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## Conscience issue separates Catholic moral camps

by David DeCosse



*From the last two national elections to the current controversy over health care reform, the struggle over the Roman Catholic conscience in American politics has been in full public view. Too often in this struggle, however, the concept of the Catholic conscience is ill-defined or offered as a conversation-stopping absolute. Accordingly, a group of scholars gathered last spring at the Markkula Center for Applied Ethics at Santa Clara University in order to clarify the use of the concept in American public discourse. This essay is the result of that gathering. The names of the authors follow the essay.*

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What the Second Vatican Council left unresolved has remained unresolved to the present day: Conscience within Catholicism is tugged in two interpretive directions. In its earlier, more theological section, the conciliar document *Gaudium et spes* refers to conscience as "the most secret core and sanctuary of a [person]. There he is alone with God, whose voice echoes in his depths." This formulation points to a personalist view of conscience.

Conscience is not identified with the voice of God, much less with the hierarchical teaching office of the church. Rather, the encounter with the divine basis of moral obligation is mediated through the agency of a person and, hence, through the spirit, reason, affections, and relationships that constitute human agency. This view of conscience is rooted in a "personalist" theology that reaches back to such sources as the medieval scholastic tradition and Thomistic notions of prudence and practical wisdom.

By contrast, in a later passage, *Gaudium et spes* states that married couples should be "governed according to a conscience dutifully conformed to the divine law itself, and should be submissive toward the Church's teaching office, which authentically interprets that law in light of the Gospel." This way of portraying conscience prioritizes a view of the person whose moral formation depends less on the workings of personal responsibility and more on conformity to hierarchical definitions. It can be called the "ecclesial conscience" and emerged in tandem with the heightened importance given to the centralized teaching office of the Church in the 18th and 19th centuries.

There is overlap between the personalist and ecclesial views of conscience: Both affirm an objective and divine basis to morality. But the divide between the views can be seen if we consider the three-part structure of conscience manifested in the Catholic theological tradition. First, conscience is an innate, basic awareness of individual moral responsibility. Both views share this characteristic. Second, conscience is a process by which a person educates oneself morally. Here the personalist view in principle is open to a wide range of moral sources, including reflective moral experience; custom and culture; natural law; moral exemplars; the teachings of theologians, pastors, bishops, and popes; and the words of the Gospel. The ecclesial view strongly favors the formative influence of the teaching authority of the hierarchy. Third, conscience is a judgment of what one believes to be moral truth. The personalist view understands this judgment to be an exercise of personal responsibility in light of the mystery of the Word of God. The ecclesial view nominally accepts this transcendent perspective. But this acceptance is in tension with the insistence that moral truth is primarily to be attained by conformity of one's conscience to the definitions put forth by the hierarchical teaching office. However much the Second Vatican Council articulated these two perspectives on conscience, it is the ecclesial view that in the last decades has dominated Catholic discourse in the American public square.

The one who defines the problem sets the terms of the debate and, in the last decades, the Catholic advocates of the ecclesial view have defined the problem of conscience in American society as relativism. The inspiration behind this identification of the problem was the writing of John Paul II, who gave credibility to this view by his frequent reference to the ominous opposition in contemporary democracies between freedom and the moral law. Benedict XVI sounded a similar, dark note when, just before his election, he raised the specter of a societal "dictatorship of relativism" to which the church must respond.

Behind these criticisms is something like the following analysis. The citizens of Western democracies are afflicted with an understanding of conscience that is entirely subjective and private. The subjectivity is established by the inevitably idiosyncratic nature of one's feelings, which become the ultimate court of appeal for one's conscience. This court is a private one. It is neither possible nor desirable to explain through public, commonly accessible reasons the contours of one's personal moral judgment.

Rather, one merely asserts the verdict of conscience. In its reliance on feelings and in its rejection of the possibility of shared reasons, this understanding of conscience rests on the assumption that there is no objective, universal truth. Moreover, the relativist conscience in a democratic society lives off a paradox: To guard its radically individualistic decisions, it insists on the absolute protection of non-negotiable moral and legal rights. But such absolute rights require a foundation in shared reasons that specify what it is in persons that obliges such absolute protection.

Relativism, committed as it is to the impossibility of such shared reasons, cannot provide this foundation. And so a democratic politics rife with relativism often deals with issues like abortion less like a scene of reasoned discourse and more like a battleground of unyielding efforts to assert a right to abortion that, finally, rests on little more than an arbitrary assertion of will. In fact, this ecclesial view of the problem of contemporary conscience in part rings true: One hears this extreme logic in the rhetoric of the most ardent

pro-choice activists.

But the definition of the problem of conscience as relativism has several profound ? and often overlooked ? weaknesses. One weakness is empirical: There are just not that many hard-core relativists running loose in the United States. Scratch beneath the surface of a Nietzsche-enchanted undergraduate and find many a moral realist wanting to emerge. But the more important weaknesses are theoretical and stem from misplaced emphases within the ecclesial model of conscience. These weaknesses can be identified as the problem of law versus practical reason; the problem of the impaired conscience of fellow citizens; and the diminished social nature of the ecclesial conscience.

Against the tides of relativist freedom, the ecclesial conception offers a portrait of conscience as a bulwark of objective and universal moral law. Conscience discovers the moral truth understood as the moral law that applies anywhere and in all circumstances. Prudence is subordinate to the stern obligation of this moral truth. At most, prudence is understood as the virtue that applies the requirements of the moral law to a particular situation. For the most part, though, the ecclesial view of conscience distrusts prudence, emotions, practical reason ? anything that is not law and that suggests too subjective a drift to the judgments of conscience.

We can see the limits of this view in the attempt, backed by prominent Catholics, in the final days of the Bush administration to promulgate Federal conscience clause regulations to supplement laws that since the 1970s had prohibited health care workers from being compelled to perform abortions.

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The last-minute Bush rules, now under review by the Obama administration, sought to extend the protection of the existing conscience laws beyond doctors or nurses who could be immediately involved in an abortion to all health care workers involved in ?any activity with a reasonable connection to a procedure [like abortion], health service or health service program, or research activity.?

In this wider scope of protection, one hears echoes of the ecclesial view of conscience in which any association ? however distant ? with a questionable practice can only be interpreted as intentional transgression of the moral law. But such a wide scope of protection leaves little space for the exercise of practical reason through the use of such time-honored tools of the Catholic tradition as the principle of cooperation.

In the technical terms of moral theology, this principle seeks to illumine the degree to which one may be morally involved ? or ?cooperate? ? in a complex action in which a definite evil occurs alongside a number of moral goods. The principle poses questions like: What is the precise ?object? of the action of the health care worker and the ?object? of the one seeking an abortion? To what extent is a health care worker in their precise work near or far from a problematic procedure like abortion? These questions central to the Church?s tradition of casuistry are devalued in the ecclesial case for conscience. Their subtlety finds no place in the Bush-era rules.

We have already argued that the description of American society as pervasively relativist is inaccurate. But it is crucial to consider the theoretical assumptions about the nature of conscience that inform this description. And chief among the assumptions are those that factor into the use of the phrase ?culture of death? to describe this relativist world. This locution, taken from John Paul II and used commonly today, carries a harsh tone of moral judgment for culpable evil.

In turn, it appears to assume that such culpability impairs rationality, vitiates freedom, and darkens conscience. But how does such a description of the pervasively culpable and impaired conscience account for the millions of Americans for whom abortion is not a moral right but a tragic choice? Or for the millions of Americans for whom the determination of when the first stages of human life require absolute protection is a matter of sincere and well-considered conscience that differs from the Catholic doctrinal view of the matter? Here it is important for the Catholic engagement with American democracy to recover and rename the notion of "invincible ignorance" in which, from the Catholic perspective, the consciences of fellow citizens may be mistaken but not culpably so.

Correspondingly, the consciences of such citizens and their rational and volitional powers are not compromised by culpability. Indeed, it was striking that such a notion informed Swiss theologian George Cottier's praise of President Obama's willingness to engage fellow citizens who disagreed with him on such matters as abortion legislation. By doing so, Cottier argued, Obama affirmed a presumption of good faith in others that is an "inspiration of an inwardly Christian kind" by which democracy lives and through which citizens respect the enduring capacity for truth in others.

We would like to call attention to one other shortcoming in the ecclesial conception of conscience: Its diminished social nature. This is evident in the conception's sharply restricted space for moral formation. Too little credence is given to such things as professional associations; the American medical, legal, and political culture; and the prudence and insight gained by the practice of participants in contested fields like health care and politics. Instead, the ecclesial conception maintains that the overriding factor in the moral formation of a Catholic conscience is the hierarchical teaching office.

Moreover, the narrow social nature of the ecclesial conscience fails to account for the full range of values at stake in legal and political disputes like those to which the Bush-era conscience-clause regulations were meant to apply. Invocations of conscience should not of themselves trump all other values at stake in such matters. Yet this is often how it seems when listening to those speak often with a strongly individualistic and anti-government air about the need for extensive conscience clause protections. By contrast, Jesuit theologian John Courtney Murray argued that the conflict between the individual conscience and the political community could only be understood in its properly moral character when it was seen as a conflict between the conscience of an individual and the "conscience of the laws" of the political community.

The theologian Thomas Shannon spelled out the range of values at stake between these two claims of conscience, individual and political. He argued that a democratic citizen in a pluralist society derives an obligation to obey the civil laws on a number of grounds. First, this obligation is filtered through the values derived from a citizen's membership in an association like the Catholic Church: How consonant are the values embodied by the civil laws with the values central to crucial institutions like the Catholic Church that play a decisive role in the moral formation of citizens? Second, the obligation to obey the laws can be understood as a return in kind for benefits like security and safety provided by the state. Third, the obligation arises from the existence of fair electoral and political procedures. And, finally, the obligation is present on account of the fairness required of citizens who obey laws and accept imperfections with which they disagree because other citizens of different convictions accept similarly disagreeable matters.

Murray's and Shannon's logic requires us to see that the citizen exercising conscience in the face of legal or social pressure never in fact or in right departs from the political community. Moreover, while the exercise of a citizen's conscience may affirm values of special importance to an association like the Catholic Church, nevertheless such values must be considered along with "not entirely over against"

values like public order and fair play among diverse citizens.

Seeing claims of conscience in such a broad light helps one to understand the wisdom of Martin Luther King, Jr., who as a matter of conscience disobeyed unjust laws and who as a matter of conscience also accepted the punishment for such disobedience as, among other things, a way to affirm the abiding value of law and political community.

We have intended in this essay to call attention to several overlooked aspects of the understanding of conscience at work in the current Catholic engagement with the American public square. Of course, no consideration of that engagement should be made without attention to the broader context in which these invocations of conscience are taking place: The issues of gender at the base of so many of the so-called problems of conscience; the diminished authority of the American hierarchy on account especially of bishops' roles in the sexual abuse scandal; and the fact that only a few centuries ago the hierarchical teaching office of the church found it far less necessary to promulgate teachings to bind the consciences of the Catholic faithful. Instead, we have largely restricted our arguments to matters of moral philosophy and moral theology. We hope in the course of our treatment to have pointed to the resources in these disciplines for a renewal of the Church's understanding of conscience – a renewal that might draw on the personalist tradition of Catholicism and that would accord better with the experience of the Catholic democratic citizen in a pluralist society.

*The above essay was formulated by Albert Jonsen, author of "The Abuse of Casuistry: A History of Moral Reasoning" and Senior Ethics Scholar-in-Residence and Co-Director, Program in Medicine and Human Values, California Pacific Medical Center; Kirk Hanson, Executive Director, Markkula Center for Applied Ethics, and University Professor of Organizations and Society, SCU; Denise Carmody, Jesuit Community Professor, Religious Studies, SCU; Gerald D. Coleman, S.S., Vice President, Corporate Ethics, Daughters of Charity Health System; Miriam Schulman, director of Communications, Markkula Center for Applied Ethics; Margaret McLean, director of Biotechnology and Health Care Ethics, Markkula Center for Applied Ethics; Lawrence Nelson, Associate Professor of Philosophy, SCU; J. Brooke Hamilton III, Milam & Steen/BORSF Professor of Business Administration, University of Louisiana at Lafayette, and Visiting Scholar, Markkula Center for Applied Ethics. The essay was written by David E. DeCosse, director of Campus Ethics Programs, Markkula Center for Applied Ethics.*

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