

There's no defence for “Conscientious Objection” in Healthcare

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With thanks to my collaborator: Dr. Christian Fiala

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Our Definitions

“Conscientious objection” (so-called)

- ▶ The refusal by a health care professional to provide a legal, patient-requested, medical service that falls within the scope and qualifications for their field, based on their objection to the treatment for personal or religious reasons.

Conscientious commitment

- ▶ The provision of necessary or beneficial health care to patients in need despite stigma, unjust laws, or oppressive systems.

Origin of “CO” in Healthcare (it’s all about abortion!)

- ▶ First law to explicitly allow “CO”:
UK’s **1967 Abortion Act**
- ▶ Introduced by MP David Steel, who added “CO” clause to please Catholic priests at a Scottish seminary
- ▶ Other groups and MPs supported his “CO” clause *after the fact*. Cited reasons:
 - ▶ To preserve doctors’ freedom and rights, and their authority over patients
 - ▶ To protect objectors from pressure to do abortions, and from criminal and civil liability
 - ▶ To secure support for the law and ensure its passage
- ▶ U.S. passed a law to guarantee “CO” just months after Roe v. Wade in 1973
- ▶ “CO” is still exercised almost entirely for abortion³

“Conscientious Objection” is a misnomer

“CO” in reproductive healthcare does not represent true freedom of conscience. Instead, it is:

- ▶ A violation of medical ethics and patients’ rights
- ▶ An imposition of one’s personal or religious views on others
- ▶ An abuse of authority and trust
- ▶ Harmful to patients (psychologically and physically)
- ▶ **Contrary to the entire purpose of medicine - to care for patients**

Let’s switch to more appropriate terms:

- ▶ “Dishonourable disobedience”
- ▶ Refusal to treat
- ▶ Care denials

Why are care denials (under “CO”) inappropriate in health care?

- ▶ Physicians are members of a regulated profession with a monopoly on health care.
- ▶ They have a special obligation to serve the public. Patients depend on them for care.
- ▶ Objecting physicians are deliberately refusing to comply with essential aspects of their chosen profession.
- ▶ This represents an abuse of public trust and an abandonment of fiduciary duty to patients.
- ▶ Healthcare facilities should not have to bear the burden of accommodating objectors by hiring extra doctors, shifting workloads, re-arranging schedules, etc.

Dozens of scholars and researchers have argued against the refusal to treat under “CO” in any kind of health care.

Politicization of “conscience” refusals

- ▶ “Conscientious objection” has become a politicized boycott of democratically-decided laws.
- ▶ Anti-abortion groups, politicians, and churches work diligently to pass laws that allow **sweeping** “conscience” refusals - even for life-saving care - and immunize objectors from any consequence.
- ▶ The refusal to treat under “CO” often spreads across whole regions or countries, and is often expanded to institutions.
- ▶ These care denials serve to:
 - ▶ Prevent access to abortion
 - ▶ Reinforce stigma
 - ▶ Punish and shame women
 - ▶ Permit gender-based discrimination

Victims of Care Denials

- ▶ www.conscientious-objection.info
- ▶ Website contains stories of 53 women (as of April 2019) who were refused a legal abortion and suffered serious injury or injustice as a result, including death.
- ▶ Media coverage about serious consequences usually only happens when a woman dies or a woman or her family sues.
- ▶ **So these stories are the tip of the iceberg.**

Care denials under “CO” strongly linked to unethical behaviour

When objectors deny care for personal reasons, it’s usually accompanied by one or more of these behaviours in addition:

- ▶ Refusing to refer
- ▶ Failing to provide necessary information
- ▶ Lying to patients; providing misinformation
- ▶ Judging or criticizing them
- ▶ Violating their privacy
- ▶ Not listening to them; dismissing their concerns
- ▶ Delaying them; making them wait for treatment or tests
- ▶ Not attending to them in hospital
- ▶ Not providing pain relief
- ▶ Failing to follow standard medical protocols
- ▶ Waiting till patient is near death before acting

Compromises and Workarounds

- ▶ **“CO” regulations** are rarely enforced because it’s assumed that objectors will obey the rules:
 - ▶ Expecting objectors to refer appropriately is naïve because objectors believe it makes them “complicit”.
 - ▶ Expecting anti-choice doctors to provide “accurate” information on abortion is farcical.
 - ▶ Expecting objectors to do abortions in emergencies puts lives seriously at risk. **Women have died.**
- ▶ **Workarounds** help, but circumvent a bad law. Examples:
 - ▶ Private clinics do most abortions and women can call directly.
 - ▶ Women order pills online and do it themselves.
 - ▶ Women call a central agency or helpline to get a referral.
 - ▶ Pro-choice websites alert women about objectors or direct them to providers.

Unconscionable

WHEN PROVIDERS DENY ABORTION CARE



First International Convention on “Conscientious Objection” held in Uruguay in August 2017.

From the “Unconscionable” report:

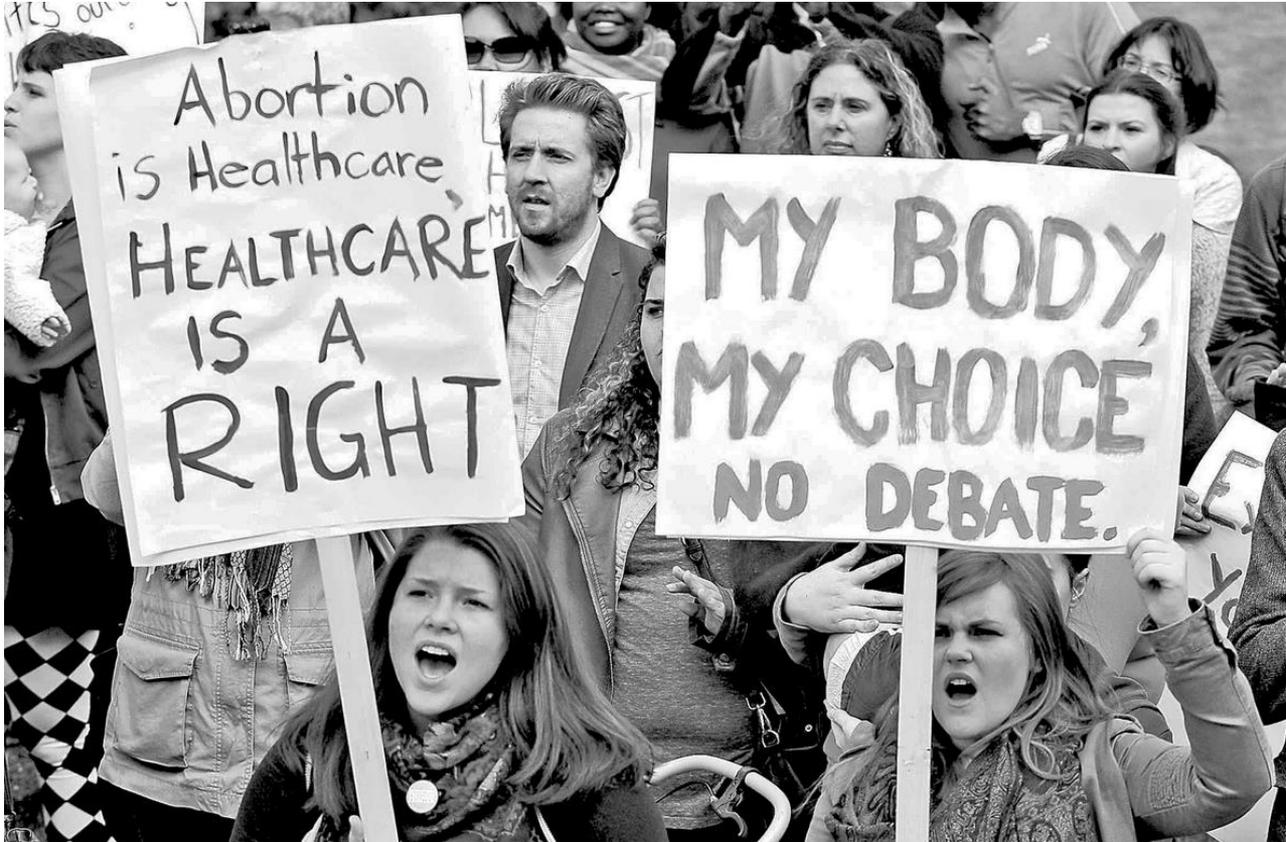
- ▶ “International human rights standards to date do not require states to guarantee a right to ‘conscientious objection’ in the provision of health care services.”
- ▶ “Most convening participants agreed that health care policies **should not allow** for the refusal to provide services based on conscience claims.”
- ▶ “Where policy-makers are revising abortion laws or policies, they **should not make references** to conscience claims.”



Solutions

- ▶ No need to “accommodate” objectors by law or policy:
 - ▶ Countries can follow the examples of Sweden, Finland, Iceland, which don’t allow “CO”.
 - ▶ Result: Objectors find work in other fields; women have very good access to abortion.
- ▶ It’s **not** about “forcing” doctors to do abortions!
- ▶ First, recognize “CO” as unethical and harmful - **it’s not a right.**
- ▶ Amend laws and policies that mistakenly call it a right.
- ▶ Craft measures designed to discourage and reduce objectors over time, such as:
 - ▶ Inform Ob/Gyn medical students that abortion care is required.
 - ▶ Require Ob/Gyns at public hospitals to provide abortion.
 - ▶ Help objectors transfer to other position, facility, or specialty.
 - ▶ Preferentially hire non-objectors; pay objectors less.
 - ▶ Monitor and document all refusals.
 - ▶ Make objectors liable for any harms/costs caused by refusals.

Thank you!



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