Title: Respect for conscience must be a social value
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In mature Western democracies we have competing societal values, with abortion at the eye of the storm, writes Margaret Somerville.

Michael Cook reports that new legislation in Victoria, Australia, "decriminalises abortion and forces doctors with a conscientious objection to refer a woman to a doctor who will do an abortion. In the event of an 'emergency' abortion … regardless of their moral qualms, doctors must do [an abortion] themselves. Victorian nurses will be in an even worse predicament. They must participate in an abortion if ordered by their boss." The same scenario, in a somewhat softer version, is being played out in the United States and Canada. Here, codes of professional conduct or regulations, rather than legislation, are being proposed to limit freedom of conscience rights with respect to abortion.

An effort is also underway by pro-abortion advocates, led by International Planned Parenthood, to have the United Nations declare access to abortion a universal human right.

Healthcare professionals who, despite such coercion, follow their conscience risk a variety of legal threats. Their conduct can be found to constitute discrimination under human rights codes, or professional misconduct when it would result in disciplinary proceedings and penalties ranging from reprimands to fines and loss of a license to practice medicine or to practice as a nurse.

Needless to say, this state of affairs has caused deep concern for many healthcare professionals. What has led to this situation and what might be its wider consequences? To respond to that question and deal with this situation, I believe we need to understand two new realities, a political reality and a medical reality.

The political reality

I suggest there is a political problem caused by the disproportionate influence on politicians of what are being called "hard minorities" such as the pro-choice lobby, as compared with "soft majorities". Canadian Prime Minister Stephen Harper's stance on abortion in the context of this week's Federal election reflects this reality. I thought about what I'd say to him about his stance, were I to write him an open letter. Here's what I drafted (but did not publish):

> *Dear Prime Minister,*
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> *I write regarding some media reports about your views on abortion and the law, which I believe raise serious concerns for many Canadians.*
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> *For instance, it's reported you don't believe abortion is an important issue, but you do believe "arts and fitness funding for children" is an "important challenge". And you "would 'whip' [your] front bench so that none of [your] cabinet ministers would support any private member's bills that could re-open the [abortion] debate". (Globe and Mail, 29 Sep).*

Here are some questions I would respectfully ask you: Your statements can reasonably be interpreted -- and no doubt will be -- as affirming that the societal values norm you accept (and will impose on your Cabinet) is that abortion raises no moral or ethical concerns, including for society. That's the pro-choice position -- a simple and straightforward stance based entirely on the rights of individual women. Yet, in the past, you've rightly described abortion as a "complex" issue. I thought that meant you accepted that abortion does raise moral and ethical concerns, at least for society. Addressing those concerns, including those relating to shared societal values, requires some law on abortion, as around 70 percent of Canadians agree. Are you now saying there should never be such law?

What about respect for "freedom of conscience" of your cabinet ministers? Your position reflects that taken recently by the Ontario Human Rights Commission in advising the College of Physicians and Surgeons of Ontario. It warned that physicians who refused to facilitate procedures contrary to their moral or religious beliefs, which patients requested, could be in breach of the patients' human rights. It recommended physicians "leave their personal beliefs outside the surgery" -- park their ethics and values with their cars. Such a stance is "power speaking to truth", even if it's only the truth of some cabinet ministers' consciences.

Students for Choice have been lobbying Canadian medical schools to make abortion a "required procedure". That would mean students must competently perform an abortion to graduate as MDs. Might your refusal to respect cabinet ministers' freedom of conscience be a similarly restrictive condition that will expressly exclude some MPs from "graduating" to cabinet?

I believe abortion in the late 20th and early 21st centuries will come to be seen as a great human tragedy, just as we now see slavery or racism. We now regard politicians who supported those practices as being involved in appalling human rights abuses and failure to respect other human beings. Might the same be true of contemporary politicians whose absolute silence on abortion meant there were no protections for unborn children, even those who would live if delivered instead of being killed?

I'm an ethicist, not an activist, and I'm far from being a classical anti-abortion activist. While I believe that abortion is always a serious ethical issue, I do not support legally prohibiting early abortion, although I fervently hope it would be a rare occurrence. My position has put me at odds with both some pro-life and all pro-choice groups. That said, I'm more and more convinced that abortion is the single most important issue we are dealing with in terms of the future shared values on which we will base our society and that history's verdict will affirm that.

Among the reasons are, first, that abortion is not just an issue for individual women, much as pro-choice advocates adamantly push that view. Unavoidably, our collective stance on abortion is an important element in establishing society's value of respect for life. The current Canadian situation -- a unique one among comparable countries of having no law to protect even viable fetuses -- necessarily damages that value, especially when abortion is commonplace and regarded with equanimity. It also seriously damages our "values environment" as a whole. We need to be as sensitive to caring for that as we now recognize we must be in caring for our physical environment.

Second, abortion is just the tip of an iceberg of several competing worldviews that encompass many different and often conflicting values. Consequently, what we decide about abortion will have many flow-on effects to other values well beyond those relevant to abortion. In particular, a central issue in

deciding about many important values on which we currently disagree, not the least of which is euthanasia, is where to strike the proper balance between intense individualism at one pole and intense communitarianism at the other. As described, your current position on abortion affirms intense individualism.

So, let's apply this value choice to some other questions. Even limiting ourselves to just the area of adults' "rights" with respect to their children, will we likewise accept that there should be no restrictions on designing one's child? And what about transhumanism: are there limits that need to be respected to keep the essence of our humanness intact for future generations?

I have spoken with some election candidates about your stance on abortion. One, from your party, told me he is a practicing Catholic but would go along with you because "abortion is a political question, not an ethical or moral one". He argued that the moral and ethical issues are only between a woman and her doctor -- a classic pro-choice argument -- and he added that "one has to make compromises in politics".

(An aside: I ended up voting for a candidate from a party I would not usually support, who told me there were five percent of issues on which he would never vote against his conscience. I respected him for that -- it was the response nearest to my own values that I was able to obtain, so it was either vote for him or abstain from voting. I subsequently wrote to him: 'I am hoping that one of your conscience issues would mean that if legislation providing some protection from abortion for viable fetuses were to be presented in Parliament, you would not vote against it. As I explained when we met, I believe this matter goes beyond the individual woman and unborn child involved in any given case and is a central matter in maintaining our collective societal value of respect for life.' He was elected. There is now a great deal of hand-wringing in Canada about the record low voter turnout -- 10 million eligible voters, or 49 percent, did not vote. At least some of them were "values voters" on a wide range of values issues, and probably had the same problem as I did in finding a candidate to vote for.)

Finally, that raises the issue of why politicians, whose personal values are not consistent with those of pro-choice advocates are so frightened of them? One probable reason is that the strategy of these advocates is to deliberately paint an either/or picture -- either no restrictions on abortion at all, or total prohibition of abortion -- that terrifies the vast majority of Canadians. Given only that choice, they choose no restrictions, although, as polls show, the majority would like to see our society have a more nuanced and balanced response to law on abortion. Politicians who take a lead in providing such an option so that, as a society, we can re-affirm our respect for life, could be surprised by the support they receive.

Another reason might be that these politicians think that people like me, who would hope to see some protection of unborn children, will continue to vote for them because we have nowhere else to go. It's true we often have nowhere else to go, which is a threat to democracy. But it's not necessarily true we will continue to vote for them.

With respect.
Yours sincerely,
Margaret Somerville

The medical reality

The push to abolish respect for physicians' and other healthcare professionals' freedom of conscience reflects an emerging view that physicians are mere technicians able to provide services that patients want and have a right to access. Thus, physicians have a duty to provide these services and no right to bring their moral or ethical reservations into play; to do so is discrimination.

Think of having your car repaired: for a mechanic to refuse to service your car just because you were a woman would be discrimination and a human rights offence. Some say physicians' refusal of medical services for moral or ethical reasons is the same thing.

Unlike the mechanic, however, a physician who refuses to be involved in abortion is not providing the service to one patient but not another, or basing his refusal on any characteristic of the patient. Rather, he is refusing the service to all patients and doing so because of the nature of the procedure, which he believes is morally and ethically wrong.

And, unlike medicine, usually car repairs don't raise moral and ethical issues. But what if you were a bank robber preparing a getaway car and told the mechanic that? Suddenly automotive repair would become an ethical and moral issue. Would a refusal still be wrong or might it even be required? And referring the bank robber to another mechanic would make you complicit in the wrongdoing.

The practice of medicine always and unavoidably involves ethical and moral issues, although when we all agree on how they should be dealt with, we might not be consciously aware of them in day-to-day practice. It's only when something goes wrong or there is a conflict of values that the ethical issues flash up on the big screen. Treating physicians as mere technicians fails completely to take that omnipresent ethical aspect into account.

Treating physicians as mere technicians is also the antithesis of the traditional concept of a physician as a professional with ethical and legal obligations to exercise good professional judgment. Most notable among those obligations is "first, do no harm", which means that a physician may not simply fulfill a patient's request, but must make an independent judgment as to its acceptability.

At its extreme, treating physicians as mere technicians can result in an argument that bizarre requests should be fulfilled. For instance, some people argue that if a person wants their healthy right leg amputated, they have a right to that surgery. On a more everyday level, patients' lifestyle choices -- and the Ontario Human Rights Commission (OHRC)warns that failure to honour them could be discrimination -- can be a problem. Some women who rejected physicians' advice to change their diet if they wanted to lose weight and instead demanded Phenphen, a weight-loss drug, died as a result.

Treating physicians as mere technicians denies that respect is required for physicians' freedom of conscience and their ethical and moral values. Quite apart from the serious wrong to physicians that denial inherently constitutes, such an understanding of the physician- patient relationship would do a great disservice -- not only to the medical profession and society in general, but also to patients, because maintaining respect in any human encounter, including the physician-patient encounter, requires that respect be mutual.

In stark contrast to fostering such mutual respect, here's the OHRC's startling view of a physician's obligation in the physician-patient encounter: "It is the Commission's position that doctors, as providers of services that are not religious in nature, must essentially 'check their personal views at the door' in providing

medical care." The commission makes clear that physicians' "personal views" include their deepest and most important ethical and moral beliefs and values. Obviously, that raises serious problems for physicians, but again it also raises problems for patients: Would any of us really want to be treated by a physician who had complied with a directive to "park your ethics and values with your car outside the surgery"?

It's true sometimes that acting on personal views can be discrimination: Refusing to treat a patient simply because they were homosexual is discrimination and wrong. But that's not the issue here. Rather, the problem lies in classifying as discrimination a refusal to provide or refer for a service, such as abortion, euthanasia, or artificial reproduction, that the physician believes -- and many other people believe -- is morally and ethically wrong. Such refusals should be treated differently from refusals of morally and ethically neutral services, such as refusals to rent an apartment to a person or serve them in a restaurant on the basis of a prohibited ground of discrimination. We can all agree that is wrong.

Social reality

Although many Canadians believe that a big difference between the United States and Canada is that Canadians have a consensus on basic values and Americans don't, this issue of physicians' freedom of conscience might show us that that the former is not true. Likewise, our recent election might show that Canadians are wrong in believing that, unlike Americans, they don't vote along social-ethical values lines. In short, countries like Canada and Australia might also be involved in the culture wars, but in a much less high profile way than the United States.

The reality is that in many mature Western democracies we have competing societal values, with abortion at the eye of the storm as the situation in Victoria, Australia, of forcing physicians who have conscientious objections to do or refer for an abortion shows.

Abortion is so central to our values disputes because respect for human life is the foundational value of our kind of society and abortion involves defining what that respect requires.

In Canada, having achieved a black hole on abortion law -- there is no law -- pro-choice advocates are not content with having the freedom to act according to their values; they want to make others, for whom it would be a breach of their values, act likewise. And they want to have their beliefs and values publicly affirmed. Obtaining official rulings from human rights tribunals that physicians have no freedom of conscience protection regarding abortion establishes that their values should predominate as the societal norms. That is even truer when coercive legislation enshrining those beliefs is enacted, as in Victoria.

In short, these people claim freedom of values belief for themselves, but refuse to respect others' freedom. That's why they will not tolerate a respect-for-freedom-of-conscience exception. No matter what our values or views, we should all be concerned by such totalitarianism and fundamentalism.

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