of the group shortlisted I was not given the job as I was a Catholic. It was considered that to give me the job would be doing me a long-term disservice and I was directly told that "there is now no place for a Catholic obstetrician and gynaecologist in the United Kingdom...I was advised to cut my losses and get out of England as soon as I could, or, if not, change my specialty. Recent advice from consultants in a teaching hospital not far from the House of Commons was in the same vein.[15]

Of course, this applied not only to Catholics, but anyone with principled objections to abortion.

Dr. Robert Walley, the applicant, took the advice he was given. We will return to Dr. Walley's experience in Canada. He is now a professor of Obstetrics and Gynaecology at Memorial University in St. John's, Newfoundland, and a founder and medical director of *MaterCare International*.[16]

Yesterday:
Developments in the United States

From 1967, states began legalizing abortion, and there was a parallel development of protection of conscience laws, particularly in the aftermath of *Roe vs. Wade.* These laws were better than nothing, but improvements are still needed.

The American laws were reviewed in 1993 by Professor Lynn Wardle, a law professor at Brigham Young University. Professor Wardle is an advisor to the Project. He stated that reported cases of discrimination against conscientious objectors were "only the tip of the iceberg", and that "significant numbers of health

care providers are subject to direct and indirect coercion and mistreatment". He described U.S. protection of conscience laws as "obviously and profoundly inadequate", since they addressed only a few procedures (chiefly abortion), often provided protection to only some individuals or classes of persons (some protected only doctors, some doctors and nurses, and so forth), and failed to include mechanisms for remedy or redress.

Professor Wardle observed, with some irony, that "[t]he greatest opposition to laws protecting the rights of conscience of health care institutions has come from advocates of absolute reproductive choice."[17]

Yesterday:
Developments in Canada

Remember what the Canadian Welfare Council said about the new abortion law in 1968?

No hospital will be required to provide the facilities for abortion.

There were repeated calls and suggestions from 1970 to1974 that all publicly funded hospitals- or all hospitals - must be made to perform abortions.[18] In 1974, the *Globe and Mail* (that erstwhile champion of freedom of conscience) stated:

> . . . hospital boards should never have been allowed a choice in the matter. The Government should . . . require hospitals which receive public grants to establish abortion committees.[19]

This kind of pressure has continued. In 1992, for example, Elizabeth Cull ordered 33 British Columbia hospitals to perform abortions.

What else did the Canadian Welfare Council say about the new law? Remember?

. . . no doctor or nurse will be required to participate in abortion

Tell that to nurse Frances Martin, who, in 1971, refused to assist at abortions, and was demoted from head nurse in the labour-delivery unit.[20]

Or tell it to nurse Linda Bradley, who, between 1977 and 1984, was denied employment at Langley Memorial, Peace Arch Hospital, Delta Hospital and Vancouver General Hospital because she did not want to assist with abortions. Desperate, she sacrificed her convictions to get a job at the Richmond General Hospital. She lost it after she refused to assist at the hysterotomy of a mother, five and a half months pregnant. She was told that assisting at abortions was a condition of employment. Bradley took the advice of the Registered Nurses Association of BC, resigned, and went to the BC Human Rights Tribunal. The Tribunal refused her case, telling her that she was not not eligible for protection because her refusal was for moral and not religious reasons.[21]

. . . *no doctor or nurse will be required to participate in abortion*? What was this assurance worth to Catholic nurses in Thunder Bay? In 1997 they were transferred from St. Joseph's Catholic Hospital to a public hospital, where they were forced to participate in abortions.[22] And over thirty years after that promise

was made, postpartum nurses at Foothills Hospital in Calgary were told that they would have to be involved with late term abortions, regardless of their moral convictions.[23]

Do you remember M.P. Grace MacInnis promise to the committee in 1968?

. . . nobody would be forcing abortion procedures on anybody else

Well, between 1985 and1988, BC welfare worker Cecilia Moore was fired for refusing to pay for an abortion that would have been illegal under the law as it then stood.,[24] Constable David Packer was forced out of the Metropolitan Toronto Police for refusing to guard what was then an illegal abortion facility, and three transition house workers in Ontario were fired - with the government's approval - for refusing to refer for abortions.[25]

And when Memorial University's medical school discovered Dr. Robert Walley's views on abortion, influential people tried to get rid of him. He got no support from the Catholic community, but retained his position with the help of Dr. David Charles, a Welshman - and a pro-abortionist who came up from Boston to help. Dr. Charles was a remarkable man, one of the few self-identified pro-choicers who really believe in freedom of choice.[26]

What about that last comment by the Canadian Welfare Council in 1968?

. . . no woman will be required to undergo an abortion

Surely nothing has happened that contradicts this?

But it has. In 1999, a Quebec Court ordered the abortion and sterilization of a mentally ill woman who was not capable of requesting or consenting to the procedures.[27]

Canadian politicians generally demonstrate very little concern for freedom of conscience in health care. Perhaps their understanding of the issue is dulled in a political system that considers 'voting according to conscience' a rare privilege that can only be granted by the party leader. In any event, only a handful of Canadian politicians have attempted to address the problems created by the broken promises of their predecessors.

In the Senate, Stanley Haidasz - who, as an M.P., had voted *against* the conscience clause - realized the need for protection of conscience legislation and put forward a bill before he retired. It was carried forward by Senator Raymond Perrault, but has long since died.[28]

In the House of Commons, Liberal M.P. Don Boudria introduced a private member's bill in 1994, but it went nowhere.[29] Alliance M.P. Maurice Vellacott has twice introduced a Commons version of the Haidasz/Perrault Senate bill. Vellacott's bill has been opposed by the government and has not progressed.[30]

Alberta M.L.A. Julius Yankowsky proposed an amendment to the provincial human rights act to protect those who are unwilling to participate in medical procedures that offend their convictions about the sanctity of life. The bill died when an election was called and has not been resurrected.[31]

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In Ontario, a draft protection of conscience bill never reached the floor of the legislature.[32]

You can find the texts of these bills on the Project website.

TODAY

Introduction

Thus far I have talked exclusively about protection of conscience and abortion. However, it would be a serious mistake to suggest that conscientious objection concerns only abortion. That connection exists for purely historical reasons. Abortion was just the *first* morally controversial medical procedure to have been widely mandated by state and medical authorities.

There are more coming. Some are already here. Lets look at some of them.

There is **chemical abortion**, induced by drugs like mifepristone (formerly RU486), misoprostol or prostaglandin gel. I'll introduce this topic with a history lesson.

Dr. Bernard Nathanson discovered that about 2/3 of the poor women who came to his clinic at Woman's Hospital in New York with 'spontaneous miscarriages' had actually had illegal abortions started by a physician, midwife, friend or relative; they had come to the hospital to have them completed. That was in 1957, and this problem was one of the reasons given for legalizing abortion.[33]

Fast forward to South Africa in the 21st century. Women are arriving at hospitals with incomplete abortions induced by drugs like mifepristone, prescribed by physicians who have not made arrangements for continuing care of their patients. It is assumed that hospital physicians will complete the abortions and deal with complications. If the infant *in utero* is already dead a D & C is required, which presents no moral conflict for a physician. However, if the infant is still alive, a significant conflict may arise if a patient demands that the abortion be completed by a pro-life physician. This is not a new problem; it was noted in a survey done in 1997 in the Western Cape.[34]

The **'morning after pill'** deserves special notice. It can sometimes prevent implantation, thus causing the death of the early embryo. For this reason some pharmacists and other health care workers refuse to prescribe or dispense it. Three pharmacists in Texas who would not do so were fired last month. The patient had the prescription filled across the street, so there was no problem with access to the drug. Closer to home, the College of Pharmacists of British Columbia demands that conscientious objectors dispense or refer for such drugs. Its attitude toward freedom of conscience was illustrated by an instruction published in the College newsletter, which implied that conscientious objectors are dishonest in dealing with patients. The College had no evidence to support the statements, but has refused to retract or apologize.[35]

We have heard about **artificial reproduction**; I won't count the ways. Listen to John Harris, Professor of Philosophy at the Institute of Medicine, Law and Bioethics of the University of Manchester:

> . . .the liberty to reproduce any way one wishes is a freedom of the human being that must be defended; it is a right.[36]

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"The liberty to reproduce *any way one wishes*. . . is a *right*." Think about what that means if you are a health care worker.

But we are also encountering the claim that one should not only be able to reproduce any *way* one wishes, but should be able to reproduce *what* one wishes: a deaf child to suit deaf parents,[37] a genetically matched sibling to use as a donor for another child,[38] a girl or a boy, as the parents prefer.[39] Or as the parent prefers. One does not need two parents, we are told,[40] nor parents of the opposite sex.[41] In fact, in December, 2001 it was reported that a 16 year old boy in Birmingham, England, planned to have his sperm frozen before a sex change operation so that he could become both the mother and father of a child.[42] The point here is that even someone who does not object to artificial reproduction in principle may, nonetheless, encounter conflicts of conscience in some situations.

The University of Pennsylvania had what it called an "**Assisted Suicide** Consensus Panel". It decided that nurses, social workers and *clergy* should participate in assisted suicide. And the clergy were not there to give the last rites, but to help patients work through the decision to kill themselves.[43] Assisted suicide is legal in Switzerland, but until recently the service was provided by private groups. Now the Swiss Academy of Medical Sciences is drawing up guidelines for physician assisted suicide.[44] Pressure to legalize the procedure continues in other parts of the world.

Lawsuits and bills are appearing in many parts of the United States to force employers to provide insurance coverage for **contraceptives**. Catholic Charities of Sacramento, for example, has just been ordered to provide its employees with such coverage.[45] And when Dr. Stephen Dawson of Barrie, Ontario, refused to prescribe contraceptives for unmarried patients, Dr. James Robert Brown, professor of science and religion at the University of Toronto, referred to him as “scum”, adding that he should “resign from medicine and find another job.”[46] Charged for professional misconduct, Dr. Brown and the College of Physicians and Surgeons of Ontario managed to work out an acceptable agreement.[47] But it has cost tens of thousands of dollars in legal bills for pharmacist Maria Bizecki of Calgary to achieve a settlement of sorts with the Alberta College of Pharmacists.[48]

People for the Ethical Treatment of Animals have a journal called the *Animal Times*. It’s winter, 1999, number announced the group's grants to companies that were developing **human embryo testing** as one of the alternatives to the use of lab rats or other animals.[49]

In **eugenics**, you are familiar with "wrongful birth" lawsuits for birth of imperfect children, who would have been aborted had their parents known about their defects. Consider what Professor Greg Stock of the University of California has to say:

> Eventually it will be thought as reckless to have a child without genetic screening as to have a child without pre-natal screening, as happens today.[50]

Euthanasia advocates are very active in the United Kingdom and elsewhere, and euthanasia is now legal in both Belgium and Holland. Two Belgian Catholic Universities and the Association of General Practitioners of Belgium have issued a policy statement on end of life decisions that asserts that physicians who object to

euthanasia should not be required to perform it. However, they state that objecting physicians have an obligation to help the patient find a willing physician - something that most conscientious objectors would be unwilling to do - and recommend that euthanasia be considered part of palliative care - a marked departure from the current understanding that palliative care excludes euthanasia and assisted suicide. Such policies would have a significant impact on all health care practitioners involved in end-of-life care.[51]

There is **human experimentation**. Dr. Ron James of Glasgow has suggested that genetically modified pig organs should be transplanted into brain-dead human patients to see if they are safe.[52] And American surgeons have carried out sham operations, which involved drilling holes in patients' skulls, as placebo surgery designed to test the effectiveness of a new treatment for Parkinson's disease.[53]

Finally, we have **organ harvesting or tissue trafficking**. A senior transplant surgeon in the United Kingdom has suggested that the law should be allow brain dead patients to be kept alive for the purpose of organ donation.[54]

Put it in writing- put it in *law*

So, remember the broken promises of1968 - John Turner, Grace MacInnis, the Canadian Welfare Council. Remember the complacency of the Catholic Hospital Association in its response to the new abortion law. And when they say,

"*No one* will be obligated to perform euthanasia,"

"The law *imposes no duty* to assist with suicide..."

"*No hospital will be required* to participate in cloning..."

"*No one* will be experimented on against his will..."

Remember the promises that were made about abortion, and say, "Good. I'm glad that no one is going to be forced to assist with euthanasia."

"Good. It's great to hear that no will be forced to help with assisted suicide or cloning."

"Good. Put it *in writing*!"

"*Put it in writing*!"

"Put it in *law*!"

The **Protection of Conscience Project** is trying to help those who are trying to put protection of conscience in writing. It is a non-denominational, non-profit initiative - not an organization or association - supported by a project team and advisory board. The Project website received almost 75,000 visits in 2003. On the site you will find

- texts of protection of conscience laws from different countries

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- text of protection of conscience policies, position papers
- background information about practice, ethics, law
- cases of repression of conscience
- project reports (similar to Amnesty International)
- project submissions, media commentary, news releases
- documents, resources , and links
- a model statute

The Project does not direct or manage protection of conscience initiatives. It is *not* 'conscience central control'. It respects principle of subsidiarity: people directly involved are the ones best placed to deal with a problem.

For their benefit, the Project provides information, offers suggestions, encourages co-operation and facilitates communication. Advocacy thus far has included writing letters to professional associations, organizations, companies, and letters to editors.

Submissions have been made to the Irish parliamentary committee studying the abortion law in Ireland[55] and the BC Civil Liberties Association.[56] As a result of stonewalling by the Alberta College of Pharmacists, a submission to an Alberta legislative committee recommended that self-governing professions be subject to the province's freedom of information law.[57] Reports, like those done by Amnesty International, have been prepared on the conduct of the ethics advisory committee of the College of Pharmacists of BC[58] and the risks posed to conscientious objectors by BC's *Access to Abortion Services Act*.[59] Amendments were proposed a model code of ethics for Canadian pharmacists.[60] A brief submission was made concerning the Assisted Human Reproduction Act.[61] Over 1,500 .pdf documents of this type were downloaded during 2003.

Information pamphlets like those you see here today can be downloaded and printed anywhere. Over 2600 pamphlets were downloaded in 2003.

The **Project Team** consists of an Administrator, myself, and Michael Markwick, a Human Rights Specialist. Michael was formerly executive assistant to the Chief Commissioner of the Ontario Human Rights Commission, and past President of the British Columbia Chapter of the Catholic Civil Rights League (Canada).

The **Advisory Board** has seven members. Janet Ajzenstat is Associate Professor, Department of Political Science, McMaster University, Hamilton, Ontario. She teaches public law and political philosophy, and is associated to the Centre for Cultural Renewal and the Dominion Institute.

Dr. Shahid Athar is Clinical Associate Professor of Internal Medicine and Endocrinology, Indiana School of Medicine, Indianapolis, Indiana, a regent of the Islamic Medical Association of North America, and the Chair of its Medical Ethics Committee.

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J. Budziszewski is Professor, Departments of Government and Philosophy, University of Texas. He is a specialist in ethical and political philosophy.

Dr. John Fleming has been the Director of the Southern Cross Bioethics Institute in Adelaide, Australia, since 1987. He is a bioethicist, and a Corresponding Member of the Pontifical Academy for Life.

Henk Jochemsen is Director of the Prof.dr. G.A. Lindeboom Institute, Amsterdam, Netherlands. The Institute is a private centre for medical ethics. He is also an Advisory Board member of the Center for Bioethics and Human Dignity.

Professor (Rabbi) David Novak is the J. Richard and Dorothy Shiff Chair of Jewish Studies, University of Toronto. He is Professor of the Study of Religion at the University, and a Professor of Philosophy, with appointments in University College, the Faculty of Law, the Joint Centre for Bioethics, and the Institute of Medical Science.

Lynn D. Wardle is a professor of law at Brigham Young University, Salt Lake City, Utah. He has taught and written extensively about biomedical ethics and law.

One person not listed, who is actually indispensable, is my wife, Evelyn. I am able to be here because she is at home, looking after things. One of the pharmacists I know has described her as a 'prisoner of conscience'

One note: not all pro-lifers are comfortable with the approach taken by the Project. The Project is silent on morality of the procedures. It does not admit they are moral, but it does not assert that they are immoral. This silence is construed by some as giving consent, as implicitly admitting that the procedures are moral.

For this reason, I usually recommend that this work and pro-life work be kept separate, to avoid compromising both.

TOMORROW

I've talked about yesterday and today. What about tomorrow?

Before talking about tomorrow, we should understand the rules of the game that GK Chesterton called 'Cheat the Prophet':

> The players listen very carefully and respectfully to all that the clever men have to say about what is to happen in the next generation. The players then wait until all the clever men are dead, and bury them nicely. They then go and do something else.[62]

So I will not prophesy, but I will propose to you three issues that are of continuing interest to advocates for protection of conscience.

First: the relationship between man and ethics.

Second: the cult of personal autonomy.

Third: the dynamic of expectation.

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First: **man and ethics**. Reasoning from different beliefs about what man is leads to different ideas about what is good for him, to different notions of right and wrong, and ultimately to different ethical conclusions.

Consider the idea of man as a 'genetic machine'. Compare that, then, to the idea of man as the image of God, thus the image of love, so that love is central to his existence and vocation. Man, the genetic machine, can be treated very differently from man, the image of God.

Our society no longer has a common understanding of what man is. Even my inclusive use of the term 'man' will create problems for some people, for example. The absence of that common understanding is at the root of the problems encountered by conscientious objectors.

How does this happen?

Many state and regulatory authorities adhere to an ethical theory that attempts to apply 'principles of biomedical ethics':

> Non-maleficence: interpreted as, "do no harm"
>
> Beneficence: interpreted as, "do good"
>
> Justice: interpreted as, "be fair"
>
> Autonomy: interpreted as, "respect patient choices"

Nothing strange here. But what is *meant* by harm, by good, and by fairness? Is causing the death of the patient "doing good"? Is prolonging life "doing no harm"? Must one respect the choice of a patient who wants a healthy limb amputated?

Answers to such questions depend primarily upon beliefs: beliefs about the nature of the human person, and the nature of human relationships.

Problems arise when the hidden faith of establishment elites yield answers that are substantially different from those of a conscientious objector, as, for example, when the establishment ethicist believes that the early embryo is not a human person, but the but the objector believes that it is. Note well that the *personhood* of the embryo is not a matter for science, but for philosophy.

The problems become worse when establishment elites believe that they do not believe: that they *know*.

Especially when they believe (for they cannot know) that theirs is that special kind of knowledge required for the just ordering of society.

And that only people who believe what they believe can be trusted to manage public affairs, or sit on ethics committees.

Anybody else should get out of the way, get out of the profession, get out of politics, get out of the country. And I have heard *all* of these things said over the last few years.

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To summarize this first point: ethical conflicts often begin because of fundamental disagreement about the nature of man, and this disagreement is often overlooked.

Second: the **cult of personal autonomy**. I am not talking about legitimate autonomy, that freedom necessary for performance of moral acts. I am talking about the cult that sees autonomy as the defining characteristic of the human person, essential for human happiness, and inseparable from personal dignity.

Achievement of personal autonomy is therefore the most important goal of personal development. Enhancement of personal autonomy then becomes one of the most important functions of law, medicine and education.

Taken to its logical conclusion, this can transform the traditional obligation to meet the needs of a patient into an obligation to fulfil the patient's *wishes*: amputating a healthy limb is an expression of respect for personal autonomy.

The cult of personal autonomy understands all human relationships in terms of *function* and *power*. One gains personal autonomy by gaining personal power, the ability to get what one wants, or to do what one wants. The watchword is *empowerment*. All social interactions are interpreted as products of power-based relationships.

Conflicts that are actually conflicts of faith (for example, the hidden faith that the end justifies the means *vs.* the explicit faith that they do not) are often recast as disputes about power, to be resolved by applying notions of equality to achieve a balance of power.

Take the case of the pharmacist-patient relationship. This is described as imbalance of power, to be corrected by giving patient the power to command the pharmacist, thus balancing their power and 'levelling the playing field'. The expected result is fairness.

Personal autonomy is not violated so long as parties to social interaction consent to what is done. It is violated when something is done without consent, or when consent is improperly obtained. Thus, consent will suffice to justify any action which might otherwise violate personal autonomy.

In law and in bioethics, the axiom of the autonomous person and the corollary of justification by consent are used to support mercy killing and assisted suicide. Logically, this can be extended to support any other morally controversial procedure.

Concluding this second point: conflicts of conscience will not be resolved by adjudicating claims of autonomy but by respecting the needs of humanity- the full humanity of the parties involved.

Finally, what happens when the state assumes primary responsibility for the delivery of health care? First comes the assumption - reasonable in itself - that citizens are entitled to demand from health care providers what they have paid for through taxes. Next, health care providers come to be perceived to be state employees, expected to implement state policy. And, as the guarantor of a *de facto* social contract for health care, the state is expected to enforce the terms of the contract against reluctant employees.

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The legalization of a procedure in these circumstances creates a **dynamic of expectation**: tremendous pressure on health care workers to provide every legal service, regardless of their conscientious convictions.

I emphasize that I am not attacking socialized medicine. I am not against Medicare. But I want to point out that this aspect of it deserves more attention.

CLOSING

I will close with a plea for freedom of conscience.

But what is freedom, first of all?

Our society is driven by an understanding of freedom primarily as 'freedom *from*': freedom from restraint, from rules, from direction, from immutable principles. People are encouraged to determine the course of their lives, to assert who they are, by breaking away from moral imperatives, which are perceived to impose constraints and limit one's freedom of choice.

This is *not* the freedom sought by Project.

What is sought is 'freedom *for*': for discerning the good that needs to be done, for choosing the good, for doing good. Such freedom is onerous, for it implies an obligation to distinguish true goods from false, higher goods from lesser. It demands that one form convictions about what is truly good, and live accordingly.

Certainly, this can generate conflict among people pursuing different notions of 'the good'. But the remedy for this is not to have governing elites or a governing majority impose a hidden faith that 'the good' does not exist, or that 'the good' cannot be identified or, perhaps, that 'the good' consists of the pursuit of power in order to maximize personal autonomy.

Instead, we are called to develop the charity, the patience, and the skills necessary to live together peacefully. Above all, we must learn to talk to each other about faith -*all* faith - hidden, explicit, religious, and non-religious.[63]

This is the kind of dialogue encouraged by the Project.

Protection of conscience laws provide an opportunity for it to develop.

Thank you.

NOTES

1. U.S. laws are posted on the Project website.
http://www.consciencealws.org\Conscience-Laws\USA-Conscience-Laws\Conscience-Laws-USA-01.html

2. "Free the Doctor",Globe and Mail, 18 May, 1965. Quoted in de Valk, Alphonse, *Morality and Law in Canadian Politics: The Abortion Controversy*. Dorval, Quebec: Palm Publishers, 1974, p. 18

3. "Now the job is to be done, let it be done right", *Globe and Mail*, 21 December, 1967. Quoted in de Valk,

supra, p. 56

4. *Standing Committee on Health and Welfare, Minutes of Proceedings and Evidence, Appendix "QQ": Brief submitted by the Catholic Hospital Association of Canada . . . on the Matter of Abortion*. February, 1968, P. 679, paragraph 19.

5. Quoted in de Valk, *supra*, p. 44-45

6. *Standing Committee on Health and Welfare, Minutes of Proceedings and Evidence, Appendix "SS": Canadian Welfare Council Statement on Abortion to the House of Commons Standing Committee on Health and Welfare*. February, 1968, p. 707

7. *Standing Committee on Health and Welfare, Minutes of Proceedings and Evidence, Appendix "QQ": Brief submitted by the Catholic Hospital Association of Canada . . . on the Matter of Abortion*. February, 1968, p. 676

8. A sub-amendment was added to the original amendment. This paraphrase reflects the effect of both. See *Hansard-Commons Debates*, April 28, 1969, p. 8056, 8063

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