Public reason in justification of conscientious objection in healthcare

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Abstract

Current mainstream approaches to conscientious objection either uphold the standards of public healthcare by preventing objections or protect the consciences of healthcare professionals by accommodating objections. Public justification approaches are a compromise position that only accommodate conscientious objections when objectors can publicly justify the grounds of their objections. Public justification approaches require objectors and assessors to speak a common normative language and to this end it has been suggested that objectors should be required to cast their objection in terms of public reason. We provide critical support for such a public reason condition and argue that it would be neither too demanding nor too permissive. We also respond to objections that it unfairly favours secular objectors over religious objectors and that public reasons cannot be held with the kind of sincerity thought to characterise conscientious objections.

Introduction

Authorities that currently accommodate conscientious objections, such as in the United Kingdom and the United States, don't require objectors to justify their objections.¹ Although various steps are taken to minimise the harm that objections cause, such as requiring objectors to refer patients to treating healthcare professionals (HCPs), the beliefs grounding the objection are never assessed. In other countries, such as Sweden, authorities needn't accommodate conscientious objections whatever the grounds of the objection.² Both of these approaches to conscientious objection face problems. If we accommodate objections whatever their grounds, we will accommodate objections with discriminatory, self-interested, arbitrary, empirically inaccurate, normatively bizarre, and insincere grounds.³ Such objections wrong patients and undermine the quality of public healthcare.⁴ If we rule out objections without assessing their

¹ C. Meyers, & R.D. Woods. Conscientious objection? Yes, but make sure it is genuine. *Am J Bioeth* 2007; 7(6): 19–20; C. Cowley. Conscientious objection and healthcare in the UK : why tribunals are not the answer. *J Med Ethics* 2016; (42): 69–72.

² C. Munthe. Conscientious refusal in healthcare: the Swedish solution. *J Med Ethics* 2017; 43(4): 257–59.

³ Meyers, & Woods : 19–20; A. Liberman. Wrongness, Responsibility, and Conscientious Refusals in Health Care. *Bioethics* 2017; 31(7): 495–504; A. Giubilini. Objection to conscience. An argument against conscience exemptions in healthcare. *Bioethics* 2016; R.F. Card. The Inevitability of Assessing Reasons in Debates about Conscientious Objection in Medicine. *Cambridge Q Healthc Ethics* 2017; 26(1): 82–96; R.F. Card. Conscientious Objection and Emergency Contraception. *Am J Bioeth* 2007; 7(6): 8–14.

⁴ J. Harries, et al. Health care providers' attitudes towards termination of pregnancy: a qualitative study in South Africa. *BMC Public Health* 2009; 9: 296.

grounds, we will coerce objecting HCPs into going against their consciences even when they have good reasons to object. This situation has motivated the development of a third approach that only accommodates conscientious objections when objectors can publicly justify the grounds of their objections.⁵ Such public justification approaches (PJAs) promise to uphold the standards of public healthcare by preventing unjustified objections *and* protecting the consciences of HCPs by accommodating objections based on sufficiently good reasons.

The general form of a PJA is to adopt a principled standard that distinguishes conscientious objections that warrant being accommodated from those that should not. Practically, the objector has to convince a tribunal that the grounds for their objection meet that standard and this means that objectors and assessors need to speak a common normative language.⁶ For example, if the reasons for an objection are grounded in interpretations of a religious text, they cannot be normatively assessed by people who don't recognise the normative authority of that text. The most well-developed PJA in the literature, Robert Card's Reasonability View,⁷ explicitly specifies the kind of common normative language required – Rawlsian public reason. The requirement that objectors state their objections in terms of public reason we call a 'public reason condition'.

Our goal is to provide critical support for a public reason condition in PJAs generally but we also illustrate how such conditions can work in both Card's view and a PJA variant developed by McConnell.⁸ We show how to steer a middle course between the complementary objections that, on the one hand, requiring objectors to win an argument in public reason is too demanding while, on the other hand, a more lenient requirement to cast one's objection in terms of *pro tanto* public reasons is too permissive. We then respond to the objection that the demand for public reason unfairly disadvantages religious conscientious objectors by arguing that the process of developing public reasons is fundamentally the same whether one begins from a

⁵ For example, see: D. McConnell. Conscientious objection in healthcare: Pinning down the Reasonability View. *J Med Philos* forthcoming; R.F. Card. The Inevitability of Assessing Reasons in Debates about Conscientious Objection in Medicine. *Cambridge Q Healthc Ethics* 2017; 26(1): 82–96; R.F. Card. Reasons, reasonability and establishing conscientious objector status in medicine. *J Med Ethics* 2017; 43(4): 222–25; R.F. Card. Reasonability and conscientious objection in medicine: A reply to marsh and an elaboration of the reason-giving requirement. *Bioethics* 2014; 28(6): 320–26.

⁶ We set aside the practical challenges of setting up tribunals for making these assessments which have been discussed elsewhere. See R.F. Card. In defence of medical tribunals and the reasonability standard for conscientious objection in medicine. *J Med Ethics* 2016; 42(2): 73–75.

⁷ Card, *op. cit.* note 5.

⁸ McConnell, *op. cit.* note 5.

secular or religious outlook. Finally, a problem is created when one pairs a public reason condition with a sincerity condition (sincerity is typically thought to be necessary for acceptable conscientious objections) because objectors will only rarely be sincerely committed to public reasons. We argue that objectors can be said to hold public reasons with appropriate sincerity where those objectors can specify the reasoning that links their public reasons to their established moral positions. We conclude that a public reason condition is a feasible way PJAs can fix a common normative language for the assessment of conscientious objections in healthcare.

Public reason

Rawls developed the concept of public reason as part of a system for justifying the use of coercive power when enforcing the organisation of a liberal democratic state. Each individual typically develops what Rawls calls a ‘comprehensive doctrine,’ that is, a set of religious, cultural, moral, and philosophical beliefs that characterise and organise values so that they are compatible with one another and express an intelligible view of the world.⁹ Rawls also assumes that citizens are committed to liberal democracy. For a liberal democracy to function, citizens need to agree on certain constitutional matters and matters of justice, such as regulating the distribution of important resources.¹⁰ However, citizens in a liberal democracy develop conflicting comprehensive doctrines¹¹ which favour conflicting systems for the constitution and basic justice. Public reason is Rawls’ idea for resolving these conflicts fairly. Public reasons are reasons that all reasonable citizens would endorse, therefore such reasons can justify rules for the constitution and basic justice, and the enforcement of those rules.¹²

The concept of a reasonable citizen is central here. Reasonable citizens have reasonable comprehensive doctrines, that is, comprehensive doctrines that treat others as free and equal.¹³ Citizens who develop reasonable comprehensive doctrines recognise sources of permanent reasonable disagreement called ‘the burdens of judgement’ such as, variable interpretations of complex and conflicting empirical evidence and disagreement over the weight that should be attributed to relevant considerations.¹⁴ In reasonable disagreements, we continue to recognise

⁹ J. Rawls. (1993). *Political liberalism*. New York: Columbia University Press: 59.

¹⁰ Ibid: 228–29.

¹¹ Ibid: 3–4, 36.

¹² Ibid: 224–6. J. Rawls. The idea of public reason revisited. *Univ Chicago Law Rev* 1997; 64(3): 765–807: 771.

¹³ J. Rawls *op. cit.* note 9: 55.

¹⁴ Ibid: 56–7.

each other's conflicting personal doctrines as reasonable "even though we could not seriously entertain them for ourselves, as we think they give excessive weight to some values and fail to allow for the significance of others."¹⁵ Because public reasons need to be recognised as reasons by all reasonable people, they are limited by the burdens of judgment.¹⁶ Where reasonable disagreements remain, public reason cannot be found. So, to develop public reasons, reasonable citizens must not only avoid appealing to controversial aspects of their own personal comprehensive doctrines, they should also avoid appealing to anything that *any* reasonable person could reasonably disagree with.

"We are to appeal only to presently accepted general beliefs and forms of reasoning found in common sense, and the methods and conclusions of science when these are not controversial. ... As far as possible, [public reasons] are to rest on plain truths now widely accepted, or available, to citizens generally. Otherwise the political conception would not provide a public basis of justification"¹⁷

Where people disagree *unreasonably*, e.g. due to prejudice and bias, self- and group interest, blindness and wilfulness,¹⁸ their conflicting views cannot challenge or create public reason.

Arguably, access to public healthcare is a matter of basic justice, therefore the laws and regulations governing when, if ever, HCPs can claim exemptions from providing healthcare services should be justified with public reason.¹⁹ The benefit of demanding public reasons is that it will rule out objections based on beliefs that reasonable people would refuse to use as organising principles for our societal institutions, e.g. racist, sexist, or ableist beliefs that do not treat others as free and equal. There may be further restrictions that we would want to place on accommodating conscientious objections (see below) but a public reason condition restricts many of the normatively unacceptable grounds for objections that motivate adopting a PJA in the first place. Furthermore, by requiring the objector to go beyond his own comprehensive conception to consider what others, including his patients, may reasonably be expected to reasonably endorse, the public reason condition involves the objectors in an act of respect towards his fellow citizens. It shows that he is sensitive to shared terms of ethical debate and that he is willing to explain what matters to others in public terms they will understand.

¹⁵ Ibid: 59-60.

¹⁶ Ibid: 54.

¹⁷ Ibid: 224-5.

¹⁸ Card: 58.

¹⁹ R.F. Card. Reasons, reasonability and establishing conscientious objector status in medicine. *J Med Ethics* 2017; 43(4): 222-25: 223.

Too demanding?

The first objection to the public reason condition that we will consider is that it is unfairly demanding on conscientious objectors.²⁰ This is because, in cases of entrenched reasonable disagreement, nobody can find reasons that would be agreed upon by all reasonable persons *by definition*. Therefore, a demand for public reasons would rule out conscientious objections with reasonable grounds where others could reasonably disagree with those grounds. In other words, public reason would be useless for defending controversial positions and, given that nearly all conscientious objections are controversial, nearly all conscientious objections could not be successfully defended in public reason. A possible response here is to distinguish between providing sufficiently compelling public reasons to win the debate and simply casting one's position in terms of public reason. The former is the overly demanding requirement that the objection targets, however, the public reason condition could take the latter, weaker form where the objector only has to present public reasons that have *pro tanto* weight for other reasonable people.²¹ This *pro tanto* public reason condition would still be sufficient to rule out a range of undesirable conscientious objections. It would rule objections based on discriminatory grounds, such as those that were racist or sexist, objections based on some unusual conceptions of the good, such as the belief that bacteria have high moral status, and objections based on arbitrary normative positions because these reasons do not even have any *pro tanto* weight for reasonable people.²² Furthermore, in areas of reasonable disagreement, those who set the law or professional standards would not themselves be able to meet the very high justificatory standard of satisfying the ideal of public reason, so it would be unfair to demand it of conscientious objectors to those laws and standards. Adopting the *pro tanto* reason standard requires that conscientious objectors couch their justifications in terms of public reason versus their personal comprehensive conceptions of the good and so, to this extent, retains a Rawlsian spirit.

Too permissive?

²⁰ McConnell, *op. cit.* note 5; B. Zolf. No conscientious objection without normative justification: Against conscientious objection in medicine. *Bioethics* 2018; (July): 1–8.

²¹ By adopting this weaker requirement for *pro tanto* public reasons we depart from Rawls. This departure is to be expected given that our project is quite different from that of Rawls. Rawls was setting conditions for the development of the constitution and system of basic justice whereas we are setting conditions for reasonable exemptions from the rules governing behaviour of HCPs within the profession of medicine.

²² This approach would also rule out conscientious objections based exclusively on non-public reasons, such as religious beliefs. We return to this issue below.

This leads to the opposite worry that a *pro tanto* public reason condition will be overly permissive. One way it might be overly permissive is by accommodating unacceptable balances of *pro tanto* public reasons. To see the problem here, imagine a person who places a value on human life, a value with *pro tanto* weight in public reason, but who strongly prioritises that value over every other value. Such a person might then object to withdrawing life support treatment from someone in extreme, interminable, and untreatable pain. If objectors needn't provide a balanced set of public reasons, then this *pro tanto* public reason would be sufficient grounds to have this objection accommodated. We might, then, insist that objectors provide a reasonably balanced set of *pro tanto* public reasons. This would remain less demanding than asking the objector to win the day in public reason because, in any conflict over basic justice, there will (nearly) always be several reasonably balanced sets of *pro tanto* public reasons. A second way that the *pro tanto* public reason condition might be overly permissive is that it does not require the objector to meet norms specific to healthcare.²³ The range of normative positions that are considered reasonable in the public realm is broader than the range of normative positions that it would be reasonable for a healthcare professional to hold. For example, reasonable healthcare professionals might be required to place a higher value on scientific truth or egalitarian views of distributive justice than reasonable citizens more generally.²⁴

Two solutions from two PJAs

As it happens the two PJAs in the literature each have plausible ways of negating the potential excessive demandingness and permissiveness of a public reason condition. Card's view can avoid excessive demandingness by specifying that his public reason condition takes the weaker, *pro tanto* form. He avoids excessive permissiveness by asking objectors to meet a variety of additional criteria that rule out objections grounded in balances of *pro tanto* public reasons that it would be unreasonable for a HCP to hold.²⁵ Briefly, the beliefs grounding an objection must be sincerely held since objections that are either of trivial importance or have no moral basis for the objector should not be sufficient to override the fiduciary duty to the patient. The beliefs grounding the objection also must be consonant with medical science because reasonable

²³ McConnell, *op. cit.* note 5.

²⁴ Where objections are justified with a conjunction of reasons, *all* parts of the justification must meet the standard of *pro tanto* public reason. So objections to providing antibiotics on the grounds that (1) killing innocent persons is wrong and (2) bacteria have the moral status of persons would fail because (2) is not even a *pro tanto* public reason. We thank an anonymous reviewer for pointing out the need for this clarification.

²⁵ Card, *op. cit.* note 5.

persons can be expected to reasonably accept that all medical professionals must act upon the basis of accurate clinical data; objections to dispensing emergency contraception (EC) premised upon the belief that it is wrong to kill innocent humans conjoined with the discredited²⁶ belief that EC kills zygotic life do not satisfy even the basic conditions of admissibility on Card's view. Card also adopts various restrictions based on the circumstances in which the objection would be exercised. For example, accommodating the objection must not undermine the duty to care for patients in emergency circumstances. The better these criteria are met, the greater claim to reasonability the objection has and, therefore, the more claim it has to being accommodated.

McConnell²⁷ requires the objector to show that his objection is grounded in sincere beliefs that are consistent with a conception of good healthcare. Objections based on empirically false, discriminatory, or arbitrary beliefs, for example, cannot be accommodated because those beliefs are incompatible with providing good healthcare. Although McConnell doesn't specify that this be done in terms of public reason, a public reason condition can be readily incorporated in his model by requiring the objector to show that his conception of good healthcare is consistent with public reason. That is, that his conception of good healthcare is one that other reasonable people could be reasonably expected to accept. This wouldn't be too demanding because the objector wouldn't have to convince assessors that his conception is *better* than the other reasonable conceptions. This appeal to good healthcare also avoids excessive permissiveness because a reasonable conception of good healthcare entails a reasonable balance of healthcare values and it can demand more of HCPs than citizens outside of the healthcare professions.

So, the two PJAs in the literature would both have ways of employing a public reason condition without being so demanding that no objections can be accommodated or so permissive that they fail to succeed in appropriately restricting the normative grounds of objections. Nevertheless, even if these views with a public reason condition are feasible in this sense, there are further objections against the public reason condition that might ultimately lead us to reject such PJAs.

²⁶ R.F. Card. Conscientious objection, emergency contraception, and public policy. *J Med Philos* 2011; 36: 53-68.

²⁷ McConnell, *op. cit.* Note 5.

Exclusive of religious conscientious objections?

The demand for public reason may, at first, seem to unfairly count against people who would object on religious grounds given that it might be more difficult, or even impossible, to translate some religious moral beliefs into public reason while secular moral beliefs lend themselves more easily to public reason.²⁸ It is true that the demand for public reason rules out accommodating conscientious objections that are what Weinstock²⁹ calls, ‘irreducibly religious’, i.e. exclusively based in the authority of a religious text or authority, but it also rules out secular objections that are based in values that are irreducibly personal or irreducibly based in a sub-culture.

We argue that the demand for public reason is not unfair on the religious conscientious objector because secular and religious objectors are essentially faced with the same task. The crucial point here is that both religious and secular personal comprehensive doctrines are distinct from public reason, as Rawls makes clear:

Emphatically [a political conception of political justice] does not aim to replace comprehensive doctrines, religious or nonreligious, but intends to be equally distinct from both and, it hopes, acceptable to both.³⁰

We must distinguish public reason from what is sometimes referred to as secular reason and secular values. These are not the same as public reason. For I define secular reason as reasoning in terms of comprehensive nonreligious doctrines. Such doctrines and values are much too broad to serve the purposes of public reason. Political values are not moral doctrines, however available or accessible these may be to our reason and common sense reflection. Moral doctrines are on a level with religion and first philosophy. By contrast, liberal political principles and values, although intrinsically moral values, are specified by liberal political conceptions of justice and fall under the category of the political.³¹

²⁸ Zolf, *op. cit.* note 20.

²⁹ D. Weinstock. Conscientious refusal and healthcare professionals: does religion make a difference?. *Bioethics* 2014; 28: 8–15.

³⁰ J. Rawls, *op. cit.* note 8, p. xl.

³¹ J. Rawls, *op. cit.* note 12, p. 775-6.

The set of principles for guiding constitutional matters and matters of justice that can reasonably be expected to be acceptable to all reasonable people is much different from each individual's personal comprehensive conception of a morally good life. Among other differences, the scope of the former is much narrower than the latter. So the process of developing and justifying principles for guiding constitutional matters and matters of justice with public reason is quite a different task from developing and justifying one's personal comprehensive conception. But clearly, there will often be a strong relationship between the public reasons a person will promote for matters concerning a constitution and justice and that person's comprehensive conception since to promote public reasons at odds with one's comprehensive conception would generate cognitive dissonance.

Typically, conscientious objectors are not interested in promoting public reasons for a particular constitution or system of basic justice; their objections arise from a conflict between performing an action and their personal comprehensive conception. This conflict generates an intuition against the action, so their initial attempts to justify that intuition will most naturally draw on their personal comprehensive conception. It is a further cognitive move to go beyond one's personal comprehensive conception and argue whether a procedure should be part of a good healthcare system befitting a just society which treats its fellow citizens as free and equal persons—i.e. to think in terms of public reason.³² But, importantly for the point we are making here, this process of developing public reasons beginning from one's personal comprehensive conception is the same whether the objector is religious or not. To see this, consider the following two examples which illustrate the process of developing public reasons, first from a secular comprehensive conception and then from a religious comprehensive conception.

Imagine someone raised in a 'new age' commune and who develops a secular comprehensive conception that places a great weight on the public interest. Later she becomes a physician and conscientiously objects to providing an expensive treatment that would give an elderly person six more months of life when the hospital specifies that he should be treated. Given her background, it seems to her that this elderly person has had a good life, largely thanks to his community, and he shouldn't now draw so heavily on resources that would be better used to support the lives of the younger community members. But she cannot publicly justify this

³² Of course, some conscientious objectors are interested in the public justification of the constitution and systems of basic justice. These objectors, whether religious or not, are more likely to already be thinking in terms of public reasons and so they will have a head-start in publicly justifying their objections.

objection by simply appealing to what she sees as the self-evident value of a society organised in the same way as the ‘new age’ commune she grew up in. Such social organisation seems obviously valuable to her given her comprehensive conception but others don’t share her comprehensive conception; they have developed their personal comprehensive conceptions through other life trajectories. So the value she appeals to in her objection does not meet the public reason condition.

She could, however, develop the grounds of her objection so that it is stated in terms of public reason. She might realise that no patient possesses the right to just any treatment because there simply are not enough resources to provide the very best medical care to all citizens. If we provide the very best care to some people, others will unfairly receive worse care. She might then also realise that fairness in a healthcare context means that resources should be somewhat biased towards younger people because the elderly have already had their opportunity to live a good life while the young stand to lose that opportunity. These are public reasons that others could reasonably be expected to accept but they might not justify an objection in this particular case. The difficulty is in saying where the lines should be reasonably drawn, what costs should younger people bear so that elderly patients can receive treatment? To make the situation more concrete, imagine that, if this hospital provided elderly patients with expensive cancer treatment to extend their lives by six months as a rule, then it would have to divert funding away from the neonatal ward increasing the risk of death and disability to premature babies some of which would likely go on to live typical lives. Now, the objector might argue that we should not expose premature babies to these risks in order to provide elderly patients six months more of life because that unfairly biases treatment towards those who have already had the chance to live a good life at the expense of those who have not yet had that chance. The physician’s objection to providing medical care to this elderly patient is no longer based solely on her idiosyncratic comprehensive conception but, rather, it is cast in terms of public reason that one can reasonably expect other free and equal citizens to endorse. This example shows the kind of work that a secular objector might have to do in order to meet a *pro tanto* public reason condition. Whether this objection would be accommodated depends on the further conditions of the PJA being used.

Let’s now consider an example of a conscientious objection initially founded upon a religious basis. A physician refuses to participate in hastening an incapacitated patient’s death via active euthanasia since this is a form of killing. The grounding reason for the physician’s objection is

based upon the religious belief that such an action is always sinful because it is only within the power of God to determine another person's lifespan. Since this justification contains reasons that are incomprehensible to non-theists or to theists who accept a conception of God on which mercy killing is allowable, it will not meet a *pro tanto* public reason condition. This physician might then consider whether his reasons against participation have publicly reasonable correlates. Suppose he considers his reasons and arrives at the core idea that he does not possess the knowledge and wisdom to be certain that this is what this incapacitated patient would have wanted, even though there is some evidence from his family that this course of action comports with his wishes. His central reasoning is that he doubts the competence of any patient to predict that he would wish to be killed in advance of the circumstance in which he cannot speak for himself. He would only consider doing so for a patient who is judged to be competent and can speak for himself or herself. The physician further learns that even patients who express a wish to have their deaths hastened in an advance directive (assuming in this discussion that such actions are legal) in fact lower their expectations of what they need to be happy and are content with their lives despite having less physical freedom, say, in this phase of their existence.³³ This makes sense from his religious perspective because he trusts that God would only keep one alive as long as there remained some value in living. So, this objector traces his religiously inspired belief that it is wrong to hasten an incapacitated patients' death to another belief that, in such a case, neither he nor the patient himself can be sure that hastening his death is in fact what he would want, what he would give informed consent to do. In this latter belief, the physician has arguably arrived at a public reason with *pro tanto* weight. If it is uncertain that incapacitated patients who cannot speak for themselves would in fact want their deaths hastened, then all reasonable persons could be expected to agree that it is best to not engage in active euthanasia until compelling evidence is found to support this course of action. As with the first case, this discussion is not meant as an argument for accommodating this objection (which depends on the additional constraints of the PJA), but instead to illustrate that the onus of meeting a public reason condition for a religiously inspired objector is comparable to that for a secularly inspired objector. Just as in the secular case, the grounds for the religiously motivated objection have to be disconnected from the objector's personal comprehensive conception. As Weinstock says, the arguments for religious objections can be 'unmoored from the theological or otherwise metaphysical contexts that may have given rise to them (much as

³³ c.f. C.J. Ryan. Betting your life: an argument against certain advance directives. *J Med Ethics* 1996; 22(2): 95–99.

the discourse of rights that is dominant in modern Western democracies has become unmoored from its original Christian assumptions)’³⁴. In many cases, this process of ‘unmooring’ should not be too difficult because ‘religious traditions contain rich and complex moral resources’ and ‘the moral repertoires of religion were constructed not just to betoken the submission of the faithful to their God, but also to deal with the workaday moral difficulties that afflict any human community’³⁵. That is, many religious personal comprehensive conceptions lend themselves to being described such that reasonable people can see their moral weight.

Can public reasons be sincerely held?

The requirement to cast one’s objection in terms of public reason raises a new problem for PJAs in that the public reasons offered in favour of an objection appear to have a lesser claim to sincerity than the aspects of the objector’s comprehensive conception that ground the objection. One might object that it will be impossible to meet both the public reason condition *and* the sincerity condition that PJAs require.

It is commonly believed that conscientious objections should only be accommodated if they are sincerely held. Indeed, both Card and McConnell’s PJAs require objectors to sincerely hold the beliefs grounding their objections. If anything is sincerely held it is the moral principles in people’s comprehensive conceptions; people strongly identify with their comprehensive conceptions.³⁶ Violating the moral principles in one’s comprehensive conception will, therefore, damage one’s moral integrity, one of the main reasons for thinking that (at least some) conscientious objections should be accommodated.³⁷ In contrast, the justification of one’s conscientious objection in terms of public reason is usually somewhat removed from one’s comprehensive conception as illustrated in our examples above of religious and secular objectors developing public reasons to support their positions. Typically, one objects on the grounds of one’s comprehensive conception and then one searches for public reasons. So, can the objector be said to sincerely hold the beliefs he puts forward in public reason?

Perhaps those who have a strong political interest can be said to sincerely hold public reasons because they have made a set of public reasons a central part of their comprehensive personal

³⁴ Weinstock, *op. cit.* note 25, p. 14.

³⁵ *Ibid*: 14.

³⁶ N. Strohming, & S. Nichols. The essential moral self. *Cognition* 2014; 131(1): 159–71.

³⁷ M.R. Wicclair. *Conscientious objection in healthcare*. Cambridge: Cambridge University Press.

conception. But, for most people, the request to justify a conscientious objection grounded in their comprehensive conception will be the first time they have attempted to justify their position in terms of public reason. So is there any sense in which the less politically engaged can be said to sincerely hold those public reasons? One might say they cannot sincerely hold those public reasons because those reasons are not a core part of their self-concepts. Therefore, it will not hurt their moral integrity to violate those reasons and so, one might conclude, these conscientious objections should not be accommodated. However, this would seem to unfairly rule out the conscientious objections of those who have good moral grounds for objecting but simply haven't been politically engaged with their moral views up until now.

A different approach might only assess the sincerity of the personal comprehensive conception motivating the objection while the public reasons would be normatively assessed for reasonability and not sincerity. This, however, would allow any set of public reasons that could justify an objection to be used no matter the personal comprehensive conception actually motivating the objection. We would then be left accommodating conscientious objections where the objector could find public reasons to support his objection even though the objector's sincere grounds for objecting are normatively unacceptable. For example, a physician who directs a fertility clinic might object to providing IVF on the publicly reasoned grounds that there are too many people in the world and many orphans that would benefit from adoption. However, in reality, he doesn't hold those public reasons sincerely and only wants to avoid providing IVF to homosexual couples whom he is prejudiced against.

Our preferred response to this difficulty is to develop Brian Carey's³⁸ 'honesty principle' (HP) which requires that: "When offering a reason (R), whether public or not, to support a proposal (P) in the political domain, one ought to publicly declare whether one believes that R is a public reason that is sufficient to justify P"³⁹. The HP is intended to prevent people manipulating others into accepting reasons as justifying public reasons when they know those reasons are not. This is against the spirit of public reason which is to *justify* some form of public action rather than convince people by any means. It violates the HP to claim to strongly believe public reasons when really one doesn't, e.g. for malicious or selfish reasons like the homophobic IVF objector. Carey developed the honesty principle as a guide for public debates. For the purposes

³⁸ B. Carey. Public reason—honesty, not sincerity. *J Polit Philos* 2018; 26(1): 47–64.

³⁹ Ibid: 51.

of advancing and settling a public debate it only really matters that all the relevant reasons are considered; through public deliberation (ideally) the strength and relevance of all the proffered reasons will be recognised and a decision made on that basis. For the purposes of public debate, it doesn't really matter whether the person advancing a reason is personally committed to that reason and the HP doesn't require that they be. Indeed, the HP is intended to allow people to advance reasons that they are highly uncertain of just as long as they are honest about that uncertainty. It's also possible that one could be convinced of the weight of a public reason in the abstract without really caring about that reason or the outcome of the public debate. For a genuine conscientious objection, however, it is necessary that the objector is committed to the reasons grounding his objection. If the objector cannot show the link between his objection and the public reasons he provides then he hasn't shown why *his* moral integrity is threatened and that *he* is at risk of significant harm. Therefore, although the HP is sufficient to govern the honesty of public debate, it is insufficient to govern the conscientiousness of objections. So we are left with the following problem – what standard can we apply to ensure that the objector is committed to the public reasons he honestly proffers?

Our solution is to appeal to a form of transitivity. A person can be said to be honestly committed to public reasons as long as those reasons are appropriately linked through reasoning to that person's personal comprehensive conception. The moral principles in our comprehensive conceptions are sincerely held because they have been integrated into each of our self-concepts over many years. Usually, public reasons have not been integrated in this way. However, public reasons are honestly held if a person has come to them by reasoning from their comprehensive conception. If I have long been honestly committed to moral principle A (it is in my comprehensive conception) and recently discovered that A entails public reason B, then I can be said to be honestly committed to B even though it is a new belief.⁴⁰ The honest commitment to the public reasons is then parasitic on the honest commitment to the relevant beliefs in people's personal comprehensive conceptions. Where newly adopted public reasons are inconsistent with one's comprehensive conception, the individual cannot be said to be honestly committed to those public reasons. A weaker form of this condition would only require that the objector's public reasons be *consistent* with his personal comprehensive conception. This is too weak, however, because an objector could advance a public reason that was consistent with

⁴⁰ This connection will usually be weaker than a strict logical entailment because a particular comprehensive conception could form the basis of several different public reason justifications for an objection.

aspects of his personal comprehensive conception yet not realise that connection himself. Or worse, insist on an incoherent connection between the public reasons he hopes ground his objection and his comprehensive conception. A slightly stronger sincerity condition would require the objector to explain to the tribunal how their public reasons connect to their comprehensive conception. That is, show something of the reasoning process of how they arrived at the public reasons they cite (such as the reasoning we outlined above when the religious and secular objectors developed public reasons). This form of sincerity condition means that PJAs can refuse the conscientious objections of people who can provide *pro tanto* public reasons to defend their objections but cannot show how those public reasons meaningfully connect with their sincerely held comprehensive conception, such as the homophobic IVF objector. The relevant sense of the HP for our purposes, then, is *honest connection*: the public reasons track the moral reasons that matter to the objector, and he can explain the connection between his personal moral reasons and the relevant public reasons he invokes to support his claim that he must so object or otherwise impugn his moral integrity.

Conclusion

PJAs occupy a desirable space in the literature on conscientious objection in healthcare. Views that refuse to offer any accommodations no matter the grounds of the objection possess the odd result of treating discriminatory, arbitrary, and empirically mistaken objections on a par with objections founded upon sincerely held, normatively reasonable beliefs which comport with the relevant clinical data⁴¹. On the other end of the spectrum, views which only require objections to be grounded in sincerely held beliefs extend an exemption even if the conscientious refusal is discriminatory, self-interested, arbitrary, or empirically mistaken. Only a moderate view can escape the all-or-nothing dilemma, and we maintain that this is best done by requiring objectors to offer public justifications of their objections which are then assessed to determine if they warrant accommodation. We have argued that PJAs should adopt a public reason condition to ensure that objectors and assessors speak a common normative language. In our view, a *pro tanto* public reason condition avoids the excessive demands of winning the debate in public reason and further conditions governing the relative weights of *pro tanto* public reasons (as described in each of Card and McConnell's PJAs) can prevent it from being too permissive. Furthermore, the process of developing *pro tanto* public reasons from one's comprehensive conception is no different for religious or secular objectors and it is possible to

⁴¹ Card 2014

hold *pro tanto* public reasons sincerely where those reasons are honestly connected to the objector's comprehensive conception.

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