

CONTEMPORARY CHALLENGES TO THE RIGHT TO CONSCIENTIOUS OBJECTION

WSPÓŁCZESNE WYZWANIA WOBEC PRAWA DO SPRZECIWU SUMIENIA

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Abstract

The purpose of this article is to analyse selected contemporary challenges to the right to conscientious objection. It does not aim to exhaustively list all current issues related to the problem of conscientious objection, but to highlight the importance of examining this issue in the context of developments in areas that touch on the nature of human life, fundamental values, human dignity, morality and justice. It emphasises the need to reflect on significant scientific advances and technological developments which, by their nature and orientation, become subject to the exercise of the right to conscientious objection. While the question of the exercise of conscientious objection initially focused on the dialectic of natural and positive law, it was later reduced to the refusal of armed military service. Today, it is again a broad scope that can also encompass issues of medicine, biotechnology, healthcare, pedagogy, information technology and other sectors of society. In parallel with the development of sciences, the results of which will be accompanied by questions of value, increasing demands will be placed on the development of an appropriate legal framework. At the same time, analysis and synthesis in the field of conscientious objection is a service to the human person, human dignity and freedom of conscience and religion, which is the irrevocable duty of legal science. It is also a service to the social good, reconciliation and cooperation.

Keywords: conscientious objection, freedom of thought, religion, legal thought

Abstrakt

Celem artykułu jest analiza wybranych współczesnych wyzwań związanych z prawem do sprzeciwu sumienia. Nie ma on na celu wyczerpującego wymienienia wszystkich aktualnych kwestii związanych z problemem sprzeciwu sumienia, ale podkreślenie znaczenia badania tej kwestii w kontekście rozwoju w obszarach, które dotyczą natury ludzkiego życia, podstawowych wartości, ludzkiej godności, moralności i sprawiedliwości. Podkreśla potrzebę refleksji nad znaczącymi osiągnięciami naukowymi i rozwojem technologicznym, które ze względu na swój charakter i ukierunkowanie stają się przedmiotem korzystania z prawa do sprzeciwu sumienia. O ile kwestia możliwości skorzystania ze sprzeciwu sumienia początkowo koncentrowała się na dialektyce prawa naturalnego i pozytywnego, to później została zredukowana do odmowy służby wojskowej z bronią w ręku. Dziś jest to ponownie szeroki zakres, który może również obejmować zagadnienia medycyny, biotechnologii, opieki zdrowotnej, pedagogiki, informatyki i innych sektorów życia społecznego. Równocześnie z rozwojem nauk, których rezultatom towarzyszyć będą kwestie wartości, coraz większe wymagania stawiane będą tworzeniu odpowiednich ram prawnych. Jednocześnie analiza i synteza w dziedzinie sprzeciwu sumienia jest służbą na rzecz osoby ludzkiej, godności człowieka oraz wolności sumienia i wyznania, co jest nieodwołalnym obowiązkiem nauki prawa. Jest to również służba na rzecz dobra społecznego, pojednania i współpracy.

Słowa kluczowe: sprzeciw sumienia, wolność myśli, religia, myśl prawna

Introduction

Conscientious objection remains a significant and complex issue in various contexts, particularly in areas such as military service, healthcare, and legal duties, education and upbringing, workplace and employment, social and cultural context, social cohesion and individuality, technological and scientific progress. The approach of states and elites to the possibility of exercising the right to conscientious objection also characterizes their approach to freedom of conscience per se, as well as freedom of thought, the right to freedom of religion, and human rights in general. Today, we are not faced with the question of whether to guarantee human rights, including the right to conscientious objection, but we are faced with the question of how to guarantee them in the widest possible range while preserving social cohesion and the full social functionality of all segments of society.

Conscientious objection can be defined in a number of ways. For instance, Martínez-Torrón states that: “Conscientious objection can be defined as the individual’s refusal, grounded on reasons of conscience, to accept a behaviour that is in principle legally required, either by the law directly (legislation, regulations or judicial orders) or by a contract endorsed by the law. This concept of conscientious objection includes every conduct contrary to the law, motivated by axiological – and not merely political or psychological – reasons, inspired in religious or nonreligious beliefs, which could be aimed at different purposes: e.g., to elude the behaviour demanded by the law or the punishment established for its contravention, or even to obtain the modification of the law through the example provided by the voluntary and passive acceptance of the state’s repression” [Martínez-Torrón 2015, 191].

Broadly speaking, it can be said to be a reflection on the conflict of duty – or loyalty or obedience – between the imperative of conscience on the one hand and an external legal prescription on the other. There may be an eventual contrast between the moral order and the legal order. Ultimately, a conscientious objection can lead to an act that is *contra legem*. Modern democratic states that are open to the values of pluralism and personalism, in certain circumstances, have respect and deference for values that compel the conscientious objector to behave in certain ways, or to refuse to act in certain ways. In such a case, the action of the conscientious objector is not considered an illegal act, but a permissible act, even an action recognized by law. The instance of conscience of a person who has a conscientious objection is seen as worthy of protection. This protection is more or less perfect – according to the kind of recognition achieved – as a subjective right or an objective claim. The conscientious objection should qualify as a objection *secundum legem*, although at present (for the time being) it represent a minor phenomenon. It should not be in conflict with, but consistent with, social solidarity and in accordance with the fundamental values of the social order [Turchi 2007, 82].

Although the issue of the possibility of exercising conscientious objection seems as old and weighty as humanity itself, recall Antigone’s dilemma, it seems much more pressing today. This is so because in many respects contemporary science touches on the very nature of human life, its origins, qualities, biological, genetic and other characteristics, as well as the

question of the end of the human life. As so many times in history, we are once again asking the question of positive and natural law [Moravčíková 2014, 54]. In the context of major scientific advances, particularly in the field of biotechnology, but also in the context of the development of other sciences and legal thinking, we are faced with the obligation to reflect anew on our legal experience, or the human experience itself. The present plunge into the problem of the dialectics of natural law and positive law [Potrzeszcz 2023, 43] forces us to reflect on the historical-descriptive dimension and to move to the axiological-evaluative dimension. In doing so, we need to define the most important areas, although the enumeration is not exhaustive, and as society and the sciences develop, the number of areas and their subsets will increase.

1. Legal and Human Rights Frameworks

As we have pointed out, conscientious objection refers to the refusal to perform a particular action or duty based on personal beliefs, typically rooted in religion, ethics, or moral values. International protections for conscientious objection primarily address the refusal to perform military service and, to a lesser extent, other duties such as medical procedures or civil obligations. Let's underline some key international frameworks and mechanisms that provide protections for conscientious objection.

The Universal Declaration of Human Rights¹ in Article 18 protects freedom of thought, conscience, and religion. This article is often invoked to support the right to conscientious objection. The International Covenant on Civil and Political Rights² in Article 18³ similarly to the UDHR, it guarantees freedom of thought, conscience, and religion. The UN Human Rights Committee has interpreted article to include the right to conscientious objection to military service. Human Rights Committee in its General

¹ Universal Declaration of Human Rights, <https://www.ohchr.org/en/human-rights/universal-declaration/translations/english> [hereinafter: UDHR; accessed: 05.05.2024].

² The International Covenant on Civil and Political Rights, <https://www.ohchr.org/en/instruments-mechanisms/instruments/international-covenant-civil-and-political-rights> [hereinafter: ICCPR; accessed: 05.05.2024].

³ The right to conscientious objection implies an obligation on all State parties to the UDHR, and not a right that exists only subject to its recognition by a State.

Comment No. 22,⁴ the Committee states that the right to conscientious objection can be derived from Article 18 of the ICCPR.

Regarding the Council of Europe, European Convention on Human Rights⁵ in Article 9, protects freedom of thought, conscience, and religion. The European Court of Human Rights has ruled in cases like *Bayatyan v. Armenia* (2011)⁶ that conscientious objection to military service is protected under Article 9. The European Social Charter⁷ in Article 1, para. 2 while not explicitly mentioning conscientious objection, it requires respect for freedom of individuals to choose their occupation and workplace, which can be interpreted to include conscientious objection.

The Organization of American States in the American Convention on Human Rights,⁸ in Article 12 protects freedom of conscience and religion. Though not explicitly addressing conscientious objection, it provides a basis for “claiming this right.” Inter-American Commission on Human Rights⁹ has addressed cases related to conscientious objection, recognizing it as part of the right to freedom of conscience and religion.¹⁰

⁴ CCPR General Comment No. 22: Article 18 (Freedom of Thought, Conscience or Religion) <https://www.refworld.org/legal/general/hrc/1993/en/13375> [accessed: 02.05.2024].

⁵ European Convention on Human Rights, <https://www.coe.int/en/web/compass/the-european-convention-on-human-rights-and-its-protocols> [accessed: 02.05.2024].

⁶ *Bayatyan v. Armenia* (2011), <https://hudoc.echr.coe.int/eng#%7B%22itemid%22:%5B%22002-440%22%5D%7D> [accessed: 04.05.2024]. A relevant aspect of this case is that the right to conscience objection, in order to be configured, requires that the conviction or belief are of sufficient cogency, seriousness, cohesion and importance to attract the guarantees of Article 9.

⁷ European Social Charter, <https://rm.coe.int/168007cf93> [accessed: 04.05.2024].

⁸ American Convention on Human Rights, https://www.oas.org/dil/treaties_b-32_american_convention_on_human_rights.pdf [accessed: 06.05.2024].

⁹ The Inter-American Commission on Human Rights is an autonomous organ of the Organization of American States, established in 1959 to promote and protect human rights in the American hemisphere, <https://www.oas.org/en/iachr/Default.asp> [accessed: 06.05.2024].

¹⁰ Cf. María Eugenia Morales de Sierra, Case N° 11.625, Report on the Merits N° 4/01, <https://www.escri-net.org/caselaw/2006/maria-eugenia-morales-sierra-case-no-11625-report-merits-no-401-eng> [accessed: 06.05.2024]. This case addressed issues related to gender discrimination and the right to freedom of conscience. While not specifically about conscientious objection to military service, it highlighted the broader implications of freedom of conscience and the state’s obligation to respect and ensure these rights.

The African Charter on Human and Peoples' Rights¹¹, a document of the African Union¹², in Article 8 guarantees freedom of conscience and the free practice of religion. This can be interpreted to include protections for conscientious objection.

Finally, Article 10.2 of the Charter of Fundamental Rights of the European Union¹³ specifically speaks about conscience objection: "the right to conscientious objection is recognized, in accordance with the national laws governing the exercise of this right."

Specialisations and the development of science and technology will also bring a demand for modification of documents in favour of the right to conscientious objection. This is also linked to the heterogenisation of societies, the clash of cultures, religions, moral claims and the value attitudes that result from them. The demand for the possibility of exercising conscientious objection is certainly also linked to the expansion of democratic systems and the emancipation of people in the field of human rights, cultural and religious rights not least. We will certainly reflect on the institution of religious exemptions, but the need for a right to conscientious objection will certainly become more important.

International protections for conscientious objection are grounded in broader human rights frameworks that emphasize freedom of thought, conscience, and religion. These protections are recognized by major international treaties, interpreted by human rights bodies, and implemented through national legislation. The evolving jurisprudence continues to refine and expand the scope of conscientious objection rights.

The specific introduction of the right to conscientious objection is a timely task. The value struggle and the ideological misunderstanding or political misuse of the topic are vitally present in our societies. This is evidenced by the widely discussed international draft treaties on the

¹¹ African Charter on Human and Peoples' Rights, https://au.int/sites/default/files/treaties/36390-treaty-0011_-_african_charter_on_human_and_peoples_rights_e.pdf [accessed: 08.05.2024].

¹² The African Union is a continental body consisting of the 55 member states that make up the countries of the African Continent. It was officially launched in 2002 as a successor to the Organisation of African Unity (1963-1999), <https://au.int/> [accessed: 08.05.2024].

¹³ Charter of Fundamental Rights of the European Union, https://www.europarl.europa.eu/charter/pdf/text_en.pdf [accessed: 08.05.2024].

possibility of exercising conscientious objection, which was on the threshold of parliamentary approval in the Slovak Republic in 2006 [Christians 2007, 333; Moravčíková 2007, 367].

National legislation on conscientious objection varies widely around the world. The legal frameworks and protections afforded to conscientious objectors depend on a country's specific historical, cultural, and legal context. The current legislation is the result of a historic struggle over conscientious objection to military service with arms in hand, which many have refused to perform for religious reasons.

For those objecting to military service on conscientious grounds, many countries offer alternative civilian service. The fairness, accessibility, and nature of these alternatives are important considerations.

In Germany Article 4(3) of the German Basic Law (*Grundgesetz*)¹⁴ guarantees the right to conscientious objection to military service. Conscientious objectors can opt for civilian service as an alternative to military service. French Act No 83-605 of July 1993 modifying the National Service Code,¹⁵ introduced conscientious objection to military service and alternative civilian service. Since the suspension of conscription in 2001, the issue is less pressing, but there are provisions¹⁶ for alternative service [Robbers 2012, 59].

United Kingdom recognizes conscientious objection under the Armed Forces Act 2006.¹⁷ Conscientious objectors can apply for exemption from military service or transfer to non-combatant roles.

In the United States of America the Military Selective Service Act¹⁸ provides for conscientious objection. Conscientious objectors can perform

¹⁴ Grundgesetz für die Bundesrepublik Deutschland, <https://www.gesetze-im-internet.de/gg/BJNR000010949.html> [hereinafter: *Grundgesetz*; accessed: 10.05.2024].

¹⁵ Code du service national, https://www.legifrance.gouv.fr/codes/texte_lc/LEGITEXT000006071335/ [accessed: 10.05.2024].

¹⁶ Article L111-2 du Code de Service National, https://www.legifrance.gouv.fr/codes/article_lc/LEGIARTI000044032838 [accessed: 11.05.2024].

¹⁷ Armed Forces Act 2006, <https://www.legislation.gov.uk/ukpga/2006/52/contents> [accessed: 10.05.2024].

¹⁸ Military Selective Service Act. 50 U.S.C. App. 451 et seq., <https://www.sss.gov/wp-content/uploads/2020/03/MSSA-2003.pdf> [accessed: 10.05.2024].

alternative civilian service. They must prove their beliefs are sincere and deeply held. In Canada is no conscription, but historical provisions allowed for conscientious objection during periods of mandatory service. Conscientious objectors were assigned to alternative service roles, such as in healthcare or community service.

Legislation in Argentina recognizes conscientious objection under Law 24.429.¹⁹ Conscientious objectors are allowed to perform community service instead of military duty.

South Korea following a 2018 Constitutional Court ruling,²⁰ conscientious objection is legally recognized. Conscientious objectors can perform alternative civilian service, although the specifics are still evolving. New Zealand Defence Act²¹ recognizes conscientious objection. Conscientious objectors can be assigned to alternative civilian service.

National legislation on conscientious objection reflects a variety of approaches, often influenced by the presence or absence of conscription. Countries with conscription typically have more detailed provisions for conscientious objection, allowing for alternative civilian service or non-combatant military roles. In contrast, countries without conscription, or with professional volunteer militaries, generally face fewer issues related to conscientious objection, and legislative provisions may be minimal or historic.

Increasingly, however, questions of the right to conscientious objection are being raised in relation to aspects of a person's life other than military

¹⁹ Ley 24.429, Servicio militar voluntario, <https://servicios.infoleg.gob.ar/infolegInternet/anexos/0-4999/802/norma.htm> [accessed: 11.05.2024].

²⁰ Const. Ct., No. 2011 Hun-Ba 379 (28 June 2018), <https://isearch.ccourt.go.kr/view.do> [accessed: 12.05.2024]. South Korea's Constitutional Court made a landmark decision regarding alternative civilian service for conscientious objectors. South Korea mandates military service for all able-bodied men, typically lasting around two years. Historically, those who refused to serve due to religious or moral beliefs were subject to imprisonment. Most conscientious objectors in South Korea are Jehovah's Witnesses. The Constitutional Court ruled that the absence of alternative civilian service for conscientious objectors was unconstitutional. In response to the court ruling, South Korea's National Assembly passed a law in December 2019 establishing an alternative service system.

²¹ Defence Act 1990, <https://www.legislation.govt.nz/act/public/1990/0028/latest/DLM204973.html> [accessed: 11.05.2024].

service. These are issues of science, medicine, education and training, culture and especially work and the workplace.

We have to mention that the ECHR has already dealt with such cases: conscientious objection against paying taxes,²² joining military commemoration parades,²³ selling contraceptives,²⁴ refusal to Swear on the Gospels.²⁵ Other cases at national courts were related to hotel's owners and rooms for marriages,²⁶ baking a cake supporting same-sex marriage,²⁷ the refusal of medical workers to assist in abortions, etc.

2. Healthcare

Medical ethics often lags behind developments in medical science and biotechnology. Conscientious objection in healthcare refers to the refusal of healthcare professionals to participate in certain medical procedures or practices based on personal, ethical, or religious beliefs. This can include objections to procedures such as abortion, euthanasia, contraception, sterilization, and certain end-of-life care measures. Healthcare providers may refuse to participate in procedures that conflict with their personal beliefs. The handling of conscientious objection in healthcare varies significantly across different countries and jurisdictions, balancing the rights of healthcare providers with the rights of patients to receive care.

²² *C. v. The United Kingdom*, 15 December 1983, European Commission of Human Rights, No. 10358/83, https://www.stradalex.eu/en/se_src_publ_jur_eur_cedh/document/echr_10358-83 [accessed: 11.05.2024].

²³ *Valsamis v. Greece*, 18 December 1996, European Court of Human Rights, No. 21787/93, [https://hudoc.echr.coe.int/fre#{%22itemid%22:\[%22001-58011%22\]}](https://hudoc.echr.coe.int/fre#{%22itemid%22:[%22001-58011%22]}) [accessed: 11.05.2024].

²⁴ *Pichon and Sajous v. France*, 2 October 2001, European Court of Human Rights, No. 49853/99, <https://hudoc.echr.coe.int/app/conversion/docx/?library=ECHR&id=001-22644&filename=PICHON%20and%20SAJOUS%20v.%20FRANCE.docx&logEvent=False> [accessed: 11.05.2024].

²⁵ *Buscarini and others v. San Marino*, No. 24645/94, ECtHR (Grand Chamber), 18 February 1999 [https://hudoc.echr.coe.int/eng#{%22itemid%22:\[%22001-55924%22\]}](https://hudoc.echr.coe.int/eng#{%22itemid%22:[%22001-55924%22]}) [accessed: 11.05.2024].

²⁶ *Bull and another v. Hall and another* [2013] UKSC 73, <https://www.supremecourt.uk/cases/uksc-2012-0065.html> [accessed: 11.05.2024].

²⁷ *Lee v. Ashers Baking Company Ltd and Others and Masterpiece Cakeshop v. Colorado Civil Rights Commission*, [https://hudoc.echr.coe.int/fre#{%22itemid%22:\[%22001-214966%22\]}](https://hudoc.echr.coe.int/fre#{%22itemid%22:[%22001-214966%22]}) [accessed: 11.05.2024].

The World Medical Association Declaration of Geneva²⁸ and the International Code of Medical Ethics²⁹ emphasize the importance of respecting a physician's conscience while also ensuring patient access to medical care. The United Kingdom General Medical Council guidelines³⁰ allow physicians to opt out of providing procedures they object to on moral grounds, provided they refer the patient to another qualified provider without delay.

The US Federal laws like the Church Amendments,³¹ the Coats-Snowe Amendment,³² and the Weldon Amendment³³ provide protections for healthcare providers refusing to participate in procedures like abortion due to conscience. However, healthcare institutions receiving federal funds

²⁸ World Medical Association Declaration of Geneva, <https://www.wma.net/policies-post/wma-declaration-of-geneva/> [accessed: 14.05.2024].

²⁹ International Code of Medical Ethics, <https://www.wma.net/policies-post/wma-international-code-of-medical-ethics/> [accessed: 14.05.2024].

³⁰ General Medical Council guidelines, <https://www.professionalstandards.org.uk/search-results?indexCatalogue=site%2Dsearch&searchQuery=guidelines> [accessed: 14.05.2024].

³¹ Church Amendments, 42 U.S.C. § 300a-7, <https://www.hhs.gov/sites/default/files/ocr/civilrights/understanding/ConscienceProtect/42usc300a7.pdf> [accessed: 14.05.2024]. The Church Amendments prohibit public officials and authorities from requiring recipients of certain federal financial assistance to provide or make their facilities available for abortion or sterilization when the recipient has a religious or moral objection to sterilization or abortion.

³² Conscience Protections, <https://www.hhs.gov/conscience/conscience-protections/index.html> [accessed: 14.05.2024]. The Coats-Snowe Amendment provides conscience protections for healthcare entities related to abortion provision or training, referrals for such abortion or training, and accreditation standards related to abortion.

³³ Weldon Amendment, https://www.hhs.gov/sites/default/files/ocr/civilrights/understanding/ConscienceProtect/publaw111_117_123_stat_3034.pdf [accessed: 14.05.2024]. The Weldon Amendment refers to a legislative provision that has been included in the annual appropriations bills for the Department of Health and Human Services (HHS) since 2004. It is named after Congressman Dave Weldon who introduced it. The amendment prohibits HHS funds from being provided to federal, state, or local governments, or to any agency or program thereof, that subjects any institutional or individual healthcare entity to discrimination on the basis that the healthcare entity does not provide, pay for, provide coverage of, or refer for abortions. The amendment aims to protect healthcare providers' rights to conscientiously object to participating in abortions without fear of losing federal funding. It has been a subject of debate and controversy regarding its impact on access to reproductive healthcare services.

must ensure that patient care is not disrupted. Brazilian law³⁴ allows for conscientious objection in cases such as abortion, except when the procedure is necessary to save the patient's life. Israeli law³⁵ permits conscientious objection in healthcare, particularly concerning abortion and certain end-of-life decisions. However, provisions must be made to ensure patient access to care. In Turkey, physicians are allowed to conscientiously object to performing abortions, but they must refer the patient to another healthcare provider who is willing to carry out the procedure. This ensures that while the rights of healthcare providers to refuse participation on moral or religious grounds are respected.³⁶

Balancing the rights of healthcare providers to conscientious objection with the rights of patients to access care involves several considerations. Referral Requirements: Many jurisdictions require healthcare providers to refer patients to another provider if they object to performing a procedure. Conscientious objection is typically limited in emergency situations where the patient's life or health is at immediate risk. Hospitals and clinics may have policies to ensure that patient care is not compromised by individual conscientious objections. Conscientious objection in healthcare is a complex issue that requires balancing the ethical and moral beliefs of healthcare providers with the necessity of ensuring patient access to legal and often critical medical services. National legislation and policies vary widely, with some countries providing strong protections for conscientious objectors while others prioritize patient access to care. The common thread in most policies is the requirement for conscientious objectors

³⁴ Decreto-Lei nº 2.848 de 07 de dezembro de 1940, <https://legislacao.presidencia.gov.br/atos/?tipo=DEL&numero=2848&ano=1940&ato=1bb0za61ENNRkTf8b>. [accessed: 15.05.2024]. Brazilian law permits conscientious objection to abortion except when the procedure is necessary to save the patient's life. The Brazilian Penal Code criminalizes abortion, with exceptions only in cases where the pregnancy poses a risk to the woman's life or when the pregnancy is the result of rape. This legal framework underscores that while healthcare professionals can refuse to perform abortions based on conscientious objection, they are required to perform the procedure if it is needed to save the woman's life.

³⁵ Patient's Rights Act, 1996, https://hamoked.org/files/2013/155880_eng.pdf [accessed: 15.05.2024].

³⁶ Law No. 2827 of 1983 Population Planning Law, <https://www.lawsturkey.com/law/the-population-planning-law-2827> [accessed: 16.05.2024].

to refer patients to other willing providers to mitigate potential barriers to healthcare access.

Undoubtedly, questions concerning assisted reproduction, genetic engineering, euthanasia, the use of cells from human fetuses and other “sensitive” topics will be a new challenge in this field. These will be basic questions about the service to human life as such, or about the service to certain qualities of human life of individuals. There are also the unresolved questions of reproductive rights that arise anew in the cultural struggles of our time. It will also go over issues of longevity, quality of life, and access to health care in correlates of a patient’s economic strength. These questions will test the quality of legal systems, and the quality of society itself.

3. Workplace and Employment

In various professions, individuals may face situations where job requirements conflict with their personal beliefs. Protecting the rights of employees while ensuring that essential job functions are performed is a delicate balance.

Conscientious objection in labor law refers to the right of employees to refuse to perform certain tasks or duties at work based on deeply held moral, ethical, or religious beliefs. This concept is most frequently associated with tasks that conflict with an individual’s conscience, such as producing weapons, participating in animal testing, or engaging in activities that violate environmental or human rights standards. Employees in certain industries may refuse to participate in activities they consider harmful to the environment or unethical. Legal protections for these objections vary widely. The legal framework and protections for conscientious objection in the workplace vary significantly across different countries and regions.

ICCPR in Article 18 protects freedom of thought, conscience, and religion, which can be interpreted to support conscientious objection in various contexts, including the workplace. The International Labour Organization (ILO) in the Convention No. 111 Concerning Discrimination in Respect of Employment and Occupation,³⁷ prohibits discrimination based

³⁷ Discrimination (Employment and Occupation) Convention, 1958 (No. 111), <https://gsphub.eu/>

on religion or political opinion, which can include cases of conscientious objection.

The United Kingdom Equality Act 2010³⁸ protects employees from discrimination based on religion or belief, which can include conscientious objection. Employers must consider reasonable accommodations for employees with such objections unless it causes undue hardship.

Grundgesetz in Article 4 protects freedom of conscience. This can be interpreted to support conscientious objection, though practical applications often depend on the specifics of the employment contract and job duties. French labor law³⁹ provides some protections for employees' freedom of conscience. However, the application of conscientious objection is limited, especially in sectors deemed essential. The United States title VII of the 1964 Civil Rights Act⁴⁰ requires employers to reasonably accommodate an employee's religious beliefs and practices unless it causes undue hardship on the operation of the business. This can include conscientious objection. The Religious Freedom Restoration Act⁴¹ provides further protection for religious freedoms, potentially supporting conscientious objection in the workplace. Canadian Human Rights Act⁴² prohibits discrimination based on religion, which can include conscientious objection. Employers must make reasonable accommodations unless it results in undue hardship. Brazilian labor law⁴³ includes protections against religious discrimination, which can support claims of conscientious objection, though explicit

conventions/Discrimination%20(Employment%20and%20Occupation)%20Convention,%201958%20(No.%20111) [accessed: 18.05.2024].

³⁸ The 2010 Equality Act, <https://www.legislation.gov.uk/ukpga/2010/15/contents> [accessed: 18.05.2024].

³⁹ Code du travail, https://www.legifrance.gouv.fr/codes/texte_lc/LEGITEXT000006072050/ [accessed: 17.05.2024].

⁴⁰ The 1964 Civil Rights Act, <https://www.eeoc.gov/statutes/title-vii-civil-rights-act-1964> [accessed: 17.05.2024].

⁴¹ The 1993 Religious Freedom Restoration Act, <https://www.congress.gov/bill/103rd-congress/house-bill/1308> [hereinafter: RFRA; accessed: 18.05.2024].

⁴² Canadian Human Rights Act (R.S.C., 1985, c. H-6), <https://laws-lois.justice.gc.ca/eng/acts/h-6/> [accessed: 18.05.2024].

⁴³ Consolidação das Leis do Trabalho [CLT] 1964, https://www.planalto.gov.br/ccivil_03/decreto-lei/del5452.htm [accessed: 18.05.2024].

provisions are limited. Israeli labor law⁴⁴ includes provisions for religious accommodation, which can support conscientious objection in the workplace. Employers are generally required to consider reasonable accommodations. South Africa Constitution⁴⁵ guarantees freedom of religion, belief, and opinion, which can include conscientious objection. The Labour Relations Act⁴⁶ requires reasonable accommodation of employees' religious practices. The 2009 Australian Fair Work Act⁴⁷ provides some protection against discrimination based on religion or belief, potentially supporting conscientious objection. Employers must consider reasonable accommodations unless it causes undue hardship. The 1993 New Zealand Human Rights Act⁴⁸ protects against discrimination based on religion, which can include conscientious objection. Employers are required to consider reasonable accommodations.

We are faced with the task of modernising labour codes and professional codes of ethics to reflect developments in the sciences and the legitimate demands that will be made by those involved in labour relations. Balancing the right to conscientious objection in the workplace involves several key considerations like Reasonable Accommodation⁴⁹ – employers are generally required to make reasonable accommodations for employees with conscientious objections, provided it does not cause undue hardship to the business. Essential Duties – in cases where the objection pertains

⁴⁴ Basic-Law: Freedom of Occupation (1994), <https://m.knesset.gov.il/EN/activity/documents/BasicLawsPDF/BasicLawOccupation.pdf> [accessed: 18.05.2024]; Basic-Law: Human Dignity and Liberty (1992), <https://main.knesset.gov.il/EN/activity/documents/BasicLawsPDF/BasicLawLiberty.pdf> [accessed: 20.05.2024].

⁴⁵ The Constitution of the Republic of South Africa, <https://www.gov.za/documents/constitution/constitution-republic-south-africa-04-feb-1997> [accessed: 20.05.2024].

⁴⁶ Labour Relations Act 66 of 1995, <https://www.gov.za/documents/labour-relations-act> [accessed: 20.05.2024].

⁴⁷ The Fair Work Act 2009, https://www8.austlii.edu.au/cgi-bin/viewdb/au/legis/cth/consol_act/fwa2009114/ [accessed: 20.05.2024].

⁴⁸ Human Rights Act 1993, <https://www.legislation.govt.nz/act/public/1993/0082/latest/DLM304212.html> [accessed: 21.05.2024].

⁴⁹ Reasonable accommodation due to conscience objection involves adjusting policies or practices to respect an individual's deeply held beliefs or values, even when they conflict with certain requirements or duties, while still maintaining the essential functions of a job or activity.

to essential job duties, accommodations may be more challenging to implement. Non-Discrimination – employers must ensure that employees are not discriminated against or unfairly treated because of their conscientious objections.⁵⁰

Conscientious objection in labor law is a complex issue, reflecting the need to balance employees' rights to act according to their deeply held beliefs with employers' needs to maintain effective operations. International frameworks provide general protections for freedom of conscience, but national laws and policies vary significantly. The common legal approach involves requiring employers to provide reasonable accommodations for conscientious objections, provided this does not cause undue hardship to the business [Kožmiński 2020, 92].

Court rulings and legal precedents play a significant role in shaping the policies and practices surrounding conscientious objection in the workplace [Barancová, 2019, 101]. Issues of moral and religious values and the resulting positions will clash with the rights of individuals and *vice versa*. This may also implicate medical assistance, regulation of conception, and state policies as in *Burwell v. Hobby Lobby Stores, Inc.*⁵¹ [Ondrášek 2015, 66].

4. Education, Training, Upbringing

The concept of Conscientious objection intersects with education, training, and upbringing in various ways, influencing how individuals form their moral and ethical frameworks and how society accommodates and respects those frameworks. Incorporating ethics and moral philosophy in school curricula can help students understand the foundations of conscientious objection. Teaching about historical and contemporary figures who have practiced conscientious objection⁵² can provide students with role models and a broader understanding of the concept. Education systems that emphasize critical thinking and individual reasoning enable students to form

⁵⁰ Cf. *Ladele and McFarlane v. The United Kingdom*, <https://hudoc.echr.coe.int/eng#%7B%22itemid%22:%5B%22001-111187%22%5D> [accessed: 21.05.2024].

⁵¹ *Burwell v. Hobby Lobby Stores, Inc.*, 573 U.S. 682 (2014), <https://supreme.justia.com/cases/federal/us/573/682/> [accessed: 06.05.2024].

⁵² Gándhí, Luther King.

their own beliefs and principles. Encouraging open discussions and debates on controversial issues can prepare students to articulate and defend their conscientious objections.

Schools offer education on various religious and cultural traditions, many of which include principles related to conscientious objection. Respect for diversity in beliefs and practices can be fostered through inclusive education policies. Respect for one's own history and tradition is also a contemporary challenge.

Some countries provide alternative forms of national service for conscientious objectors, such as community service or non-combatant roles. Training programs can include modules on human rights and the ethical implications of military service to support those who may face moral dilemmas. In professions such as medicine or law, training programs can include discussions on conscientious objection, particularly in areas like euthanasia, abortion, or capital punishment. Providing frameworks for ethical decision-making can help professionals navigate conflicts between their duties and personal beliefs [Navarro-Valls, Martínez-Torrón, and Valero Estrarellas 2022, 65].

Parents play a crucial role in shaping their children's values and beliefs, including views on conscientious objection. Families that emphasize critical thinking, moral reasoning, and ethical behavior are more likely to raise children who understand and may practice conscientious objection. Communities with strong religious or ethical traditions may instill values that support conscientious objection [Henríquez 2020, 369ff.]. Social environments that respect and support individual beliefs contribute to a culture where conscientious objection is understood and accepted. Laws and policies that recognize and protect the right to conscientious objection are crucial. This includes provisions for alternative service and protection against discrimination.

In conclusion, conscientious objection is a multifaceted issue that intersects with education, training, and upbringing in significant ways. By fostering an environment of respect, critical thinking, and ethical reasoning, societies can better support individuals who choose to act according to their deeply held beliefs. A new challenge in this area is undoubtedly curricula that are not in line with the religious beliefs of children or their

parents. They therefore do not consider these curricula to be in line with the best interests of the child. These are primarily issues of intelligent design, preparation for parenthood and sex education, respectively. In this sphere, it is undoubtedly significant to recall the functionality of treaties and agreements between States and churches and religious societies. These can be used to negotiate specific rights for whole collectives of believers, depending on their religious needs.

5. Technological and Scientific Developments

The importance of ethics, morals and, ultimately, law not lagging behind the development of science and technology is particularly crucial where research touches on the very essence of human life. We are facing new ethical challenges. Advances in medical technology, such as genetic engineering and reproductive technologies, continually raise new ethical issues where conscientious objection may become relevant. As technology and society evolve, policies and laws need to be adapted to address new forms of conscientious objection.

One of the focal points is undoubtedly the area of bioethics. Medical Procedures: Advances in reproductive technologies (e.g., IVF, genetic screening), stem cell research, and end-of-life care (e.g., euthanasia, palliative sedation) raise ethical questions. Medical professionals may object to participating in procedures they find morally objectionable. Genetic Engineering: CRISPR and other gene-editing technologies pose ethical concerns about altering human DNA. Researchers and practitioners may face moral dilemmas regarding genetic modifications and enhancements.⁵³

Artificial intelligence doesn't just affect the media. The development of autonomous weapons and drones introduces new ethical issues. Individuals may object to participating in or developing technologies designed for lethal autonomous operations. AI-driven surveillance technologies raise privacy concerns. Developers and users might refuse to engage in creating or using technologies that they believe infringe on civil liberties. The

⁵³ Cf. Ethical and juridical foundations of conscientious objection for health care workers, https://www.researchgate.net/publication/7490944_Ethical_and_juridical_foundations_of_conscientious_objection_for_health_care_workers [accessed: 21.05.2024].

collection and analysis of vast amounts of personal data can conflict with beliefs about privacy and informed consent. Data scientists and IT professionals may object to projects that they perceive as invasive or unethical. The development and deployment of AI systems that perpetuate bias and discrimination may lead to conscientious objections from those who seek to promote fairness and justice. Advances in environmental science can lead to ethical conflicts regarding sustainable practices. Individuals may object to participating in industries or projects that they believe harm the environment. Technologies designed to mitigate climate change, such as geoengineering, raise ethical concerns about unintended consequences. Scientists and engineers may object to these interventions based on potential risks.

Legislation may need to evolve to protect conscientious objectors in the context of new technologies and scientific practices. This includes providing legal frameworks that recognize the right to object and offer alternatives. Ensuring that laws keep pace with technological advancements is crucial for protecting individual rights and addressing emerging ethical concerns. Organizations and institutions should develop clear policies regarding conscientious objection in the context of technological and scientific work. This includes providing guidelines and support for employees who raise ethical concerns. Institutions can foster an environment of open dialogue and ethical reflection, allowing individuals to voice their objections and seek accommodations. Professional associations can update their codes of ethics to address new technological and scientific developments. Increasing public awareness about the ethical implications of technological and scientific advancements can foster a more supportive environment for conscientious objection. Educational initiatives that promote understanding of bioethics, data privacy, AI ethics, and environmental sustainability can help shape informed societal attitudes. The important thing is Balancing Innovation and Ethics. Societies must balance the drive for innovation with ethical considerations. Public discourse and policy development should reflect this balance, ensuring that technological progress does not come at the expense of ethical principles. Engaging diverse stakeholders, including ethicists, technologists, policymakers, and the public, can lead to more nuanced and inclusive approaches to conscientious objection.

Conclusion

Societal attitudes towards conscientious objection significantly influence policy and practice, shaping how laws and institutions respond to individuals who refuse participation in certain activities based on personal beliefs. The level of public support or opposition can determine the extent of legal protections and accommodations available to conscientious objectors. When public opinion strongly supports conscientious objection, there is greater pressure on legislators to enact laws that protect the rights of objectors. For instance, during times of widespread anti-war sentiment, there tends to be more leniency and understanding toward those who refuse military service. Conversely, in societies where there is strong opposition to conscientious objection, legal frameworks may be more restrictive, offering fewer protections and alternatives. Public backlash can lead to punitive measures against objectors.

Societies with diverse cultural and religious backgrounds may be more inclined to respect and accommodate conscientious objections, recognizing them as expressions of deeply held beliefs. In more homogeneous societies, or those with dominant cultural or religious norms, there might be less tolerance for dissenting views, leading to stricter enforcement of participation in specific activities. Strong public support for conscientious objection often translates into comprehensive legal protections. This includes recognizing conscientious objection as a legitimate reason to avoid specific activity. Legal systems may also ensure that objectors are not discriminated against in other areas of life, such as employment or education.

In addition, it is necessary to reflect the reality of religious and cultural differences in society and, at the same time, the need for social cohesion [Proeschel 2007, 156]. Conscientious objection is a very complex concept that later narrowed from the initial broad issue of whether to follow the law of the sovereign or the moral law to the possibility of refusing military service to encompass a variety of moral issues and religious claims in different areas of human life. The challenges outlined above related to the need for legal frameworks for the possibility to exercise conscientious objection highlight the importance of human dignity, human rights, freedom of thought, conscience and religion. The areas and challenges we have

identified are not an exhaustive list, but an outline of the issues we will be increasingly involved in.

We are convinced that it is the role of states to create legal frameworks that allow the exercise of their own convictions to the maximum extent possible, which is also a significant manifestation of a modern democratic society. It is the task of legal scholarship and lawyers, but also of experts in the fields of morality, theology, sociology, cultural studies, religious studies and other sciences, to contribute by exploring this issue to the creation of these legal frameworks that do not exclude anyone, but on the contrary, seek to incorporate contemporary cultural and religious plurality into a functional and solidary human society.

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