Some difficulties involved in locating the truth behind conscientious objection in medicine

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ABSTRACT

Inspired by Smith, Ben-Moshe suggests that we should only accommodate conscientious objections (COs) in medicine based on moral beliefs that are true, or which closely approximate to the truth. He suggests that we can identify moral truths by consulting our consciences when our consciences adopt the standpoint of an impartial spectator. He also suggests some (surprisingly modest) changes to our current practices in regard to the management of CO in medicine that would be needed were his proposal to be adopted. Here, I argue that both Smith and Ben-Moshe underestimate the difficulties involved in adopting the standpoint of an impartial spectator. In particular, both authors fail to recognise the extent to which cognitive bias and ideological commitments prevent many of us from identifying the standpoint of an impartial spectator and also prevent us from realising that we are failing to be impartial. I also consider some different changes to current practices that would be needed if we were to take on Ben-Moshe's approach to CO in medicine while also recognising the difficulties involved in adopting the standpoint of an impartial spectator.

Inspired by Smith,[1] Ben-Moshe[2] proposes an approach to conscientious objection (CO) in medicine that is radically different from the approaches that dominate contemporary bioethics. Almost all commentators on CO in medicine suppose that the truth of the moral beliefs underpinning a CO is not relevant to the question of whether we should accommodate that CO.[2] In stark contrast to dominant approaches, Ben-Moshe[2] suggests that we should only accommodate COs based on moral beliefs that are true, or which closely approximate to the truth, and he suggests that we can identify moral truths by consulting our consciences. Following Smith,[1] Ben-Moshe[2] supposes that the act of consulting one's conscience involves adopting the standpoint of an impartial spectator. Both Smith[1] and Ben-Moshe[2] also suppose that by adopting the standpoint of an impartial spectator one is able to discern moral truths.

Despite urging us to accept a radically different approach to CO in medicine to prevailing approaches, Ben-Moshe[2] only advocates modest changes to current practices. He suggests that medical professionals should be trained to present COs as reasons that would be endorsed by an impartial spectator.[2] He also suggests that religiously grounded COs should be recast as moral objections, where this is possible, and then tested against the standpoint of an impartial spectator—otherwise they should be rejected.[2] But these are the only substantive changes to current practices he advocates. Why is this? According to Ben-Moshe,[2] Smith[1] writes as if most of us have reached a stage of development at which the voice of our conscience simply is the standpoint of the impartial spectator (see Ben-Moshe, p.407, footnote vi).[2] If Smith is right then it can reasonably be expected that our practices in regard to CO are already configured around identification of the standpoint of an impartial spectator. Ben-Moshe[2] does not go along with Smith's[1] dewy-eyed view completely. However, he does suggest that most of us could adopt the standpoint of an impartial spectator (see Ben-Moshe, p.407, footnote vi).[2] Ben-Moshe[2] also cautions that attempts to adopt the standpoint of the impartial spectator can sometimes fail to deliver decisive verdicts. This happens, he asserts, when attempts are made to adjudicate about the morality of two controversial topics that often give rise to COs in medicine: abortion and medical assistance in dying (MAID). Because attempts to adopt the standpoint of the impartial spectator fail to deliver clear verdicts in these cases, he argues, we should be epistemically humble and continue to tolerate most COs to abortion and MAID.[2]

Here, I will argue for that it is much more difficult for most of us to adopt the standpoint of an impartial spectator than either Smith[1] or Ben-Moshe[2] suppose and that many of us will never be capable of adopting that standpoint. Importantly, on my view, many of the many of us who fail to adopt the standpoint of an impartial spectator sincerely believe that we are impartial. I will also consider how Ben-Moshe's[2] proposal for regulating the accommodation of CO in medicine would need to be implemented if, as I argue, it is difficult to adopt the standpoint of an impartial spectator.

Ben-Moshe[2] mentions a barrier to accessing the standpoint of the impartial spectator, that is, acknowledged by Smith.[1] This is the influence of 'self-love', which prevents us from being appropriately sympathetic to others. Both Smith and Ben-Moshe underestimate the difficulties involved in overcoming the distorting influence of 'self-love' on moral judgement, and both fail to recognise how easy it is for us to mistake a self-interested view for an impartial one. To see why one need only look at the considerable body of psychological work on 'my-side bias', which, working in tandem with a host of related cognitive biases, makes it hard for people to set aside 'self-love' and which persistently distort their assessments of their own impartiality.[3 4]

Smith[1] mentions another factor that can lead one to experience an 'erroneous conscience', which goes unnoticed by Ben-Moshe.[2] This is the influence that 'false religion' can have on conscience. Smith[1] illustrates the influence of false religion on conscience with a story of two followers of *Mahomet* who are led by their religion to believe that it is morally acceptable for them to murder an innocent relative (Smith, pp. 205–7).[1] In Smith's telling of the story the followers of *Mahomet* soon realise the error of their ways. Sadly, very many of the various people motivated by religion to act violently never come to accept that they had fallen into moral error.[5]

Smith's concerns about false religion can and should be generalised to a concern about the distorting power of ideology on moral judgement and on assessments of what it is to be impartial. During and in the lead-up to the US Civil War, the clear majority of white Southerners regarded race-based slavery as morally appropriate.[6] In some instances, proslavery sentiments were shaped by the 'self-love' that Smith[1] warns us about. However, there were many poor non-slave-owning whites in the Antebellum South who did not benefit from slavery—and indeed were harmed by it, because slavery drove down wages

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for unskilled labour—but who nevertheless supported slavery. These poor whites were in the grip of an ideology (buttressed by proslavery theology) that told them that race-based slavery was rightful. Were they to have consulted their consciences about the rightfulness, or otherwise, of slavery, they would have found themselves in the position of Huck Finn, famously illustrated by Twain.[7] Huck finds himself travelling with Jim, an escaped slave. When Huck engages with his conscience about the morality of assisting a slave to escape, he is firmly advised by that conscience that he should report Jim to the relevant authorities at the first opportunity. It might be objected that Huck and other Antebellum white racists were not trying to be impartial, but were blatantly favouring whites over blacks. But to entertain such an objection would involve failing to understand how the ideology of race-based slavery usually worked. Mainstream Antebellum white racist ideology involved an assumption that blacks were naturally inferior to whites and it was in the interest of blacks to be enslaved by benevolent whites.[8] These Antebellum white racists were misguided but were also in good intellectual company. Aristotle notoriously offered a defence of the moral appropriateness of enslaving 'natural slaves', arguing that this was in their best interests.[9]

Ben-Moshe's[2] suggestion that medical professionals be trained to present COs as reasons that would be endorsed by an impartial spectator will do little or nothing to enable those medical professionals to overcome the influence of cognitive bias and ideology and successfully adopt the standpoint of an impartial spectator. It may be unrealistic to expect even a minority of medical professionals to overcome the influence of cognitive bias and ideology on moral judgement without years of expert training. Time and resources invested in enabling some medical professionals to become impartial spectators would be better spent allowing them to practise medicine. A more efficient way of assessing COs in medicine against the standards of an ideal observer would be to employ experts who are trained to overcome cognitive bias and to set aside ideological commitments, and have them assess COs in medicine. A medical professional, who wished to have a CO accommodated, would be required to present it to such an expert and have it assessed before that CO was accommodated.

Ben-Moshe[2] asserts that current attempts to adopt the standpoint of the impartial spectator do not deliver clear verdicts regarding the moral acceptability of abortion and MAID. If we assume, as he does, that most of us are capable of adopting the standpoint of an impartial spectator then he is presumably right about these conclusions. The wide level of disagreement that people exhibit about the moral acceptability of abortion and MAID speaks in favour of his view. However, if only a minority of us are capable of adopting the standpoint of the ideal observer then this conclusion is thrown into doubt. We have yet to identify the relevant experts and perhaps they all draw the same conclusions about abortion and MAID? Even if they do not concur about these issues now, we should not rule out the possibility that in the future experts will become better at adopting the standpoint of an impartial spectator than any of us are now. Future experts may deliver a clear verdict regarding the moral acceptability of abortion and MAID. If they were to do so then Ben-Moshe's[2] proposal would have very radical consequences. If it becomes clear that abortion is generally morally acceptable then most COs to abortion should be disallowed. And if it becomes clear that abortion is generally immoral then we would have a strong *prima facie* case for banning abortion. *Mutatis mutandis* for MAID.

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