



WISCONSIN CATHOLIC CONFERENCE

EYE ON THE CAPITOL

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THE RIGHT OF CONSCIENCE SERVES US ALL

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Over the past several years, there has been increasing debate on the right of conscience.

As a legal standard, the right of conscience protects individuals from being forced to engage in actions that may violate deeply held moral or religious beliefs. The most recognized example of the right of conscience is the conscientious objector, a person who refrains from engaging in combat or military service based on moral or ethical grounds. Our nation's government, its laws, and the Catholic Church, have long recognized this right of conscience.

However, a general right of conscience based on religious belief is not new or revolutionary. In fact, our state constitution explicitly upholds the right of conscience and has since the Constitution's enactment in 1848.

Article I, Section 18 of the Wisconsin Constitution protects the freedom of worship. Within this section, the Constitution specifically speaks to the liberty of conscience. The first portion of Section 18 states:

“The right of every person to worship Almighty God according to the dictates of conscience shall never be infringed...nor shall any control of, or interference with, the rights of conscience be permitted...”

The legal tradition of recognizing a person's right of conscience, and directly tying one's conscience to one's faith, is well established. In Wisconsin, legislators recognized this when they enacted Wisconsin Statute s. 253.09, a provision that allows both hospitals and hospital staff to refrain from participating in procedures that would result in sterilization or abortion based on religious or moral objections. Several other states have similar protections as part of their laws. And in federal law, provisions exist that provide conscientious protection for numerous procedures, including those involving abortion, sterilization, and execution.

Lately this topic has emerged in situations involving physicians and pharmacists and the provision of health care services. Providers, believing participation in a practice would violate their faith or moral beliefs, have refrained from performing certain procedures relying on their right of conscience. Certain commentators have even dubbed these individuals as the new “conscientious objectors.”

However, some would argue that a right of conscience for professionals, especially health care providers, somehow deviates from the traditional view of conscience rights. Those opposed to medical professionals refraining from performing procedures based on conscience objection say this goes beyond the standard used for military service. After all, an objection to engaging in combat does not affect the ability of others to exercise their rights. Others remain free to participate in military service.

Such an argument fails to recognize that the exercise of conscience will always affect others. When a person is allowed to forgo military service due to conscientious objection, the federal government must seek out another person to serve in the objector's spot. The objector's exercise of conscience directly affects this person.

As a nation we continue to recognize the right of conscience because the promotion of conscience, even when it restrains the acts of society, serves us all. Conscience makes certain that scientific research stays within the bounds of human decency; that advocates represent their clients and not self-interests; and that justice, rather than punishment, is promoted by our legal system.

The exercise of conscience serves a purpose, and the right of conscience is both established and essential. By protecting its exercise, we affirm our constitutional tradition, ensure the worth of human action, and in so doing, protect our own dignity.