

# Conscientious objection and the liberal dilemma

The debate on the right to conscientious objection is an illustration of the liberal dilemma. Society must protect the freedom of conscience and ensure this right to conscientious objection – if not, it will betray its own fundamental liberal ideas.

The controversy over the right of GPs to conscientious objection to referrals for abortion can be interpreted as a conflict between two convictions: one *idealist*, the other *pragmatist*. The idealist – who belongs to the minority – confesses to certain general moral principles, and claims that these principles occasionally «supersede the law». The idealist will often be a Christian or a Muslim, but not necessarily – he can also justify his views in secular terms (for example by the idea of natural law, which forms the basis of the UN Declaration of Human Rights). On the question of abortion, the idealist claims that a foetus is a fully human individual, and that a consultation on abortion always concerns two persons – the mother and the unborn child.

The pragmatist – who belongs to the majority – is sceptical of general moral principles. He believes that morality is primarily manifested in society's laws, which in turn have been designed through rational thinking and democratic processes. Health workers must abide by these laws, since they have a contract to administer an assignment on society's behalf. In societal life, the pragmatist is an adherent of liberal political ideas, such as tolerance. Conscience, on the other hand, is a private matter as well as an unreliable guide to moral insight, since it is linked to emotions. On the question of abortion, a foetus does not enjoy the same rights as a person who is born, and to the pragmatist a consultation on abortion is primarily concerned with taking care of the pregnant woman.

Nobody will adhere completely to these stereotypes, even though they may illustrate two different fundamental attitudes. Based on their own presumptions, doctors with an idealist world view must avoid anything that violates the dignity of the foetus. A referral for an abortion is a formal part of the abortion process, and the one who signs it has a different role than that of, for example, the taxi driver who takes the woman to the hospital (1). The idealists' demand for a right to conscientious objection is thus logical. However, this logic falters when the idealists go a long way towards ensuring that the referral will be made by a colleague (2). The key issue for them – again on the basis of their own presumptions – ought to be to prevent the *consequences* of the referral, i.e. to prevent the termination of the pregnancy. The idealist point of view requires something more than passive objection and an appointment in the office next door. One solution for the idealists could be to declare their conviction

in advance, along with the acts that they will be unwilling to perform. Then, the woman seeking an abortion can decide for herself which GP she wants to consult. Some pregnant women may wish for a consultation that includes an exchange of ethical opinion – the outcome could be that the pregnancy continues (3). At the same time, the idealists will seek public visibility to help sway public opinion in their favoured direction.

Doctors with a pragmatist conviction tend to be critical of their idealist colleagues. For example, the pragmatist is strongly opposed to bringing what he holds to be private notions of morality into a medical consultation. In the same breath, he will warn against undermining the social contract that in his opinion is a precondition for the exercise of the medical profession. This criticism appears logical in light of the

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pragmatist's presumptions, but on closer inspection he is felled by his own arguments. According to his own fundamental views, the tolerant pragmatist must necessarily tolerate colleagues who claim that moral viewpoints are *not* of a private nature, but have universal validity. To remain faithful to his own views, he must assume a pragmatic view of colleagues who claim that the medical profession does *not* rely on a social contract, but on the profession's historical value basis. And what would the pragmatist do if the government decided to adopt laws that violate fundamental liberal ideas, for example a total ban on abortion? Would he stand up in protest? If he did, he would no longer be a pragmatist.

The pragmatist's problems with logic are an illustration of *the liberal dilemma* (4). When tolerance is made absolute, it is made intolerant in practice. The debate on reservation therefore impinges on a fundamental social challenge, which a multicultural setting throws into stark relief. A liberal social theoretician such as Jürgen Habermas indicates a route out of this impasse when he calls for «translation» between

various world views (5). He writes that liberal society must recognise conscience and religious traditions as fully valid sources of moral convictions. It is an enrichment, not a problem, that some individuals draw on other moral sources than the majority. Such a modest attitude would be in the interests of liberal society itself – in the opposite case, parallel cultures with a large potential for conflict will evolve.

This provides a direction for how the issue of conscientious objection could be handled politically. Politicians have two tasks: first, they must ensure the citizens the right that follows from the Abortion Act, in accordance with the majority's wishes. This is primarily a practical challenge. Whether the GP should be involved, however, is not given. For example, a woman seeking abortion could be permitted to contact a gynaecological department directly, in the same way as a woman who is about to deliver her baby will go directly to the obstetrical department. Second, politicians must ensure equality in social participation for the idealist minority, and this presupposes a legally defined opportunity for conscientious objection. In more general terms: the politicians must protect the *freedom of conscience*. Several arguments can be put forward in support of this, including concerns for the idealists themselves (1). The weightiest argument, however, is society's own value basis. Freedom of conscience was a key issue when democracy overcame autocracy, as the bicentennial of the Norwegian Constitution reminds us. A liberal society that fails to protect freedom of conscience is no longer liberal, but is shooting itself in the foot.

European politicians have seen this, and through human-rights legislation they have established a framework that safeguards both concerns (6). May Norwegian politicians soon catch up with them.

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