

- ▶ “Conscience” often defined in **subjective emotivist** terms
  - ▶ Only criterion for putatively valid claims of conscientious objection is the “sincerity” or “genuineness” of one’s relevant moral feelings/beliefs
  - ▶ Leads to concern of opening a “Pandora’s box of idiosyncratic, bigoted, discriminatory medicine” (Savulescu 2006).
- ▶ Alternative conception of “conscience” as rooted in **reason and communal practice**
- ▶ **Thomistic natural law** account promotes human reason’s capacity, individually and (even better) collectively, to discover moral truths apart from religious revelation:
  - ▶ General principles of natural law are discoverable by human reason alone (*ST*, Ia-IIae, q. 94, a. 2)
  - ▶ Revealed divine commands cohere with and are expressions of the rationally discoverable natural law (*ST*, Ia-IIae, q. 100, a. 1)
  - ▶ Conscience is the application of general principles of natural law to individual cases (*ST*, Ia, q. 79, a. 13)
  - ▶ Conscience formation requires a *moral community* engaging in a collective epistemic enterprise (*ST*, IIa-IIae, q. 33)
  - ▶ Even if one’s conscience is in error, it still binds one action (*ST*, Ia-IIae, q. 19, a. 5)

# DEFINING “CONSCIENCE”

- ▶ **Absolutism:** A right to conscientious refusal ought to be protected based on whatever grounds an individual practitioner or healthcare institution justifies their refusal.
- ▶ **Incompatibility thesis:** Health care providers and institutions that refuse to provide legal services requested by patients that fall under the professionally-defined scope of medicine should get out of health care.
- ▶ **Compromise view** of AMA CEJA Opinion 1.1.7 and ACOG Committee on Ethics:
  - ▶ Provide “**accurate and unbiased information**” on all available services
  - ▶ **Refer** patients to other healthcare professionals willing to provide such services
  - ▶ Provide such services in **emergency situations** in which no other willing professional is available

- ▶ *Formal cooperation: explicit or implicit*
- ▶ *Material cooperation: immediate or mediate*
- ▶ *Scandal: active or passive*
  
- ▶ **Mere disclosure** of available legal options does not necessarily entail formal cooperation (Kaczor 2013, p. 163)
- ▶ Difficulty of assessing complicity in the context of **referrals**
  - ▶ A physician may refer a patient to another specialty without engaging in illicit cooperation except when...
    - ▶ a) the referred-to physician group or institution is known largely on the basis of providing the objected-to service, or
    - ▶ b) a particular specialist is referred-to on the basis of knowing they would provide the objected-to service
  
- ▶ **Prophetic Witness vs. Pilgrims on the Way** to the New Jerusalem (Kaveny, 73-77):
  - ▶ The Kingdom of God has been inaugurated, but not yet fully realized, so we must “**respond** to those suffering the effects of the sin that is still in our midst”
  - ▶ “the Prophetic Witness emphasizes the risks and dangers of cooperating with evil, the Pilgrim on the Way highlights the **good** that it can accomplish”
  - ▶ In the context of health care, Prophetic Witness might voluntarily go out of business rather than cooperate with facilities that perform services inconsistent with Catholic teaching; the Pilgrim on the Way would be concerned with the drawbacks of such a strategy
    - ▶ Removing Catholic health care risks losing sight of health care as a **corporal work of mercy**
    - ▶ To effectively combat the culture of death in medicine, we need Catholic health care as a **witness** to the value of human life and a concrete means to support people at the end of life
    - ▶ The effect closing doors would have on health care access for the **most vulnerable**

# MORAL COMPLICITY AND SCANDAL