

CONSCIENTIOUS OBJECTION AND TESTIMONIALS IN THE FIELD OF
BIOETHICS RESEARCH
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Man is a free being who establishes his behaviour and forges his will in a series of ethical and/or religious principles. Loyalty to these principles brings the right and the need of conscientious objection. Man, in his own legitimate exercise of freedom, can and must object to exercising any action that is against or transgresses those principles that his conscience dictate.

What is, then, conscientious objection? It is a simple attribution of conscience freedom (both laic and religious) , which goes further than freedom of speech and means the citizen's rejection to any commitment against his deepest convictions in those situations where dignity and human life are at risk. Objection is risen by conscience, not by law. One cannot wait until the legislator anticipates an objection to be able to meet or present it.

Most legal experts agree on the fact that conscientious objection is a fundamental right, widely recognised by many different International Treaties on human rights such as the European Convention on Human Rights (1) and the internal regulations of each country, for example, the Spanish Constitution (2) in article 16. Then, the Spanish Constitutional Tribunal has referred in a general way to conscientious objection as “the right to be exempted of meeting those constitutional or legal duties in case fulfilment of them goes against one's own convictions” (3).

Therefore, conscientious objection is definitely a way of breaching the Law and it has the following characteristics:

1. The regulation is ignored when it affects the subject personally
2. The subject only pursues unfulfillment of the regulation
3. It does not aim to bring down or modify the regulation

From a juridical perspective, conscientious objection is considered as:

1. A way of disobedience to Law
2. A way to protect individual freedom

One should have to distinguish between civil disobedience and conscientious objection. The latter comes from a personal motivation. One person feels that he cannot fulfil a certain juridical regulation because it goes against his/her conscience and moral principles, which are based on faith and on ethical considerations.

However, civil disobedience , which can also be founded on conscience motivations, is a type of attitude that pretends to put forward a change or a breach in the law. In case of civil disobedience the law is also considered immoral or unjust.

Civil disobedience and conscientious objection can happen together because civil disobedience is considered massive conscientious objection, if not massive, at least very numerous. If all catholic were coherent and oppose to an immoral mandate, we would show very high civil resistance.

When talking about conscientious objection in bioethics research, it means admitting a threat against Humanity's essential values. It also means admitting the incapacity of the positive law to prevent this situation. The citizen needs to keep distance from the law to protect such values (4).

We have been witnesses of incessant concessions to scientific research by the legislator (5), concessions which need sound reasoning that may present Bioethics' consecration by the law as the protection of the person, whereas these concessions are actually the setting of new exemptions in favour of biomedical research no matter whether it may take the entire human life's dignity into account.

In the last decades Biomedical science has greatly changed. This change is partly due to major technical advances that have resulted in so many consequences that the human mind is unable to process them all. However, it is true that progress needs changes but not all changes mean progress. And when a field of science connected to life (as in Biomedicine) is not guided by the anthropological principles whose ultimate aim is man and whose limit is the dignity of every human life, then, science turns against man. After what has happened with biomedical science in recent years, it is not exaggerated to say that what interests most is dominion over life, consecrated by means of biology and research. Life is not understood as a gift that must be received and protected, especially in its early stages. Many of the biomedical research outcomes have direct consequences on man himself and many of these outcomes can be applied and are actually being clinically applied to man.

To give a general approach to the scope of the above mentioned advances, we will state some of them and their implications for the person.

We are living in a time that:

- a) The human genome has been sequenced (6) and the technology to achieve it is now being used to genetically select individuals of the human species from their very early stages in their existence (7,8) (genetic counselling, preimplantary diagnosis etc.)
- b) We knew at the end of May 1997 about the birth of the first mammal born from cloning by nuclear transference: sheep Dolly (9). Since then, scientists have unsuccessfully tried to apply this technique to the human species. Legislation in different countries and supranational entities have been pronouncing about the so-called therapeutic and reproductive cloning.
- c) Since 1978, when the first *in vitro* fertilization generated baby was born, Louise Brown, the practice of *in vitro* fertilization has won over our laws, considering that the child is an object, an object of the couple's desire and of the medical team's desire; the child is an object of research and an object that, when is not needed anymore, can be discarded. The embryo is discarded when it does not fulfil the right requirements (10-13). The terrible consequences of this type of techniques are well-known by everyone.
- d) Research in the endocrinology field has resulted in a broad knowledge of the hormone cycles that regulate woman and man's fertility. Therefore, fertility can be altered by using artificial contraceptive techniques or treatments that are, in many cases, abortive (14,15).
- e) Other type of research has been aimed at achieving efficient abortive methods (16). In addition to the fact that many innocent human beings are killed, we have seen governments pass laws to lift bans on abortion, and great intellectual efforts are also being made to legitimate such acts.

- f) Research aimed at the practice of euthanasia makes it possible the ‘so-called’ physician-assisted suicide (17). There are a lot of laws that regulate this practice.
- g) Research on embryonic stem cells, which leads to the embryo’s death (18), has been demanded as a right by some scientists and different political establishments. There is also some legislation for this type of research.
- h) Etc.

Everything said is referred to objective data of the moment we live concerning biomedical research. There are frequent situations when the scientist considers conscientious objection necessary and has to choose whether he/she:

- I. gets involved in a research project where the cell lines come from embryonic stem cells
- II. works on biological material coming from human foetuses
- III. sells at a chemist’s contraceptives or abortive medication
- IV. works in a IVF clinic
- V. works in a counselling team who provides information on genetic counselling
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The solution to the dilemmas that the scientist has to confront throughout all his/her professional life is given in *Donum Vitae* (19) (22nd. February 1987) that recommends conscientious objection against those civil immoral laws (chap.III moral and civil law). It is also given in *Evangelium Vitae* (20) (25th. March 1995) and the infallibility of the ordinary and universal *Magisterium* that impose a grave and clear obligation to claim conscientious objection to oppose any human law that attacks human life (abortion and euthanasia) (§ 72 and 73). John Paul II quote St. Thomas Aquinas (21) regarding iniquity of the law and where we are asked to oppose any law that supports any abortive and euthanasic practice claiming conscientious objection. (§ 73). Therefore, the fact of accepting a research project that goes against the human being’s dignity or using biological material out of the death of innocent human beings implies an evil practice of medical research although this practice may be in favour of man since. It is against the right to man’s life and his dignity. For this reason a scientist whose code of ethics is based on a personalist Anthropology must reject any of these practices establishing his/her legitimate right to claim conscientious objection. The pharmacist is an important subject in certain biomedical practices since he can sell abortive surgical instruments or participate in the merchandising and manufacture of abortive products (RU-486). In this way, one can talk about the jurisprudence of another refusal; to refuse to sell contraceptive products. (Right to refuse to sale). In Spain, for example, article L.122-1 of the consumer code, accepts the refusal of sale for legitimate motives, however the Supreme Court does not accept the claim of personal convictions submitting to the material impossibility to satisfy demand alleging lack of products. This situation specifically reserves the possibility of a refusal alleging lack of orders and therefore, supplies. However, regarding one’s principles, it means an unfortunate refusal of conscientious objection. One can assume that conscientious objection is not only a simple gesture but an outstanding act of great value, a coherent attitude that, in words of John Paul II, is nowadays’ martyrdom.

It is imperative in the beginning of the XXI century that there should be constant testimonials in the field of biomedical research and all the scientists with a personalist anthropological formation gather to raise an evident claim in the field of biomedical sciences.

It is sad to remember certain actions such as that letter sent to Nature (journal) where a group of Medical Nobel awarded demanded the right to investigate with embryo stem cells. This demand was well-known worldwide and many initiatives were displayed to pass laws in order to encourage this type of research making people believe that there was an actual medical response to certain fatal diseases.

Now, we know that there is not in the world any clinical trial with embryonic stem cells compared to more than 500 clinical trials carried out with adult stem cells, as one can prove in website www.clinicaltrials.com that register those clinical trials approved by the FDA. We still wonder why these objective data have not been published in Nature. It seems that time shows that the demand made by the Nobel awarded is not an actual therapeutic alternative and however, where are the journals publishing these data?

Those researchers in the biomedical field who believe in man's dignity, and the dignity of those human beings formed by 4 or 8 cells have the moral duty to gather and make people know the truth. Without demagogy and sincerely. A scientific and objective truth that is honestly sought and can only lead to Truth since there is only one Truth.

Let us participate in all Ethical Committees where our particular votes count, let us participate in debate forums, let us reach the educative community and teach Bioethics, let us examine the bioethics laws, if not, all Bioethics, and let us give a place for our individual conscience with the aim to prevent man from participating in the destruction of the person. It is not easy, though, to find the practical methods. We can opt for a public statement, a piece of writing in a journal or paper, immediate refusal to participate in any act that goes against human dignity, a vote against any law in favour of eugenic or homicidal acts or a positive resistance or deliberate unfulfillment of the law. All these options depend on one's own concrete circumstances of time and place and on the local most effective appreciations. One should assess the possibilities and risks of the action and non-action. We have to bear in mind that silence usually means complicity so let us raise our active voice and search the Truth.

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