Autonomy, bioethics and religion in children: source of paradoxes

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Abstract
The present article demonstrates that moral dilemmas need a fair approach when religious claims are made. The article analyzes the notion of “laicity” and its limits and proposes a correct criterion for maximizing the goods that appear in the dilemmas: the flourish of human goods. At the end, the author suggests that the conscious objection is the last resource available in the liberal state for the respect of the rights of all persons who participate in the clinical decisions.

Key words: laicity, concience, righths, religion.

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Introduction
The focus of human rights is currently emphasized. Probably due to these human rights, there has been an emphasis on the right of personal decision, commonly called autonomy. It seems correct, at least intuitively, that adults make decisions, wholly or partially, regarding various health issues. However, as we approach the beginning of human life, do children have their own interests? What is the status of the child? Then, coupled with the religious beliefs of the parents, the issue seems to become more entangled. What is religion? What is the epistemic status of religious propositions? The answers to these questions may seem obvious, but they are not. This paper presents an outline of the answers to this problem. We laid out what is religious, followed by the model or the liberal theory of rights, and the secular. We then propose what is, in my opinion, the best possible answer.

Decision and religious criteria
By “ethical decision criteria” I refer to the set of principles that govern actions of practical morality and orient it towards the integral good of man. Although they are clouded by circumstances and changed into facts when they apply, the moral purpose of the act itself is considered. To express this in other words, there are general guidelines for action, which in turn are regulated by a moral purpose, the intent and the means used.

Respect for the religious scope of those involved in ethical decisions has a peculiar difficulty. This

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consists of “translating” properly the religious discourse in the healthcare field without causing a reductionism or disfigurement of it. Tensions between religious discourse and bioethics have a dual challenge of accessibility and meaning. To the extent that an incorporation of moral claims from a specific religious tradition or community is considered to undermine the possibilities of an accessible bioethical discourse in general mode, the meaning of the religious perspective may be very limited.²

The temptation exists to interpret “the religious” in its aspect of purely “emotional” (a two-dimensional model “experience-expression” in which religious instruction is interpreted as “non-informative symbols and no discourse of inner feelings, beliefs and viewpoints existential guidance”).³ In this way we have considered that there is no cognitive claim or behavioral modification of the reality beyond the “inner feelings” and a vague “general attitude” towards life. The religious is thus submerged in the private scope. However, religion is not only public demonstrations but also law enforcement. The believers believe that their beliefs express more than just an attitude toward the world, they also lead to certain ethical guidelines.⁴,⁵

For example, if a religious practice considers community life as superior to individual life, then in clinical decision situations, autonomy would not be considered a priority to protect and, consequently, informed consent of the patient is collective in nature.

The dilemmas between religion and science, in a certain way, are really existent. In one way, experimental work and evidence-based medicine should not be contrasted with the religious view, which is not an explanation for falsification of hypotheses. The problem is the assessment of the facts, not in the discussion of them as such. This assessment does generate real dilemmas: clashes about what should be done when facing the facts of the options. Religious beliefs, in fact, are evaluative frameworks that are not obtained, in general, except for some fundamentalists, replaced with evidence-based knowledge. A Jehovah’s Witness, when opposed to his young child be given a transfusion with blood products, does not do it because he thinks the blood will cause harm, in an empirical sense. He is clearly concerned about his vision of greater value to protect: his personal salvation before God is greater than the biological loss of life. How do we resolve this conflict? One approach is the distinction between public and private in a liberal state. It is true that some authors who maintain this distinction do not deny that religion has a public impact: “We all know that in reality there is no distinction between public and private”. ⁶ However, we signal the importance that, in operational terms, we should separate the public and private in a liberal, secular and secularized state. This, of course, constitutes added benefits. It has allowed that people develop human potential when the state does not interfere beyond the regulations of liberty, property, etc. However, some problems continue to exist. We quote Blancarte again:

...This freedom [of the liberal model] has been extended to issues that obviously excide the current time. They were not conceived as central, but which involve the ability of individuals to decide according to their conscience on issues that… concern us and surround us...In all of these issues [abortion, euthanasia, etc.]...to the secular state, the central continues to be the need to ensure the respect for freedom of conscience of the individual in decisions that concern him, especially concerning his body or his life choices, provided they do not affect others.⁶

The elements outlined are those that are disputed in most bioethical, political and religious issues. The believer and non-believer really do not believe, in certain existing life situations, that their ethics are just for them and all. Normally it is believed that the maximum is to which all should aspire to, or at least, that there is minimal universal content. And on some occasions they think that they can rationally defend them. Therefore, they
should at least be accessible to others. Therein lies the conflict. It is true that the liberal state is a fictional scenario of the neutral public arena that respects the interests of everyone. However, the underlying notion of “as long as it does not affect others” is by no means clear. When a Jehovah’s Witness or a Catholic or a Jew requests a modification of certain medical protocols that, in principle, favor a better clinical status for their child, these are often done with the knowledge of clinical harm because they believe that not doing it will not only affect the individual interests of the child but also the interest of the community and, in a way, of all men because their “actions” will make a better world. The problem, when faced with these dilemmas, is that we forget that rarely do we have a pure, individual interest. Virtually all of our individual actions have consequences and social effects. 7-11

In argumentative terms:

1. It is lawful to act according to our own conscience, if and only if, it does not affect the interests of others
2. All of our actions always affect the interest of others, therefore
3. It is not lawful to act according to our own conscience.

This argument, however, leads us to another paradox of starvation. If it appears that we accept the first premise as it can be interpreted, it leads us to believe that we must not take action.

It seems then that we must transform the principle: how and with what criteria should we assess that our individual acts, which always affect others, will be respected (or not) and according to what parameters? It is naive to think that our actions within a liberal state do not generate damages to others. They generate damage of all types: emotional, economic, strengthen or weaken social values, etc.

Hence we cannot detach the vision of the ethics of decisions, even in religious matters. If a parent of a child does not wish their child to receive a surgical procedure and the child asks, what should we do? It is true that in the first place we see the clinical relevance: does it actually improve the patient’s condition or not? Accepting that this is the case, what do we do with regards to the parent’s opinion? And if it was the other way around, if the parent requests the surgery, but the child objects, what should we do?

On the other hand, it is true that the liberal state recognized a fundamental value that even though we act wrongly we must continue to follow our own conscience. This is a basic moral principle. But again we encounter difficulties because the state itself penalizes actions that follow our own conscience, even if erroneous, because they affect goods, which we believe belong to others. For example, let us suppose that someone wants to be enslaved. In other words, that person is willing to waive their rights of freedom if he gains his security, nutrition, etc. The person who wants that, in his interest, and the one who enslaves also has those interests. So then what? Normally we reject that approach because we believe it promotes the possible involvement, but not certain, of the rights (legitimate grounds) of others. What do we then do? And from there, we can imagine any individual example where, in fact, there are always social consequences—positive or negative.

That is, the liberal response of “do while not harming others” is fallacious, but does in fact consider a crucial element in the ethical decision—the respect for conscience.

Hence, perhaps a better interpretation would be:

1a) If and only if it does not affect the legitimate property of others, it is a legitimate act according to our own conscience,

2a) Some of our actions do not affect legitimate property of others; therefore
3a) Some of our actions are lawful to act according to our own conscience.

In reformulating the general principle (1a), it allows premise 2a, one that is no longer universal.

But the question now is: what is legitimate property?

**Human flourishing: A criterion for defining legitimate property**

The above reflection has taken into account that to decide regarding the “mere respect for the conscience without affecting others” is a good rule, but there are always potential and actual examples that are counter-intuitive. The problem is that we cannot evade the question of what is the human good that we care for. Inevitably we have to appeal to the “goodness of human acts.” Perhaps a better strategy is the notion of “human flourishing.” One of them would be:

The trial on the best way to organize goods in the life of an individual or a community...through it, we will judge unconditionally what the best will be, to make or have for an individual or a group, not only as agents who participate in one or more activities in one or more role(s), but also as human beings.12

The rationale for seeking an organization of goods is that it allows human beings to develop fully. This is where human flourishing comes into play. This occurs at an early age so it makes sense for the so-called “rights of the child”. This goes through various stages until becoming an independent practical form of reasoning. Within these stages of childhood, it is during the context of traditions and social relations where the child begins to distinguish his own mere interest to really ethical judgments: an assessment of what is needed to be fully human. The Declaration of the Rights of the Child makes clear of this minimum premise that allows the correlative obligation of becoming an independent thinker.

McIntyre teaches us that…Any list of obstacles and dangers will begin by mentioning the same lethal factors that threaten [to animals not humans]...disease, injury, predators, and poor nutrition...we must add all the factors and that to suppose a threat to the development of language skills and evaluators of the children: the lack of a suitable stimulus of brain activity...insecurity that breeds anxiety...12

Here the author does not address the issue of human rights but instead of the obstacles of the concept of flourishment. Human rights are minimally recognized in an explicit mode for human development so that humans can achieve the full construction of their humanity. We must insist on the ability because this is not a guarantee of success but instead of the elimination of barriers that would become serious developmental impediments. In other words, human rights are preconditions of flourishment but are not guarantee of its success. However, what is expressed here is not limited to political rights, excluding rights that are most recent in human history.13 They involve joint participation of all so that they can achieve and not a mere elimination of certain obstacles. Hence, human rights declarations should be seen as recognitions of the dependence of “all with all”. Or to put it in terms of obligations: as we are all forced to be independent and to help everyone to also achieve this independence, a right to be recognized surges in the dependency. Another way of looking at this is to say that we all need common rules that favor the attitudes and the minimum correct activities conducive to the development of human flourishing. There is a common element: men are men in the way they exercise their human abilities and humanization. The will and intelligence in the determination of the means to the end are more than the mere expression of their wishes. Man thus sees no grounds for only action. These are innumerable but instead the reasons for the action. Such is the sense of being “an independent ethical reasonable person”. But this “independence” does not imply mere subjectivity or isolation.
Using this idea of religion and ethical dilemmas in pediatrics, we may consider up to what extent of the decision of the actors involved cancels or limits the ability of human flourishing. Thus, if a parent objects to a treatment that opens up the possibility of expression of human flourishing, in *principle* one should oppose and seek alternatives.

We present a decisional framework that can be useful (Fig. 1).  

**The conscientious objection as a last resort**

Even if one follows these recommendations, they may be helpful in making better decisions or be a
last element in the defense of the physician’s conscience: the conscientious objection. It is possible that, after having exhausted all lines of consultation with the parents and/or care of the child, we continue to think, with reason, that the particular procedure should be executed because it is a genuine good that enables human development, the physician can and should choose to allow this particular case to be handled by another specialist. This is a legitimate conscientious objection. However, that conscientious objection also applies to the parents. The parents can well record their objection to a treatment or intervention to their child, showing that they have opposed reliably. That is, parents may ask not to generate in them the responsibility of procedures that are against their beliefs and so the decision is settled.

Either way, it is crucial to admit that the consideration of the ethical decision cannot be reduced to a formalism of interest but instead to objectively define what makes and provides conditions for true human good.

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