

Physician-Assisted Draft Evasion: Civil Disobedience, Medicine, and War

MICHAEL L. GROSS

From the first days of conscription, physicians have declared their opposition to unjust wars by using their good offices to aid draft evaders:

William McCanless, a [Confederate] physician arrested in 1863 for giving resisters false medical deferments and for harboring deserters, justified his anti-draft activity by declaring that "it was a shame to take men off to this army to be slaughtered; and that it would be considered a dishonor in future years to have been in favor of the rebellion."¹

One hundred years later, the situation remained much the same:

Many men were obtaining medical deferments because their personal physicians were writing letters claiming ailments that would qualify them for exemptions. A favorite ailment was manic depression. *The New York Times* reported that one New York psychiatrist was writing about seventy-five letters a week for a fee of \$200 each, all to be paid "cash in advance." With the help of physicians, whether for financial gain or opposition to the war, the failure rate for Vietnam War-era inductees was triple what it had been during World War II.²

Although anecdotal tales abound, it is impossible to estimate the number of physicians who have conscientiously aided draft evaders.³ The cases above illustrate how physicians defy

both the law of the land and the canons of medical ethics when they lie and write fraudulent medical reports. In response, we surmise that some physicians who abet draft evasion are answering to a higher moral principle that transcends both the law and bioethics. This is unusual, for in those rare instances when physicians exercise civil disobedience, they usually violate the law precisely so they may *uphold* a fundamental principle of medical ethics that serves their patient's best interests. Draft evasion, however, invokes the specter of just war and places the relationship between medicine and civil disobedience in a somewhat different light.

The Idea of Civil Disobedience

Delivering an impromptu lecture to Crito when he came to rescue him from execution, Socrates admonished his students to obey the law. Knowing that the people of Athens unjustly condemned him to death, Socrates did not see their lapse as sufficient reason to turn his back on the law, the state, and his fellow citizens. Although condemned to die, Socrates remained convinced that he continued to owe the state a debt of gratitude for all the benefits it provided him throughout his life and, moreover, it was too important an institution to undermine by a poor example of disgruntled citizenship. Refusing exile, he remained to die.

Plato's dilemma focuses squarely on a citizen's obligation to obey the law. Socrates was not unsympathetic to Crito's plea, but his view of the state as the organism that gives life and meaning to the individual precluded him from placing his interests, however wronged, or his own sense of justice, however right, above the welfare of the polis. We have come a long way since Athenian democracy. Turning the polis on its head, the modern state trumpets individual welfare as the state serves as the vehicle for personal self-development. Safeguarding human rights and civil liberties is at the heart of the state's fiduciary responsibility toward its citizens. Good riddance to the state that violates its sacred trust.

Civil disobedience, however, is not a theory for dismantling the modern democratic state. Instead, as Rawls suggested, civil disobedients work *within* the framework of a well-ordered state and defy certain laws to convince an errant majority that it has swayed from its own sense of justice:

In justifying civil disobedience . . . one invokes the commonly shared conception of justice that underlies the political order. . . . The persistent and deliberate violation of the basic principles of this conception over any extended period of time, especially the infringement of the fundamental equal liberties, invites either submission or resistance. By engaging in civil disobedience a minority forces the majority to consider whether it wishes to have its action construed in this way, or whether, in view of the common sense of justice, it wishes to acknowledge the legitimate claims of the minority. . . . In a democratic society . . . the final court of appeal is not the court, nor the executive or the legislature, but the electorate as a whole. The civil disobedient appeals in a special way to this body.⁴

As they consider resistance, civil disobedients do not have an easy time of

it. They remain a minority forever trying to convince the majority that some of the ways it has chosen to articulate, uphold, or defend the principles of liberal democracy are wrong. Civil disobedients are not conscientious objectors but confront the state in a much more threatening way. Conscientious objectors espouse a personal morality. During war, they are often religious pacifists who pursue a self-imposed obligation to "bear witness" to a non-violent way of life. Conscientious objectors make no claim to represent a shared sense of justice. Their road is solitary; they seek accommodation, not confrontation.⁵

Civil disobedients, on the other hand, claim a political agenda that challenges the state's authority. Unlike conscientious objection, civil disobedience is inimical to the state. Guided by magnanimity and tolerance for religious freedom, many states will make room, either by alternative service or by deferment, for those who absolutely object to war. The state cannot show similar tolerance for those who oppose particular wars. Whereas conscientious objectors anchor their beliefs in an idiosyncratic and private worldview, civil disobedients draw upon a shared sense of justice that appeals to the Western tradition of human rights and humanitarian law to condemn a particular war a state chooses to wage. Civil disobedients call the state to the bar and accuse their government of violating its fiduciary obligation to protect the lives and welfare of its citizens. Neither the state nor the political community it represents can ignore the presence of civil disobedients who wish to radically alter the course of public policy and fight to restore their compatriots to their proper sense of justice.

At its core, a sense of justice, as Rawls pointed out, must respect "fundamental equal liberties," and these include

the human and civil rights animating humanitarian law. Whereas human rights prohibit humiliation, torture, and slavery, cruel and inhuman treatment, and crushing poverty and ignorance, civil rights guarantee such familiar liberties as freedom of speech, movement, assembly, and representation. When states enact laws or undertake policies that violate these rights, whether at home or abroad, during peace or during war, they are open to rebuke and invite civil disobedience. Rawls and most theorists have tried to draw a line between defective legislation that does not threaten the constitutional integrity of the state and that which does. The former is not insignificant, but might be rectified within the existing institutions of law and government and, as a result, demand compliance for the general reasons of public good and social order that Socrates described. These laws do not demonstrate an aberrant public sense of justice but an isolated instance of flawed legislation. Other laws, however, carry far-reaching and global implications. They signify a pattern of overwhelming social injustice that persists without interference from those oversight bodies so essential to democratic checks and balances. These laws defy the spirit of the constitution and, although legally valid, remain morally flawed.

Faced with disobedience and violation of the law, states must take a hard line with civil disobedients. If a democratic state can show magnanimity and accommodate pacifists who cannot conscientiously obey a law committing them to armed violence, the same state must repudiate and diligently prosecute those who defy the law, censure the government, and make a concerted effort to rally others to their cause. For her part, the civil disobedient cannot go quietly if her purpose is to challenge her compatriots' sense of justice rather than silently

bear the burden of an idiosyncratic creed. Her actions must be public and confrontational. She must needle, cajole, and sometimes enrage her fellow citizens to overcome their acquiescence and recover their moral equanimity. For this reason some observers, most notably Rawls, have argued that civil disobedience must be public, be nonviolent, and exclusively target the law the civil disobedient believes is unjust (and no other) while obligating the offender to suffer punishment for her misdeeds. In this way, the civil disobedient has the best chance to transform public policy without undermining the very regime whose policies she opposes. Violent disobedience or actions that violate laws other than those protesters believe are unjust threaten the integrity of the democratic state and undercut the legitimacy of civil disobedience. Civil disobedience cannot bring more harm than the good it proclaims.

Some of these conditions, however, are difficult to fulfill in practice. Civil disobedience takes many forms, as protesters confront authorities and inflame public passions. It might be difficult to avoid breaking unrelated laws as demonstrators fight civil rights abuses or protest an unjust war. Violence, too, is sometimes inevitable, as police and protesters clash. Nor is everyone prepared to accept the punishment the state metes out. Evading the draft to avoid military service in a war of questionable merit best exemplifies the inherent difficulty of meeting the strict conditions that Rawls imposed. Although draft evasion is illegal, it is not a public act. On the contrary, young men evade the draft surreptitiously precisely so they can avoid punishment. Acts akin to draft evasion are, therefore, more accurately described as "evasive noncompliance."⁶ Whereas civil disobedience carries the aura of selfless sacrifice in the name of a higher moral principle,

evasive noncompliance is often tinged with self-interest.

In all fairness, it is difficult to fully disentangle self-interest from “higher” motives to act. Although civil disobedience is sometimes a solitary act, it is most often a form of collective action. Collective action is a unique type of behavior that sometimes creates insurmountable difficulties for rational actors. Because the goal of collective action is a “public” good, available to all regardless of the costs one might incur to gain it, it is often most rational *not* to participate. Consider the two sides of draft evasion. A draft is necessary in the first place because any self-interested individual intuitively understands that the good the draft brings, namely national security, is public, that is, available to all, and indivisible, that is, it cannot be apportioned only to those who fight in the army. More important, it is not obvious that an individual need join the army to gain his share of national security nor that his defection will undermine his nation’s military capabilities. Yossarian put it best:

Yossarian: I don’t want to be in the war anymore.

Major Major: Would you like to see our country lose?

Y: We won’t lose. We’ve got more men, more money and more material. There are ten million men in uniform who could replace me. Some people are getting killed and a lot more are making money and having fun. Let somebody else get killed.

MM: But suppose everybody on our side felt that way?

Y: Then I’d certainly be a damned fool to feel any other way. Wouldn’t I?⁷

Yossarian’s self-interested logic is impeccable. If a sufficient number of individuals serve in the military, one more is not necessary. A person might just as well “free ride.” If an insufficient number serve, then another’s con-

tribution makes little difference. The peculiar logic of collective action underlies Yossarian’s paradox: *however* any others behave, whether they serve or not, it is always rational for a self-interested individual to avoid military service. The result is counterintuitive: Gaining the public good is to a single individual’s advantage; incurring costs to obtain it is not. Under these circumstances, collective action will fail and no one will enlist. To avoid calamity, the state must either entice recruits with salaries, educational benefits, and adventure or coerce individuals to risk their lives and so conscript young men and women. In each case, the introduction of positive or negative incentives alters an individual’s calculation of self-interest and makes it rational for him to serve in the armed forces.

The same is true for civil disobedience. Here, civil disobedients seek an end to the war, a public good of inestimable value. Their concern is global, for the entire polity will benefit once war has ended. Anyone facing the call to civil disobedience confronts the same rational impediment as the person called to arms. Civil disobedients, however, cannot turn to coercion or the “negative” incentives that the state can impose. Although some antiwar protesters answer the call to duty, others respond to “solidarity” incentives: appeals to friendship, fellow feeling, a sense of adventure, or a chance to meet like-minded people. Solidarity incentives figure prominently and bear no direct connection to the fight against injustice that many believe typifies an antiwar movement. As a result, successful collective action not only enlists those motivated by a selfless sense of duty, but often appeals to those motivated by reasons only tangentially related to the cause at hand.⁸

Once we realize that the underlying motives of civil disobedients are sometimes quotidian, our reluctance to see

the moral merit of evasive noncompliance may disappear. Assuming that most draft evaders would not hesitate to serve in a just war (otherwise, they would be conscientious objectors and gain the forbearance of the state), their motives, at worse, combine self-interest with a commitment to a moral principle that appeals to the justice of war. Unlike the student demonstrator who publicly declares his opposition to the war and willingness to take on the authorities, the potential draftee faces much higher costs for his opposition. Stiff prison terms and/or conscription are the norm for evasion. These personal costs are difficult to overcome unless draft evaders, like the religious conscientious objector, bear witness to a higher religious truth that offers otherworldly rewards they believe will come from their unswerving commitment to their God. Yet, in spite of the overbearing appeal of self-interest, there is no reason to assume that many evaders do not feel a passionate and conscientious opposition to a particular war and hope that through their evasion they may weaken public support for the government. Like the civil disobedient, the draft evader responds to a variety of both ordinary and extraordinary motives.

Evasive noncompliance shares many attributes of civil disobedience. Both justify violating the law by an appeal to overriding moral principles. Because obedience to the law is a *prima facie* duty of any citizen, violating the law must constitute a means of last resort to rectify an infringement of equal liberties. Although disobedients and noncompliers act for a variety of motives, they generally sympathize with demands for long-term social change. Neither acts solely from narrow self-interest. Finally, both civil disobedience and evasive noncompliance must meet the test of utility and bring more good than harm on balance.

Although physicians sometimes engage in civil disobedience, they do not often violate the law in their professional capacities. When they do, it is most often to uphold and defend the canons of medical ethics. Draft evasion, however, poses harder problems. When physicians aid draft evaders, they violate the law *and* the most basic principles of medical ethics.

Medical Civil Disobedience

"Dissent," wrote James Childress, "is not common in health care."⁹ Significant examples are as tightly defined as Rawls demanded. Fighting abortion or resisting laws that restrict the withdrawal of life support to the detriment of the patient have brought doctors and nurses to publicly defy the law, treat their patients as they feel their professional integrity demands, go public, and bear the repercussions. Championing abortion rights or the right to die with dignity, doctors who defy the law ultimately appeal to the welfare and/or rights of their patient.¹⁰ Physicians who practice abortion in defiance of the law or who counsel women about birth control where this is illegal seek to both protect the health and the rights of their patients and convince the public institutions of justice that these policies are unjust and must be changed. The argument turns on both the benefit of safe and legal abortions for pregnant women who might otherwise resort to dangerous, back-alley procedures and the deontological force of a woman's right of self-determination and privacy. In these circumstances, the conscientious physician places his professional obligations as a healer against his *prima facie* obligation to obey the law. As the former gain strength and the latter weakens in the face of a law that infringes on fundamental liberties, disobedience becomes

a legitimate moral option. Physicians can appeal to beneficence or respect for autonomy to justify their actions as they endorse contraception, perform abortions, withdraw life support, or assist critically ill patients to die.¹¹ In these cases, medical civil disobedients operate within the paradigm of medical ethics and invoke its moral norms to override the law when the two conflict.

Support for draft evasion is significantly different, as the disobedient physician appeals to a higher norm to override both the bioethical imperative to tell the truth and the law of the land that prohibits draft evasion. He can justify his actions only by arguing that both the law and professional medical ethics are subordinate to higher moral principles of justice. For this argument to work, the civil disobedient must assert a greater good or greater deontological principle that overrides his other duties. This he finds in the principle of just war.

States do not often face civil disobedience during war. Ordinarily they command the legal and moral authority to conscript citizens in the interest of legitimate national defense. And, most often, the vast majority of citizens comply. Those that do not face arrest and imprisonment while their compatriots look on with few misgivings and, indeed, a sense of just desert. The war in Vietnam, of course, changed all this. The justice of this war was not obvious to many observers nor to many of the young people called to fight. Those protesting the war, including physicians who aided and abetted draft evaders, appealed to the principle of just war to allow them to override both their civic and professional duties.

The principle of just war is generally framed in terms of the legitimate ends and means of war and entails two complementary principles:

Jus ad bellum: the just ends of war. A just war is a war of self-defense, a last-resort measure necessary to stave off an armed attack against a nation-state or recognized political community. There is also growing recognition that just wars also include international law enforcement and humanitarian intervention.

Jus in bello: the just means of war. A just war demands that belligerents respect human rights, refrain from using weapons that cause unnecessary suffering, make a concerted effort to protect noncombatants from unnecessary harm, and cease hostilities once they have disabled their enemy. Just wars do not indiscriminately target civilians, forever displace indigenous populations, or seek to annihilate an adversary.¹²

The principles of just war invoke the same shared principles of justice underlying the political order that justify civil disobedience when they are persistently and deliberately violated by the state. War, by its very nature, abridges, curtails, and often denies fundamental *civil* rights, as war restricts freedom of movement and assembly, the right to a free press, and representation. Generally, however, these measures are a temporary expedient, necessary to maintain order but subject to restoration once hostilities have ceased and occupation has ended. Abridged or unequal civil rights do not generally serve as cause for civil disobedience during war unless they remain unrestored for unnecessarily long periods of time. Human rights, on the other hand, remain inviolable during war. Human rights protect anyone, but most particularly noncombatants, from torture, enslavement, wanton death and suffering, indignity and humiliation, indigence, and political impotence. Blatant wars of aggres-

sion, unnecessary wars that defend dubious interests, and wars prosecuted without regard for the welfare of noncombatants merit condemnation and invite disobedience and non-compliance.

Although each principle of just war is conceptually distinct, a just war requires both legitimate ends and means. Many Americans objected to the Vietnam War because it did not serve the interests of self-defense, did not stave off an armed threat to the United States, brought unnecessary death and destruction on the civilian population of Vietnam, and ignored the legitimate political interests of the Vietnamese by propping up a corrupt regime. In the period following World War II, other nations, such as France, found themselves locked in unpopular colonial wars that sparked similar moral outrage as the French tortured and abused Algerian insurgents. More recently, Israel's ongoing war with the Palestinians has elicited a similar response, as Israel's attempt to generally preserve humanitarian law in the face of vicious terror attacks has done little to quiet claims that it continues to wage an unjust war of occupation.

Despite the fact that a war may be unjust, the state nevertheless retains its right to conscript young men and women into military service. When wars are unjust, some individuals will refuse to fight either because they cannot, in good conscience, fight in an unjust war and/or because they hope their refusal may sufficiently impair manpower or impinge upon public opinion to force a change in policy. In these circumstances, physicians can play a crucial role if they choose to abet draft evasion. Because conscription is subject to a recruit's good health, physicians are uniquely situated to certify draft evaders as unfit for duty.

Physician-Assisted Draft Evasion

Before appraising a decision to abet draft evasion, consider first the obligation to obey the law and respect the principle of truth telling. Asked to abet draft evasion, a physician might reasonably respond with the following arguments:

1. It is against medicine's professional code of ethics to lie.
2. Draft evasion is against the law.
3. Draft evasion may harm others:
 - a. by undermining a nation's ability to defend itself
 - b. by reducing the pool of eligible young men and women and thereby placing a greater burden on others.
4. Every citizen must do his or her duty and I cannot assist those who shirk their duty.

A physician now contemplating a request to aid a draft evader faces the prospect of violating his duty to both tell the truth and obey the law. To justify either violation requires an argument grounded in utility substantiating that, in some instances, lying and blatantly violating the law bring a greater good than truth telling and obedience, or a claim that the duty to tell the truth and obey the law of the land fall before some higher moral principle that overrides both. Consider the first obstacle: Must a physician always tell the truth? Sometimes the answer is no, one may appeal to beneficence to override the imperative to respect autonomy and always tell the truth. This is true of therapeutic lies:

The therapeutic lie. In a hypothetical case, White and Gampel describe how a woman critically injured in a car wreck is not told that her children also died in the accident. When

asked directly, her caregivers lie, convinced that the truth may cause her irreversible harm.¹³

This is not yet an act of civil disobedience for no law has been broken. In other instances, violating medical ethics may also violate the law. This happens as one thinks about gaming the system:

Gaming the system. In Oregon, a certain illness, A, is uninsured and patients cannot obtain treatment. However, another illness, B, is ranked higher and guarantees insured treatment. By happy coincidence, the treatments for A and B are identical although the diseases are different. To provide treatment, doctors game the system and lie about their patients' true conditions so they may receive care.¹⁴

In each of these cases, beneficence, the duty to see to a patient's welfare, overrides a physician's obligation to tell the truth and obey the law. The therapeutic lie is, perhaps, less controversial. Here a doctor lies to his patient with the understanding that divulging the true nature of her tragedy will harm her health and impair her chance of recovery. Here, too, the breach of autonomy is temporary. Once the patient sufficiently recovers, she will learn the truth. Beneficence overrides respect for autonomy and the physician's duty to tell the truth. The downside risk is minimal. Although lying may impair the physician's integrity and jeopardize his patient's trust, these effects disappear once the patient recovers, learns the reason for the deception, and trust is restored.

The second case is more complex. The physician does not lie to his patient but to a third-party provider, perhaps his employer. His actions are illegal as well as unethical. Here, too,

however, the patient's welfare motivates his doctor to lie and confirm an illness only because it guarantees the treatment a patient needs for his actual, but uninsured, condition. But the lie is not short-lived, nor does the truth ever emerge. Nor are the long-term consequences clear. Gaming the system might easily undermine the provision of fair healthcare.

Evasive noncompliance accurately describes gaming because the physician's action is covert and nonconfrontational. Nevertheless, noncompliance, like civil disobedience, must meet several tests. To lie and meet the conditions for legitimate evasive noncompliance the physician here must demonstrate that illegal actions:

- constitute a last resort, without which it is impossible to avert harm
- appeal to a higher or at least equally weighty moral principle
- pass the test of utility so that the physician's illegal act brings more benefit than harm.

When gaming the system, a physician lies to uphold beneficence and/or protect his patient from what may be discrimination. He must ask himself whether he might forestall harm to his patient by other means, whether beneficence and/or fair access to health care are sufficiently weighty principles to stand against the duty to tell the truth, and whether gaming the system does not do more harm to more people than abiding by the rules. One can also imagine another variant of gaming that allows a physician to lie by appealing to global beneficence, that is, the welfare of other patients. Convinced, perhaps, that the entire system is corrupt or discriminatory, a caregiver goes out of his way to help as many patients as possible to game the system to both protect their wel-

fare and, at the same time, change the structure of local healthcare. Civil disobedience here, too, must stand the test of last resort and utility.

Gaming the system is close to abetting draft evasion with one significant difference. A physician who games the system appeals to beneficence and acts to prevent health-related harm to his patient or group of patients that come from a system that functions to his or their disadvantage. The justification for gaming the system lies within the paradigm of patient care and an assessment of the health-related consequences that undermining the system may have for others. Although a physician has an interest in his patient's welfare, he may not harm others as he pursues his patient's well-being. Convinced his actions harm no one else, a physician may decide to game the system to care for his patients.

Any decision to aid draft evaders, in contrast, cannot appeal to beneficence. If beneficence is an overriding norm, doctors must *always* refuse to certify the fitness of conscripts for military service just as they should endeavor to prevent their wounded patients from ever returning to service (by doctoring their medical records, for example) whether a war is just or unjust. But he does not. Most physicians would not and should not give a second thought to aiding draft evaders during a just war. Abetting draft evasion only gains moral force when war is unjust—that is, when it violates a political conception of justice. It has nothing to do with beneficence or health-related norms of justice.

Disobedience to the law must meet the same conditions that drive any act of civil disobedience or evasive non-compliance. A decision to aid draft evaders must consider both the act of draft evading and the act of lying to avoid conscription. Each act poses a moral dilemma, for it posits the obli-

gation to oppose an unjust war against the duty to obey the law. For the physician, the professional obligation to tell the truth compounds the dilemma but the principle of beneficence is not at stake. Assuming that gross violations of the principles of just war offer sufficient grounds to temper one's prima facie obligation to obey the law, one must ask whether they also offer sufficient grounds to override a physician's professional obligation to tell the truth. Ordinarily, this principle is fundamental, but I have already noted two cases where truth telling falls to beneficence and, more generally, to calculations of utility. Nevertheless, one can still imagine a physician responding that he must never lie. He would not tell a therapeutic lie but, perhaps, temporarily avoid telling the truth. He would refuse to game the system while, perhaps, referring his patient to another physician. Under these circumstances, the dilemma does not get off the ground. In fact, there is no dilemma for the Kantian who refuses to lie under any circumstances.

Scratching the surface, however, one often finds a utilitarian argument: Lying is wrong because it brings harm. To make a case, draft evasion must exemplify a last-resort means to avoid injustice and meet the test of utility. This is often difficult to ascertain. A draft evader may publicly disobey the law and accept punishment or evade the law and flee the country before he asks a physician for a fraudulent medical report. Each of these options involves significantly higher costs. Evasion by means of a fraudulent medical deferment, on the other hand, adds the cost of a physician lying, the harm this brings to others, and the harm this may bring to the medical profession. Draft evasion by any means may save one person, but endanger another who must take his place.

Assessing these costs varies with circumstances. When wars are very unpopular, physicians may argue that although medical civil disobedience violates the law and the principles of medical ethics, it enhances rather than undermines their professional integrity. The harm that evasion may bring to others is extraordinarily difficult to evaluate. It is impossible to know who, if anyone, will take one's place, what may befall him, and whether he, too, may evade the draft. Moreover, harm to others might be precisely the point the draft evader wants to make. By forcing the government to triple their efforts to find recruits, draft evaders hope to hobble military capabilities and turn public opinion against the war. These are the costs and benefits any civil disobedient weighs as he considers the utility of violating the law and undermining public policy.

I will not try to sort through these utility calculations any further, but only point out how the moral principles that characterize just and unjust war may clash with and override fundamental principles of medical ethics. As physicians consider their duty to oppose unjust war, they move outside the paradigm of medicine and violate the law out of a commitment to justice that overrides the principles of medical ethics. This is a remarkable shift in priorities as medicine subordinates its principles to those of civic justice.

This is remarkable because all too often we hear that medicine itself is a higher calling, one that appeals to the welfare of the patient above all else. But during war, the welfare of the patient falls to collective interests that may include reason of state or national self-defense. During war, physicians generally certify their patients for military duty knowing full well they may suffer death or injury. We attribute this to military medicine's commitment to building a nation's

fighting force and conserving manpower at the expense of individual liberties and ordinary patient rights. Medicine serves the interests of the community, and, during war, many of medicine's fundamental principles are called into question. Patients, particularly soldiers, lose their autonomy, privacy, and right to die.¹⁵ To keep a unit fit, military personnel treat the wounded with an eye on salvage utility, that is, the likelihood the wounded can return to fight, rather than on medical need. And, of course, medical doctors certify a person's fitness to fight and die. In each of these instances, it is tolerable and, indeed, necessary for physicians to place their professional services and their canon of ethics in the service of war when it is just.

When war is unjust, however, doctors must use their good offices to achieve other ends. Unjust wars signify a gross violation of justice and threaten to tear apart the moral fabric of the community. Physicians who understand that truth telling is not sacrosanct but must meet the test of utility may be inclined to aid draft evaders if this, indeed, contributes to the end of an unjust war. The effects of lying may be difficult to ascertain. One must be careful to avoid the slide toward beneficence and the conviction that lying to avoid the draft is justified because it benefits a doctor's patient. Although the individual patient invariably has the most to gain, his or her welfare does not and cannot justify draft evasion in the same way it justifies gaming the system or a therapeutic lie. Beneficence—that is, the good of the patient—is not a relevant consideration. Instead, a physician must be content to take the extreme steps of violating the law and the duty to tell the truth in the hopes that it will assuage a person's conscience that she did everything she could to end an unjust war.

Notes

1. Honey MK. The war within the Confederacy: White unionist of North Carolina. *Prologue—Quarterly of the National Archives* 1986;18(2):75–93.
2. Dickerson J. *North to Canada*. New York: Praeger Publishers; 1999:71.
3. For anecdotal accounts from the Vietnam War see Gottlieb S. *Hell No, We Won't Go! Resisting the Draft during the Vietnam War*. New York: Viking; 1991:139–72; Baskir LM, Strauss W. *Chance and Circumstance: The Draft, the War and the Vietnam Generation*. New York: Knopf; 1978:36–48.
4. Rawls J. *A Theory of Justice*. Cambridge, Mass.: Harvard University Press; 1971:365–6, 390. Also see Bedau HA. *Civil Disobedience: Theory and Practice*. New York: Macmillan; 1969; Bedau HA, ed. *Civil Disobedience in Focus*. London: Routledge; 1991.
5. Brock P, Young N. *Pacifism in the Twentieth Century*. Syracuse: Syracuse University Press; 1999.
6. Childress JF. Civil disobedience, conscientious objection, and evasive noncompliance: A framework for the analysis and assessment of illegal actions in health care. *The Journal of Philosophy and Medicine* 1985;10: 63–84.
7. Heller J. *Catch 22*. London: Transworld; 1961:115.
8. Chong D. *Collective Action and the Civil Rights Movement*. Chicago: University of Chicago Press; 1991; Olson M. *The Logic of Collective Action*. Cambridge, Mass.: Harvard University Press; 1971; Opp K-D. Soft incentives and collective action: Participation in the anti-nuclear movement. *British Journal of Sociology* 1986;16:87–112; Opp K-D, Gern C. Dissident groups, personal networks and spontaneous cooperation: The East German revolution of 1989. *American Sociological Review* 1993;58:659–80.
9. See note 6, Childress 1985:63.
10. Madden EH, Hare PH. Civil disobedience in health services. In Reich WT, ed. *Encyclopaedia of Bioethics*. New York: Macmillan Free Press; 1978:159–66; Wicclair MR. Conscientious objection in medicine. *Bioethics* 2000; 14(3):205–27.
11. See note 6, Childress 1985; note 10, Wicclair 2000; note 10, Madden, Hare 1978:159–62.
12. The now classic statement is Walzer M. *Just and Unjust Wars*. New York: Basic Books; 1977. For more recent evaluations see Best G. *Humanity in Warfare*. New York: Columbia University Press; 1980; Holmes RL. *On War and Morality*. Princeton: Princeton University Press; 1989; Coates AJ. *The Ethics of War*. Manchester: Manchester University Press; 1997; Norman RJ. *Ethics, Killing, and War*. New York: Cambridge University Press; 1995.
13. White B, Gampel E. Resolving moral dilemmas: A case-based method. *Healthcare Ethics Committee Forum* 1996;8(2):85–102.
14. Jacobs L, Marmor T, Oberlander J. The Oregon Health Plan and the political paradox of rationing: What advocates and critics have claimed and what Oregon did. *Journal of Health Politics Policy and Law*. 1999;24(1): 161–80; Leichter HM. “Oregon’s bold experiment: Whatever happened to rationing? *Journal of Health Politics Policy and Law* 1999; 24(1):147–60.
15. Gross ML. Bioethics and armed conflict: Mapping the moral dimensions of medicine and war. *Hastings Center Report* 2004;34(6):22–30.