Toni Saad comments on current ideas in the conscience debate

GETTING CONSCIENCE RIGHT AND WRONG

Can a doctor refuse to participate in something he finds unconscionable? Is this an important liberty to be safeguarded, or an unwarranted privilege which interferes with patient care? Must we leave our conscience at the door of our professional life? These are some of the prescient questions currently being discussed in the medical ethics literature.

It should concern all those who care about liberty and integrity that the debate is skewed heavily in favour of those who wish to see the end of conscientious objection. One representative of this side is Francesca Minerva, a scholar based in Belgium. She has previously advocated the inducement of Italian doctors with financial rewards to practice abortion,[1] and co-authored the infamous paper on 'after-birth abortion'.[2] Her most recent paper in the *Journal of Medical Ethics* caught my attention.[3]

In it she argues that cosmetic surgeons are not at liberty to decline to perform any procedure, even if it goes against their better judgment – and even if it is 'ugly-fying'. Essentially, patient preferences have priority over clinical judgment: the patient's right to request treatment is near absolute, while the doctor's right to refuse is practically non-existent. The *Journal of Medical Ethics* published my response to Minerva's arguments, which I briefly recapitulate below.[4]

Firstly, even passing familiarity with medicine indicates that Minerva's proposal is unrealistic. Patients do not have an absolute right of request, even if they are willing to pay (and I don't believe that any doctor would endorse such a right). Doctors, as the gatekeepers of healthcare, shoulder the responsibility of deciding who needs or does not need a scan, test or procedure. These things are not ordinary consumables. They are often risky, and require expertise to co-ordinate and decide upon. Doctors are not mere mediators of medicine, but active agents. It is impossible to get around this.

Secondly, Minerva's conception of autonomy is mistaken. Patients have a right to say no to treatment, but not an absolute right to request whatever they wish. For example, a capacious patient with a brain tumour can decline a biopsy offered to him. This sort of *negative autonomy* is fundamental. But absolute *positive autonomy* is in the realm of fantasy. If a man with a gouty toe requests the amputation of his foot, his surgeon is under no obligation to comply because amputation is unnecessarily harmful. Moreover, to fulfil his request with this knowledge would be to invite severe criticism of one's integrity.

Thirdly, absolute positive autonomy makes the idea of benevolence redundant. If a doctor's basic duty is to maximise patient preferences, he no longer need think about what it means to do good to his neighbour. Minerva's underlying assumption, it seems, is that human happiness is found in preference satisfaction; it is nothing more than a feeling. Is it beneficent to perform invasive surgery unnecessarily just because it is requested? To give a positive answer, one requires a severely limited account of human flourishing.

Fourthly, it has been the strategy of those who oppose conscientious objection to frame it as a purely moral or religious matter. But doctors make 'moral' judgments every day when they decide on a patient's care plan, on what is a good course of action. And if a doctor objects to a certain treatment based on his clinical judgment, is he to be harangued for interfering patient access to care? It's doubtful. A patient might be entitled in law to a particular treatment, but a doctor's considered professional opinion can lead to it being withheld. Expertise informs opinion regarding what is right. This is not far from 'usual' conscientious objection, but is normally called clinical judgment. Could it be that the two are somehow related?

Fifthly, the goals of medicine deserve consideration. If medicine is anything which improves our subjective sense of wellbeing, as the WHO would put it,[5] then there really is no scope for refusing anything at all, since all refusal would be a desertion of duty. But a reasonable definition of the goals of medicine, which distinguishes between *restoring health* and *enhancing lifestyle*, permits the possibility of saying no to what is beyond the scope of medicine (and therefore not one's professional duty). Interventions which do not restore health include elective abortion, euthanasia, prescribing contraception, sterilisation, cosmetic surgery and ritual circumcision. Pregnancy, frailty, fertility, genitalia and plainness are not diseases in need of 'treatment'. Hence, a doctor should have the liberty to say no to participating in them.

Much more could and has been said about conscientious objection. There is ample cause for concern; the momentum is not on the side of conscience. Christians should seriously consider the matter, as must all people who care about liberty and personal integrity, and make a reasoned defence of it in the public square. There may come a time we are forced to participate in evil, or forced to face the consequences of not doing so. Thankfully, such is not yet the case, but we must prepare for the increasingly likely eventuality.

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references

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