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Dignity, conscience and religious pluralism in healthcare: An argument for a presumption in favour of respect for religious belief

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Abstract

Religious pluralism in healthcare means that conflicts regarding appropriate treatment can occur because of convictions of patients and healthcare workers alike. This contribution argues for a presumption in favour of respect for religious belief on the basis that such convictions are judgements of conscience, and respect for conscience is core to what it means to respect human dignity. The human person is a subject in relation to all that is. Human dignity refers to the worth of human persons as members of the species with capacities of reason and free choice that enable the realisation of dignity as self-worth through morally good behaviour. Conscience is both a feature of inherent dignity and necessary for acquiring dignity as self-worth. Conscience enables a person to identify objective values and disvalues for human flourishing, the rational capacity to reason about the relative importance of these values and the right way to achieve them and the judgement of the good end and the right means. Human persons are bound to follow their conscience because this is their subjective relationship to objective truth. Religious convictions are decisions of conscience because they are subjective judgements about objective truth. The presumption of respect for religious belief is limited by the normative dimension of human dignity such that a person's beliefs may be overridden if they objectively violate inherent dignity or morally legitimate acquired dignity.

KEYWORDS

conscience, conscientious objection, dignity, healthcare, religious freedom, religious pluralism

1 | INTRODUCTION

There may be numerous problems that can arise from religious pluralism in healthcare. In this contribution, I focus on those that might result in moral disagreement, for example, between clinicians and patients regarding appropriate treatment, the willingness of healthcare practitioners to carry out procedures to which they object on the basis of religious belief and conflicts that may arise on how best to prioritise scarce medical resources. At two ends of the spectrum of positions here regarding how religious pluralism should be handled in healthcare are, on the one hand, absolute respect for religious belief, such that no health practitioner or patient can ever be

compelled to do something they believe violates their religious belief, and on the other, no recognition of religious belief on the grounds that this is 'irrational' and contrary to the best interest of patients and the principle of justice regarding access to legal and available healthcare practices. The first is akin to an absolute emphasis on the principle of respect for autonomy and the second an absolute emphasis on the principle of justice. Neither position is tenable. The former because there could be religious beliefs that entail incontrovertible harm to others (e.g., virgin sacrifice), and the latter because some legally available treatments may indeed be morally disputable on reasonable grounds. Moreover, appeals to autonomy or justice alone are unsatisfactory as there is no way of adequately adjudicating which principle should win out in cases of conflict.

In this contribution, I claim that in contemporary healthcare there should be a presumption in favour of respect for religious beliefs because we should respect consciences (rather than that we should respect consciences because we think it is important to protect religion). I claim that true religious belief and its associated moral convictions are a kind of judgement that is reached in conscience. We should respect consciences because we should respect the dignity of the human person.[1] Grounding respect for conscience in human dignity provides a normative foundation that can balance the demands of respect for conscience and the demands of justice, such that respect for conscience, including the civil right to freedom of religion, extends only as far as it does not violate a *just* public order. A just public order is one that does not violate (1) the inherent dignity of a human person and (2) the morally acceptable acquired dignity of a human person, and (3) does not unjustifiably ask a human person with a morally acceptable conception of dignity as self-worth to do something that they believe is morally unacceptable because it violates either of the previous two criteria.

To support this claim, I first set out an understanding of the human person as an embodied subject in relation to all that is. Second, I fill out this understanding by defining conscience as the phenomenon by which the human person arrives at decisions about the true, the good and the right. Third, based on this understanding of the human person, I present human dignity as a multidimensional concept that refers both to a worth that all human beings already have and to a subjective sense of self-worth that they seek to acquire through morally right behaviour in society. Fourth, I explain how religious belief and its consequent moral convictions are judgements of conscience because conscience is a person's 'subjective relationship to objective truth',[2] thereby grounding a civil right to religious freedom, which ought also to be respected in healthcare. Fifth, I turn to the question of the 'just' public order, by showing how human dignity serves both a descriptive ethical function (explains why somebody subjectively chooses to do something) and a normative ethical function (explains why what somebody thinks might be objectively morally good or bad or why what they do might be objectively morally right or wrong). From this flow the three criteria for morally good and right behaviour that form the basis of the just public order. I explain how these set appropriate limits to respect for conscience and religion in healthcare by considering three examples, objection to termination of pregnancy, refusal of blood transfusion for a minor and insistence on life-prolonging treatment in a time of shortage.

2 | HUMAN PERSON ADEQUATELY AND INTEGRALLY CONSIDERED

Louis Janssens was a Belgian theological ethicist of the latter half of the 20th century. He is one of the main exemplars of Louvain personalism, which incorporated the French philosophical personalism of the first half of the 20th century into Roman Catholic theological ethics.[3] Janssens's phenomenological approach integrates existing views of the human being as a natural kind (the rational animal), with the 20th century continental philosophical awareness of the situatedness of the human individual. For Janssens, the fundamental criterion for ethics is the human person adequately and integrally considered.

Janssens identifies eight features of the human person, which should each be considered (the meaning of *adequately*) and all be considered in relation to one another and the person as a whole (the meaning of *integrally*).[4]

1. The human person is a subject. The person is endowed with the capacity to reason, to choose freely and to act on those choices.
2. The human person is a corporeal subject. Human subjectivity cannot be separated from human bodiliness. All human experience is mediated through being a particular body.
3. The human person is a being-in-the-world. As corporeal subjects, we are always already in a dependent relationship with the nonhuman world for our survival and flourishing. Without water, oxygen, food, and so on, neither our bodies nor our subjectivity can survive.
4. The human person is in relationship to others. We are always already in relationship to particular others—everybody is somebody's child.[5] We also enter into new relationships with others, which can entail new roles, for example, becoming a doctor or a patient.
5. The human person is in relationship to institutions. Human beings are social beings and so form institutions, such as healthcare systems, that are more than the sum of the human beings that constitute them.

[1] In recent years, several scholars have argued that we should not use the concept of human dignity. I have argued at length against these claims in other contributions. See, for example, Kirchhoffer, D. G. (2013). *Human dignity in contemporary ethics*. Teneo Press.

[2] Gascoigne, R. (2004). *Freedom and purpose* (p. 78). Paulist Press.

[3] De Tavernier, J. (2008). The historical roots of personalism. *Ethical Perspectives*, *16*(3), 361–392.

[4] Janssens, L. (1980). Artificial Insemination: Ethical considerations. *Louvain Studies*, 8(1), 3–29. This is both an overview and elaboration of Janssen's anthropology based on the author's previous work; see Kirchhoffer, op. cit. note 1.

[5] Kittay, E. F. (2005). Equality, dignity, and disability. In M. A. Lyons & F. Waldron (Eds.), *Perspectives on equality: The second Seamus Heaney lectures* (pp. 93–119). The Liffey Press.

6. The human person is in relationship to time and history. Humans exist in particular historical contexts, which conditions their experiences. This means that they can learn from the past and plan for the future.
7. The human person is open to transcendent values of truth, love, and goodness. All human beings experience moments where they seem to transcend their own subjectivity and these experiences raise questions about truth, meaning and purpose, to which human persons seek answers.[6]
8. All human persons are fundamentally equal and original. Our fundamental equality is based on the fact that all human beings share the preceding seven characteristics. Human beings are all this kind of being and so equal. At the same time, each human person is a unique instantiation of this kind of being, since we all exist in a unique body in a unique set of relationships to the world, to others, to institutions, to history, and to transcendence.

Thus, the human person is a meaning-making and meaning seeking corporeal subject in relationship to all that is. In the next section, I further build on Janssens's anthropology by showing how human persons adequately and integrally considered engage with the relationships in which they find themselves by using conscience. I do this to support my claim that conscience, as an essential part of how the human being realises their dignity, ought to be respected. And since religious belief is a product of conscience, there ought to be a presumption in favour of religious belief in healthcare.

3 | CONSCIENCE: VALUES, REASONING, AND JUDGEMENT

Recent debates about conscientious objection in healthcare have added to the substantial historical literature on conscience. These recent debates show that it is important to be clear about what is meant by conscience before claiming that it needs to be respected. As Giubilini notes, appeals to conscience 'are often characterized by a lack of clarity as to what it exactly is that we are talking about when we talk about conscience, and therefore about what exactly people are claiming when they put forward a "conscientious objection"'.[7] As a result, people may often be talking past one another or arriving at different moral conclusions without really understanding why. In defining conscience here, I follow a line of thought developed in recent Roman Catholic theological ethics that both reflects that tradition and updates it in light of newer awareness of the human person as a historically-situated being in relationship.[8]

I maintain that *conscience* (literally 'with knowledge') denotes what happens in the human subject reflecting on and making judgements about the truth about the world and their place in it, including when this concerns moral truth and action, that is, judgements about good and bad ends and the right and wrong ways to achieve them. Conscience has three parts.

The first, 'antecedent conscience', is the natural human capacity to identify values (good things, situations, or dispositions) and disvalues (bad things, situations, or dispositions).[9] As human subjects experience their situatedness in relationship to all that is, they become aware, through intuition, experience, and reason, of values that are objectively good for them that correspond to the different aspects identified in Section 2. For example, life and physical health correspond to corporeality, education corresponds to subjectivity, the kindness of others corresponds to being in relationship with others, a just public order corresponds to relationships with institutions, and so on. The same can be said of disvalues, for example, polluted water, lack of access to schooling, aggressive neighbours, and unemployment. Values contribute to the flourishing of the human person as such and so are good for all human individuals. Disvalues hinder or prevent flourishing.

The second element of conscience is 'moral science'. This is the work of reasoning about these identified values and disvalues. A human person is a subject because they are rational beings capable of reasoning and freely choosing. It is through the application of reason that the subject assesses competing values or disvalues as proper ends relative to one another and relative to the knowledge of the circumstances in which they occur. A range of methods of moral reasoning (intentionally or otherwise) may be brought to bear—deontological, consequentialist, and so on—on the morally right way to act (including the means employed) in order to achieve the good ends identified.

The third part, 'judgement', is where conscience reaches a judgement about all that has occurred in the second part: the judgement about the good end and the right way to achieve it. This judgement of conscience is binding for a person, that is, it ought to be followed. Human persons are accountable to this judgement because conscience is the only way they can come to know and act on the truth. Human persons are always already historically-situated, embodied subjects in unique sets of relationships, and so all knowledge is mediated through their subjectivity and hence their conscience. If they choose to ignore this judgement, that is when they might experience what we call a 'guilty' conscience.

Conscience, then, can be described as a human person's 'subjective relationship to objective truth'.[10] Conscience should be understood neither as merely subjective (i.e., a person can believe whatever they like and are not accountable to any external or

[6]Here, Janssens is more explicitly theological and says the human person is open to God. But his later interpreters, such as Joseph Selling, changed this to talk about openness to transcendence or the Transcendent. Selling J. (1998). The human person. In B. Hoose (Ed.), *Christian ethics: An introduction* (pp. 95–109). Cassell.

[7]Giubilini, A. (2021). Conscience. In E. N. Zalta (Ed.), *The Stanford Encyclopedia of Philosophy* (Spring 2021 Edition). https://plato.stanford.edu/archives/spr2021/entries/conscience/

[8]Key influences here are Timothy O'Connell, Richard Gula and Robert Gascoigne. O'Connell, T. (1978). *Principles for a Catholic morality*. Seabury Press; Gula, R. (1989). *Reason informed by faith*. Paulist Press; Gascoigne, op. cit. note 2. This is not to say that there are no other views of conscience within the tradition, (e.g., Sulmasy D. P. (2008). What is conscience and why is respect for it so important? *Theoretical Medicine and Bioethics*, *29*(3), 135–149) but I would argue that what I present here better aligns with the phenomenon of the human person presented, and to what follows on dignity and human freedom.

[9]I follow Louis Janssens in using the terms *values* and *disvalues*. See Janssens, L. (1987). Ontic good and evil: Premoral values and disvalues. *Louvain Studies*, *12*(1), 62–82.

[10]Gascoigne, op. cit. note 2.

objective criterion), nor as merely being obedient to some externally imposed norm, for example, divine or civil law or professional standards of the health profession. Human persons, as subjects, desire[11] to know the objective truth, also in moral matters, and this means forming their consciences (about appropriate values, cultivating virtuous dispositions, and practising appropriate methods of moral reasoning) so that their judgements about good ends and right actions conform to the objective truth as far as possible.

This view of conscience is perfectionist in two senses of that word:[12] first, because it sees human persons as having a task of 'perfecting' their human nature so that they lead morally optimal lives, and second, because it holds that there are ends that are objectively good for human beings, and objectively right ways to achieve those ends.

In the Roman Catholic tradition, the objectively good and right corresponds with God's divine law. But because God is rational and creates a rationally-ordered universe, knowledge of the objectively good and right is also accessible to human reason as the natural law.[13] Important here is that religious belief is *not* necessary to come to subjective knowledge of the objective good and right, since human subjects are capable, within limits of their historical situatedness, of doing so through the application of conscience. The objectivity of values and disvalues identified in *antecedent* conscience is because these are good or bad for people as such by virtue of the kind of beings they are. Appropriate methods of moral reasoning ought to take the flourishing of each fundamentally equal and unique human person to be the basic criterion. I will develop this criterion in Sections 4 and 6 through a multidimensional conception of human dignity.

This view of conscience also accounts for why human persons don't always get it right. Conscience can err, even if sincere, because the things that make all human persons unique and fundamentally equal also limit their capacity to have perfect knowledge of the objective truth. A conscience that has not been well formed, or is making judgements based on inaccurate information, is not culpable to the same degree as a person acting against a fully-informed conscience. The exception is if an individual ought to have known. The classical literature makes the distinction between invincible and vincible ignorance. So, a doctor who makes an 'honest' mistake based on inaccurate information provided by the patient is invincibly ignorant (i.e., could not have known), whereas a doctor who proceeds with a treatment without conducting the appropriate test to see whether it is the right treatment is vincibly ignorant, that is, she ought to have known that she should conduct the test, and so is morally culpable if the treatment goes badly.

Though a conscience can err, as a capacity it should still be respected. In other words, the person, as a subject capable of making good and right judgements, must always be respected, though there are limits to the extent to which one needs to respect erroneous judgements and actions. I am going to propose that these limits are set by a multidimensional understanding of human dignity in Sections 4 and 6.

Because of the limitations of being historically-situated subjects, people can legitimately work with others, for example going to a doctor about a health matter or ethicists about a moral matter, in an effort to become adequately informed and reach a better judgement of conscience about the true, the good, and the right. However, the person must still judge the veracity of the advice received and whether it is good and right to follow it.

This recognition that it is one's personal conscience that must reach the judgement counters two objections to the presumption in favour of respect for religious beliefs. The first objection comes from some Catholic thinkers who argue that the best way to inform conscience is to obey the teaching of church authorities (the magisterium). If you are Catholic, they argue, there is no room for 'conscientious objection' to a church teaching: to be Catholic is to obey the magisterium. The problem is that this view has stopped describing the phenomenon of conscience, but rather itself represents a normative judgement of conscience about how to be Catholic. This objection is ironically similar to those who hold that in health professions there is no room for conscientious objection because if one has chosen to be a health professional then one should be prepared to do whatever is legal, wanted by the patient, and accepted by the medical profession. Again, this is a normative judgement of the consciences of those who hold this view, rather than a description of what conscience is and how it functions.[14]

The second objection is that we should not respect conscience because if conscience is just about subjective reasons then we should simply evaluate the reasons.[15] The problem with this view is that it separates reasons from the subjective experience of desiring to seek truth in ways that affirm a person's sense of self-worth, which I will explore in more detail in Section 4. Conscience is core to what it means to be human, and so to respect conscience, which may include respectful dialogue about reasons and their validity, should not be reduced merely to debates about reasons. Rather, debating reasons presupposes respect for conscience as the faculty of the person that makes debating reasons possible. This distinction is what leaves open the possibility of agreeing to disagree where there are reasonable doubts—about fact or moral reasoning—that result in differing moral judgements, but not agreeing to disagree when the beliefs of one fundamentally damage the possibility of the other fully engaging their

[11] I shall explain how this desire emerges in the next section. Some would argue that this not a desire, but an obligation (see Vatical Council II. (1965). *Declaration on religious freedom—Dignitatis Humanae*. https://www.vatican.va/archive/hist_councils/ii_vatican_council/documents/vat-ii_decl_19651207_dignitatis-humanae_en.html). The problem with the obligation view is that this already imposes an external norm contrary to what I have said about conscience. The desire for truth, instead, emerges from the very experience of being human. It is a desire that can be ignored, but in so doing one limits one's own flourishing as a subject, a being whose capacity of rationality makes it truth-seeking.

[12] Wall, S. (2021). Perfectionism in moral and political philosophy. In E. N. Zalta (Ed.), *The Stanford Encyclopedia of Philosophy* (Fall 2021 Edition). https://plato.stanford.edu/archives/fall2021/entries/perfectionism-moral.

[13] Lusvardi, A. R. (2012). The law of conscience: Catholic teaching on conscience from Leo XIII to John Paul II. *Logos*, *15*(2), 13–41.

[14] In a short article I cannot go into detail either of these views or the counterarguments. For the former, see Grisez, G. (1989). The duty and right to follow one's judgment of conscience. *The Linacre Quarterly*, *56*(1), 13–23. For the latter, see Kane, T. B. (2021). Reevaluating conscience clauses. *The Journal of Medicine and Philosophy*, *46*(3), 297–312.

[15] McConnell, D. & Card, RF. (2019). Public reason in justifications of conscientious objection in health care. *Bioethics*, *33*(5), 625–632.

conscience in a way that enables their flourishing and the flourishing of others (see Section 6).

In this contribution I claim that we ought to respect conscience because we respect human dignity. It is to the concept of human dignity that I now turn.

4 | HUMAN DIGNITY: SOMETHING WE HAVE AND SOMETHING WE ACQUIRE

Elsewhere, I have developed a multidimensional conception of human dignity in response to criticisms of the concept as an ethical criterion.[16] I argue that human dignity, when understood in a multidimensional way that refers to the whole experience of being human, can be useful both as a descriptive and normative ethical concept (this latter element will be discussed in Section 6). What follows summarises my view.

Dignity simply means worth, that is, value beyond price.[17] Human dignity means there is something about human persons that gives them a value beyond price, that makes them ends in themselves. So, how one employs human dignity as an ethical concept depends on how one understands the human person. I have already presented Janssens's understanding of the human individual as a historically-situated, embodied subject in relation to all that is. I maintain that this is the human to whom dignity refers.

Dignity, in referring to the human person adequately and integrally considered, has four dimensions.[18]

- First, dignity is something that all human persons have because they are members of the human species. Everyone is someone's child.[19]
- Second, dignity is something that all human beings have by virtue of the kind of being they are, that is, beings endowed with a unique set of capacities, particularly to reason, to choose freely, and to love. I add here that these are the capacities of a subject (Janssens) and are the conditions of possibility for conscience. They make it possible for human beings to know and choose the truth, and to behave in morally right ways.

Drawing on Martha Nussbaum,[20] however, it is worth noting that these first two ways of talking about dignity as something human individuals always already have in a third-person sense, do not account for a person's subjective sense of their own dignity.

- So, third, dignity refers in a first-person manner to a psychological sense of self-worth that can be acquired or lost.
- Fourth, dignity has a social, second-person sense, in which a person, through moral behaviour, can acquire or lose dignity in the eyes of others. Society confers dignity or worth on those whom it deems to be of morally good character and acting in a morally right way. Examples might include someone like Martin Luther King, Jr, or Mother Teresa. Their dignity is acquired through their morally good behaviour.

It might appear as though there are four *discrete* understandings of dignity here. I maintain, however, that this is a mistake because all of them refer to different aspects of what it means to be a human person as a time-bound subject in relationship. These four aspects of human dignity are united by their common reference to the worth of the human person, both in third- and first-person senses. Human persons always already have an inherent dignity as members of a species endowed with a specific set of capacities that enable them to realise that dignity as an acquired dignity as self-worth through morally good behaviour in society. Nonetheless, though these are all dimensions of human dignity that co-occur, there is an ordering such that a human being who does not behave in a morally good way (dimension 4) or who does not develop a proper sense of self-worth (dimension 3) never loses the dignity that inheres in their being a human with a characteristic set of capacities. Similarly, a human being who does not possess those capacities still has an inherent dignity by virtue of their being a member of the species, that is, the natural kind that includes beings described as human beings.[21] By contrast, a being or machine that had similar capacities but was not a member of the human species could not be said to have human dignity (some other kind of dignity notwithstanding). So, whilst possession of the capacities is not sufficient to say that a person has *human* dignity, it is sufficient to say that a member of the human species still has inherent worth as a member of that natural kind associated with all of the other three dimensions of dignity.

Section 3 drew attention to conscience as the human person's subjective relationship to objective truth and how there is a human desire to seek and align our consciences to the truth. Next, I briefly address how this desire arises, because it is linked to the desire for dignity that arises as a consequence of the human person being in relationship.

The human person adequately and integrally considered is always already embedded in relationships. These relationships are ambiguous because they can be experienced as affirming of the person's sense of self-worth, or as destructive of it. A loving parent affirms the subjective sense of self-worth of the individual; a violent mugging violates that sense of self-worth and even the values that

[16]Kirchhoffer, op. cit. note 1.

[17]Kant, I. (1998). *Groundwork of the metaphysics of morals* (M. Gregor, Trans.; 4:434–4:435). Cambridge University Press.

[18]Kirchhoffer, D. G. (2017). Human dignity and human enhancement: A multidimensional approach. *Bioethics*, *31*(5), 375–383.

[19]Kittay, op. cit. note 5.

[20]Nussbaum, M. (2008). Human dignity and political entitlements. In A. Schulman & T. W. Merrill (Eds.), *Human dignity and bioethics: Essays commissioned by the President's Council on Bioethics* (pp. 351–380). President's Council of Bioethics: 'The Stoics have gotten one big thing right. We do want to recognize that there is a type of worth in the human being that is truly inalienable, that exists and remains even when the world has done its worst. Nonetheless, it does appear that human capacities require support from the world (love, care, education, nutrition) if they are to develop internally, and yet other forms of support from the world if the person is to have opportunities to exercise them (a suitable material and political environment). So we need a picture of human dignity that makes room for different levels of capability and functioning and that also makes room for unfolding and development'.

[21]See Sulmasy, D. P. (2013). The varieties of human dignity: A logical and conceptual analysis. *Medicine, Health Care and Philosophy*, *33*, 937–944.

are preconditions for it, for example, being alive, being safe, and so on. The fact that good food nourishes us, but that we will die without food, or that rain is necessary for life, but floods can kill us, or that healthcare is good for us, but a negligent doctor is bad for us are all examples of the ambiguity of the relationships in which we find ourselves. Negative experiences of relationship threaten a person's sense of dignity as self-worth. Psychology has shown that a sense of self-worth is crucial for existential survival. Without it, people may fall into despair, and violence towards themselves and others.[22] So, they seek ways to shore up their dignity as self-worth. Since dignity is conferred socially in a second-person sense on those who are morally good and behave in morally good ways, the person seeks to acquire dignity as self-worth by engaging in what they subjectively judge to be morally good behaviour. This is where conscience is employed, that is, the discernment and judgement of what the objective moral good is and the right way to achieve this. This presupposes that there is a truth to be known, that there is a 'right' answer. In other words, the desire to affirm one's dignity through morally good and right behaviour necessarily involves a desire to seek true knowledge of all things, because it is based on one's subjective understanding of that objective truth that one's conscience judges what is good and right. The closer one's subjective knowledge is to the objective truth, the more likely one is engaging is morally good and right behaviour and so the stronger the foundation for one's sense of dignity as a sense of self-worth.

It must be recognised, of course, that this happens in a social context with existing norms. And since one acquires one's sense of self-worth in part through the social approval of one's morally good behaviour (the fourth dimension), typically one may adopt these existing social norms as one's own. This raises the question of what might motivate a person to seek the truth in a manner that is contrary to an existing social norm? It may seem, from my account of dignity, and particularly the fourth dimension, that morality is simply relative to the social norms of the day, a position that would ultimately be nonsensical because it could neither explain why those norms arose in the first place, nor the historical fact that socially accepted norms have changed, for example, regarding slavery. The fact that societies have changed moral norms means that it is possible for individuals and groups to evaluate the morality of existing norms differently, and as not being aligned to the objective moral truth. I propose that this motivation has its root in the desire for dignity I have described. The desire for dignity alone can result in *subjective* moral beliefs that are *objectively* morally wrong, as in the case of a person who simply follows the objectively morally wrong social norms of his day to win social dignity (think of, e.g., a Nazi officer). However, when conscience recognises that the realisation of one's own dignity can only be achieved through the recognition of others' dignity, individuals and groups can reach judgements of conscience that they need to act contrary to existing social norms. This will become clearer in Section 6, where I return to the question of how this understanding of dignity functions in a descriptive and normative sense.

Through the application of conscience, the human person realises the dignity they already have as an acquired sense of self-worth. If we accept the idea that human dignity ought to be respected, that is, that human individuals are ends in themselves, then this implies at least a presumption in favour of respect for conscience. I now need to demonstrate that religious belief is a judgement of conscience, and therefore also necessitates a presumption of respect for religious belief in healthcare.

5 | RELIGIOUS FREEDOM: FREEDOM NEEDS TRUTH AND TRUTH NEEDS FREEDOM

It could be said that there is a difference between freedom of religion and freedom of conscience, arguing perhaps that one concerns beliefs about reality, and the other decisions about morality. Within a Roman Catholic worldview, however, this is incorrect, and I would argue is incorrect even in purely philosophical terms. This is because conscience as described above is not concerned only with moral truth. Rather it is primarily concerned with questions of truth per se, about which judgements are reached. Judgements about moral matters are therefore also judgements of conscience insofar as they are concerned with moral truth. It is important to recognise, however, that what one judges to be the truth about the ultimate reality of the universe (the things we often class as religious matters), will affect how one thinks about moral matters. A belief in either no God, a capricious God, or a rational God could have different implications for what I consider to be good and right. I might, respectively, judge that 'right is whatever I want it to be', 'right is whatever God says it is', or 'right is that which I can arrive at with reasonable certainty through an examination of the way the world works around me and the goods needed for flourishing'. Of course, an atheist could arrive at a similar conclusion (and many have), but the point is that both the atheist and the religious person have arrived (or at least ought to be arriving) at these judgements through a sincere and free application of conscience. It is because conscience and the pursuit of truth (be it religious or moral) are so fundamentally connected, and because conscience is the core of our humanity and so part of the basis for our dignity, that the Catholic church affirms a civil right to religious freedom. I maintain that the same line of argument concerning the relationship between Truth and Freedom can be employed to underpin my claim of presumption in favour of respect for religion in healthcare.

In the Second Vatican Council's 1965 Declaration on Religious Freedom, *Dignitatis Humanae*,[23] the Catholic Church changes its own position on a civil right to religious freedom. Prior to 1965, the official

[22]For example, Gilligan, J. (1997). *Violence: Reflections on a national epidemic*. Vintage Books.

[23]Vatican Council II, op. cit. note 11.

view was that 'error has no rights.'[24] Ironically, this is not unlike a view that conscientious objection laws in healthcare only serve to protect the errors of 'irrational' religious people and so have no place in modern evidence-based healthcare. The Council's decision to defend a civil right to religious freedom is based on its recognition of human dignity and conscience, and the idea that Truth and Freedom need each other. The claim in *Dignitatis Humanae* is that Freedom is only meaningful if there is a Truth to pursue, and that Truth is only meaningful if it is freely chosen (not coerced).[25]

The Second Vatican Council, in its deliberations, was reluctant to accept a 'liberal' notion of religious freedom, namely, that a person is free to believe or not to believe whatever they like. Such a view places all moral authority in the human individual. In other words, it seems to advocate moral relativism. There is thus no objective ground for the goodness or badness of particular values or the rightness or wrongness of particular behaviours. Without an objective ground, morality and law is meaningless beyond the power to exert one's will or the will of the dominant group in society. The Council, therefore, insists that there must be a Truth in the objective sense. Without it, freedom to choose is morally meaningless. Freedom to choose has meaning only insofar as there is a Truth to be known and to choose to follow that Truth.[26]

Simultaneously, the Council recognises that affirming that there is a Truth, whilst denying individuals the freedom to come to the knowledge of that Truth themselves, that is, voluntarily, is a violation of human dignity, since it violates the person's conscience (and the reason and freedom therein implied). Truth is meaningful, that is, it becomes something that helps a person to realise their dignity as a sense of self-worth, only if it is freely chosen. A person who is coerced to 'accept' the truth of a proposition or coerced into performing some action is not acting freely, and is acting against conscience—the core of what makes them human. Like the relativism that flows from the liberal conception of religious freedom, denying freedom to seek and know the truth threatens the meaningfulness of morality and law, since it is reduced to obedience to power. Notions of morality and personal responsibility are only meaningful if people can freely choose. For example, in contemporary law, the culpability of a person who has killed someone is determined based on the degree to which a person freely and with full knowledge carried out an action, ranging from accident to murder. This is impossible if we do not recognise human freedom.

The Council, therefore, asserts not only people's right to freedom of religion, but also the right to get it objectively wrong. Hence, my assertion that there should be a *presumption* of respect for belief in healthcare. Nonetheless, religious freedom is not absolute. *Dignitatis Humanae* states, 'the right to this immunity continues to exist even in those who do not live up to their obligation of seeking the truth and adhering to it and the exercise of this right is not to be impeded, provided that just public order be observed'. The inclusion of 'just' here implies that objective order of values which is in accord with the good of human beings adequately and integrally considered, not the kind of public order that can be secured through the use of state coercive force and in denial of human dignity.[27] In the next section, I explain how the criteria that flow from the understanding of human dignity outlined in Section 4 give insight into the just public order and how these balance the presumption in favour of religious belief with the demands of justice in healthcare.

6 | HUMAN DIGNITY AND A JUST PUBLIC ORDER

The strongest objection, I believe, to respect for religious belief in healthcare is that if this principle is somehow made absolute, then people could claim any behaviour as defensible and protected under this principle. As an extreme example, a person might believe that it is necessary to sacrifice virgin women to appease his god. If respect for religion were absolute, then this would be permissible. But there are good reasons not to allow this, and they can be summed up by saying that allowing this would violate human dignity and a just public order. Or put another way, such beliefs and actions are objectively morally bad and wrong respectively. In what follows, I explain why this is so.

The conception of human dignity I set out above can serve both a descriptive and a normative function. In its descriptive mode, it explains why a person subjectively chooses to engage in a behaviour. I find a paradigmatic case in the work of psychiatrist James Gilligan.[28] Gilligan worked to explain why violent criminals continue to be violent even after being imprisoned. Gilligan concluded that violent criminals were motivated by shame, which he calls a lack of self-love. The cause of this shame was perceived disrespect by others. Since self-worth is existentially essential for survival, the violent person feels justified in punishing the perceived perpetrator to restore the necessary fear and respect. The belief that violently punishing the perceived offender is justified is unsurprising, according to Gilligan, since that is precisely what justice systems have been set up to do for millennia. I maintain that the violent man is seeking to realise his dignity as self-worth, which he subjectively equates with being respected and feared by others. He bases this subjective understanding of self-worth as being feared and respected on an interpretation of the social mores of the honour culture in which he lives. In such a culture, honour can be defended or restored by force. So, in a subjective sense, the violent man believes he is

[24]Hudock, B. (2015). *Struggle, condemnation, vindication: John Courtney Murray's journey toward Vatican II* (p. 75). Michael Glazier/Liturgical Press.
[25]Healy, N. J. (2015). The drafting of *Dignitatis Humanae*. In D. L. Schindler & N. J. Healy (Eds.), *Freedom, truth, and human dignity: The Second Vatican Council's declaration on religious freedom* (pp. 211–242). William B. Eerdmans.
[26]Ibid.
[27]Schindler, D. L. (2013). Freedom, truth, and human dignity: an interpretation of Dignitatis Humanae on the right to religious liberty. *Communio*, *40*, 208–316.
[28]Gilligan, op. cit. note 22.

acquiring or defending his dignity as self-worth (honour) through morally legitimate behaviour of punishing a person for violating his dignity.[29] Applied to the virgin-sacrificer, he believes that by achieving the *subjectively* morally good end of worshipping his god by engaging in the *subjectively* morally right activity of sacrificing virgins, he merits respect and so his dignity as self-worth is enhanced.

Dignity, however, also serves a normative function: it can tell us why what the violent man and virgin-sacrificer *subjectively* believe to be morally good and right are in fact *objectively* bad and wrong. Human dignity, properly understood, affirms the worth of all human individuals as original and equal. So, a conception of dignity as self-worth that depends on the diminishment of the dignity of others is objectively morally bad. And behaviours that violate the dignity of others, or the conditions of possibility necessary for the realisation of their dignity, are morally wrong. The violent man's conception of dignity is objectively morally mistaken because his conception of dignity as self-worth does not respect the dignity of others, and he is objectively morally wrong in his behaviour because he harms the life, health and freedom of his victims (which are necessary conditions for their realisation of dignity as self-worth). He also harms their morally acceptable acquired self-worth. Thus, it is morally acceptable for a society to limit the freedom of such a man to protect him and others. However, this should only ever be to the extent necessary, and should not violate the dignity that inheres in his capacity to be morally good, that is, should not violate his conscience as capacity and should always be done with a view to rehabilitation through the formulation of an appropriate conception of dignity as self-worth and associated behaviours.

From this I have formulated three criteria for morally acceptable behaviour.[30] In the present contribution, I extend these to include morally acceptable religious beliefs in healthcare. These criteria serve as the basis for a *just* public order to resolve morally unacceptable assertions of religious freedom in healthcare but still allow sufficient space to take respect for conscience seriously, including legitimate differences in what people might judge to be good and right.

Morally acceptable beliefs and behaviours:

1) promote or at least do not violate the inherent dignity all human beings always already have and the conditions of possibility necessary for the realisation of acquired dignity as self-worth;
2) promote or at least do not violate morally acceptable understandings of dignity as self-worth, that is, those understandings that do not violate (1);
3) do not ask a person to do something that they judge in conscience to be morally wrong because it would violate (1) or (2), unless their judgment can be shown to be objectively mistaken (i.e., objectively violates 1 or 2) and hence they could be compelled on the grounds of preserving a just public order.

[29]Kirchhoffer, op. cit. note 1.

[30]Kirchhoffer, D.G. (2020). Dignity, autonomy, and allocation of scarce medical resources during COVID-19. *Journal of Bioethical Inquiry*, *17*(4), 691–696.

Let's consider three fictional but plausible cases to demonstrate how these criteria can qualify the presumption in favour of respect for religious freedom in healthcare.[31] I make several assumptions in these examples for the sake of brevity. Real cases may differ due to a range of factors. These are meant only to illustrate the way the presumption of respect for religious belief based on respect for dignity could play out in contemporary healthcare.

6.1 | Doctor objecting to provision of abortion

Consider an early term, healthy, but unwanted pregnancy. Criterion 3 holds that a person cannot be asked to act against their conscience unless they are violating criteria 1 or 2. The relevant question is whether a doctor by refusing to carry out a termination is violating criterion 1 or 2. Let's say the doctor, following the teachings of her religion as well as reasoning about the facts of biology, has reached a judgement of conscience that termination involves ending the life of another person, and so a violation of criterion 1. The doctor judges the life of the child to be a more fundamental value than the autonomy of the mother, since both the mother and child could survive, whereas termination only considers the rights of the mother and denies the personhood of the child. Given the early term of the pregnancy, and assuming relatively easily accessible termination services elsewhere and the existence of plausible alternatives to termination, the doctor's conscientious objection should not be overridden. Important here is that the respect for the doctor's judgement to follow the teaching of her religion hangs on the question of whether it is objectively true that an embryo is a person. This is something about which we cannot make an *objectively* certain conclusion. Those that believe that such a termination is morally acceptable because an embryo is *not* a person are similarly reaching a subjective judgement of conscience based on what they believe to be true in light of the known facts. Their belief is akin to religious belief in that it is a conclusion about the truth based on relevant facts, but not something that can be empirically demonstrated with objective certainty.

6.2 | Jehovah's Witnesses refusing blood transfusion for their infant

If an adult Jehovah's Witness refuses a blood transfusion for themselves, the presumption in favour of religious belief means that this ought to be respected. This does not mean that it would be a violation of this person's dignity to have a discussion about both their

[31]These cases are chosen because they have been widely discussed in the literature and could, therefore, be considered paradigmatic. Of course, given the brevity of the example, a number of further questions could be raised, such as 'what about if one moral position is more 'probable' that another?' However, these are beyond the scope of the aim of the present article, which is to demonstrate that there should be a presumption in favour of religious belief and the conditions for when it can be overridden, all within an overarching frame of respect for human dignity.

beliefs and the benefits of blood transfusion, and every other appropriate treatment should be used. But it would be a violation of criterion 2 even if the clinical team argued it was operating against the person's wishes to protect criterion 1. (This would not be the case in an emergency where the clinical team did not know the patient's wishes). If, however, parents refuse a blood transfusion for their not yet competent infant, and this transfusion would be life-saving, then the normative dimension of dignity could allow the parents' wishes to be overridden (assuming appropriate efforts to adequately inform them have been undertaken). Again, the question is whether the parents' wishes violate any of the three criteria in relation to the dignity of their infant. Since life is a fundamental good and precondition for acquisition of dignity as self-worth, the parents' refusal objectively violates the first criterion. The clinical team that decides to carry out the transfusion does not violate any criteria in relation to the parents' dignity, because, although the parents' judgement of conscience was overridden, that judgement is objectively mistaken. It violates the first criterion by accepting the avoidable death of the infant whose life is a condition of possibility for the realisation of her own dignity as a sense of self-worth through the application of her conscience to the question of truth, both moral and religious.

6.3 | Patient who insists on ventilator when there is a shortage

Consider a person at the end of life who is on life-support. Continued provision of life support would extend their lives a bit longer, but they would not regain consciousness and would certainly die in the relatively short term. The family insists that this person believes that withdrawing life sustaining treatment, like a ventilator, would be a violation of his religious belief that life is sacred and that permitting such an action would be equivalent to murder. The presumption in favour of religious belief could allow this treatment to continue in a time of low demand for those ICU resources. However, if there were others in need of that ventilator who had a clinically better prognosis, then the clinical team could withdraw treatment without violating the three criteria. The first is not violated, because he is already dying and unconscious. The second is not violated because, although his self-worth has been built up by being a faithful member of his religion, his conception of dignity as self-worth becomes objectively mistaken if his survival depends on the death of others who have a better prognosis, and his refusal is objectively wrong.

6.4 | A framework that orders and explains competing principles

It could be said that the above examples can be reduced to simple moral principles without all the seemingly complex conceptualisations of the human person, dignity, and conscience set out in this article. For example, the second case could be reduced to a principle that says 'Consent should be respected but third party consent can be overridden where it causes harm', and the second case could be reduced to a principle that says 'You cannot do something if it harms others'. However, what must be recognised is that these statements are themselves normative conclusions, and if you agree with them, then they become normative judgements of your own conscience. The question that the statements do not answer is why they should be accepted as principles that can govern interactions in religiously plural healthcare contexts. The answer to that question, I propose, is set out here, namely that we are concerned about human dignity, and that human dignity properly understood in its normative and descriptive dimensions means that there should be a presumption in favour of religious beliefs and the moral conclusions that derive from them except where they do not meet the criteria set out above. In other words, the conceptions of the human person, conscience and dignity set out here provide a rational framework grounded in human experience that helps us to order what would otherwise just be a set of competing moral claims. Without such a framework it is no more right or wrong to assert that 'Third party consent should be respected even if it harms others' than to assert that it can be overridden when it harms others. In this sense at least, in the context of the debates about conscientious objection, those who argue that reasons matter are correct.[32] As noted in Section 3, however, simply focusing on reasons, like simply focusing on principles, is inadequate, as this does not take into account the existential significance of moral decisions as decisions of conscience through which a person realises a sense of self-worth.

7 | CONCLUSION

Religious pluralism is a reality in contemporary healthcare. Dismissal of religious belief and associated moral convictions as something merely to be tolerated by 'rational' medicine is inadequate. Religious belief and associated moral convictions are judgements of conscience and therefore rational (in terms of the type) expressions of a universal human desire to realise one's inherent dignity (the capacities for emotion, reason, and free choice) as an acquired sense of one's dignity as self-worth, that is, as a subject with a meaningful and purposeful existence lived out through one's morally good and right behaviours in relationships. This psychological sense of self-worth that one acquires in the pursuit of the true and the good is existentially significant, as much as one's physical health is. Therefore, just as there is a presumption against causing physical harm, there should be a presumption in favour of respecting religious and moral convictions in healthcare settings (a presumption against causing existential harm).

This presumption does not prevent dialogue about such convictions when necessary, especially where there is a concern that a person may be being coerced against their best interests (which includes the conditions of possibility for the realisation of their dignity, such as good health). This is because of the premise that a

[32]McConnell & Card, op. cit. note 15.

person has a natural desire to seek truth and hold to it once they think they have found it.

Religious and moral convictions can only be overridden when they are objectively morally bad or wrong, that is, when they either rely on notions of dignity as self-worth that depend on the diminishment of the inherent or morally acceptable acquired dignity of others, or cause actual intentional or avoidable harms to the inherent dignity or morally acceptable acquired dignity of others. Where a person has a morally acceptable understanding of their dignity as self-worth, they should not be forced to do something that they believe would be morally wrong because they believe it would violate the inherent or morally acceptable acquired dignity of others or themselves.

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