

Comments on Morris

Bruce Ballard

First of all, thanks to John for contributing a fine paper to our conference. As I read Morris, his general direction seems to run as follows. First, there is a strong tradition of allegiance to the natural law in American jurisprudence as seen in the Constitution, the Bill of Rights and in later legislation, to say nothing of the major world religions. Second, this tradition is under fire today but its opponents argue for their conclusion fallaciously. Third, given the wide-ranging acceptance of this tradition, there is no need to make the positive case for religious conscience, only to counter objections. The burden of proof is with the objectors.

Still, as Morris notes, medicine has been subject to political and ideological intrigue. This fact would make a larger defense of the natural law apropos in a longer treatment of the topic. A longer treatment of the topic could also show how the Natural Law conception Morris favors avoids the slide into anarchism, as R. P. Wolff argues.

I take Morris's critique of the argument against religious conscience to be successful. So, following a brief review of the argument and critique, my comments will be largely supplemental. Morris identifies 3 premises in support of the following conclusion: "Since forcing one's personal views upon another is inappropriate in a pluralistic society, the refusal of Catholic health care professionals ... to provide such services [e.g. abortion or assisted suicide] and/or referrals for patients constitutes discrimination against those patients". We should note that if such a pluralism lacks shared moral grounds, then it reduces to relativism. And from relativism no obligation follows.

Premise 1: The services in question are all taken to be part of "essential health care". E. g. "emergency abortion" is said to be necessary. But medically speaking there is no such category.

Many experienced health care people don't recognize these services as "essential". So while Morris appeals to medical community usage, he counts on his lay reader to recognize the failure to establish necessity in the usual sense of the word. There is nothing essential or necessary about these procedures. Still, in an expanded treatment, Morris might make the definition of necessary or essential explicit.

Premise 2: Since these services are legal, any health care practitioner must provide them. The legality is taken to guarantee the right to access. But Morris reduces this claim to absurdity with the restaurant analogy (i.e. A Vegan restaurant would have to sell steak.) among others.

Premise 3: Blocking access to "essential health care" on religious or moral grounds amounts to forcing one's personal beliefs and values upon patients. To return to the Restaurant analogy: not providing you with a steak is not forcing you to accept the Vegan lifestyle or beliefs. And the same is true of Catholic medicine.

More might be said about blocking access here. To block access is to prevent someone from appropriating a thing (or service). But to be blocked from access to something presupposes the prior existence of that thing. In the case of Catholic health care, there are no such services to be accessed any more than there would be steaks in a Vegan kitchen. And despite protests to the contrary, the liberal state is not and cannot be "neutral" on these matters. Those who prevail in effect force their beliefs on the rest of us with no more warrant than the proponent of religious conscience. Indeed, this is the case for every law.

To forfeit our conscience when it comes to law is to make an idol of legislators' wills, to lose the distinction between just and unjust laws and, ultimately, to agree with Thrasymachus that might makes right.

Finally, is there a way to argue for the theological elements in Morris' approach?

Catholic moral theology and, in general, Catholic philosophy of the human person represent a profound integration of spiritual and scientific understandings. Is there a way to argue for the relative superiority of this tradition over rivals?