

CONSCIENTIOUS OBJECTION

1. The concept of “Conscientious objection”

1.1. Definition. Conscientious objection is the refusal to comply with a legal obligation which, if fulfilled, would have effects considered contrary to one’s ideological, moral or religious convictions.

Objection consists in an individual’s refusal, on grounds of conscience, to subject him or herself to a form of conduct that is legally required in principle (whether, that is, the obligation derives directly from a norm or regulation or whether it stems from a contract).

An objector seeks to avoid acting the way the law requires him or her to do and asks that this be allowed. Strictly speaking, conscientious objection does not challenge the law as such even though it does implicitly censure the law’s immorality. Nor does it represent an organized programme of resistance or challenge to authority (civil dissent or disobedience). The particular characteristic of conscientious objection is that the objector assumes full personal responsibility for the consequences of his actions without anyone else being involved. Conscientious objection consists in affirming the supremacy of individual conscience vis-à-vis authority and the law, and the right of individuals to determine whether what is being asked of them is compatible with the moral principles which they feel ought to guide their conduct.

1.2. Ethical concept. From a strictly ethical point of view *conscientious objection* represents a formal recognition of the supremacy of conscience over a law which, as the legislator himself acknowledges, may not always interpret the common good. But although it represents an undoubted achievement in terms of civilization, tolerance and democracy, the practice risks being seen as an intrinsic weakness in the law, which admits in its very *ratio* that it does not fully interpret the good of all citizens since the law itself permits a legitimate form of disobedience.

Objection is the concrete expression of the principle of *freedom of conscience* and guarantees a freedom of opinion that is coherent with actions whenever obligations under the law involve a person’s ingrained and deeply-held convictions. An objector is therefore not just someone who avoids tackling a problem but a person who, through the exercise of freedom of conscience, seeks to promote a value or a principle.

1.3. Legal concept. Legally speaking conscientious objection involves:

- an obligation to act in a way prescribed by a law;
- the existence of a fundamental value that is not respected by the said law and whose relationship with that law is one of cause and effect (causal nexus);
- exemption under the law from the obligation to act in the specified way.

The institution is limited to specific forms of legislation which allow for it and generally extend to:

- obligatory military service;
- vivisection;
- voluntary abortion;
- assisted reproduction practices;
- suspension of life-support treatment (including that listed in advance directives).

Conscientious objection is considered a *subjective right* of individuals. Individuals have the right not to be forced to act against their own conscience and a just society ensures that there are no such constraints on them.

It follows that conscientious objection is not a legal norm because it is recognized by the law but because the law, as stated by the Italian Constitutional Court in 1991, recognizes respect for one's own identity as the inalienable right of every individual. Conscience cannot be bound but can only be disciplined by the law for "the faculty of conscientious objection derives from the liberty and dignity of human individuals and is not founded on a merely subjective attitude but on the very nature of man and requires that human beings are not forced to act against their own conscience".¹

It can therefore be stated that conscience is not a space for the arguable, a space where people hold their own subjective views and hold opinions that come and go with the times, but the place where people perceive an objective and universal value. It is therefore wrong to think of conscientious objection solely in terms of individual existence, as though dealing with ethical problems were only a private and personal matter.

It should be added, however, that if a state always respected this private and privileged relationship between a person and himself and, for every law that bound and obliged citizens to behave in a certain way, provided a norm which, in the name of freedom of conscience, allowed them to disobey what that law required, that state would run the risk of making itself superfluous and of undoing the entire legal system with the result that citizens would return to living lawlessly. But precisely because the themes involved when one talks about liberty of conscience are part of the public dimension of political and legal decisions one cannot rely solely on the subjective dimension of conscience to justify flouting the law. Our conscience must refer to something that is also objectively important. In other words, one needs to give an *objective basis* to conscientious objection and that basis consists in the fact that conscience does not rebel as a consequence of a simple subjective perception but on the basis of a set of values which underpins the legal system.

This brings us back to the objective dimension: the conscience of an individual is challenged by an issue that bears on the essence, the basis of civil life. In order to disobey the law and claim that it is justified under the law itself, such disobedience must respect a good that is objectively very important and which holds significance not only for the individual intending to object but is also recognized as fundamental according to the logic of the authority which established the compulsory norm in question, such as for example the value of life².

2. Conscientious objection and legal norms

In some countries conscientious objection is recognized under laws which specifically govern certain forms of conduct (e.g., those laws which depenalize or legalize abortion). In other countries the view is that conscientious objection is directly safeguarded by the constitutional court or by a fundamental law and the resolution of any conflicts arising is entrusted to courts of justice.

Until approval by the Council of Europe of Resolution 1763 of 7 October 2010 ("The right to conscientious objection in lawful medical care"), there existed no provision for conscientious objection at institutional level – only at personal level.

What is stated for the first time in the document is that **"No person, hospital or institution shall be coerced, held liable or discriminated against in any manner because of a refusal to perform, accommodate, assist or submit to an abortion, the performance of a human miscarriage, or euthanasia or any act which could cause the death of a human foetus or embryo, for any reason."** (Art 1.)

¹ (Leone S., Privitera S., *Dizionario di Bioetica*, Città Nuova, 2004)

² cf. Marina Casini, L'Obiezione di coscienza: significato giuridico, in "Obiezione di coscienza scelta per la vita" Conscientious objection: legal significance in "Conscientious objection, a choice for life", (Milan – 23 November 2008).

Given that premise, the Resolution goes on to reiterate “member states' obligation to ensure access to lawful medical care and to protect the right to health, as well as the obligation to ensure respect for the right of freedom of thought, conscience and religion of health-care providers” and invites “Council of Europe member states to develop comprehensive and clear regulations that define and regulate conscientious objection with regard to health and medical services” (Art 4), and which “guarantee the right to conscientious objection in relation to participation in the medical procedure in question” (Art 4.1).

As is well noted, resolutions and recommendations are not legally binding on parliaments and governments but represent guidelines for Member Countries and are of significant cultural importance.

2.1. International documents. The right to conscientious objection is recognized in key international documents:

- *Universal Declaration of Human Rights*, United Nations General Assembly, 1948. Art. 18: “Everyone has the right to freedom of thought, conscience and religion”.
- *International Covenant on Civil and Political Rights*, United Nations General Assembly, New York, 16 December 1966.
- *European Convention for the Protection of Human Rights and Fundamental Freedoms*, Council of Europe, 4 November 1950. Art. 9 reaffirms the right of every individual to freedom of thought, conscience and religion.
- *Resolution n. A3-09411/93 on conscientious objection in the Member States of the Community*, European Parliament, Strasbourg, 19 January 1994. Conscientious objection is a real subjective right deriving from the rights of man and fundamental freedoms.

2.2. Deontological concept. In a broader sense one should, however, also identify another form of objection which it may be more opportune to call *conscientious reservation* and which concerns all the situations in which, especially in the medical field, we legitimize from a purely ethical standpoint (albeit this not covered by any particular legal norm) the refusal to engage in a certain activity on grounds of conscience. Such legitimization is based not only on the very nature of “moral conscience” but also in Human Rights Charters and Declarations as listed above.

By virtue of the above the conscience of a practitioner has the right and duty not to take part in certain practices that run against the convictions established by his conscience. In that connection we may quote some passages from the Italian Code of Medical Deontology that are echoed in the Codes of Deontology of many other countries:

“A doctor who is asked to engage in practices that run counter to his conscience or to his clinical convictions may refuse to do so unless in so doing he risks causing serious and immediate injury to the health of a patient. He should also provide members of the public with all possible information and clarification.”³

As can be seen, such a statement:

- is made regardless of any explicit legal legitimization formally providing for its application;
- brings up the personal responsibility of the practitioner who takes responsibility (including legal responsibility) for all the potential consequences of his refusal;
- has to be properly motivated since it cannot be justified only on the grounds of a subjective and arguable refusal. It should, in any case, never potentially prejudice the health of a patient.

³ Federazione Nazionale degli Ordini dei Medici, *Codice di deontologia professionale* (2006) art. 22 (National Federation of the Order of Medical Practitioners, *Code of Professional Deontology*) art. 22.

Despite the statements made in the abovementioned Resolution 1763 of the Council of Europe the document, while making room for discussion and opening up broader perspectives, does not yet represent a real change since conscientious objection in the strict sense of the words is by its very nature considered as “personal” and not extendible to institutions. However, “conscientious reservation” could, in that framework, be seen as extending to institutions, and religious bodies, for example, could, under their constitutions, exclude those activities which appear in clear contrast to their institutional charism.

But since this not an aspect specifically covered by the law it could lay institutions open to delicate problems of conflict with the State whenever such operations were held to be “obligatory” for the institution itself. In such cases the problem can, pending the adoption of culturally innovative regulations, be resolved on the basis of specific agreements, practices or local conventions under which the State undertakes to respect the institution’s charism by not obliging it to carry out the operations in question.

It should be recalled, however, that the Order’s Centres are there to serve life and health in every phase of human existence. They place the individual at the centre of their welfare activities with a management model founded on the recognition and respect of the inalienable dignity of every human being and on principles of justice and fairness. Objection gives concrete expression to the principle of freedom of conscience and guarantees a freedom of opinion that is coherent with actions. But in cases where legal obligations have an impact on a person’s closest and deepest convictions the Order’s Institutions should always take the opportunity of engaging in dialogue with authorities in order to identify strategies that allow for an institutional as well as an individual right to conscientious objection and thus to enable an organization that refuses specific legal dictates contrary to the affirmation of life to carry on with its work.

The mission of the Hospitaller Order of St. John of God is based on having chosen a course of coherence and constancy. Such a choice can only be a very exacting one especially when it would make it clear that the end product of conscience consists in an assumption of responsibility not only at individual but also at institutional level. In times dominated by technological progress and by a utilitarian mentality which often tries to hide behind the invocation of certain “rights”, the support of Bioethics Committees could provide a valid form of support to the Order’s Centres in drawing up documents expressing clear and reasoned opinions on questions of conscience that regard problems pertaining to life.

In that way conscientious objection could really escape its negative – albeit unjust – connotation of being the refusal of something and translate into an approach both positive and affirmative of a value and of an ideal vision stemming not only from an individual choice but representing an integral part of bearing witness to the Charism of Hospitality.

3. The Church’s view

3.1. Biblical references. The first and most important biblical reference is to be found in the Acts of the Apostles: “We gave you strict orders not to teach in this name yet you have filled Jerusalem with your teaching and are determined to make us guilty of this man's blood.” Peter then replied together with the other Apostles: “We must obey God rather than men” (Acts 5,29). This follows the report a few verses earlier that Peter and other Apostles were miraculously freed from jail by an angel. They immediately start to preach in defiance of a ban by the Sanhedrin, who had sent them to jail. The holy author’s entire attention is focused on the trenchant statement: “We must obey God rather than men” and the consequences which that conflict between divine and human authority is likely to create.

In truth the theme is not a new one in the Acts of the Apostles, nor in Holy Scripture in general, nor indeed in extra-biblical literature. As concerns the Acts of the Apostles it figures in the preceding chapter when Peter and John are ordered not to speak in the name of Jesus and reply: "Judge for yourselves whether it is right in God's sight to obey you rather than God." (4,19). The theme of the conflict between obedience to human and divine authority and of the suffering which that may cause appears as powerfully but in a different narrative style in the book of Daniel when the three young men run the risk of being burned in a blazing furnace in order to proclaim their faith in God (*Dan* 3,18). Again, the story of the Maccabees together with the experience of many prophets bears living witness to what was a very specific part of Jewish thinking. And so when the Apostles invoke the same discerning criterion they seriously embarrass the Sanhedrin because they refer to an inner obedience to the Law of God which was precisely what the teachers of Israel taught.

But as mentioned above the question of conflicting obedience is present in extra-biblical literature too. The best known references are those in *Antigone* (440 *et seq.*) and the *Apology of Socrates* which Luke was most likely familiar with. In that sense the disciples' statement reflected a precise biblical doctrine but also a position that most people would have regarded as common sense.

3.2. Church's teaching. Catholic moral doctrine on conscientious objection was authoritatively reiterated in Pope John Paul II's encyclical *Evangelium vitae*. With unjust laws such as those legalizing abortion or euthanasia "there is not only no obligation in conscience to obey such laws; instead there is a grave and clear obligation to oppose them by conscientious objection" (n. 73) when that is required by general moral principles on *cooperation in acts of evil*. "To refuse to take part in committing an injustice is not only a moral duty; it is also a basic human right. Were this not so, the human person would be forced to perform an action intrinsically incompatible with human dignity, and in this way human freedom itself, the authentic meaning and purpose of which are found in its orientation to the true and the good, would be radically compromised. What is at stake therefore is an essential right which should be acknowledged as such and protected by civil law. In this sense, the opportunity to refuse to take part in the phases of consultation, preparation and execution of these acts against life should be guaranteed to physicians, health-care personnel, and directors of hospitals, clinics and convalescent facilities. Those who have recourse to conscientious objection must be protected not only from legal penalties but also from any negative effects on the legal, disciplinary, financial and professional plane." (n. 74).

3.3 Identity card of the Order. This fundamental document of the Order also tackles the problem in the spirit of the magisterial text, declaring: "A particular situation arises in cases where the law may be contrary to the identity and values which the Institution promotes. In that case, recognizing ourselves in the pluralism which we seek to promote in our society we appeal to conscientious objection as regards application of the law in our activities (5.3.5.2)." The words used are intentionally generic and exhortative because they take account of the different laws existing in various countries. But they reiterate the fundamental point that it is obligatory to use conscientious objection against laws that are inherently unjust as regards human life. A more delicate problem arises in the case of the Order's "works" or Institutions where such objections must be voiced. As noted above, the possibility of conscientious objection afforded by the law is a right given to individuals, not to institutions, even though Resolution 1763-2010 of the Council of Europe opens up new avenues for discussion not only in order to clarify the sort of agreements between governments and the Order's Provinces or Houses that would allow the latter not to perform actions that are objectively disrespectful of human life but also in order to publish documents that culturally support the stand taken in the European pronouncement.

That is why there is to this day no such thing as an "institutional" form of conscientious objection but only individual agreements between the State and given Provinces or Houses of the Order which may, on a case-by-case basis, open up the possibility of not carrying out actions that objectively speaking fail to respect human life.

Such accords *must* take account of what is guaranteed in art. 5.2.1.4., *Freedom of conscience*: “The right to freedom of conscience, which is clearly formulated in art. 18 of the *Universal Declaration of Human Rights* and is inscribed in the Constitutions of the majority of modern states is called for by the ethical dimension of human beings and of their awareness that it exists as a gift and as a project to be accomplished. The religious dimension of existence is not excluded. In this connection it should be recalled how Vatican Council II’s *Dignitatis Humanae* Declaration starts by stating that “persons have the right to religious freedom” ”.

Naturally, exercising such freedom remains subordinate to the general principle of personal and social responsibility, i.e. to the fact that every person or social group is obliged to take account of *other people’s rights* and of their *duties* towards others and to the common good. These limits in practice make it necessary to operate a legal system that gives concrete protection to religious freedom while at the same time defending people against unjust forms of proselytizing.

4. Limits and extent of objection: “cooperation with evil”

Although health workers may aim to exercise the faculty of conscientious objection and although lawmakers may seek to respect it –despite, also, every intent of exercising the faculty of “conscientious reserve” in the best possible way – various situations arise in everyday life when people may find themselves facing a conflict on how to behave. For example should a pharmaceuticals representative offer anti-implantation drugs as one of the products made by his company, or should he not do so and risk being fired? Should a newsagent refuse to sell pornographic literature? Can one run an electrocardiogram on a woman who is about to have an abortion? And if she asks what room she should go to, does one tell her or not? These and other questions show how extremely difficult it is in everyday life to behave so as to exclude totally, even in the slightest form, any kind of *cooperation* with the evil one intends to refuse through conscientious objection.

The question has always been discussed by moral theology, which subsequently developed the criteria of so-called “*cooperation with evil*”. In cases where an individual, while not personally carrying out an intrinsically evil action (voluntary abortion, euthanasia, etc.), finds himself in a situation where he has to cooperate with such an act, he may do so on condition that the following three conditions are present (all three have to be met):⁴

- a) Cooperation should be exclusively *material*. That is to say the individual “cooperating with evil” should cooperate materially in the action being carried out by someone else without acquiescing in it or approving of it, even inwardly. Rather, if the opportunity arises, he should be able express his disapproval of what the others are doing. In that sense, material cooperation in evil can even turn into cooperation in goodness. The news vendor who sells a pornographic magazine to an adolescent can use the occasion to talk to the boy, as can the doctor explaining how to reach the room where abortions are performed.
- b) Cooperation has to be *indirect*. In other words no direct part should be taken in the evil action undertaken but only “the means can be offered” to help it come about --by washing the instruments needed for an abortion for example, or by writing a prescription, or performing a laboratory exam, etc. It does not in fact follow that the person for whom these actions are intended will necessarily make use of them to carry out the evil act. That is not the same thing as participating directly in an abortion operation (by keeping valves open, performing the anaesthetic, administering a drug induced abortion, etc.).
- c) Cooperation has to be *proportionate*. In other words there has to be a valid motive for cooperating. Whether material or indirect, cooperation can never be licit if that motive is missing. Proportionate reasons usually have to do with employment (being fired or being transferred

⁴ Cf. D. Tettamanzi, *Cooperazione* in: S. Leone – S. Privitera, *Nuovo Dizionario di Bioetica*, Città Nuova, Roma 2005.

to another job, with consequent serious problems for the employee) or with the concrete possibility of doing good, thus avoiding the evil with which one is cooperating, or again with the objective impossibility of doing anything else.

Obviously, and although some examples have been put forward, deciding in practice whether or not a given form of conduct represents legitimate cooperation is not always easy. The decision rests with the health worker's conscience, possibly after having been guided by competent counsellors and, why not, by guidelines such as the ones being formulated here.

Moreover conscience is not infallible so that even when it acts responsibly it is not necessarily and always certain, and it could be wrong. A case in point is that of "invincibly erroneous conscience" which is what happens when conscience, although illuminated and having reflected and prayed, and also being aware of the single or several moral norms bearing on the proposed action, opts for a form of conduct that objectively runs counter to the moral norm. In such cases if the individual acted in good faith and with rectitude, and had valid motivations and arguments, conscience would not lose its dignity and the individual following his conscience should not feel guilty.

5. Objection by pharmacists

One problem that has recently become an object of ethical reflection has to do with the extension of conscientious objection to people other than medical and paramedical workers and to pharmacists in particular. The issue was raised specifically by Benedict XVI at the XXVth International Congress of Catholic Pharmacists (29 October 2007):

"In the moral domain, your Federation is invited to address the issue of conscientious objection, which is a right your profession must recognize, permitting you not to collaborate either directly or indirectly by supplying products for the purpose of decisions that are clearly immoral such as, for example, abortion or euthanasia."

The point is innovative and interesting in a number of ways but it is also problematic. Three elements should be underlined:

- The Pope is inviting one to embark on a path leading to the "recognition" of a right to conscientious objection in line with what was previously noted regarding the "ethical-legal" nature of the institution. In other words his exhortation reaches beyond the possibility of a personal refusal "in conscience", with all the possible consequences which that could entail.
- The purpose for which the drugs have been prescribed must be *clearly* immoral or to put it another way the medication involved should serve an evident and intrinsic immoral purpose independently of the subjective reasons for taking it. If there were any uncertainty or doubt about the effective immorality of its action its sale would not automatically and always be illicit. What is uncertain is not certain and an "equiprobable" opinion merits full respect, as the moralists of the 18th century used to say.
- The drugs capable of bringing about abortion or euthanasia are mentioned as examples and the list is not exhaustive (the Pope in fact says "such as, *for example*"): it follows that other drugs exist that could be used for the same purposes such as, for example, psychotropic substances. It would in effect be difficult to list all such substances because some of them have possible therapeutic uses while they could be taken for other purposes. For instance barbiturates may be ingested with the intention of committing suicide, and central cough sedatives may be used as a substitute for opiates.
- Finally the Pope talks of collaborating "directly and indirectly", i.e. any kind of collaboration. It is not clear what he is alluding to exactly. Dispensing a drug on presentation of a prescription is undoubtedly an indirect form of cooperation, but what would direct cooperation

The last point is the most problematic. In fact we need to “qualify” the pharmacist’s action in dispensing the drug. It being taken for granted that his cooperation is only material does that make it a direct form of cooperation and, as such, illicit? There can be no doubt that supplying a drug that is lethal to life (one’s own or that of others) means closely participating in the actions of the person asking for it whereas it would not necessarily follow if one were to provide oneself with the drug by ordering it from the firm supplying it. But the fact that the drug may not *necessarily and inevitably* be used could perhaps exempt one from full moral responsibility wherever the third criterion – i.e. “proportionate reason” – were present. Should a pharmacist who would lose his job (without any chance of finding another) if he refused to sell such a product be obliged to do so? If that were the case no Catholic pharmacist could exercise his profession without a law being there to protect him by allowing for objection. I think that is impossible in practice and that in the light of the modern way of life one should reconsider the problem not so much in terms of objection and the legitimacy of cooperation with evil but rather in terms of “cooperation with good”. The pharmacist who is asked to sell such a product may have the chance to act as a health educator (and indeed as an ethical educator) as suggested by the Pope in the same speech. It might serve no purpose in the great majority of cases but if he does succeed that would be due to his presence and to the drug’s sale. Otherwise the product would have been sold anyway by a non-objecting colleague and the opportunity of educating the buyer ethically would have been lost forever.

6. Objection to prescription of the “day-after” pill

What has been said so far on conscientious objection and cooperation with evil concerns actions that can objectively be defined as “evil” because they cause direct harm to the fundamental value that is human life. But today new situations arise in which such definitions and certainties appear more debatable and less clear-cut. Such situations usually involve the prescription of drugs or being asked to behave in a certain way with no possibility of refusal as this is not remotely contemplated by the law (which, on the contrary, makes such behaviour obligatory). Given the objective uncertainties involved, behaving in the prescribed way often becomes more problematic in the light of considerations of subjective morality (the judgement of one’s own conscience). I refer particularly to the question of the so-called “day-after pill”.

6.1. The preliminary problem. A preliminary question that could prove a diriment impediment concerns the ethical-philosophical (not scientific!) issue of the beginning of individual human life. As is well-known there are two main theories here:

- the first is based on the genetic “novelty” of the zygote and thus holds that human life begins with conception;
- the second (based on the possible gemellarity and on the totipotency of pre-implantation embryo cells, etc.) holds that life begins when the process of implantation in the uterus is completed, i.e. towards the 14th day after ovulation. The latter is the one generally accepted by science and national legislations.

In reality, neither of the two theories is officially endorsed by science and the question is a philosophical, not a scientific one. Science describes phenomena and there is no doubt that while on the one hand the zygote represents a genetic novelty distinct from both the father and the mother while, on the other, until implantation its cells are totipotent and thus lack the requisite for being regarded as a separate existential unit.

The question therefore passes to philosophy, to ethics and, for believers, to religion. While there is no question that philosophical truth, as that of every other human science, does not have the characteristics of objectivity held by scientific truth it should be considered that traditional philosophical categories (potential and action, singleness and multiplicity, identity and individuality, etc.), all favour human life starting at the moment of conception. But such considerations are by no means the only ones nor are they the ones offering the most conclusive proof.

Holy Scripture obviously has nothing to say on the subject in part because the issue was of no particular concern to the people for whom the Bible was intended and partly because in Biblical times people lacked the sophisticated instruments needed to examine the question.

The most authoritative teaching on the issue is the one formulated by John Paul II in *Evangelium Vitae* which goes as follows:

“Furthermore, what is at stake is so important that, from the standpoint of moral obligation, the mere probability that a human person is involved would suffice to justify an absolutely clear prohibition of any intervention aimed at killing a human embryo. Precisely for this reason, over and above all scientific debates and those philosophical affirmations to which the Magisterium has not expressly committed itself, the Church has always taught and continues to teach that the result of human procreation, from the first moment of its existence, must be guaranteed that unconditional respect which is morally due to the human being in his or her totality and unity as body and spirit: *the human being is to be respected and treated as a person from the moment of conception.*” (EV, 60)

Without wanting to be “more Catholic than the Pope” as they say, and as many church movements and groups in fact try to be (as well as individual theologians at times), we can conclude from this densely significant passage:

- that the Church *does not enter into the substance of the scientific and philosophical debate* which therefore remains absolutely free without any *a priori* condemnations;
- that a human being is to be respected *as a person* from the moment of his conception, independently of whether he really is one or not; i.e., the same respect is due to him as to a person.
- that the basic argument for such reasoning is *probabilistic* and cautious in nature given the level of uncertainty concerning the earliest beginnings of existence.

Thus the possible use of *conscientious objection* against prescribing and using the “day-after pill” is based on these cautious ethical considerations which could undergo changes if conclusive, objective and widely accepted proof emerges in due course, (as has happened with the definition of death) providing conclusive evidence, beyond any reasonable doubt, regarding the earliest stages of human life.

6.2. Operational mechanism. The so-called “day-after pill” consists of a hormone, *levonorgestrel* which if administered within 24 hours of intercourse prevents pregnancy in 80 percent of cases. But how does it act? That is the bone of contention. Whereas a large body of the Catholic faithful (albeit without any direct knowledge of the problem but only through hearsay) subscribes to the theory that *levonorgestrel* prevents the possible implantation of a fertilized ovule there are currently many doubts regarding its effective operational mechanism, which is not fully understood.

There is unanimous agreement on the fact that if ovulation has not yet occurred *levonorgestrel* prevents it from taking place, thus behaving like a classic ovulation inhibitor and not as an abortion drug. That is why (and that is already something we should take note of) even if we had to admit that it functions like an abortion drug, *that is not always the case*, at least when prescribed before ovulation.

As regards its functioning in the post-ovulatory phase, studies are still contradictory and many of those show no evidence of any anti-implantation effect,⁵ so that in 2005 the Department of Reproductive Health of the World Health Organisation stated that “*Levonorgestrel* emergency contraceptive pills (ECPs) have been shown to prevent ovulation and they did not have any detectable effect on the endometrium (*uterine* lining) or progesterone levels when *given* after ovulation.”

Recent studies by Stockholm’s Karolinska Institutet have failed to evidence any endometrial modifications on a scale such as to prevent implantation.⁶ How the drug acts in the phases following implantation thus remains to be clarified.

These data, which will certainly be confirmed by further observations in studies currently underway, incline one on the one hand to consider the use of conscientious objection by individual health workers or religious structures administering the drug to be legitimate. But on the other they also suggest that any such objections should be based on a prudent rational analysis addressing a wide range of operational possibilities, above all if a practitioner reaches different conclusions that are reasonably founded in objective scientific evidence.

7. General criteria for handling conflicts of values in Institutions

To assert one’s own conscience, to be faithful at every moment, to reiterate an ethical choice as the root of every exercise of our will is extremely difficult and often faces us with delicate and painful decisions. It nonetheless lies at the basis of our convictions. But if what is at stake is human life the reflection one engages in becomes more than ethical reflection and ontologically and structurally speaking extends into the legal domain.

7.1. Scientific objection before conscientious objection. Respect of the law is not enough, not even when the law makes it possible for us to abstain from complying with it. We need first of all to understand what kind of medicine we are talking about. Television, internet, the radio and the press bombard us with a kind of information that is not knowledge. Patients must be helped by doctors to understand and that calls for much dedication and willingness to listen and it involves putting oneself on the line. What is needed is a cultural alliance with the patient going beyond a “therapeutic alliance” in order to avoid the consequence of stereotyping the fundamental aspects of life which then stops having intrinsic value but only appears to do so if qualified by adjectives indicating its usefulness and efficiency.

Reflecting more deeply on life can allow one to travel a stimulating path leading to real knowledge and truth.

In the current debate it is evident that despite the complexity of the issues at stake any law disciplining living wills with the objective of legalizing euthanasia would end up by promoting the discriminatory idea that in the absence of tangible indicators that are discernible in conscience, such as capacity for interrelations, capacity for decisions, etc, people run the risk of being reduced to the status of mere vegetables and stripped of all dignity.

⁵ Durand M. *On the mechanisms of action of short-term levonorgestrel administration in emergency contraception*. *Contraception* 2001;64:227-34; Marions L. et al., *Emergency contraception with mifepristone and levonorgestrel mechanism of action*, *Obstetrics and Gynecology* 2002; 100: 675-71.

⁶ Lalitkumar P.G.L. et al., *Mifepristone but not levonorgestrel inhibits human blastocyst attachment to an in vitro endometrial three-dimensional cell culture model*, *Human Reproduction*, I 20007, 22 (11) 3031-3037; Meng Ch. et al., *Effect of levonorgestrel and mifepristone on endometrial receptivity markers in a three-dimensional human endometrial cell culture model*, *Fertility and Sterility*, 16 Jan 2008; Meng Ch. et al., *Expressions of steroid receptors and Ki67 in first-trimester decidua and chorionic villi exposed to levonorgestrel used for emergency contraception*, *Fertility and Sterility* 16 Aug 2008. Cf. anche Marions L., *Endometrial receptivity and development of new contraceptive method*, Publikationer fran Karolinska Institute, Diss: 01:311.

The right information directed first of all at our operators and then at civil society as a whole could above all ensure that certain debates are not conducted at an emotional level but take place on the basis of scientifically correct and pertinent facts.

7.2. *Role of training.* That is why particular attention needs to be given to communication which has taken on an essential role in our society, in order to provide correct information and training in the defence of non-negotiable principles.

The responsibility of holding present the essential significance of health work in order on the one hand to avoid health becoming idealized as part of a consumer-driven vision of healthiness and on the other not to lose sight the basic values involved, should form the basis of coherent training courses that stimulate consciences.

Only the careful and precise training of health workers can equip them with the discernment required to embark along ethically-oriented pathways and the formulation of responses to the real risks of pursuing false myths of hyper-efficiency. Only such training can help them to make the operational choices needed to face the difficulties that may emerge in the last moments of a person's life and accompany their patients through disease in the respect of life

7.3. *Affirming the dictates of one's conscience.* Affirming the dictates of one's conscience can be a useful instrument for health institutions both in dealing with the gaps which the law still sets in the way of conscientious objection at institutional level as well as in training their operators in shared and coherent moral languages.

Without the concrete application of a coherent affirmation bearing witness to one's own convictions, both at the institutional and personal level, the exercise of conscientious objection risks not being able to counter present trends which effectively and increasingly take issue with the practice.

Using conscientious objection faces one with sometimes difficult and courageous choices and requires coherent decisions both in declaring one's own identity as well as in translating it in organizational and management terms.

Affirming one's conscience can represent a strong and patient response to the questions which society asks of us these days, from people whose objectives are the stability and security of their works, although the possibility of legal responsibility and consequences has to be taken into account.

So given the absence of any recognition of institutional conscientious objection, both now and possibly in the future, only by defining coherent pathways can one achieve the objective of reaching agreements with Governments to ensure that the particular status of religious institutions is respected.

General Bioethics Commission

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