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## Philosophy and Theology: Savulescu and Schuklenk on Conscientious Objection

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## PHILOSOPHY AND THEOLOGY

In their essay “Doctors Have No Right to Refuse Medical Assistance in Dying, Abortion or Contraception,” Julian Savulescu and Udo Schuklenk make a case against allowing health care professionals the freedom to decline to perform controversial procedures. Savulescu and Schuklenk argue against the exercise of conscientious objection in part based on historical evidence from Ireland.

In the mid-twentieth century, some Irish doctors used symphysiotomy, a now obsolete surgery which splits the pubic symphysis, to relieve obstructed labor. Symphysiotomy can lead to horrible side effects for women, including incontinence, pain, and restricted mobility. According to Savulescu and Schuklenk, symphysiotomy was chosen instead of Caesarean section in part because “Catholic doctors believed that a Caesarean section might impede the woman’s ability to have the maximum number of children possible in the future.”<sup>1</sup> Savulescu and Schuklenk take the practice of symphysiotomy in mid-twentieth-century Ireland as damning evidence that Catholic belief and practice seriously harms women.

I’m skeptical. First, Catholic teaching is absolutely silent about symphysiotomy. The Council of Nicaea and the Council of Trent as well as the First Vatican Council and the Second Vatican Council say nothing about this medical procedure. Likewise, Henry Denzinger’s *The Sources of Catholic Dogma* makes no mention whatsoever of this method of relieving obstructed labor. A search of the Vatican website reveals not a single papal word about symphysiotomy from St. Peter through Pope Francis. Catholic teaching does not, therefore, express a preference for symphysiotomy over Caesarian section to relieve obstructed labor.

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1. Julian Savulescu and Udo Schuklenk, “Doctors Have No Right to Refuse Medical Assistance in Dying, Abortion or Contraception,” *Bioethics* 31.3 (March 2017): 162, doi: 10.1111/bioe.12288.

Second, if some Catholic doctors believed that it is wrong to impede a woman's ability to have the most children possible, then these physicians were grossly ignorant. Catholic teaching and practice does not mandate, and has never mandated, maximal reproduction by women or by men. Obviously, the vows of celibacy taken by priests and nuns work at cross purposes with maximum reproduction. The Church disapproves of polygamy, despite the fact that polygamy leads to more children than monogamy. The Church also calls its members to reserve sexual intercourse to within marriage, though both premarital sex as well as adultery would contribute to maximum reproduction. The Church further requires that couples who marry be mature enough to understand marital commitments although maximal reproduction would be fostered by allowing marriage for everyone no matter how immature. Following the explicit teaching of Jesus about divorce and remarriage (see Luke 16:18, Matt. 19.9), the Church does not allow a man to divorce his postmenopausal wife and marry a younger woman, though this remarriage would allow him to maximize his reproductive capacity. Likewise, a woman married to an infertile man may not divorce him and marry a fertile man, though doing so would allow her to have children. Finally, if the Catholic Church actually taught that people should have the maximum number of children possible, the Church would not endorse the use of natural family planning by married couples in order to avoid pregnancy.<sup>2</sup> The Church simply does not teach and never has taught that people must have the maximum number of children possible, and those who claim otherwise are exhibiting their ignorance.

Savulescu and Schuklenk argue that Catholic religious beliefs also harm the well-being of people in other ways in addition to symphysiotomy. They give, as an example, "opposition to the provision of condoms to prevent the spread of HIV in sub-Saharan Africa."<sup>3</sup> But experts in the field of disease prevention disagree with their analysis.<sup>4</sup> Edward Green, former director of the AIDS Prevention Project at Harvard University, argues the contrary in his book *Rethinking AIDS Prevention*, summarized by the publisher as follows: "The largely medical solutions funded by major donors have had little impact in Africa, the continent hardest hit by AIDS. Instead, relatively simple, low-cost behavioral change programs—stressing increased monogamy and delayed sexual activity for young people—have made the greatest headway in fighting or preventing the disease's spread. Ugandans pioneered these simple, sustainable interventions and achieved significant results."<sup>5</sup> Green does not oppose condom use for ethical or religious reasons. Rather, Green views the ideological commitment to

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2. *Catechism*, n. 2370.

3. Savulescu and Schuklenk, "Doctors Have No Right," 164.

4. See Christopher Kaczor, *The Seven Big Myths about the Catholic Church* (San Francisco: Ignatius Press, 2012), chap. five.

5. ABC-CLIO, "Rethinking AIDS Prevention" (book summary), accessed July 8, 2019, <https://www.abc-clio.com/ABC-CLIOCorporate/product.aspx?pc=D7268C>. See also Edward C. Green, *Rethinking AIDS Prevention: Learning from Successes in Developing Countries* (Westport, CT: Praeger, 2003); and Edward C. Green, "Condoms, HIV-AIDS and Africa—The Pope Was Right," *Washington Post*, March 29, 2009, <http://www.washingtonpost.com/wp-dyn/content/article/2009/03/27/AR2009032702825.html>.

fighting HIV/AIDS in Africa by way of condoms, condoms, and more condoms as a hindrance rather than a help in the fight against the disease.

In making their case against conscientious objection in medicine, Savulescu and Schuklenk also assert that “there is no requirement for a healthcare system to accommodate unprofessional behaviour.”<sup>6</sup> But is conscientious objection in fact unprofessional? Medical boards and medical associations determine accepted practice in medicine by establishing the standards about what counts as professional or unprofessional in the field of health care. Do these medical boards and associations consider conscientious objection unprofessional? Not at all. Savulescu and Schuklenk themselves point out that “conscientious refusal to provide contraception is common and mistakenly supported by medical boards and medical associations (see for instance recent Australian reports).”<sup>7</sup> Indeed, inasmuch as medical boards and medical associations permit conscientious objection, if put into practice, it is Savulescu and Schuklenk’s *denial* of rights to conscientious objection that would violate established professional codes.

In another section of their essay, Savulescu and Schuklenk deny that forbidding conscientious objection will have a detrimental effect on the practice of medicine:

If selection processes make it clear that conscience claims cannot be deployed and as a result people who object on grounds of conscience to certain aspects of the job are not selected, or choose not to pursue a career in medicine, would this make for worse medical practice?

We don’t know of any evidence that those with religious beliefs make better medical doctors. If it were the case that Christians or Muslims, or members [of] other religious groups, who are conscientious objectors, make better doctors because of these ideological mindsets, this would be a reason to accommodate conscience in selection procedures.<sup>8</sup>

The germane question is not, do conscientious objectors make better doctors *because* of their ideological mindsets? No one claimed that they do. The relevant question is, do those with religious beliefs *sometimes* make better medical doctors? The answer is obviously yes. In many cases, a particular Christian or Muslim conscientious objector is a much *better* doctor than a particular atheistic non-objector. In past and current medical practice, medical schools admit the best student applicants to begin medical training without prejudice against conscientious objectors. In the past and today, among these applicants are at least some who are conscientious objectors. If such students were not admitted because of their conscientious objection—or were to choose not to apply to medical school because it did not welcome people with their religious beliefs or secular conscientious objector status—medical schools would then admit applicants with weaker qualifications, students who otherwise would have been rejected, assuming medical schools continue to admit the same number of students. So Savulescu and Schuklenk’s proposal would lead to a situation in which students from the B team would replace some students from the A team.

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6. Savulescu and Schuklenk, “Doctors Have No Right,” 163.

7. *Ibid.*

8. *Ibid.*, 164.

In this way, Savulescu and Schuklenk's proposal compromises medical excellence and harms medical care for everyone. We compromise excellence in medicine if the most promising potential physicians are a priori excluded from equal consideration because of their religious beliefs or conscientious objector status. We would similarly compromise excellence in medicine if candidates were rejected because of their color, class, or culture. Someone who goes in for brain surgery wants the very best surgeon he or she can get. But if the best person were excluded because she was a conscientious objector, this exclusion affects everyone else in need of brain surgery as well as those who love them. In focusing excessively on abortion and other controversial procedures, Savulescu and Schuklenk's proposal compromises excellence in the practice of noncontroversial procedures.

Offering a different argument against conscientious objection, Savulescu and Schuklenk write, "In any case, if society thinks contraception, abortion and assistance in dying are important, it should select people prepared to do them, not people whose values preclude them from participating. Equally, people not prepared to participate in such expected courses of action should not join professions tasked by society with the provision of such services."<sup>9</sup> Society in general clearly does think that contraception is important, as seen in the vast amount of money private and public entities spend to buy contraception. The same holds true, to a lesser degree, for abortion and assistance in dying.

Granted that society in general does seem to think that contraception, abortion, and assistance in dying are important, but why should it follow from this that society should also allow discrimination against people whose values preclude them from participating in these practices? To hold that contraception, abortion, or physician-assisted suicide should be legal or available is not to hold that other people (including doctors) should be forced to participate in contraception, abortion, or physician-assisted suicide. Indeed a common argument for contraception, abortion, or physician-assisted suicide is that each person should have the freedom to choose these practices. But if the freedom to choose is the basis for these practices, it is not consistent to take away someone's freedom not to choose these practices. Indeed the protection of conscientious objection in law and in medical associations is at least some evidence that society values protection of conscientious objectors.

Offering yet a different argument for their conclusion, Savulescu and Schuklenk write, "However, we are not entitled to impose those values on patients in the delivery of health care and deny treatment when these patients are legally entitled to access that particular service."<sup>10</sup> This is a misleading way of characterizing this debate. Doctors cannot "impose their values" on others. If a patient wants to receive contraception, abortion, or assistance in killing herself, a conscientiously objecting doctor cannot prevent this from happening. For example, in the United States, about a million abortions take place each year, so pro-life health care professionals do not impose, have not imposed, and cannot impose their values by preventing all these abortions. Patients in the United States are legally entitled to abortion; but they are

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9. *Ibid.*, 165.

10. *Ibid.*, 166.

not legally entitled to force conscientious objectors to perform abortions. Even if abortion were made completely illegal and totally inaccessible, no doctor, indeed no person could impose values on anyone else. As long as someone has the freedom to think, that person could go on valuing whatever is valued.

Savulescu and Schuklenk rightly reject ethical relativism. But they mistakenly think that conscientious objection presupposes ethical relativism: “Part of the force behind respecting conscientious objection is a common commitment to ethical relativism: if that is what someone believes, then they are right to believe it, and that alone makes it a kind of truth.”<sup>11</sup>

Some ethical relativists might also be conscientious objectors, but certainly many other conscientious objectors reject ethical relativism. Indeed Savulescu and Schuklenk focus attention on religious conscientious objectors, such as Catholics, but they do not seem to understand that Catholics reject ethical relativism. Pope St. Paul VI put the point this way: “Far be it from Christians to be led to embrace another opinion, as if the Council taught that nowadays some things are permitted which the Church had previously declared intrinsically evil. Who does not see in this the rise of a depraved moral relativism, one that clearly endangers the Church’s entire doctrinal heritage?”<sup>12</sup> In *Veritatis splendor*, Pope St. John Paul II pointed out, “The moral theologian must therefore exercise careful discernment in the context of today’s prevalently scientific and technical culture, exposed as it is to the dangers of relativism, pragmatism and positivism.”<sup>13</sup> Just before his election as Pope Benedict XVI, Joseph Cardinal Ratzinger warned about the “dictatorship of relativism.” And Pope Francis said, “In many places, the problem is more that of widespread indifference and relativism, linked to disillusionment and the crisis of ideologies which has come about as a reaction to anything which might appear totalitarian. This not only harms the Church but the fabric of society as a whole. We should recognize how in a culture where each person wants to be bearer of his or her own subjective truth, it becomes difficult for citizens to devise a common plan which transcends individual gain and personal ambitions.”<sup>14</sup> In sum, Catholic belief rejects relativism.

How does conscientious objection fit with a rejection of relativism? Quite easily. If it is objectively wrong to intentionally kill an innocent human being, then a properly formed conscience accepts this truth, and the morally just person acts in accordance with it. Moreover, part of an objectively true moral code is that we should respect other individuals, and this involves respecting their conscientious decisions. St. Thomas Aquinas taught that an agent ought to obey even an erroneous conscience.<sup>15</sup> For if a person acts against her conscience, that person is acting against her best understanding of the truth, and thereby is acting against the good as she understands it. Of course, we have a serious duty to form our consciences

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11. *Ibid.*, 167.

12. Paul VI, “Address to Members of the Congregation of the Most Holy Redeemer, (September 1967),” *AAS* 59 (1967): 962, author’s translation.

13. John Paul II, *Veritatis splendor* (August 6, 1993), n. 112.

14. Pope Francis, *Evangelii gaudium* (November 24, 2013), n. 61.

15. Thomas Aquinas, *Summa theologiae* I-II.19.5.

properly, in accordance with the truth. Moreover, obeying an erroneous conscience does not mean a freedom from wrongdoing, if the reason we have an erroneous conscience is our own culpable ignorance. If we could have known the truth and should have known the truth, but failed to know the truth, we are responsible for our failure to form our consciences properly. Conscience does not create truth *ex nihilo* from subjective inclinations. Conscience, properly formed, reflects the truth of the created order established by God.

Savulescu and Schuklenk argue that conscientious objectors are inconsistent. If abortion really is the unjust killing of an innocent human being, then conscientious objectors not only should refuse to perform abortions but also should refuse to refer patients for abortions.<sup>16</sup> In this Savulescu and Schuklenk are right. The view that conscience objectors may decline to perform abortions themselves but must direct their patients to those who will give them abortions is indeed problematic. But then Savulescu and Schuklenk continue: “If the practice [of abortion] is evil, the individual should not be any part of it, even by being a member of that speciality or profession. If a doctor views abortion as an evil, she should not be a gynaecologist or GP.”<sup>17</sup> This conclusion overreaches. Many politicians do evil acts such as lying to constituents. So should we conclude that a person who views lying as evil should not be a politician? Many teachers give students grades that they did not earn. If we hold that the practice of grade inflation is evil, must we also hold that we should not be any part of it, even by being member of that profession? In all professions—the legal, the military, the medical—some people do immoral acts. Indeed particular professions seem to have proclivities for particular kinds of evil acts. Abraham Lincoln once remarked to a young man aspiring to be a lawyer that, “if in your own judgment you cannot be an honest lawyer, resolve to be honest without being a lawyer. Choose some other occupation, rather than one in the choosing of which you do, in advance, consent to be a knave.”<sup>18</sup> But of course an individual could also be an honest lawyer. Abortion doctors should no more drive people from the medical practice than dishonest lawyers should drive people from the legal practice. Both law and medicine need more honest and just practitioners.

Elsewhere Savulescu and Schuklenk’s misunderstanding of Christian belief weakens their argument. For example, they worry that people who view the practice of medicine as their calling “have a higher power that they are serving first in their medical practice, their vocation, which has taken away their freedom to make informed choices. That makes a mockery of their graduation promise to serve the patient interest first and foremost: their understanding of their vocation will always take priority.”<sup>19</sup> Christians believe that God does not take away a person’s freedom to make informed choices but rather that God gives human beings the gift of free choice. A calling to medicine, like an invitation to marriage, can be declined. Indeed

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16. See Savulescu and Schuklenk, “Doctors Have No Right,” 168.

17. *Ibid.*

18. Abraham Lincoln, *Collected Works*, vol. 2 (New Brunswick, NJ: Rutgers University Press, 1953), 82.

19. Savulescu and Schuklenk, “Doctors Have No Right,” 169.



a vocation from God *presupposes* freedom. It makes no sense to call someone to do some action if that individual has no freedom to do that action. Moreover, service to God, properly understood, is not in opposition to love of neighbor. Indeed, at least in the Catholic tradition, love of God and love of neighbor are inextricably connected: “If any one says, ‘I love God,’ and hates his brother, he is a liar; for he who does not love his brother whom he has seen cannot love God whom he has not seen. And this commandment we have from him, that he who loves God should love his brother also” (1 John 4:20–21). Surely, *pace* Savulescu and Schuklenk, doctors do not promise to serve their patients’ interest first and foremost, as if patients were more important to doctors than their own spouses or their own children—or, in the case of believers, more important than serving God. As Bishop Robert Barron points out, the noncompetitive transcendence of God ensures that genuine service to God is not in opposition to genuine service to neighbor and that God’s freedom and our freedom are not in competition.<sup>20</sup>

In sum, Savulescu and Schuklenk’s arguments against conscientious objection are weakened by their ignorance of what conscientious objectors, both secular and religious, believe. Catholic beliefs and practices, in particular, are repeatedly misrepresented, caricatured, and maligned. In Savulescu and Schuklenk’s essay, the straw man fallacy—perhaps more accurately, the straw believer fallacy—appears again and again.

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20. Robert Barron, *2 Samuel*, Brazos Theological Commentary on the Bible (Grand Rapids, MI: Brazos Press, 2015), xxi.