

## *The Dictates of Conscience: Can They Justify Conscientious Refusals in Healthcare Contexts?*

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**Abstract:** In a recent article in this journal, Steve Clarke (2017) identifies two different bases for conscience-based refusals in healthcare: (1) all-things-considered moral judgments, and (2) the dictates of conscience. He argues that these two bases have distinct roles in justifying conscientious objection. However, accepting that there are these two bases, I argue that both are not able to justify conscientious objection. In particular, I argue that the second basis of the dictates of conscience cannot justify conscience-based refusal in a healthcare context. Even if someone objects in a healthcare context on the basis of the dictates of her conscience, and even if we can explain why she objects with reference to the dictates of her conscience, her objection will only be justified if she makes a judgment.

**Keywords:** conscience-based refusals; moral judgments; conscientious objection; dictates of conscience

In a recent article in this journal, “Two concepts of conscience: Implications for conscience-based refusal in healthcare,” Steve Clarke argues that, while there are competing proposals for how to accommodate conscientious objection in healthcare contexts, there is no principled way in which we can adjudicate between the proposals.<sup>1</sup> The three competing proposals that he identifies can be called the Reasonability View, the Genuineness View, and the Combination View. In order to define a principled way for adjudicating between the proposals, Clarke identifies two different bases for conscience-based refusals and argues that these two bases have distinct roles in justifying conscientious objection. The two bases he identifies are: (1) all-things-considered moral judgments, and (2) the dictates of conscience—where conscience is understood as a subcomponent of the mind that gives rise to moral intuitions. Because these two bases have distinct roles in justifying conscientious objection, Clarke argues that we are able to adjudicate between the competing views in a principled manner, and he ultimately favors a Combination View.

While Clarke is correct that there needs to be a principled way for adjudicating between the different proposals, he is wrong that his two bases are both able to justify conscientious objection. The second basis of the dictates of conscience cannot justify conscience-based refusal in a healthcare context, as I shall argue. In fact, even if someone objects in a healthcare context on the basis of the dictates of her conscience, and even if we can explain why she objects with reference to the dictates of her conscience, her objection will only be justified if she makes a judgment. So, while examining the distinct bases does give us a principled way to assess the proposals, we should nevertheless favor a Reasonability View.<sup>2</sup>

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### Constraining Conscientious Objection

The issue of conscientious objection in healthcare is, at its core, an issue revolving around the competing rights and interests of healthcare workers and healthcare users, as well as the fact that making a decision to refuse to provide a service is not a decision taking place in a vacuum. Healthcare workers are individuals with moral and religious opinions that may be core to their person, and they may be required to perform procedures that they find reprehensible on moral or religious grounds. A prime example is abortion, a procedure that is legally permissible in a number of liberal democratic countries but that many find morally problematic. In addition, healthcare workers themselves are members of social communities, such as religious communities, where their membership may also be core to their person and may influence the kinds of values they hold, as well as what kind of actions they are willing to take, given the social consequences they might face. In order to respect healthcare workers' autonomy and beliefs, as well as their capacity to operate in their social environments, there arguably should be some provision for them to refuse to perform certain procedures on the basis of their conscience.

On the other hand, the procedures they are otherwise required to perform are not only legally permissible in their country, they are often key services that enable the protection and promotion of rights. Providing safe abortion, for instance, is not simply a matter of good service provision, nor simply a matter of providing access to healthcare on demand. Access to a procedure like safe abortion arguably plays an important role in ensuring social equity, by promoting the rights of women. If the practice of conscientious objection to provide a procedure such as abortion is allowed without any constraints, then the provision of services to which healthcare users have a right can be severely compromised—as has indeed been the case—and, in many cases, compound the disadvantages that certain sectors of the population already face. For instance, in a country like South Africa, where access to abortion has been a protected legal right since the Choice on Termination of Pregnancy Act was implemented in 1997, many women are still unable to access safe abortion services largely due to unfettered conscientious objections.<sup>3</sup>

Given this conflict, along with a proliferation of conscience-based refusals in healthcare, there is a genuine need to critically examine the justification for conscientious objection in healthcare, as well as a need to identify a means to both allow and constrain it. A number of bioethicists have taken up this task to examine under what conditions conscience-based refusals are justifiable.

Some, like Christopher Meyers and Robert D. Wood, argue that those objecting on the basis of conscience must show that their belief is “profoundly held” or “genuine” if their refusal is to be justified and thus respected.<sup>4</sup> Such beliefs must be shown to be central to the objector's values. Following labeling conventions found in the literature, this can be called the “Genuineness View.”<sup>5</sup> Others, like Robert Card, argue that those objecting on the basis of conscience must be able to articulate good reasons for their refusals, if those refusals are to be justified and thus respected.<sup>6</sup> This can be called the “Reasonability View.” Yet others, like Lori Kantymir and Carolyn McLeod, argue for a view—which they call “proving reasonableness and genuineness plus”—that combines Genuineness and Reasonability, and requires that conscientious objectors show either that their objections are genuine or that their refusals are reasonable.<sup>7</sup> Here, I shall call this a “Combination View.”

In order to proceed with putting practical systems in place, we need to be able to choose which of the proposals to follow. And, as Steve Clarke argues, in order to choose between the proposals, we need to be able to adjudicate between them in a principled way. Clarke finds all three of the standard approaches—the Genuineness View, Reasonability View and Combination View—wanting because they all propose the similar idea “that conscientious objections should be reasonable and/or genuine” without actually explaining why conscientious objections should have this feature in the first place.<sup>8</sup> Why is genuineness more, or less, relevant than reasonableness, or why are they both relevant? Is one more true to the nature of conscientious objection than the other? Without having a principled way to answer these kinds of questions, we are not in a position in which we can adjudicate between the proposals. But not being able to adjudicate between these proposals means that we could implement a method of dealing with conscientious objection that completely overlooks the validity of a whole class of justifiable objections. This is quite obviously an undesirable situation.

### **Clarke’s Argument: The Two Bases for Conscientious Objection**

Clarke argues that not being in a position in which we can adjudicate between the proposals risks having severe implications, if we adopt one proposal but not another. To show this, Clarke’s method is to critically examine the very concept of “conscience” and how it can support the identification of criteria, such as reasonability or genuineness, for testing conscience-based refusals.

He argues that there are two legitimate bases for refusal that could justify conscientious objection: (1) an all-things-considered moral judgment, and (2) the dictates of conscience, where, say, the conscience is a “particular subcomponent of a person’s mind” that “tells that person to oppose abortion,” and the person believes that she ought to obey her conscience.<sup>9</sup> Given that there are these two bases, Clarke argues that both should be accommodated in a proposal for limiting conscientious refusals in healthcare; ultimately he argues in favor of a version of a Combination View.

According to Clarke, the Reasonability View and the Genuineness View by themselves are insufficient because neither view is able to accommodate both of the bases. To see this, let us start with the first basis, which is an all-things-considered moral judgment. A doctor, to use Clarke’s example, may consider the arguments in favor of and against abortion, and come to the decision that the arguments against abortion outweigh those in favor. If the doctor refuses to provide abortion services on the basis of her conscience in this situation, she is refusing on the basis of an all-things-considered moral judgment.

If a refusal is based on an all-things-considered judgment, then, Clarke argues, the objectors are claiming that they have “done the work of reasoning through a particular moral problem” and “their view is based on the results of that reasoning.” As such, “it is appropriate for one to ask them to assure that their reasoning is of a sufficiently high standard to justify allowing them to refuse to do some aspect of their job that they find morally objectionable.”<sup>10</sup> Such a demand speaks in favor of the Reasonability View for assessing whether or not an instance of conscience-based refusal is justified.

However, asking conscientious objectors who refuse on the basis of an all-things-considered judgment to also demonstrate that their objection is “genuine”

and “profoundly held,” as per the Genuineness View, would miss the point. If someone’s refusal is based on an all-things-considered judgment, then she has already reasoned through countervailing considerations and could have, in the process, become less sure of her conviction. But if that is the case, then she may lack a deeply-held conviction yet her “objections seem just as legitimate as those of someone who has the same reasons and is passionate about those reasons.”<sup>11</sup> The Genuineness View for evaluating the objection would risk excluding this class of objectors.

Let us turn to Clarke’s second basis, the dictates of conscience. On Clarke’s understanding, the conscience is a subcomponent of the mind that informs the person what the moral status of some act is, and which the person believes she ought to obey. The products of conscience, then, are moral intuitions that “serve to guide behavior.”<sup>12</sup>

Are the dictates of conscience the moral intuitions (or, more precisely, given by the moral intuitions)? This would seem a natural way of understanding what the dictates of conscience are. It also helps to explain why Clarke focuses on moral intuitions rather than on the subcomponent of the mind, the conscience. However, Clarke elsewhere mentions that the dictates of conscience are themselves a source of moral intuition.<sup>13</sup> It would thus seem that Clarke’s dictates of conscience could be the conscience itself. Nevertheless, I do not think that this is the best way of understanding what the dictates of conscience are, because the dictates are what the conscience prescribes, and not a subcomponent of the mind. Going forward, I therefore interpret the dictates of conscience as relating to the products of conscience, the moral intuitions, and what the moral intuitions prescribe. It is therefore the moral intuitions that form the second basis for conscience-based refusals and that Clarke argues are a legitimate basis for conscientious objection.

If a conscientious objection is based on the dictates of conscience, then, in many cases, the person may not be able to articulate the reasoning behind why her conscience has given rise to these dictates and not others. As such, “it is not appropriate to ask them to articulate the reasoning that underpins their judgement” as a Reasonability View would require.<sup>14</sup> In contrast, the Genuineness View is better able to assess the justification of the refusal. If a profoundly held view entails feeling passionate about it, then we can expect someone basing their objection on the dictates of their conscience to feel that passion.

Because of the different bases for a conscience-based refusal, Clarke argues that both the Reasonability View and the Genuineness View have relevance. Ultimately, Clarke accepts a Combination View, and bolsters it by providing a theoretical underpinning that it previously lacked.

Clarke is quite right that there needs to be a principled way of choosing between proposals. He is also right to acknowledge that there may be at least two legitimate bases related to the conscience that justify conscientious objections—a possibility we ought to keep open, given how disputed the concept of “conscience” is in the first place. We can also accept the two bases that he identifies as genuine bases for someone’s refusal. However, he is wrong to assume that the two bases *justify* the conscience-based refusal, and not merely explain it, and consequently, that they provide support for something like a Combination View. In fact, if we closely examine *how* the bases might justify a conscience-based refusal, we see that both support a Reasonability View over a Genuineness or Combination View.

### Laying the Ground for a Critique of Clarke's Argument

Let us accept that there are the two bases of conscientious refusal that Clarke identifies: (1) all-things-considered moral judgment, and (2) the dictates of conscience. As Clarke rightly notes, a judgment is not likely to be controversial amongst those who are sympathetic to allowing conscientious refusals. I will therefore set it aside. My focus will be on the dictates of conscience. These dictates of conscience may be able to explain why someone objects, but they would not suffice when justifying the objection, at least in a healthcare context. In order to unpack my argument, in this section I will clarify what the dictates of conscience are, and highlight that, on Clarke's framework, moral intuition is a form of emotional intuition. In addition, I will examine the distinction between explanation and justification against a backdrop of rational agency. In subsequent sections, my argument will be developed. As a result of the link to emotion, I draw on research in the philosophy of emotion in order to show how different understandings of the conscience-related basis for conscientious objection play out with regard to justifying conscientious objections in a healthcare context. Ultimately, I argue that, while the basis may be useful for explaining why someone objects, it fails to provide justification for that objection. When a conscience-based refusal in a healthcare context can be justified, the basis for the refusal will be a judgment. And if it is a judgment, then the Reasonability View is the best contender for a practical way forward.

Let us start by breaking down what we mean by moral intuitions. As previously mentioned, Clarke's two bases for conscientious objection are all-things-considered moral judgments and the dictates of conscience, where conscience is understood as a subcomponent of a person's mind that gives rise to moral intuitions. These moral intuitions, it turns out, are a kind of emotional intuition.

In order to characterize what conscience is and what the dictates of conscience are, Clarke appeals to the work of Paul Thagard and Tracy Finn, in which conscience is described as "a neural process that generates emotional intuitions combining bodily reactions with cognitive appraisal concerning a specific subset of goals."<sup>15</sup> Emotional consciousness, more generally for Thagard and Finn, results from an integration of a somatic awareness of the bodily response and a cognitive appraisal of the situation at hand. Many emotional intuitions, as well as instances of emotional consciousness, are not especially moral, so moral intuitions are a particular subset of emotional intuitions, namely those where the cognitive appraisal relates to a subset of goals that includes judgments regarding the moral status of one's own acts, future acts, and the acts of others. According to Thagard and Finn, the products of conscience are thus moral intuitions—"the feelings that some acts are right and others are wrong"—where a moral intuition is "a particular kind of emotional consciousness."<sup>16</sup>

The factors that influence how one develops a conscience, or what moral values and goals one might have, could be diverse. This picture of conscience remains neutral on the influences, and on whether they are innate or social. What is important about this picture of conscience and emotional consciousness, however, is that it is one where the conscience generates moral intuitions—which are a subset of emotional intuitions—and these intuitions combine a bodily reaction with a cognitive appraisal of a subset of goals related to the moral status of actions. If we accept all of this, we can look immediately to work done in the philosophy of emotion in order to critically examine whether or not an emotional intuition, moral or

not, is the right kind of thing to justify a conscience-based refusal. Before doing so, however, more must first be said about the distinction between explanation and justification, as well as the importance of a context of rational agency for conscientious objection, so that we can identify minimal requirements for an action—in this case a refusal—to be justified.

The debate around conscientious objection in medicine is not one about how best to understand why people might object to certain procedures or services; it is a debate around whether or not those objections should be respected and, if so, how. Coming to understand an objection or refusal is valuable in itself, but when a medical practitioner refuses to provide a service to which a patient has a legitimate claim or expectation, that refusal will impact the choices and rights of the patient. The refusal must therefore be justified, not merely understood.

Further, when we even ask the question of whether or not we should respect the choices of conscientious objectors, we are assuming that we are dealing with rational agents. Rational agents are autonomous agents with beliefs, desires and preferences; they are agents who operate in a range of social milieus and have beliefs, desires and preferences for how they operate. It is the beliefs, desires and preferences of such agents that we believe ought to be respected to as great an extent as possible. Consequently, we need to assess someone's objection against a backdrop of assuming that she is acting in a capacity that we ought to respect, namely, her rational capacity. But what do we take rational agents to be?

Core to our conception of rational agency is the idea that a rational agent acts for reasons seen as reasons, where a reason for acting is a consideration in favor of so-acting. Agents do not simply react and respond to would-be reasons; they see the reasons as favoring an action, and guide their actions in light of these reasons.<sup>17</sup> In other words, they guide their action by reasons seen as reasons.

So, if I am a medical practitioner and refuse to perform a certain medical procedure because of my conscience, then I refuse because I guide my action by considerations I take to be reasons for refusing. I don't refuse because I am merely reacting to how I feel or because I am being forced into acting, regardless of how I see the considerations. I see those considerations as reasons not to perform the procedure—and this is true even if I am unable to formulate what those considerations, as reasons, are. As such, if we are to show how the refusal is justified and not merely understandable, we need to show that the refusal is indeed part of, or at least compatible with, the person's rational agency, what we want to respect in the first place. This means that justifying an action involves more than explaining an action. Clarke's two bases help us to understand how and why people might refuse to perform certain procedures, what it is that motivates them and why they may not be able to formulate reasons in many situations. But justification has more stringent requirements, and his two bases do not stand on equal footing in this regard, as shall now be argued.

### **How Not to Justify Conscience-Based Refusals**

On Clarke's framework, moral intuitions, as emotional intuitions, combine the experience of bodily reactions with a cognitive appraisal. This means that, when we act on the basis of a moral intuition, we could be acting on the basis of the experience of the bodily reaction, the cognitive appraisal, or some combination of both.

A first option for why we act in the way we do is thus that we are acting solely on the basis of the experience of the bodily reaction, such as by acting in response to the arousal or motivational aspect of the way our moral intuition, as an emotional intuition, feels. Arousal includes feelings of bodily and psychophysical changes, while motivation is the feeling to move or act in a certain way. But the way an emotional intuition feels, as either arousal or motivation, does not justify a conscience-based refusal. This is because people acting on the basis of their conscience are not typically acting because, say, they are aware of the sensation of their stomach spinning and see the spinning sensation as a reason to object—and, if they were, it is far from clear that a spinning stomach is a reason to justify an action that compromises someone else's rights and choices. And simply being motivated to act is not enough to justify the action. After all, one can be motivated to do a range of things but it does not follow that the actions are thereby justified.<sup>18</sup>

Perhaps when we act on the basis of our consciences we are not acting on the basis of the experience of the bodily changes—either as arousal or as motivation—but because the feeling of the bodily change is pleasant or unpleasant; this can be referred to as the emotional intuition's "affect valence."<sup>19</sup> Can the affect valence, the positive or negative character of the feelings, justify a conscience-based refusal?

At first glance, it looks like Clarke might have something like affect valence in mind when he argues that the dictates of conscience can justify conscience-based refusals.<sup>20</sup> He considers an objection that acknowledges that there could be a role for the dictates of conscience, but that requires that we still make a moral judgment endorsing the dictates of conscience, where it is the judgment we act on.<sup>21</sup> If so, the Reasonability View provides the best way forward in order to accommodate justified conscientious objection. In Clarke's response to this objection he makes use of an example that, superficially at least, supports interpreting Clarke as arguing that something like the positive or negative character of the feelings of an emotion, the affect valence, is what justifies conscience-based refusals. This is the example of Fictional Clarke, the Wannabe Bike Thief.

Fictional Clarke's conscience tells him firmly that it is wrong to steal. However, Fictional Clarke (FC) has been persuaded that stealing from the rich and giving the proceeds to the poor can be morally justified. So, he goes about stealing bikes, selling them and donating the proceeds to charity. However, FC is wracked with guilt about the theft. He still judges that stealing in this kind of context is morally permissible, perhaps even required, and that he really should keep on stealing and donating the proceeds—"but I now start to feel that I am unable to live up to my ideals."<sup>22</sup> As a result, FC decides to stop deliberating about theft, listen to the dictates of his conscience, and not steal. In such a case, (Real) Clarke suggests that, because of his feelings of guilt, we cannot insist that FC continues stealing despite the fact that his all-things-considered judgment finds no fault with the action.

A parallel case in healthcare would be a medical doctor who judges that abortion is morally permissible, even required, yet still experiences guilt. Just like FC should be allowed to refuse to steal bikes, so should the doctor "be allowed to conscientiously object to the provision of abortion, even though her all-things-considered moral judgment is that abortion is morally permissible."<sup>23</sup>

FC's conscience diverges from his all-things-considered judgments; yet, Clarke alleges, FC should be allowed to object to stealing bikes on the basis of his conscience. Why? Because FC faces psychological trauma and feelings of guilt

if he does steal bikes. On a first reading, Clarke could be suggesting that the prospect of entering into an unpleasant and undesirable state, such as trauma or guilt, is a reason that justifies someone's refusing to do the thing that is likely to lead that way.

To a certain degree, the way a state feels—either pleasant or unpleasant—is the right kind of thing to justify refusing to do something that will lead to that state, be it refusing to steal a bike or refusing to perform some procedure. However, this would not be in a way that is specific to conscientious objection. Both of these examples are cases of someone's acting so as to avoid something undesirable, which, here, is contingently conscience-based because the unpleasant state arises from acting against one's conscience. But then, the person is acting on their conscience only instrumentally, and not because of what their conscience is telling them to do; and there is no special reason to protect conscience-based objections over other kinds of objections where someone may end up in similarly unpleasant situations. For instance, someone may refuse a community-service posting to the emergency room of a trauma clinic because she faces psychological trauma herself, while someone else may refuse to hand over the last supply of medication at a public clinic because she will feel guilty for breaking a promise to keep some medication aside for a friend who needs it but would rather not sit in the hours-long queue. The first scenario is one where we may be inclined to take the prospect of an unpleasant future state as a serious consideration to justify the refusal, but the second case, not. Something unpleasant, or the prospect of something unpleasant, is not itself sufficient to justify a particular refusal; the details of the case determine the justification. If so, it is not enough that someone simply feels bad about a particular action choice, or for her to anticipate feeling bad, for her subsequent refusal to pursue that action to thereby be justified.

Perhaps more importantly is that, when people object on the basis of their conscience, they are not typically objecting because they anticipate feeling some unpleasant way, or because they currently feel some unpleasant or pleasant way. They are not saying that they will feel guilt or trauma or be in some other unpleasant state and want to avoid it, nor are they saying that the action will stop their current pleasant state of being. They are saying that the act itself is immoral. Taking the affect valence route misinterprets the actions of the conscientious objector.

Luckily, this is not the best way to interpret Clarke's argument, which is subtler. FC feels terrible guilt and objects to stealing bikes as a way of avoiding future states of guilt. The doctor is morally repulsed by the prospect of performing an abortion. But guilt and revulsion are emotions, and emotions are not merely feeling states. They are states that are about something—here, the guilt is about doing something one shouldn't and the revulsion is about the moral depravity of a particular act. Clarke draws on Thagard and Finn who describe moral intuitions as "the feelings that some acts are right and others are wrong,"<sup>24</sup> which suggests that the feelings at stake are actually directed at something else: the moral status of the actions. We thus need to look at the cognitive appraisal aspect of the emotion, or at how that cognitive appraisal is experienced.

### **A Way in Which Moral Intuitions Could Justify Conscience-Based Refusals**

On current philosophical conceptions of emotion—which often draw on the school of appraisal theories that Thagard and Finn and Clarke draw on—the way an emotion feels can be inextricably tied to what it is about. In fact, the overall way



an emotion feels, which can be called the “emotion valence,”<sup>25</sup> could very well be the feeling of how values are presented to us; and the emotional experience itself is a form of appraisal.<sup>26</sup> So, if your conscience tells you not to perform a certain action, it is quite plausibly because the emotional intuition that arises from your conscience is an experience of the moral wrongness of the act impressing itself on you. Can the dictates of conscience justify a conscience-based refusal in this way? To answer the question, we need to return to our conception of rational agency.

On our conception of rational agency, rational agents guide their actions by reasons seen as reasons. One way in which we can guide our actions by reasons is by making a judgment about the reason as favoring the action. On this kind of picture, the person acting on the basis of her conscience will be judging that her conscience provides her with reasons to act—specifically that the act is morally wrong. She makes this judgment because the moral wrongness impresses itself on her through her conscience. But if this is the case, then the person is acting on a judgment and what justifies her conscience-based refusal is the judgment. It may not be an all-things-considered judgment but it is a judgment nevertheless, and one that justifies her conscience-based refusal.

Those working in the philosophy of emotion, however, have started developing another way in which someone could guide her actions by reasons when acting emotionally.<sup>27</sup> The driving motivation for these accounts is the idea that if emotions involve appraisals and are about things, such as the moral nature of an action, then they are the right kind of thing to provide us with information on which we could guide our actions. Likewise, if conscience gives rise to emotional intuitions, then conscience is potentially the right kind of thing to provide us with information on which we can guide our actions. The challenge is fleshing out a conception of rational agency that allows us to act on subcomponents of the mind like conscience and emotion, and what they tell us, without requiring a mediating judgment, while still excluding those actions or responses that really just are reactions and not guided by reasons.

Karen Jones has recently put forward a promising contender for an account of rational emotional actions that identifies when and how actions on the basis of a subcomponent of the mind like emotion can be rationally justified and when not.<sup>28</sup> Jones appeals to our conception of ourselves as rational agents and accepts that our conception of rational agency requires that we take ourselves to be capable of guiding our actions by reasons, seen as reasons. This is the conception I introduced earlier. As Jones argues, this conception, at the very least, requires that the person monitors and cultivates her reason-guiding capacities, is able to critically reflect on her reasons and actions, is disposed to do so when needed, and is disposed to allow the results of that critical reflection to influence her behavior.

So, if I am to act rationally on the basis of, say, indignation, I have to monitor my emotional capacities, in part by reflecting on whether or not my experiences of indignation reliably indicate that I have been wrongfully slighted. Suppose that by monitoring my indignation I conclude that I do reliably get indignant in situations where I really have been wrongfully slighted, and do not tend to get indignant otherwise. Accepting this, I can allow my emotion to guide my action, and speak up in a meeting in indignation, for example. In such a case, and because I accept the reliability of my emotional capacities, I can be seen to be guiding my action in light of considerations that I would otherwise endorse as reasons. However, on reflection I also realize that I tend to over-react when I perceive the quality of my

work to be under threat when it is not. If I am in a situation where I may be over-reacting, I need to be disposed to critically reflect on my indignation in that instance to establish whether or not it is worth trusting, as well as allow the results of that critical reflection to influence my behavior. Perhaps I will conclude that I really have been slighted and still speak up, but perhaps I will conclude that I am over-reacting and there really is not a consideration in favor of acting. This provision allows that I do not blindly react.

What does this mean for acting on the basis of the dictates of conscience? We were asking whether or not the moral wrongness of the act impressing itself on the agent in a moral intuition, as an emotional intuition, is the right kind of thing to justify a conscience-based refusal. Conscience does not have a straightforward and trustworthy track record for providing us with information—especially if we allow that people’s consciences can diverge quite substantially, can be influenced by different social situations enforcing different values, and can change over time. At the very least, we thus need to monitor our consciences to ensure that they are giving us reliable information about the moral status of certain acts. This need not entail that there is some fact of the matter of the moral status of the act, but simply that we have reasons to trust that our consciences are getting it right. How we measure the reliability may in turn be dependent on a variety of social factors, such as what religious communities we are members of. What is important is that we monitor our consciences and ensure that they are reliable against some measure that we accept as meaningful. Even if we accept our consciences as generally reliable, as something that we can trust to use to guide our actions, then as rational agents, we must still be disposed to critically reflect on the dictates of conscience in contexts where they may not be trustworthy, and to do so when actually needed.

How does this apply to conscientious objection? If the medical practitioner is acting in her capacity as a rational agent, and is not simply reacting to an emotional experience that may or may not be guided by reasons, then we have to be able to make sense of her guiding her refusal by considerations she takes to be reasons. If she accepts that her conscience is generally reliable and if she is disposed to critically reflect on her action when needed, as well as to allow the outcomes of that reflection to influence her action, then, yes, her action could be one of a rational agent. As such, her refusal could be justified by the dictates of her conscience. We thus have a picture whereby one can, in theory, act on the basis of the dictates of conscience, and the dictates of conscience provide a basis for justifying the action.

Such a picture, however, does not apply in the typical medical context in which debates about respecting conscientious objection arise. A medical context where the medical profession requires that you perform a certain procedure, where there may be social reasons for promoting such a procedure, and where there may even be a patient requesting the procedure, is exactly the kind of context when the disposition to reflect critically on one’s reasons needs to be actualized. In such a context, the fact that there is a moral dispute should raise questions about one’s own moral beliefs. But even if you accept the truth and validity of your moral beliefs, being faced with a scenario where you are considering going against the requirements of your profession is a case of having competing reasons. If you have competing reasons, then reflection is needed. If you are in fact disposed to critical reflection when needed, then you will critically reflect. And the results of that critical reflection will be a judgment about what you ought to do. If you fail to critically reflect in such a scenario, we can genuinely question whether you are acting

as a rational agent, guiding your actions by reasons seen as reasons and whose beliefs and preferences ought to be respected in the first place.

As such, even if the dictates of conscience can justify an action, they cannot do so in a typical case of conscientious objection in a healthcare context. In such a situation, it is a judgment that can justify the action and which reconciles the dictates of conscience with competing considerations.

If we apply this understanding of rational agency to the case of FC, we see that FC is not in fact justified in obeying his conscience. On reflecting on the dictates of his conscience, FC thinks through his reasons, and realizes that he *knows* that he should keep stealing. That is, he realizes that his conscience is getting things wrong. If he then continues to obey his conscience, despite having concluded that it is not reliable, then his is a typical case of akratic action where he acts against his all-things-considered-best judgment and which, in general, we do not think is a rational action.<sup>29</sup> The same is true of the medical doctor who reflects on her conscience that tells her abortion is morally wrong, and decides that abortion is in fact morally permissible but, yet, still obeys her conscience. In both cases, the agent is not guiding her actions by reasons seen as reasons because she recognizes that her conscience is, in this instance, getting things wrong. We might still want to allow provisions to reduce the distress in these kinds of scenarios, but then we are moving away from the issue of whether or not their conscientious objection is justified and toward how best to look after the well-being of others.

An advantage of this particular proposal is that we can proceed to make the context of conscientious objection more complex. I have been focusing on the dictates of an individual's conscience, allowing that consciences vary and the factors influencing the development of a conscience can be diverse. Following the tendency in the literature, I have also focused on the moral belief that the conscientious objector bases her refusal on. But there may very well be, and often are, other factors not directly linked to conscience that may still influence someone's decision to conscientiously object. For instance, the doctor who judges that abortion is morally permissible but nevertheless feels guilt may be a member of a religious community where abortion is frowned upon but with which she otherwise identifies. The general disapproval of the choice may influence the kind of emotions she feels, such as guilt, but may also bring with it other factors, such as social consequences if she were to provide abortion services. By reflecting on her conscience and her professional commitments—because she is still a member of a professional community and a liberal democracy more widely—she can bring in these other considerations when deciding what to do. How the reasonability of her refusal is then assessed could plausibly take into account other reasons that may justify an action choice. A form of the Reasonability View thus has the potential to accommodate the complexities of having a conscience, as well as having a conscience closely linked to the values of a wider social community. A pure Genuineness View, in contrast, homes in on the conscience and moral belief itself, while leaving little leeway for other factors to get involved. However, I have obviously not set out to give details of how these other factors can be incorporated. What I have aimed to show in this paper is that, if conscience is to be the right kind of thing to justify a conscience-based refusal, then a judgment about what the conscience is about must be involved. But this is not to say that a conscience-generated concern need be the only reason that someone has for objecting.

## Conclusion

I have argued that, even if we accept Clarke's two bases for conscientious objection, it does not follow that both bases justify, and not merely explain, the objection. In principle, it is possible that the dictates of conscience can justify an action choice but the healthcare context where debates around conscientious objection typically arise is not one where this will be the case. If we aim to respect the choices of medical practitioners largely because they are rational agents, then their actions need to be part of their rational agency and not merely something that they reactively do. If so, then they need to be disposed to critically reflect on their reasons, especially in contexts where there are competing considerations, such as when one's profession dictates one thing and one's conscience, another. If they critically reflect and still accept the dictates of their conscience, then they will be acting on the basis of a judgment. If they fail to reflect, then we can seriously question whether or not the action is in line with their rational agency, and thus question why it is an action that ought to be respected. As such, if a conscientious refusal in a healthcare context is to be justified, it will be justified by a judgment that the objector makes.

The Genuineness View does pick up on something right, in that it requires that the person's objection be "profoundly held." If a view is profoundly held, then presumably the person accepts that her conscience is something trustworthy. But even if she trusts her conscience, as a rational agent in a context of competing considerations, she still needs to critically reflect on what it is that her conscience is telling her. Because of this, a form of the Reasonability View is the best contender for accommodating conscientious objection, as it requires that the conscientious objector show that she is indeed guiding her actions by the considerations that she takes to be reasons.

## Notes

1. Clarke S. Two concepts of conscience and their implications for conscience-based refusal in healthcare. *Cambridge Quarterly of Healthcare Ethics* 2017;26:97–108.
2. Following Clarke, my focus in this paper is on what role a person's conscience can play in justifying conscientious objection. I want to home in on the role of conscience itself, leaving open the possibility that other factors may be important for assessing conscientious objection overall. These might include social factors that influence the values a person holds and what she is prepared to act on, but I am not here addressing what these factors and influences might be.
3. For discussion of the South African context, see Van Bogaert L-J. The limits of conscientious objection to abortion in the developing world. *Developing World Bioethics* 2002;2:131–43; Harries J, Cooper D, Strebel A, Colvin CJ. Conscientious objection and its impact on abortion service provision in South Africa: a qualitative study. *Reproductive Health* 2014;11; Ngwenya CG. Conscientious objection to abortion and accommodating women's reproductive health rights: Reflections on a decision of the Constitutional Court of Colombia for an African regional human rights perspective. *Journal of African Law* 2014;58:183–209; Mahlangu E. Health workers undermining women's rights. *Health-eNews* 2017, Aug 14; available at [www.health-e.org.za/2017/08/14/abortion-health-workers-undermining-womens-rights/](http://www.health-e.org.za/2017/08/14/abortion-health-workers-undermining-womens-rights/) (last accessed 17 Aug 2018). Other critiques of unconstrained scope for conscientious objection and how it impacts the rights of healthcare users can be found in Meyers C, Woods RD. An obligation to provide abortion services: What happens when physicians refuse? *Journal of Medical Ethics* 1996;22:115–20, looking at California in the USA, and Minerva F. Conscientious objection in Italy. *Journal of Medical Ethics* 2015;41:170–3, looking at Italy. More general critiques focusing on the way unconstrained conscientious objection allows discrimination can be found in Kantymir L, McLeod C. Justification for conscience exemptions in healthcare. *Bioethics* 2014;28:16–23 and Ancell A, Sinnott-Armstrong W. How to allow conscientious objection in medicine while protecting patient rights. *Cambridge Quarterly of Healthcare Ethics* 2017;26:120–31.

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4. See note 3, Meyers, Woods 1996, and Meyers C, Woods RD. Conscientious objection? Yes, but make sure it is genuine. *American Journal of Bioethics* 2007;7:19–20.
5. Card RF. The inevitability of assessing reasons in debates about conscientious objection in medicine. *Cambridge Quarterly of Healthcare Ethics* 2017;26:82–96.
6. Card RF. Conscientious objection and emergency contraception. *American Journal of Bioethics* 2007;7:8–14; see note 5, Card 2017.
7. See note 3, Kantymir, McLeod 2014.
8. See note 1, Clarke 2017, at 100.
9. See note 1, Clarke 2017, at 101.
10. See note 1, Clarke 2017, at 101.
11. See note 1, Clarke 2017, at 102.
12. See note 1, Clarke 2017, at 101.
13. See note 1, Clarke 2017, at 103.
14. See note 1, Clarke 2017, at 102.
15. Thagard P, Finn T. Conscience: What is moral intuition? In: Bagnoli C, ed. *Morality and the Emotions*. Oxford: Oxford University Press; 2011:150–69.
16. See note 15, Thagard, Finn 2011, at 150.
17. Different forms of this idea can be found in Scanlon TM. *What We Owe to Each Other*. Cambridge, MA: Harvard University Press; 1998; Wallace RJ. Three conceptions of rational agency. *Ethical Theory and Moral Practice* 1999;2:217–42; Jones K. Emotions, weakness of will, and the normative conception of agency. In: Hatzimoysis A, ed. *Philosophy and the Emotions*. Cambridge: Cambridge University Press; 2003:181–200; Korsgaard C. The normativity of instrumental reason. In: *The Constitution of Agency: Essays on Practical Reason and Moral Psychology*. Oxford: Oxford University Press; 2008:27–68.
18. For more on arousal, motivation and justification of an action, see Carman M. How emotions do not provide reasons to act. *Philosophia* 2018a;46:555–574.
19. Charland LC. The heat of emotion valence and the demarcation problem. *Journal of Consciousness Studies* 2005;12:82–102.
20. Only at first glance, as there are other aspects of Clarke’s account that favor not interpreting him this way. But for the sake of being comprehensive, let us walk through how the affect-valence-as-basis might work.
21. See note 1, Clarke 2017, at 104.
22. See note 1, Clarke 2017, at 105.
23. See note 1, Clarke 2017, at 105.
24. See note 15, Thagard, Finn 2011, at 150. Italics added.
25. See note 19, Charland 2005.
26. Forms of this idea can be found in Goldie P. *The Emotions*. Oxford: Oxford University Press; 2000; Johnston M. The authority of affect. *Philosophy and Phenomenological Research* 2001;63:181–214; Döring S. Seeing what to do: Affective perception and rational motivation. *Dialectica* 2007;61:363–94; Helm BW. Emotions as evaluative feelings. *Emotion Review* 2009;1:248–55.
27. See note 17, Jones 2003; also Arpaly N. On acting rationally against one’s best judgment. In: *Unprincipled Virtue: An Inquiry Into Moral Agency*. Oxford: Oxford University Press; 2002:33–65; Döring S. Why be emotional? In: Goldie P, ed. *The Oxford Handbook of Philosophy of Emotion*. Oxford: Oxford Basil Blackwell; 2010: 283–301; Carman M. Emotionally guiding our actions. *Canadian Journal of Philosophy* 2018b;48:43–64.
28. See note 17, Jones 2003. I have elsewhere argued in favor of a version of Jones’ account, and will here just accept it as the most viable option. See note 27, Carman 2018b.
29. That said, Jones is someone who argues for the possibility of rational akratic actions (see note 17, Jones 2003). However, even on her account FC’s and the doctor’s actions are irrational because they do not accept their conscience as generally reliable. For a critique of Jones’ account and an explanation of why akratic action is in fact irrational, see note 27, Carman 2018b.