



Conscientious Objection in the Medical Migration Context

Elena Toader^{1*}

¹Department of Bioethics and Medical Ethics, "Gr. T. Popa" University of Medicine and Pharmacy,
School of Medicine, Institute of Gastroenterology and Hepatology, Iasi, Romania.

Author's contribution

The sole author designed, analyzed and interpreted and prepared the manuscript.

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ABSTRACT

Conscientious objection is one of the most frequent conflict situations between professional obligations of the doctor and the rights of the patient, based on the contradiction between the request of the patient for certain health-care services and the principles (religious or moral) of the medical staff. The ethical challenge of conscientious objection draw the attention to by the medical procedures performed in specific domains such as: reproductive medicine, terminal stages, reparatory and esthetic facial surgery etc. The phenomenon, although recognized, accepted and regulated by law in many states remains an extremely controversial issue in the medical field due to the ethical dilemmas derived from the right to freedom of conscience in correlation with preservation of the right to health-care. In this paper we aim to highlight the main ethical aspects involved by the conscientious objection in the medical field, with statements on the complexity and diversity of the conscientious objection identified in the space of multicultural societies specific for medical migration.

Keywords: Conscientious objection; ethical issues; health care; human rights; medical migration.

*Corresponding author: E-mail: toader.elena@yahoo.com;

1. CONTEXT

In medicine, the debate on the morality of the medical act, regarding the exploration and solution of opinion variations developed around certain ideas, generates a framework for analysis, which often seems to be neither homogenous nor heterogeneous enough in order to encourage a different approach of common issues in medical practice. Such an example is conscientious objection, one of the most frequent conflict situations between the professional obligations of the doctor and the rights of the patient, based on the contradiction between the request of the patient for certain health-care services and the principles (moral or religious) of the medical staff. Although recognized, accepted and regulated by law in many states, the phenomenon remains extremely challenged in the medical field, due to the ethical disputes derived from the right to freedom of conscience. In this paper we aim to focus on the main ethical aspects involved in conscientious objection in the medical field. In order to expand the knowledge on the conscientious objection within the current context of globalization we followed the placing of this concept within the context of the medical migration phenomenon in the European Union (EU) and non-EU space, taking into account the fact that Romania is one of the EU countries with a high rate of medical migration.

2. ETHICAL ISSUES

The main ethical issues that conscientious objection involves were extracted from the analysis of medical act and refer to the relationship between the autonomy of the doctor and the actions of benefaction for the patient. Doctors always granted a special place to their own values involved in the decisions on health-care provision. Arguments stimulating the conviction that they should decide in a paternalist manner which treatments or procedures are adequate or not for their patients derive from the approach of their professional training [1]. Recently, several of the values of the doctors surged as a right to refuse certain health-care services, a refuse ethically justified by the principles of autonomy and equity, conjugated within the context of value diversity. In the opinion of certain authors, conscientious objection decreases the moral conscience of the doctors by granting too much protection to the individual conscience. From the ethical perspective, the interpretation of the autonomy of the doctor with a distinction between individual

and professional autonomy critically underlines the negative impact of the conscientious objection on basic medical obligations because positive conscience obligations are not adequately taken into consideration in health-care provision [2]. From the point of view of moral values there are authors with advanced approaches who suggest that doctors should be enabled to define the domain of application of their practice according to their own conscience judgments, when legal and ethical professional obligations for towards the protection of fundamental rights may come into conflict with the obligations derived from individual conscience [3]. We must note that in the discussions referring to fundamental values, the interpretation of the concept together with the principles of autonomy, dignity and integrity marks the orientation towards the legitimacy of conscientious objection. Some authors derive the just character of conscientious objection from regulations in the international instruments for the right to freedom of thought, conscience and religion, especially to freedom of conscience, which is expressed by conscientious objection. However, this freedom is not absolute, and its acceptance in the terms of the law tends to not contradict law systems from the point of view of the respect of the obligations for public safety, protection of public order, health or moral, or protection of other people's rights and freedoms. According to the principle of proportion, the ratio between the necessity of restricting conscientious objection and the significance of limited rights must be in favor of the rights of the patients to care and treatment in due time in an, adequate manner and regardless of the medical, cultural or geographical context [4].

3. CONSCIENTIOUS OBJECTION IN THE MEDICAL MIGRATION

In the context of medical migration we can identify a detailed formulation of the aspects referring to conscientious objection, surprising the complexity and diversity of the phenomenon in multicultural societies. Debates on conscientious objection, by the emphasis placed on the interactions between moral convictions, religious motivations and right to freedom of conscience, articulated with the medical analyses and concepts, delineate the passage from the attention on the importance of ethical restrictions towards moral dialogue of values. From the ethical point of view it is important to clarify the manner in which the migrating doctor can preserve his or her own values but also authentic

respect for a multitude of beliefs, values, traditions and experiences resulted from various professional circumstances. Within the framework of globalization, migration entails adjustment to a new professional, social and cultural environment, and integrating approaches and the support of pluralism are actions converging towards the essence of the ethical principles of autonomy, freedom, equity and legal consideration on human rights [5]. Integration of these ideals in the medical act specific to the context of medical migration will participate in the prevention of certain issues engaged by conscientious objection when it comes into contradiction with a clinically justified point of view (protection and promotion of health interests of the patients according to international professional standards), ethically (valid informed consent) or legally (medical act permitted or prohibited by law). Towards this end, the ethical endeavor comes with the main message to maintain a balance between professional obligations of doctors, the right to not act against their convictions and the rights of patients to have access to medical services performed during the medical act.

3.1 Medical Areas of Application of Conscientious Objection

Conscientious objection draws attention to a series of ethical issues identified in reproductive medicine, terminal stages of diseases, facial reparatory and esthetic surgery. From the point of view of the cultural interferences, the exemplification and argumentation of conscientious objection motivations in these medical domains provide a concrete level of recognition for the significance of ethical and legal aspects engaged by the phenomenon.

In reproductive medicine, the argument that "human life, in all its stages of development, deserves the highest degree of protection" indicates the tendencies for expansion of conscientious objection from the classical example of refusing abortion up to the refusal of medical prescription and/or release of contraceptive for the prevention of pregnancy or an abortive drug. For the medical staff experienced in the assistance of pregnancy and birth, witnesses of the miracle of life, the refusal to terminate pregnancy based on the belief that abortion is an act of deliberate murder is a beneficent one. For them, conscientious objection is a symbol of the freedom of conscience and, concomitantly, a symbol of the

prevalence of just judgment over an unjust law. Moral objection has become almost a rule in many countries in Western Europe, where more than half of the medical staff do not practice abortion [6].

Terminal stages of critical diseases are situations that develop many ethical issues regarding pain management or sedation in uncoscientious state. A special place must be granted to the aspects derived from the medical context of critical diseases, such as artificial nutrition and hydration in terminal stages. Often, doctors in intensive therapy departments are confronted with difficult situations regarding the decision of terminating life support treatment and the assignment of responsibility if death occurs earlier. Advance directive may represent a modality through which the wishes of the individuals may be respected when they do not have the ability of competent decision, but uncertain legal value decreases the representation of the document in the decisional process based on earlier desires of the patients [2,7].

In the field of *facial reparatory surgery*, the main ethical dilemma recognized by the specialists derives from the contradiction between the application of correct moral principles regarding the purpose of recovery surgical interventions (morphologic and functional) and the legitimate exertion of freedom of conscience in the refusal of expanding these interventions for esthetic reasons [8].

Integration of these distinctions relevant for the conscientious objection within the framework of the contemporary medical act could condition from the point of view of medical migration the modality of providing health-care at the global level. The fact that some doctors and even students could claim the right to refuse the performance of a medical act on reasons of conscientious objection justify the question if and in what way medical migration could become a concern for many individuals, from doctor to decision-maker and patient, taking into consideration that the regulation and practice of conscientious objection seem to be fueled by the lack of joint attitudes to all decision levels, which would contribute in the management of the phenomenon. In this context, it is important to know in what way the medical profession at global level will relate to the content of the new social and professional background concurring with adequate ethical requirements with the purpose of protecting the right to health of

individuals originating from different cultural environments.

3.2 Conscientious Objection in the Opinion of Doctors and Medical Students

In order to give a realistic image of the local situation regarding conscientious objection we explored the significance of the phenomenon in the medical community of doctors and in the academic community of medical students who experienced or intend to experience migration in countries from the EU and non-EU space. Justification of choosing medical migration as investigation space is supported by statistic arguments (dimension, size, tendency and complexity of phenomenon) but also by the sensitivity of the ethical issues which conscientious objection involves in the context of medical migration. In Romania, the rate of medical migration is one of the highest in the EU.

4. METHODS

As research instruments, we used semi-structured interviews (applied on doctors N=10) and a questionnaire (applied to doctors and medical students N=75). The approach of the subject was performed on directions focused on the suggestion of the most important ethical aspects, allowing for the gathering of detailed information on the conscientious objection within the context of medical migration. We classified the information obtained from interviews and statistical data resulted from the processing of the questionnaires and we provided explanations referring to ethical implications in the manifestation of the conscientious objection. In order to broaden the interpretation perspective of the phenomenon we associated statistical data with the opinions expressed by the interviewed doctors, analyzing the significance of the figures, beyond their strictly statistical dimension. We believe that the approach of the subject within a framework that reunites the professional

experience of the migrating doctor in the space of multicultural societies and the interest of students for medical migration is a novelty element which promotes the interest for the conscientious objection in the debate on the safety of the medical act in global context.

5. RESULTS

Connected to the phenomenon of migration, doctors, by their personal background (experience in medical migration in EU and non-EU countries) and medical students, as future doctors, show interest and convey importance to the information on conscientious objection. The manner in which the doctor and the student process the experience and the information, shaping an opinion regarding the conscientious objection, determines the significance of the noted details. The investigated data confirmed that the perceptions of the doctors on the conscientious objection originate in the value given to the right to freedom of conscience in relation with the protection of the right for health, whereas for medical students they are concentrated on the role and importance of moral convictions in the acquirement and exercise of professional competences specific to certain medical areas (ex. abortion, terminal stages, intensive therapy, oncology and legal medicine).

Table 1 and 3 present the primary and secondary subject resulted from the structural analysis of the opinions of doctors and students regarding conscientious objection. The descriptive account (Table 2 and 4) of the effect of the conscientious objection on professional obligations, the importance of the phenomenon in the performance of the medical act in global context, institutional involvement in manifestations of conscientious objection, conscientious objection in correlation with basic requirements of curriculum and conscientious objection and the moral diversity of the medical act are presented below.

Table 1. Structural analysis of the opinions of doctors on conscientious objection

Opinion of doctors. Professional obligations generating ethically justified constraints regarding conscientious objection are related to		
Ethical significance	NO	YES
discrimination	(NSS)*	(NSS)
patient harms and burdens	8%	92%
disclosing option	65%	35%
advance notification	(NSS)	75%
referral and/or facilitating a transfer	(NSS)	65%

NSS = No statistical significance

Table 2. Descriptive account of impact of conscientious objection in medical practice – opinions of doctors

Impact areas of conscientious objection	Ethical	Legal
Basic professional obligations	Dignity and autonomy of the patient	Promotion of the patient's health and welfare Decisions of health-care
Responsibility of medical profession at world level	Ethical requirements of medical act	The right to health
Institutional involvement	Ethical dimension of diversity professional competence	The rights of the patients
Impact of conscientious objection in the medical act within the global context	Codification of ethical norms standards for medical practice	Professional responsibility and accountability

Table 3. Descriptive account of the impact of conscientious objection in medical practice – student opinions

Students	Ethical	Legal
Solution of opinion differences	Non-discrimination Impact of conscientious objection on patients, students and residents	Curriculum
International medical ethical standards	Cultural diversity	Codification of ethical norms

Table 4. Structural analysis of doctors and students' opinions regarding conscientious objection

STUDENTS - conscience-based exemptions are important and also ethically permissible?		
Ethical significance	NO	YES
established core educational requirements	13%	87%
local core curricula	(NSS)	(NSS)
non- discrimination	(NSS)	(NSS)
impact on patients	(NSS)	95%
impact on students, residents, supervisors	(NSS)	96%

NSS = No statistical significance

6. DISCUSSION

Conscientious objection in the context of medical migration: opinion of doctors.

From the point of view of the doctors, the main ethical constraints regarding the conscientious objection are related to the basic professional obligations to respect the dignity and autonomy of the patient during the medical act destined to the promotion of his or hers health and welfare. They believe that the assertion as conscience objector of an individuality separated from the role in the medical institution and manifestation of a conviction through the refuse to participate in a medical procedure damages the rights of the patient. Moreover, doctors believe that the

involvement in discussion of the aspects regarding responsibility of decisions give alternative meanings to conscientious objection and develops secondary issues such as:

- Correlation between the concept of medical profession at global level and integration of ethical requirements corresponding to the globalization of the contemporary medical act, with the aim to preserve and protect the right to health for individuals originating from various cultural environments;
- Promotion of diversity and rejection of unjustified discrimination in medicine in complex societies with multiple beliefs, environments and cultures;

- Clarification of the expression "professional competence", because daily practice in the professional environment specific for medical migration exposes to the main error, given by the focus on an unilateral evaluation, centered on patients, ignoring moral conscience and representation of ethical values of health-care providing doctors [9].

An important point of view noted in the opinions of doctors are the ethical meanings derived from the explicit evaluation of the role that conscientious objection may play with respect to medical migration, which are involved in the design of the main directions of the performance of medical act in global context. Doctors consider that refusal based on moral convictions risks the undermining of patient autonomy, taking into account the fact that most patients are not able to exert autonomy in taking health-care decisions without external intervention. Moreover, many patients do not detain medical knowledge and as to the option of learning themselves about the disease or treatment they should access various sources on their own. Consequently, the refusal to give information or treatment expands the power of the doctor towards the area that contradicts with the professional obligation to grant priority to patients' interest.

However, in a morally open environment, the doctor who supports the right to conscientiously object must also expand this consideration for the patients, in order not to lose the justification of the refusal to facilitate access to adequate clinical services [10]. The right to conscientious objection expands only on physical individuals and does not apply to public or state institutions because its endorsement must be doubled by the obligation to inform and to facilitate the transfer of patient in order to avoid the infringement on the legal rights of the patient, including the right to health.

It is noteworthy from the remarks of the respondents that at the institutional level it is not a priority to restrain the freedoms of the doctors to stand against the performance of a medical act through the manifestation of personal belief, with the exception of those situations where the rights of the patients to adequate treatment and time are put into question. In the literature it is highlighted the fact that the regulation and practice of conscientious objection in the states members of EU is heterogeneous. There are

many states that adopted laws, ethical codes and regulations or guides which guarantee the right to conscientious objection in medical institutions, while the national courts developed jurisprudence on this subject. Some member states have a constitutional protection for the freedom of conscience, while others recognize only the right to conscientious objection within the context of specific medical procedures. Certain countries do not regulate the practice of conscientious objection in every domain or the implementation of the regulation framework is inadequate [11].

Conscientious objection in the context of medical migration - opinion of medical students.

Students believe that exemptions based on conscience reasons are important through the impact on patients but also on themselves. They are accepted from the ethical point of view if they concur with the basic requirements established by the curriculum, which emphasizes non-discrimination. At the global level, students believe that the ethical approval of conscientious objection must be the result of a careful analysis in order to determine which cultural values are relative and which are based on universal ethical principles and standards and are internationally irreducible, so that all societies and cultural communities would be respected. Regarding exemption of students to participate in certain medical procedures, conscientious objection could be allowed if it is in accordance with international medical ethical standards that impose the compliance with the following conditions:

- Theoretical and clinical basic knowledge regarding the modality in which these procedures are performed;
- Diagnosis and management of complications;
- To be able to provide care for the patients.

We must stress the necessity of this knowledge requirements of medical ethical standards as foundation for the manifestation of conscientious objection. To this end, we highlight the point of view of Frader and Bosk, who explored conscientious objection from the perspective of medicine students and stated that while they must be ready to facilitate access to medical care that contravene their own moral convictions, they are not obligated to provide care [12,13].

The extrapolation of the explicit appraisal of the role that conscientious objection may play in the relationship between medical migration and cultural diversity emphasizes a series of points of view which lay the grounds for the main directions of the performance of the medical act in global context: confirmation of the significance of conscientious objection, respect of cultural differences and reduction to minimum of any negative consequences of conscientious objection. In this sense, the global framework of cultural interferences provides a good opportunity to investigate if and how the conscientious objection puts “pressure” on the autonomy, dignity and responsibility in moral, social and professional comparisons as well as between public health policies in origin and destination country. Regardless of cultural specificity, the standards for the protection of the fundamental rights and freedoms of the healthcare provider (the doctor) as well as insurance of the right to health for the patient relates to European and international standards in healthcare. The development of international standards submitted by professional bodies both in health-care quality and in medical education (Alpha Program, IIME – Institute for International Medical Education, World Federation for Medical Education) pledges an equivalence for the insurance and recognition of quality (both in medical education and in health-care) in agreement with the tendency towards a significant increase of the potential for the circulation of health-care professionals (mainly doctors) beyond national boundaries and for the externalization of internationally accepted medical procedures [14]. In reality, the students admit that they rarely discuss with their mentors about a possible personal moral code, which could come into conflict with health-care standards in certain fields. In Frader’s opinion an accepted explanation in this sense would be the reticence of students with moral issues towards the involvement and awareness of the doctors for the solution of these issues [12]. Regardless the motivations, students with ethical objections towards specific routine medical procedures should take them into account when they choose a specialty.

7. CONCLUSION

From the analysis of the opinions of doctors and medical students on the significance and perception of the conscientious objection, beyond the importance and ethical implications detected in reference frameworks of specific

domains of medical practice, this phenomenon remains for bioethics a subject insufficiently explored in the literature, especially in the context of cultural interferences specific to medical migration. In order to turn visible the ethical dimension, of the debate on conscientious objection, it must be expanded into the theoretical and current practice field, in order to identify and reveal the passage from occult to obviousness of the phenomenon in its various aspects and implications. In this sense, bioethics must intervene focusing on the moral unity of professional and individual conscience with the purpose of establishing a balance between the right to conscientious objection of an individual, to not perform a specific medical procedure, and the responsibility of the medical profession, and the right of every patient to have access to medical care in due time.

COMPETING INTERESTS

Author has declared that no competing interests exist.

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