



SCHOOL OF MATHEMATICS
AND STATISTICS
UNSW SYDNEY

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The Chair

Inquiry into the Status of the Human Right to Freedom of Religion or Belief

I attach a submission to the Inquiry, mainly concerning threats to the right of conscientious objection by medical practitioners.

It addresses especially item 3 of the terms of reference, as conscientious objection by medical professionals to performing certain procedures is claimed to conflict with the right of patients to receive them.

Its main recommendation is that the Inquiry express support for current codes of conduct in the medical profession which protect conscientious objection, as these are under threat.

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Threats from bioethicists to the right to conscientious objection in healthcare

A number of medical practitioners, mostly Catholic, have moral objections to performing certain procedures such as abortion. Their objections are not strictly religious but are based on the natural law philosophy of ethics, according to which such procedures are harmful. Under Australian medical codes of conduct, such practitioners have been granted some though not complete protection (for example, the Australian Nursing and Midwifery's policy on conscientious objection, http://anmf.org.au/documents/policies/P_Conscientious_Objection.pdf)

An influential group of bioethicists led by Professor Julian Savulescu of Oxford University has been leading a push to overturn these protections, and so to force practitioners to act in ways they regard as directly contrary to their medical calling and seriously immoral. The group includes Professor Jeanette Kennett, President of the Australasian Association of Philosophy, and Justin Oakley, for many years director of Monash University's Centre for Human Bioethics. Savulescu is editor of the *Journal of Medical Ethics*. So it can be seen that the threat must be taken seriously.

They assert (in their so-called 'Consensus statement on conscientious objection in healthcare' of 26 Aug 2016,

<http://web.archive.org/web/20161017213846/http://blog.practicaethics.ox.ac.uk/2016/08/consensus-statement-on-conscientious-objection-in-healthcare/>) that

- The practitioner's "personal moral and religious views" should not take precedence over what the system orders them to provide, when "the patient's well-being (or best interest, or health) is at stake"
- The status quo is "indefensible" – by the status quo they mean codes that allow conscientious objection to "refuse access to legally available, societally accepted, medically indicated and safe services requested by patients"
- "Healthcare practitioners who are exempted from performing certain medical procedures on conscientious grounds should be required to compensate society and the health system for their failure to fulfil their professional obligations"
- "Medical students should not be exempted from learning how to perform basic medical procedures they consider to be morally wrong"

As I argued in my article in *Quadrant Online*, 21 Sept 2016 (<https://quadrant.org.au/opinion/qed/2016/09/prescription-lynching/>) the main problem with that is its opposing the practitioner's "personal" moral views to the patient's "well-being". The objecting practitioners believe that the procedures to which they object are against the patient's best interest, and they have reasons for doing so. Those reasons are not "personal", nor are they the orders of the Pope. They are philosophical reasons of long standing based in the natural law tradition of ethics, which

gives reasons for believing that abortion, for example, is the killing of a human person and damages the body and psyche of the mother, and hence a gross violation of a doctor's professional responsibility. Reasons do exist for thinking the opposite; no-one denies those are difficult philosophical matters. But to describe doctors' conscientious objection as based on "personal" religious views, which thus conflict with the patient's best interests, is to fundamentally misunderstand why conscientious objectors think as they do.

I urge the Inquiry to act to prevent this misunderstanding going further, and **to express support for current codes of conduct in the medical profession which protect conscientious objection** (when made for adequate reason).

Freedom from irreligion

The misrepresentation of ethical views based on Catholic natural law philosophy as merely "personal" is in my view a symptom of a wider problem. Secular thinkers such as those in Professor Savulescu's group have very little understanding of religious thought, nor does the wider secular community. That is because the secular education system ignores matters of religion and spirituality. Students in public schools who do not receive any special religious instruction (that is, normally those who have no religion at home either) learn virtually nothing about the religious traditions of their own or any other society. For example, the national curriculum in history virtually ignores Christianity after 1500. (<http://v7-5.australiancurriculum.edu.au/australian%20curriculum.pdf?Type=0&s=H&e=ScopeAndSequence>)

The result is that most non-religious Australian adults have a very superficial view of religions, thinking they are antiquated and baseless doctrines with colourful ceremonies, some forbidding pork and some allowing it.

In my article 'Freedom from religion and freedom from irreligion', *Connor Court Quarterly* 9 (2014) (<http://web.maths.unsw.edu.au/~jim/freedomofreligion.pdf>) I argued that that is a violation of children's rights to education because it cuts them off from a fundamental part of human experience. John Finnis, the Australian and distinguished Professor of Law at Oxford (and supervisor of Donald Trump's new Supreme Court nominee) proposes five "basic goods" for human life: life (including health), knowledge, play, aesthetic experience, friendship, practical reasonableness and religion. To be deprived of access to any of these is to miss out on something important in life. Secular education as it stands in Australia does deprive children of any genuine acquaintance with religion (unlike the state schools of a hundred years ago, which provided classes in "civics and morals" with some non-denominational religious content). That violates the rights of children, in the same way as does narrow teaching in a madrassah.

So I urge the Inquiry to recommend serious teaching of religion in the National Curriculum.