

# Bioethical Conflicts: Obligations to God versus Obligations to the Secular State<sup>#</sup>

## Conflitos bioéticos: Obrigações diante de Deus *versus* Obrigações diante do Estado Secular

H. Tristram Engelhardt Jr.\*

248

### CHAPTER FIVE

#### I. Moral Conflict in a Post-Christian Culture: The Case of Conscientious Objection

Morality and bioethics are battlefields of disagreement. This chapter explores these disputes by attending to one of the cardinal battles in the culture wars: the refusal of traditional Christian physicians and healthcare professionals to provide forms of treatment that they recognize as forbidden by God. Such refusals, often characterized in milder terms as matters of conscientious objection, undermine the authority of the dominant secular culture and its view of the public professions. In a secular society, such refusals are thus provocative because they underscore as moral choices what the dominant secular culture demands be regarded as life-style and/or death-style choices, impede the provision of legally established healthcare services, and violate what are increasingly considered to be human claim rights to those services, such as the right to receive an abortion.

As chapter 2 shows, the conflicts of the contemporary culture wars are not just disputes about particular normative issues. They are more importantly conflicts regarding the character and force of morality itself. In particular, the cardinal conflicts turn on the dominant secular culture's demoralization and deflation of traditional morality and bioethics, where demoral-

ization has now become integral to a secular social-democratic political agenda. Against this background, refusals to provide medical services that support lifestyles that the secular culture has accepted underscore not just an alternative moral or bioethical vision or simply a rejection of the demoralization of traditional morality demanded by the dominant secular culture, but they are in addition reactionary political acts. They refuse to accept the definitive judgment of the state regarding healthcare policy.

#### II. Medical Professionalism and the Secular Fundamentalist State

This conflict of cultures, along with moralities and bioethics, is in part a function of the dominant secular culture's affirming autonomy not just as a source of authority, but in addition as a cardinal directing value or goal. This involves not only endorsing respect for forbearance rights, but treating as canonical a particular content-full vision of proper free choice. One is held to be obliged freely to choose in conformity with very particular understandings of freedom. The result is that morally condemning autonomously chosen, peaceable, secularly accepted life-styles and death-styles is considered to be immoral because it involves a failure to accept others as free and equal sources of moral authority and personal moral truth. In addition, the condemnation of such secularly

DOI: 10.15343/0104-7809.20153902248259

<sup>#</sup> A seção "Bioética no Mundo da Saúde", foi criada para comportar trabalhos de grande relevância na área da Bioética e da Saúde. Nesta edição, dando continuidade à publicação da obra "After God: Morality and Bioethics in a Secular Age", do importante bioeticista Prof. Tristram Engelhardt, Jr, que gentilmente nos cedeu os direitos, será apresentado o capítulo cinco. Tal trabalho foi primeiramente apresentado na seção "artigos em séries", da revista Bioethikos em 2014;8(1):80-88. This chapter grew out of a lecture, "Religion, Politics, and the State: Rethinking Morality in Modern, Secularized Societies," given at Politeia, University of Milan, Milan, Italy, January 30, 2012, and at Instituto Banco di Napoli, Naples, Italy, February 3, 2012.

\* Graduado em Medicina e Filosofia. Doutor em Filosofia pela faculdade do Texas-TX, USA. Doutor em Medicina pela Faculdade de Tulane, New Orleans-LA, USA. Professor da Rice University, Houston-TX, USA. Autor das obras Fundamentos da Bioética e Fundamentos da Bioética Cristã Ortodoxa, pelas Edições Loyola, e de Bioética Global, pelas Edições Paulinas. E-mail: htengelhardt@juno.com

accepted life- and death-style choices in the dominant secular culture is regarded as a failure properly to appreciate the dignity and value of autonomous choices. One is not just to tolerate but to accept and affirm a bioethics of peaceable, autonomous, secular, life- and death-style choices of others. Finally, a failure to accept what traditional Christians hold to be wrong choices involves in part an affirmation of a supposed special priority of personal liberty.

Public professions as a consequence have come to be vested with the secular moral obligation both to respect the forbearance rights of others and to accord others not just a right to respect, but also to recognize their claim rights to autonomy and to offer social support for the dignity of their life-styles and death-styles, as well as the place of personal liberty. Traditional Christian healthcare professionals, along with their bioethics, are therefore condemned for their failure to support secularly accepted life-style choices, including homosexual life-styles. As a provocative example, one might imagine a physician's comparing for an adolescent patient the health risks of a male homosexual life-style with those of heavy smoking. Such an adverse judgment of a politically, that is, legally, accepted life-style (i.e., a homosexual life-style) will be construed as a form of morally prohibited intolerance and professional malfeasance. Indeed, traditional Christianity's "intolerance" of such life-styles, if voiced publicly, is judged to be an instance of hate speech, because such statements bring into question the moral rectitude of those exercising politically legitimate rights of self-determination in the choice of personal life-styles and death-styles.

As we have already seen in chapter two, the dominant secular culture's commitment to a content-full view of autonomous choice requires that one acknowledge claim rights to mutual, positive, moral recognition not only of one's person, but of one's personal choices. This mutual, positive, moral recognition not only prohibits adversely characterizing as immoral permitted sexual life-style and death-style choices, but also requires basic professional support of

secularly permitted life-styles and death-styles. That is, the dominant secular culture demands that medical professionalism and its bioethics be built around basic secular moral commitments to the advancement of very particular views of liberty, equality, human dignity, and social justice, which leads to a demand not just for moral affirmation of such life-styles, but its support through publicly recognized professions. A secular understanding of medical professionalism is then also used to advance a prohibition against Christian physicians refusing to provide medical services they know to be forbidden by God.

Medical professionalism is not univocal in meaning. The dominant secular culture seeks to establish in law and public policy its own vision of proper medical professionalism. Consider, for example, four different ways in which one can understand medical professionalism.

1. Medical professionalism as the ethos established by a free association of physicians pursuing goals to which the members, and by participation their patients, commonly agree – In this libertarian account of professionalism, the authority and rectitude of the physicians' collaborative practice of medicine is derived from the concurrence of the physicians involved and the patients who choose them as their physicians. No particular understanding of the good, the right, or the virtuous is presupposed. Instead, an understanding of medical professionalism is created through the free interaction of physicians and their patients.
2. Medical professionalism as constituted through a particular history and tradition – Although one might attempt to derive what is right in medicine, what the goods of medicine are, and what constitute the virtues of a good physician from medicine as a practice (Pellegrino & Thomasma 1988; 1981), this is not possible. This is the case in part because physicians at different times and in different places have placed different moral concerns in different rankings, thus giving different moral content to medicine as a practice. Medical professionalism in every place and epoch always has a particular

socio-historically conditioned character, because medical professionalism is, at least in part, the product of a particular history set within a particular culture. One might think, for example, of the various Hippocratic traditions of medical professionalism.

3. Medical professionalism as religiously defined – Most religions possess norms limiting and directing how physicians should practice medicine. One might think of the different obligations, for example, of Orthodox Christian in contrast to Orthodox Jewish physicians.<sup>1</sup> In the case of both Orthodox Christian and Orthodox Jewish physicians, they will understand themselves as bound by obligations to God, which may go against societal norms and the wishes of others, as well as against particular secular socio-historically constructed understandings of medical professionalism.

4. Medical professionalism as defined by the contemporary dominant secular culture – The culture wars of the late 20<sup>th</sup> and early 21<sup>st</sup> centuries have in part been shaped by a conflict as to what norms should be established at law and public policy to guide the practice of medicine, thus defining the character of proper medical professionalism.

These conflicts, involving incompatible views of medical professionalism, are shaped by substantively disparate views of reality, morality, and bioethics. Over against a medical professionalism that develops through the association of physicians, one that is grounded in a particular tradition, or one that derives its moral commitments from the healthcare professional's obligations to God, the contemporary secular vision of professionalism and its proper bioethics is rooted in the robust laicism that lies at the basis of the public policy of contemporary secular fundamentalist states.<sup>2</sup> This secular understanding of medical

professionalism is not grounded in autonomy as permission, but in a very particular political-moral vision of the proper content and value of autonomy that requires particular choices to be made, directed by very particular understandings of liberty, equality, and human dignity. Within a society shaped by the contemporary dominant secular culture, the most strident conflicts will be between medical professionalism as secularly versus religiously defined. In this conflict, there will often be no place for compromise.

The now-dominant secular culture with its morality and bioethics is crucially tied to the emergence of secular fundamentalist states. Such states are committed to establishing polities that are after Christ and after God (Engelhardt 2010a, 2010b). The term secular fundamentalist state is used to identify a polity that imposes on its society a particular secular moral vision with the same zeal as a religious fundamentalist state imposes a particular religion (Engelhardt 2010c, 2010d). It frames its laws, institutions, public fora, professions, and discourse in conformity with a particular secular understanding of appropriate conduct, including a particular secular understanding of morality and of the politically reasonable. Such a state supports through state funds only its own particular secular understanding of morality and health care professionalism, so that the professions and the institutions under its control conform to the secular moral and political understanding it endorses. The secular fundamentalist state also refuses to support competing secular and religious understandings and institutions, while requiring that the discourse of the public forum and of the public space be secular in terms that it defines. As a consequence, the secular fundamentalist state requires professions, professionals, and institutions in the public space (e.g., physicians and nurses in hospitals)

1. In contrast with Orthodox Christianity, which forbids all abortion, Orthodox Judaism holds that there is an obligation on the part of Jews to perform a direct abortion in order to save the life of the mother. "If a woman is in hard travail, one cuts up the child in her womb and brings it forth member by member, because her life comes before that of [the child]. But if the greater part has proceeded forth, one may not touch it, for one may not set aside one person's life for that of another" (*Oholoth* 7:6). Orthodox Christians could consider this difference to be a function of what changed (along with divorce laws) with the arrival of the Messiah. See Matthew 19:3-4.

2. By a secular fundamentalist state, I mean a state that in ways analogous to a religious fundamentalist state imposes on the public space, public institutions, and public professions a particular normative, secular, post-religious view of proper action and discourse, including laicist norms for deportment and speech, which will conflict with the first three understandings of medical professionalism.

to conform in their official, that is, professional functions to the dictates of the established secular-philosophical orthodoxy. In a secular fundamentalist state, civil society is shaped, directed, and constrained by the requirements of the secular fundamentalist state's established secular ideology, so that intermediate institutions insofar as possible are also recast in terms of the established secular orthodoxy (e.g., churches if they act politically will lose tax-exempt status).

The result has been a marginalization of Christian discourse and Christian moral claims regarding obligations to God. Given the laicist character of the secular state, Christian discourse and Christian moral claims have been placed within a very limited private sphere outside the public gaze, just as garbage dumps are hidden discretely outside the city limits. In particular, the dominant secular ideology has displaced the role of religious discourse, religious institutions (e.g., churches), and religiously affiliated institutions (e.g., religiously affiliated hospitals), while advancing and giving salience to its own particular secular cultural commitments and institutions. Through the force of the secular fundamentalist state, the established laicist ideology has relegated the religious concerns of believers within the secular fundamentalist state to a circumscribed and shrinking sphere of privacy (Engelhardt 2010a, p. 72).

The emergence of secular-fundamentalist states has created a social context that is assertively hostile to traditional Christians appearing in the public space as Christians. The discourse and commitments of Christianity have been excluded from the public forum altogether, as well as, as far as possible, from the public space. For example, "Merry Christmas" is to be replaced as far as possible with "Happy Holidays." However, post-traditional Christians may not fully recognize how different the moral discourse of the secular-fundamentalist states is from the moral discourse and moral claims of Christianity. This is the case because, among other things, post-traditional Christians have themselves embraced the secular discourse of human rights, human equality, human dignity, and social justice,

which discourse is not originally Christian but is grounded in the secular morality that became salient after the French Revolution. Such post-traditional Christians have recast their own moral discourse in terms of a secular idiom.

### III. A Profound Gulf: Why There is no Common Ground

Traditional Christian physicians and health-care professionals, including pharmacists (e.g., who will be obliged not to fill a prescription for an abortifacient) are culturally disruptive because traditional Christian physicians publicly affirm obligations to God. These obligations include not merely refusing to provide medical interventions they recognize to be forbidden by God, but also recognizing that they are in addition obliged to refuse even to refer patients to those who would provide such services. The prohibition against referral is grounded in the circumstance that, if one recognizes that an action is categorically prohibited, one may not even refer persons to those who will provide that forbidden service. Thus, if one recognizes that killing the innocent is wrong (e.g., abortion and physician-assisted suicide), one must not only refuse to kill the innocent, but one must also refuse to refer to expert murderers and assassins for those seeking to have the innocent be killed. In this regard, traditional Christian healthcare professionals will be socially disruptive because such professionals will define themselves openly and publicly over against important moral requirements of the dominant secular culture. Last but not least, if the refusal on the part of healthcare professionals to provide particular healthcare interventions, or even to refer for them, is phrased in terms of an obligation to God, such refusals will violate the claimed secular normativity of public discourse. Such refusals introduce religious claims into the public space and undermine the priority of the established secular moral order, along with its view of medical professionalism.

Refusing to provide and, even worse, refusing to refer for services traditional Christians know to be forbidden, but which the secular state has rendered legal and has transformed into morally

legitimate life-style and death-style choices, are thus significant offenses against the norms of an officially secular culture and its polity. They constitute salient acts of non-cooperation with the secular state. In such an officially secular culture established by a secular state, there is in addition a special animus against Christian norms, images, and discourse, in that these secular states have self-consciously affirmed a laicist separation between state and Christianity. By erasing the separation of state and secular ideology, these states endorse a union of state and ideology. Such states seek to define themselves through norms that are self-consciously after Christianity by defining public life, public professions, and public institutions in a totalizing, secular fashion that sets aside what had been a Christian public culture. This transformation of public life, public professions, and public institutions is often carried out in the name of defending purported secular obligations to honor human rights, secularly defined. The force of these developments is expressed in pressure brought to bear on Christian physicians either to violate their obligations to God or to leave their profession.

This secularization of the professions is pursued through giving priority to professional norms as public standards, while reducing moral claims to mere personal or private preferences. The secular culture attempts to establish a higher-order moral account that endorses the priority of secular professional ethics over “private” moral concerns. The goal is to have one’s secular professional ethics trump one’s other moral obligations, including one’s obligations to God. “Selfless” secular professionalism and secular social justice are thus invoked as objective moral norms that require health professionals to violate their obligations to God (i.e., not to be involved in the insemination of unmarried women, the use of donor gametes even within a marriage, abortion, including the filling of prescriptions for abortifacients, physician-assisted suicide, and euthanasia), which are redescribed as merely “personal” concerns. Thus, the commitment to honor one’s obligations to God is characterized as a self-centered focus on private matters or

private religious feelings that are inferior in their force and that conflict with, as well as being overridden by, public secular social obligations that one possesses as a healthcare professional (Cantor 2009). A separation of the private from the public is invoked so as to quarantine religious obligations within a sphere of merely private moral feelings and concerns. In this way, obligations to God not to perform certain acts are reduced to mere matters of personal taste. They are a matter of life-style choices involving private values and private moral feelings that are courageously overridden on behalf of society. Of course, from the perspective of the traditional Christian medical professional, neither God nor obligations to God are a private matter, but reflect the deep character of reality. Nothing could be more public than religious moral norms. Traditional Christians and the defenders of the secular fundamentalist state will in short not even agree on a common description of what is at stake.

Christian professionals by announcing that the provision of particular services is profoundly wrong, implicitly accuse others of acting wrongly. That is, when Christian healthcare professionals refuse to honor requests for legally recognized healthcare services such as the insemination of unmarried women, donor gametes for third-party-assisted reproduction within marriage, treatment for sexual dysfunction in homosexual couples, in vitro fertilization and embryo transfer for lesbian couples, abortion, physician-assisted suicide, and euthanasia, such refusals are considered not just to offend against the proper claim rights of others, indeed against social justice, but also implicitly and improperly to accuse others of immoral behavior when making life- and death-style choices that are held in the secular culture to be licit choices. As a consequence, those who refuse to provide or refer for forbidden services are held to be acting immorally in imposing their own “personal morality” and bioethics on non-consenting others within a normatively secular public space, as well as acting in an improperly judgmental fashion. They are regarded as acting to impose their views on others, in that it is assumed that

medical professionals in a secular society have a duty to provide those services. Such refusals are also seen as dangerous to the secular public order in impeding the exercise of the legally established entitlements of others to established medical service that should be readily provided by publicly licensed healthcare professionals.

The result is a conflict of moralities, bioethics, and visions of proper healthcare professionalism. This conflict is driven by the secular fundamentalist state's requiring that, save in very limited circumstances, Christian physicians, nurses, pharmacists, and other healthcare professionals, hospitals, and healthcare institutions practice and provide health care in conformity with the secular fundamentalist state's established secular bioethics and its vision of medical professionalism (Meyers & Woods 1996). The secular ethos also attempts to acquire additional moral weight for its intrusions by invoking support from the emerging web of secular human rights claims. For example, the refusal of traditional Christian physicians to be involved in abortion, including pharmacists refusing to fill prescriptions for abortifacients, is as a result regarded as a violation of the human rights of women to control reproduction (Bunch 1990, Margolin 2008, Zampas & Gher 2008).

Against this background, one can better appreciate Julian Savulescu's claim that Christian healthcare professionals should either provide medical interventions that they know to be forbidden by God or cease being healthcare providers: "If people are not prepared to offer legally permitted, efficient, and beneficial care to a patient because it conflicts with their values,

they should not be doctors" (Savulescu 2006, p. 295). Gianni Vattimo for similar reasons takes a stance like Savulescu's: "[G]ynecologists with a conscientious objection to performing abortions seem to me ... like a policeman with an aversion to carrying firearms, they should find another job" (Vattimo 2004, p. 106). Savulescu and Vattimo give voice to the view that Christian healthcare professionals are first and foremost practicing within a secular profession. They are to be professionals who in their moral lives are fully absorbed into a secular professional role. The commitment of healthcare professionals to their secularly defined professionalism is to be exhaustive of the public persona.

The secular transformation of the professions is meant to locate professional roles fully within the commitments and expectations of a secular culture and its understanding of public social roles. At the minimum, this requires medical professionals in their professional practice never to allow duties to God to trump secular professional obligations or even to recast their professional roles so as to give them a Christian character. Most particularly, Christian physicians are not to conduct themselves like the unmercenary physicians of antiquity, who as saints remain models for contemporary Christian healthcare professionals. The Holy Unmercenaries committed the offense for which they were martyred, of locating their professional role as physicians fully within their commitments as Christians. As Christian physicians, they asked their patients to repent, to convert, to be baptized, and to be saved as a part of their becoming their patients.<sup>3</sup> These exemplars of proper

3. In the Eastern rites of the Orthodox Church, the prayers during the prothesis, that is, during the *proskomedie*, mention is made of six of the Holy Unmercenary Physicians. The liturgical term "prothesis" identifies both the rite of preparation before the Liturgy, as well as the table or side altar north of the main altar. It is at the side altar that the prothesis or *proskomedie* takes place, during which the bread is prepared for the Liturgy. "Proskomedie" is derived from the Greek for oblation. The bread used is leavened bread, for it is clear from the text of the New Testament that at the Last Supper when Christ celebrated "the festival of unleavened bread" (azymes) He did not use unleavened bread, but a loaf of leavened bread (*artos*) (Matthew 26:26, Mark 14:22, Luke 22:19, I Corinthians 11:23). Jesus changes the very sense of the Passover. As the Christ, as the Messiah, He has brought Redemption so that the character of the Passover is transformed. From that point on, unleavened bread is not to be used. In taking out the seventh particle from the bread that will be consecrated during Liturgy, the priest prays, "[in honor and memory] of the holy, glorious and wonder-working unmercenaries Cosmas and Damian [It is related of Sts. Cosmas and Damian of Rome, whose feastday is the first of July and who were martyred in the year A.D. 284, that "The standard fee that they requested from their patients – that is, those among the race of men whom they healed – was singular: believe in Jesus Christ through Whom they wrought cures" (*Great Synaxaristes July 2008*, p. 1).] Cyrus and John, [Sts. Cyrus and John (a non-physician companion of St. Cyrus) of Rome, who were martyred in A.D. 292, and whose feastday is the 31st of January, directed their patients to prayer and repentance. "In this manner, [St. Cyrus] converted the pagans to the knowledge of God, and further strengthened the faithful" (*Great Synaxaristes January 2003*, p. 1169).], Panteleimon and Hermolaos "and of all the holy unmercenary healers" (*Liturgikon 1989*, p. 249).

Christian medical professionalism realized that as a part of their role as physicians they should pray with and help dying patients to prepare for going before Christ's dread judgment seat.<sup>4</sup> With the Holy Unmercenaries one can recognize the profound and intractable conflict between these two radically different views of reality, morality, and medical professionalism presented in the collision of traditional Christianity with the secular culture.

In summary, the dominant secular culture through its realization in the secular fundamentalist state is committed to establishing in public policy a set of secular professional norms and a secular ideal of medical professionalism that prohibits Christian physicians, healthcare professionals, and healthcare institutions from refusing to provide and/or from refusing to refer for legally established healthcare services. The secular political agenda is as far as possible to totalize the secular culture in establishing it in all publicly visible conduct. Refusals to provide services thus go against the commitments of the dominant secular culture and of the secular fundamentalist state.

1. First, refusals to provide and to refer for customary and secularly morally accepted medical services constitute a refusal to accept the secular culture's demanded demoralization of the moral significance of legally

permitted life-style and death-style choices. Because the secular culture seeks thoroughly to accomplish this demoralization through treating as matters of private choice secularly accepted peaceable decisions involving sexual preferences, reproductive preferences, and preferences regarding how one wishes to die, including whether to use physician-assisted suicide or euthanasia, the refusal of Christian healthcare professionals to provide healthcare services supportive of such secularly accepted peaceable life-style and death-style choices are held to involve an improper moralizing and intolerance, as well as a failure to maintain required secular medical professionalism.<sup>5</sup>

2. Second, for the dominant secular culture, refusals to provide legally established medical services due to an overriding obligation to God violate the secular character of the public space. Openly announcing that as a physician or healthcare professional one has an obligation to God that requires the non-provision of legally established healthcare services constitutes a failure from the standpoint of the secular state to recognize the asserted required secular character of public professions, institutions, and public discourse. The intrusion of Christian moral and bioethical commitments into the secu-

[St. Hermolaos, who was not a physician, baptized St. Panteleimon, whose feastday is July 27, the day in A.D. 304 on which he was martyred. St. Panteleimon, who is invoked during the prayers of the Blessing of the Waters and the Mystery of Holy Unction, both treated and baptized patients. "The only recompense he sought for the cures was that his patients acknowledge and confess the true Physician, Jesus Christ" (*Great Synaxaristes July 2008*, p. 1209).] The six named, who practiced medicine (or assisted those in the practice of medicine) without charging for the care they gave, were also martyrs under the Roman empire. They were not killed just for being Christians. They were killed for being Christians who, in the face of a pagan empire, made it clear to their patients that the only real cure for sickness and death is Christ. They understood that the surrounding pagan culture could seduce Christians, but that it could not violate their conscience (only they themselves could do that). Despite a hostile dominant culture and its requirements, the holy unmercenaries were totally unembarrassed about being fully committed, proselytizing Christians. The holy unmercenary physicians realized that because physicians accompany their patients in the face of suffering and the threat of death, Christian physicians have a special obligation to teach all how to prepare to face the dread judgment seat of Christ. The holy unmercenaries were martyred for their determination to provide health care as Christians should, namely, proclaiming in their practice the good news of the Kingdom.

4. One should note that some traditional Christian health care professionals continue to recognize the importance of praying for and with their patients, so that acting as a Christian remains integral to their sense of medical professionalism. See, for example, Strang 2011.

5. Vattimo is of the view that the contemporary secular moral culture's demoralization of traditional moral choices into life-style or aesthetic choices is integral to an eschewal of violence and a pursuit of peace. His view is that if people abandoned absolute moral commitments and commitments to a transcendent reality, they would have little about which to fight. Obviously, he has forgotten about the *Iliad* or wars for control of oil fields.

It seems clear that the reconciliation of peace and liberty in the postmodern or late-modern world will be attained only on condition that esthetics prevails over objective truth. The variety of lifestyles and the diversity of ethical codes will be able to coexist without bloody clashes only if they are considered, like the artistic styles within an art collection... (Vattimo 2004, p. 58).

Vattimo's point is that the contemporary secular search for world peace has come to involve the rejection of metaphysics in the sense of any reference to an unconditioned reality or perspective.

lar public space is a matter of particular concern for the secular state, because the now-dominant secular culture sees itself not just historically, but also normatively as after Christendom and after Christianity in the sense of being focused on the removal of Christian norms from public visibility: from the perspective of the now-dominant secular culture, Christianity and its norms are to be rendered normatively past.

3. Last and quite importantly, claims of rights of conscientious objection, not to mention claims of obligations to God, are considered unjustified by the secular fundamentalist state in being constraints on the secular liberty and secular human rights of others. Refusals to provide legally established services are from the standpoint of the secular-fundamentalist state and its mores judged to constitute unjustified limitations on the established civil liberties of others who within the secular culture are held to have a warranted expectation that they may have access to legally approved services from state licensed professionals.

After Christendom, in the ruins of Christendom, commitments to traditional Christian morality and bioethics are monumentally politically incorrect. Within the now-dominant secular culture, Christian physicians and nurses are not to be free to define themselves as Christian physicians and nurses. Instead, in a secular society they are to have only a professional role congruent with secular social norms.

#### **IV. Some Further Reflections on Kant: Rights of Conscience as Non-negotiable**

The controversies and conflicts engendered by Christian physicians who refuse to provide particular healthcare services because they recognize those services to be forbidden by God show the foundational incompatibility between the normative understandings of traditional Christianity and that of the dominant secular morality. They underscore the basis for an ongoing conflict with the secular state and its establishment of an ethos of the secularly politically

reasonable. On the one hand, the dominant secular morality, sustained by a secular vision of the secularly politically reasonable, cut off from any foundations, seeks a thoroughgoing demoralization of traditional Christian moral commitments, so that, regarding a wide range of issues, strong moral obligations, including strong bioethical obligations, are held not to exist. On the other hand, traditional Christians recognize themselves as having obligations to the transcendent God, which cannot be overridden, and which obligations make impossible the acceptance of this demoralization of traditional Christian morality upon which the dominant secular culture insists. The two moral, metaphysical, and political visions are incompatible and in profound conflict. For those who affirm the secular ethos, substantive moral concerns have disappeared regarding a range of issues. For the traditional Christian, the obligations are as strong as ever. Those in controversy share insufficient common grounds in terms of which a compromise could be effected.

This gulf is not unique. Or rather, this gulf can even in part be recognized by Kantians. There is at least a somewhat similar foundational disagreement separating Kantian moralists and bioethicists from the morality and bioethics of the dominant secular culture. Kant clearly wished to resist the demoralization of traditional morality into life-style and death-style choices, as well as the deflation of morality. One should recall that Kant would not accept as a morality the mere pursuit of the good considered apart from right-making conditions in terms of which one could judge moral agents to be blameworthy or praiseworthy. Although Kant was by no means a traditional Christian and probably was actually an atheist, he defended the full force of traditional Christian morality. In this, he was a thoroughly non-post-modern man who held at all odds a view supporting the full claims of morality. The difference between deontological and teleological moral visions is profound, though not as profound as the chasm separating traditional Christians from the secular culture. This latter gulf has the added dimension of be-

ing anchored in the will of the living and fully transcendent God. Nevertheless, the secular contrast can aid in appreciating the depth of the disagreements separating traditional Christianity from the now-dominant secular culture.

John Rawls captures well the distinction between deontological and teleological moral claims, which distinction undergirds a cardinal dimension of moral pluralism.

[In] teleological theories: the good is defined independently from the right, and then the right is defined as that which maximizes the good. More precisely, those institutions and acts are right which of the available alternatives produce the most good, or at least as much good as any of the other institutions and acts open as real possibilities (a rider needed when the maximal class is not a singleton). ... It is essential to keep in mind that in a teleological theory the good is defined independently from the right. This means two things. First, the theory accounts for our considered judgments as to which things are good (our judgments of value) as a separate class of judgments intuitively distinguishable by common sense, and then proposes the hypothesis that the right is maximizing the good as already specified. Second, the theory enables one to judge the goodness of things without referring to what is right. ... [In contrast,] a deontological theory [is] one that either does not specify the good independently from the right, or does not interpret the right as maximizing the good (Rawls 1971, pp. 24, 25, 30).

The result is that a deontologist ought not to violate core right-making conditions, no matter what the consequences: *fiat justitia, pereat mundus*. Although Kant lacks a consistent terminology, he can reasonably be interpreted as a deontologist committed to a right-making condition that is prior to the good, and not reducible to the good, thus constituting a stark contrast between the Kantian account of morality and the morality of teleologists such as Jeremy Bentham (1748-1832) and John Stuart Mill (1806-1873), but most significantly the now-dominant secu-

lar morality. Deontological duties are to bind regardless of their consequences.

This interpretation of Kant, which displays the deep differences separating deontological and teleological understandings of morality, is nested in Kant's solution to the third antinomy (whether humans should be regarded as free or as determined), which solution requires embedding morality in rationality. As a consequence, right-making conditions and wrong-making conditions define what is right, and alternatively, what is wrong, by reference to Kant's account of what constitutes a rational choice. For this reason, moral choices and therefore bioethical choices are to be made apart from any consideration of their consequences. That is, the rightness of moral and bioethical choices for Kant exists independently of consequences and is instead a function of the rationality of the moral choice itself. Moreover, rightly constituted choices are not determined by the causal nexus within which they are made. This allows Kant to say that "Reason, irrespective of all empirical conditions of [an] act, is completely free" (Kant 1964, p. 477, A555=B583). Kant sees this focus on the character of rational choice to be a condition that all self-conscious agents should recognize as inescapably binding. According to Kant, we must acknowledge that "every being which cannot act otherwise than under the idea of freedom is thereby really free in a practical respect" [Kant 1959, p. 66, AK IV.448]. In this context, Kant affirms that morality is concerned with categorical, not with hypothetical imperatives. "The categorical imperative would be one which presented an action as of itself objectively [i.e., rationally] necessary, without regard to any other end" (Kant 1959, p. 31, AK IV.415). Kant's position can thus be interpreted as embracing a right-making condition that is deontological and that therefore contrasts profoundly with teleological accounts, thereby underscoring an unbridged gulf within secular moral thought. The conflict is beyond compromise.

There are grounds, however, to interpret Kant's account of morality in non-deontological terms. For example, Kant claims that persons

are “that which constitutes the condition under which alone something can be an end in itself ... [such that persons have] not merely a relative worth, i.e., a price, but an intrinsic worth, i.e., *dignity*” (Kant, AK IV.435). Kant also holds, “Nothing in the world--indeed nothing even beyond the world--can possibly be conceived which could be called good without qualification except a *good will*” (Kant 1959, p. 9, AK IV.393). In such passages, Kant appears to ground his account of morality in the over-riding intrinsic good of persons and/or of the good will, not in a right-making condition, *sensu stricto*. However, despite a number of unclaritys, Kant’s final grounding of morality is as a fact of reason: “So act that the maxim of your will could always hold at the same time as a principle establishing universal law. ... The consciousness of this fundamental law may be called a fact of reason, since one cannot ferret it out from antecedent data of reason, such as the consciousness of freedom...” (Kant 1956, pp. 30, 31, AK V.30, 31). It is therefore not inconsistent with Kant’s arguments to interpret his moral account as grounded in a rightly-ordered reason that constitutes a right-making condition independent of consequences, so that the goodness of the good will and the intrinsic worth of persons lies in their being able to act rightly. Kant can thus be interpreted as affirming a deontological condition, a right-making condition, rather than a cardinal or intrinsic good, so that the rightness of moral acts lies not simply in their goodness. The goodness of persons as moral agents is thus grounded in the right-making character of reason, so that the right is prior to the good, and the right is independent of the good. In any event, this moral vision contrasts profoundly with that of teleological accounts in general and utilitarian accounts in particular, in which the righteousness of an action depends on its goodness, its consequences. Kant’s right-making conditions are framed from his God’s-eye perspective, so that Kant holds these conditions not to be sociohistorically-conditioned, but to bind persons independently not only of history, race,

and gender, but even species. These sparse right-making conditions are to bind persons as such.

The gulf separating the morality and bioethics of the dominant secular culture from that of traditional Christianity thus has an analogue in Kant’s account of morality, which would also require physicians not to provide or refer for physician-assisted suicide, euthanasia, or the treatment of the sexual dysfunction of homosexuals. This is what one would expect, in that Kant wished to provide a rational foundation for the substance of Christian morality. In contrast, the morality of the dominant secular culture is constituted out of a set of norms nested in a freestanding fabric of moral intuitions supported by a narrative located and articulated fully within the horizon of the finite and the immanent, and which is therefore both demoralized and deflated in its moral significance. It has no strong right- or wrong-making conditions, and its goods are always context-sensitive. The ultimate standing of the morality and bioethics of the dominant culture is that which is conveyed by the secular fundamentalist state. In contrast, Kantian morality like traditional Christianity has a set of norms taken to be nested in an objective canonical perspective. Kant’s arguments seek to support moral claims that he held were neither demoralized nor deflated, constituting what the dominant secular culture would characterize as an uncompromising and morally judgmental, indeed fundamentalist position. Kant is the last great moral-philosophical fundamentalist. The very meaning of Christian and of Kantian morality is other than that of the dominant secular culture. A Kantian bioethics is incompatible with the now-dominant secular bioethics. The Kantian relic of Christianity gives grounds for a substantive battle in the culture wars.

### V. The Strangeness of Moral Strangers

Moral strangers are persons with whom one has no common way to resolve moral and bioethical disputes either through sound rational argument and/or by an appeal to a commonly recognized authority. Such a gulf separates traditional Christians (and for that matter Kantians)

from the secularists of the now-dominant secular culture. Each experiences and understands reality in a fundamentally different fashion. Because all is seen with different frameworks of meaning, there will inevitably be conflicts between traditional Christianity's and the dominant secular culture's understanding of proper conduct and bioethics, even more so than with a Kantian morality and bioethics. The dominant secular culture insists on containing and re-interpreting the meaning of all action within the horizon of the finite and the immanent. Only if this immanent

containment is enforced is one free to engage in life-style and death-style choices as one wishes. Otherwise, one will sense the claims of the transcendent God Who is beyond the horizon of the finite and the immanent, and Who commands. Hence the threat to the lifeworld of the dominant secular culture of any nostalgia for metaphysics, much less for the transcendent God. The disagreements due to the presence of persons who would become moral strangers to the now-dominant secular culture threaten the peace of the established culture. Believers are troublemakers.

## REFERENCES

- Abbott, Water M. (ed.). 1966. *The Documents of Vatican II*. New York: Herder and Herder.
- al-Ghazali. 2000. *The Incoherence of the Philosophers*, trans. Michael E. Marmura. Provo, Utah: Brigham Young University Press.
- Al-Ghazali. 1999. *Al-Ghazali's Path to Sufism*, trans. R. J. McCarthy. Louisville, KY: Fons Vitae.
- al-Uthaymin, Abd Allah Salih. 2009. *Muhammad ibn 'Abd al-Wahhab: The Man and his Works*. New York: L. B. Tauris.
- Aquinas, Thomas. 1875a. *Aristoteles Stagiritae: Politicorum seu de Rebus Civilibus*. In: *Opera Omnia*. Paris: Vives.
- Aquinas, Thomas. 1875b. *Commentum in Quartum Librum Sententiarum Magistri Petri Lombardi*. In: *Opera Omnia*. Paris: Vives.
- Augustine. 1994. *St. Augustine's Anti-Pelagian Writings*, trans. Peter Holmes & Robert E. Wallis. In: *Nicene and Post-Nicene Fathers*, First Series, vol. 5, ed. Philip Schaff. Peabody, MA: Hendrickson.
- Averroes. 2008. *The Incoherence of the Incoherence*, trans. Simon Van Den Bergh. London: E.J.W. Gibb Memorial Series.
- Avicenna. n.d. *Avicenna on Theology*, trans. A. J. Arberry. Dubai: Kitab al-Islamiyyah.
- Barnabas. 1965. "The Epistle of Barnabas". In: *Apostolic Fathers*, vol. 1 (pp. 305-333), trans. Kirsopp Lake. Cambridge, MA: Harvard University Press.
- Basil, St. 1955. *Letters*, trans. Sister Agnes Clare Way, 2 vols. Washington, DC: Catholic University of America Press.
- Bryce, James. 1959. The coronation as a revival of the Roman empire in the West, in *The Coronation of Charlemagne*, ed. Richard E. Sullivan (pp. 41-49). Boston: D. C. Heath.
- Cassian, John. 1994. Second conference of Abbot Joseph, trans. Edgar Gibson, in *Nicene and Post-Nicene Fathers*, Second Series, vol. 11 (pp. 460-474), eds. Philip Schaff & Henry Wace. Peabody, MA: Hendrickson.
- Castro, Rodericus. 1614. *Medicus-Politicus: sive de officiis medicopoliticis tractatus*. Hamburg: Frobeniano.
- Chrysostom, St. John. 1994. *Nicene and Post-Nicene Fathers*, vol. 14: *Homilies on the Gospel of Saint John*. Peabody, MA: Hendrickson Publishers.
- Chrysostom, St. John. 1994. *Nicene and Post-Nicene Fathers*, vol. 10: *Homilies on the Gospel of Saint Matthew*. Peabody, MA: Hendrickson Publishers.
- Conciliorum Oecumenicorum Decreta. 1962. Freiburg im Breisgau: Herder.
- Copleston, Frederick. 1962. *The History of Philosophy*. Garden City, NY: Image Books.
- Denzinger, Henricus (ed.). 1965. *Enchiridion Symbolorum*. Freiburg in Breisgau: Herder.
- Didache, The. 1965. In *Apostolic Fathers*, vol. 1 (pp. 337-409), trans. Kirsopp Lake. Cambridge, MA: Harvard University Press.
- Dostoevsky, Fyodor. 1949. *The Brothers Karamazov*, trans. Constance Garnett. Garden City, NY: International Collectors Library.
- Eliot, T. S. 1982. *The Idea of a Christian Society*. London: Faber and Faber.
- Engelhardt, H. T., Jr. 2010a. Religion, bioethics, and the secular state: Beyond religious and secular fundamentalism, *Notizie di Politeia* 26.97: 59-79.
- Engelhardt, H. T., Jr. 2010b. Political authority in the face of moral pluralism: Further reflections on the non-fundamentalist state, *Notizie di Politeia* 26.97: 91-99.
- Fakhry, Majid. 2001. *Averroes*. Oxford: Oneworld.
- Fakhry, Majid. 2004. *A History of Islamic Philosophy*, 3<sup>rd</sup> ed. New York: Columbia University Press.
- Frank, Johann Peter. 1779. *System einer vollständigen medicinischen Polizey*. Mannheim: C.F. Schwan.
- Génicot, Eduardus. 1902. *Theologiae Moralis*. Lovanii: Polleunis et Ceuterick.
- Gregory, John. 1770. *Observations on the Duties and Offices of a Physician*. London: Strahan.
- Griffel, Frank. 2009. *Al-Ghazali's Philosophical Theology*. New York: Oxford.

- Hierotheos, Metropolitan of Nafpaktos. 1998. *The Mind of the Orthodox Church*, trans. Esther Williams. Leviaia, Greece: Birth of the Theotokos Monastery.
- Hierotheos, Bishop of Nafpaktos. 1994. *Orthodox Spirituality*, trans. Effie Mavromichali. Leviaia, Greece: Birth of the Theotokos Monastery.
- Hourani, George. 1985. *Reason and Tradition in Islamic Ethics*. Cambridge: Cambridge University Press.
- Nasr, Seyyed Hossein & Oliver Leaman (eds.). 1996. *History of Islamic Philosophy*. New York: Routledge.
- Nicodemus & Agapius, Sts. (eds.). 1983. *The Rudder*, trans. D. Cummings. New York: Luna Printing.
- Nicolas, Marie-Joseph. 1958. The meaning of the immaculate conception in the perspectives of St. Thomas, in *The Dogma of the Immaculate Conception* (pp. 327-345), ed. E. D. O'Connor. Notre Dame, IN: University of Notre Dame Press.
- Orthodox New Testament*. 2000. Buena Vista, CO: Holy Apostles Convent.
- Percival, Thomas. 1803. *Medical Ethics*. Manchester: Russell.
- Poole, Austin Lane. 1955. *From Domesday Book to Magna Carta*, 2<sup>nd</sup> ed. Oxford: Clarendon Press.
- Ramsey, Boniface. 1985. Two traditions on lying and deception in the ancient church, *Thomist* 49: 504-533.
- Rau, Thomas. 1764. *Gedanken von dem Nutzen und der Nothwendigkeit einer medizinischen Policeyordnung in einem Staat*. Ulm: Stettin.
- Reilly, Robert R. 2010. *The Closing of the Muslim Mind*. Wilmington, DE: ISI Books.
- Romanides, John S. 2002. *The Ancestral Sin*, trans. George S. Gabriel. Ridgewood, NJ: Zephyr Publishing.
- Scholasticus, Socrates. 1994. The ecclesiastical history of Socrates Scholasticus, trans. A. C. Zenos, in *Nicene and Post-Nicene Fathers*, Second Series, vol. 2 (pp. 1-178), ed. Philip Schaff. Peabody, MA: Hendrickson.
- Sixtus V, Pope. 1588. *Contra procurates, Consulentes, et Consentientes, quorunque modo Abortum Constitutio*. Florence: Georgius Marescottus.
- Sozomen. 1994. The ecclesiastical history of Sozomen, trans. Chester Hartranft, in *Nicene and Post-Nicene Fathers*, Second Series, vol. 2 (pp. 179-427), eds. Philip Schaff & Henry Wace. Peabody, MA: Hendrickson.
- Tanner, Norman P. (ed.). 1990. *Decrees of the Ecumenical Councils*, vol. 1. Washington, DC: Georgetown University Press.
- Tertullian. 1994. *Latin Christianity: Its Founder, Tertullian*, in *Ante-Nicene Fathers*, vol. 3, eds. Alexander Roberts & James Donaldson. Peabody, MA: Hendrickson Publishers.