

1. Tolstoy and a Case
  - a. In law school he had committed acts which had formerly seemed to him of great vileness and had inspired a feeling of self-loathing in him at the time he committed them; but subsequently, seeing that such acts were also committed by highly placed people and were not considered bad, he, without really thinking them good, forgot all about them and was not troubled in the least by the memory of them. (Tolstoy - Death of Ivan Ilyich - Pevear/Volokhonsky trans. p. 48 Knopf-NY 2009)
  - b. case - 98 yo lady with end-stage dementia (FAST 7e) and recurrent aspiration pneumonia and multiple comorbid. Her children (especially the lawyer/dpoa-hc) demand you give full ventilator support, antibiotics, TPN, etc. Her FLACC is 8+ (severe pain and discomfort) and the dpoa-hc/children tell you that you cannot give her any morphine because it will kill her.
2. Main Point(s)
  - a. You have your own rights and responsibilities of conscience.
  - b. "I cannot in good conscience continue to provide this (non-standard) care for my patient."
3. What is conscience?
  - a. judgment of practical reason ...
  - b. 'steps' in formation and act of conscience
    - i. know standard of care
    - ii. know your patient
    - iii. synthesize all of that plus experience plus your 'gut' ... conscience counsels a judgment
    - iv. you then decide whether to follow that counsel ... will ... courage
  - c. humility ... always being open to (and gathering) new data ...
  - d. issues of conscience
4. Conscience defines who you are as a person.
  - a. our ability to act in true freedom ... is what makes us human beings ...
  - b. and is what defines us as this kind of person ... or that kind ...
  - c. this is 'why' you have your own rights & responsibilities in conscience
5. A funny thing about our human nature ...

"Luisa Muraro writes, "We always have the wish to give the responsibility for our lives to someone else; we easily seek someone we can tell, 'Please take care of my life.'" And rest assured that there will always be someone so "charitable" that he will be ready to do it ...

If somebody wants to look for someone else to spare him his freedom (call him spiritual director, or boss, or friend - it's all the same), he has to clearly understand that he will not reach happiness in this way, that nothing will ever be his, because I can reach my fulfillment only through my freedom; otherwise, it will never be *my* fulfillment. And if I don't understand this (and, unfortunately, I often see that many of us don't), I will always try to unload the drama of my freedom onto someone else." (Muraro - God's Empty Seat - 2006 p. 25 - cf 54)(CL 2010 Spir Ex p. 35)
6. Conscience Issues
  - a. pharmacists - dispensing abortifacients
  - b. abortion - performing, training, referring
  - c. physician assisted suicide/euthanasia - Oregon, Washington, other
  - d. responsibility to provide ...
    - i. information ... referral ... procedure/drug itself
    - ii. emergent vs. non-emergent

7. Conscientious Objection
  - a. an attempt to balance ...
    - i. religious diversity ... freedom of individual choice with the ...
    - ii. legal rights, social entitlements and moral beliefs of others
  - b. Tolerance is not indifference ... it is respectful engagement .... not disrespectful disengagement (or non-respectful non-engagement)
  - c. criteria to override conscience (Sulmasy)
    - i. contradict or undermine principle of tolerance?
    - ii. serious risk of (imminent) injury/illness/death? (not just inconvenience)
    - iii. action or refraining? (higher standard for action)
  - d. arguments against conscientious objection
    - i. you've been trained (by us) so do what you're trained to do
    - ii. monopoly status so can't refuse
    - iii. don't impose your values on us
    - iv. fiduciary responsibility
    - v. contractual model - covenantal model
    - vi. basic response is that none of the above trumps my (true) freedom
  
8. Legal ...
  - a. Civil Rights Act 1964 ... prohibits discrimination based on religion (defined as 'moral and ethical beliefs as to what is right and wrong')
  - b. Church Amendments - 1970's ... performing/assisting abortion
  - c. PHS Act 1996 ... abortion training
  - d. Weldon Amendment 2004 ... institution/insurance re abortion-sterilization
  - e. HHS Regulation 45 CFR Part 88 (Fall 2008) ... codifies above
  - f. law distinguishes ...
    - i. conscientious objection – passive resistance/refusal ... passive adherence to "conscience"
    - ii. civil disobedience – active imposition/action ... "active" attempts to influence others
  - g. You cannot hide behind ... "I was only following orders"
  
9. Bibliography
  - a. What is Conscience? Daniel Sulmasy. Theor Med Bioeth. 29(3):135-149, 2008.
  - b. Role of Conscience in Medial Decisions. Daniel Sulmasy. Practical Bioethics talk.  
[http://media.libsyn.com/media/lecturesinbioethics/Sulmasy\\_080809.mp3](http://media.libsyn.com/media/lecturesinbioethics/Sulmasy_080809.mp3)
  - c. The Physician's Conscience, Conscience Clauses and Religious Belief. Edmund Pellegrino. Fordham Urban Law Journal. 30:221-244, 2002.
  - d. Rev. Martin Luther King. Letter from a Birmingham Jail.  
[http://en.wikipedia.org/wiki/Letter\\_from\\_Birmingham\\_Jail](http://en.wikipedia.org/wiki/Letter_from_Birmingham_Jail)
  - e. President's Council Transcripts on Conscience.
    - i. [Conscience and the History of Moral Philosophy \(Paris, 9-11-2008\)](#)
    - ii. [Conscience in the Practice of the Health Professions \(Lyerly, Brody, Curlin, 9-11-2008\)](#)
    - iii. [Conscience and the Health Care Professions \(Lynch, 11-21-2008\)](#)
  - f. <http://www.brungardtmd.com/bioethics/conscience-freedoms/>
  
10. Summary ... adapted from Williams Knowing Right From Wrong 2008
  - a. One must obey the certain judgment of conscience.
  - b. One is responsible for one's own actions.
  - c. One must obey legitimate authority.
  - d. Law is not Morality. Civil law, including democratically passed law, can be just or unjust.
  - e. Unjust laws do not bind in conscience.
  - f. One is obliged to adequately form one's conscience.
  - g. One cannot force a person to act against conscience.
  - h. Public authority should make allowance for conscientious objection

