

Conscience, Truth & Action

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Liberal democracies attempt to accommodate conscientious objections without having a clear understanding of the claims of conscience. This might lead to an Antigone claim, when conscience is irreconcilable with state authority. In this essay, I sketch three different models of conscience: a knowledge-based model where conscience gives priority access to moral norms; an emotional model that treats conscience as a natural capability that alerts us to wrongdoing; and a reflection model that argues that conscience works as our inner tribunal. Each model presents a different challenge to political authority. The conflict becomes tragic in Antigone's sense only when conscience is portrayed as providing knowledge of moral norms. The other two models can be squared with political authority in various ways, but they do not offer a final case for the authority of conscientious claims; at best, they show that political authorities should hear conscientious claims and engage with them in public deliberation. Conscience thus reconstructed can provide a constructive function in any society a) by holding political authorities to account; b) by forcing them to provide reasons for their actions; and, ultimately, c) by refining our deliberative and adjudicative practices to make sure that action is always anchored to truth.

Claims of conscientious objection are on the rise in Western liberal democracies. Not only do people object to military service or to performing abortions, but they now also claim the right to be exempted from providing services to a particular class of people.¹ This is not a good symptom: historically, the rise of conscience goes hand in hand with the decline of political authority. C. A. Pierce noted that: "It is clear that conscience only came into its own in the Greek world after the collapse of the city-state. The close integration of politics with ethics, with the former predominant, was no longer possible: there was no sufficiently close authority, external to the individual, effectively to direct conduct."² The examples of this predicament could be multiplied: the Corinthians rebelled against St. Paul by appealing to their conscience. Martin Luther spurred a protestant revolt against the Roman Catholic Church by appealing to conscience. Conscientious claims signal a deep disagreement with established authority. If conscientious claims become widespread, they might help undermine the established political order.

How can we accommodate claims of conscience in liberal democracies? This question presents various challenges: First, we need to grapple with the nature of conscientious claims. Second, we need to understand the structure of the conflict between authority and conscience. Third, we need to assess the moral authority of conscience. To do so, I map out the terrain in order to tentatively figure out what one might mean when one speaks about conscience and what that entails with regard to the conflict between law and conscience. Once the mapping is complete, I argue that conscientious objections do not entail a right to be exempted, but they do entail a right to be heard. I conclude by putting forward an alternative theory of how conscience could contribute to the search of truth in law and public policy.

We address claims of conscientious objection without knowing what *conscience* means. Conscience is an umbrella term that plays an important role in our moral life and serves as a bridge between beliefs and action. I am aware of the vagueness of this formulation, but I find it impossible to introduce conscience in a plain, noncontroversial way. We can refine it by saying what the umbrella covers: it spans from belief to action; the bridge between the two can either be via emotions or rational reflection. In technical terms, conscience plays a role in moral epistemology, moral psychology, and practical reasoning. The three areas are not necessarily linked by the workings of conscience, but they might be. If someone believes that conscience gives us access to moral knowledge, then that will also color the motivation to act in accordance with that knowledge.³

For the moment, let us keep those three areas to provide a typology of different types of conscience.⁴ Religious people tend to believe that conscience provides direct or indirect access to moral norms. Antigone believed, for example, that everyone had direct access to universal moral norms grounded in religion. She also believed that those moral norms trumped the legal norms of the City of Thebes in which she lived. Antigone's belief in the superiority of her conscientious objection leads to a stalemate with Creon's belief in the superiority of state law's authority. Tragedy inevitably ensues from that stalemate. I call this *Antigone's claim*, which illustrates a knowledge-based model of conscience and shows the perils associated with a conflict between conscience and authority. If Antigone believed that conscience gives us direct knowledge of religious norms, St. Paul – who brought conscience to the fore of Christian theology – believed that conscience gives us indirect moral knowledge of God's law. In his words: "Consciences bear witness [of the law]."⁵ In either case, conscience is cognitive; it gives us direct or indirect access to moral knowledge.

Other accounts of conscience focus on its emotional and motivational role. We have pangs of conscience or a perturbed conscience; we feel guilty or moved into action. Conscience pricks and prods us in multiple ways: it makes us bite our tongue or provokes a reaction. An image that is often associated with that an-

noying little voice is Pinocchio's cricket. Different accounts might claim that the cricket's voice is built into us from birth or is a reminder of social norms. What matters here is that conscience provokes an emotional reaction and our actions are filtered through that emotional response. And if the filter is not functioning, then we regard the person as a moral monster: think of Iago, for example, who does not seem to have any pang or prick of conscience at any point, not even when caught red handed, and yet he's capable of saying with a straight face: "Though in the trade of war I have slain men, / Yet do I hold it very stuff o' the *conscience* / To do no contrived murder."⁶ Interestingly, Othello is also lacking in conscience in that he does not seem capable of controlling his emotional outrage through conscience. Othello is a man of action: he acts first, and only reflects afterward.

This brings us to the third family of accounts of conscience: those that focus on introspection or reflection. In this case, conscience is presented as a deliberative device: we engage in a calm, rational reflection on our feelings and duties and we attempt to organize our thoughts before we can allow ourselves to get into action. From this viewpoint, conscience neither gives us access to moral knowledge, nor does it prick us or prod us. Rather, it requires a dispassionate rational activity; this account of conscience seems very appealing to priests and philosophers, but it does not appear to be close to reality.⁷ Moreover, conscience can be a real hindrance to action for those who are lost in a speculative space. Hamlet is there to remind us that: "Thus conscience does make cowards of us all; / And thus the native hue of resolution / Is sicklied o'er with the pale cast of thought, / And enterprises of great pith and moment / With this regard their currents turn awry, / And lose the name of action."⁸ Those who celebrate rational deliberation will dismiss Hamlet as an amateur philosopher and an immature man. But they overlook the fact that conscience can be a double-edged sword: it might regulate action, but it can also hinder it if we are lost in the introspective search. And in any case, it seems that a purely introspective account of conscience misses half of the picture.

The models presented do not aim to capture the way we think about conscience in practice; for we tend to see conscience as a blend of those models. It is still possible to find pure accounts of conscience as knowledge, motivation, or reflection. But we have also just seen that pure accounts of conscience tend to attribute to it an overinflated role that may lead to tragedy: Antigone relies on conscience as the exclusive source of moral knowledge. Othello's purely emotional conscience leads him to major mistakes: he trusts Iago, who wears conscience on his sleeve, and distrusts Desdemona, who is a pure and good soul. And Hamlet's conscientious introspection leads to more frustration than rational deliberation.

Conscience is so hard to pin down largely because it cannot be easily boxed into one of the three categories. Rather, conscience seems to be a hybrid notion that functions as a bridge between beliefs and actions. More often than not, philosophical theories of conscience combine two or more dimensions of conscience. For ex-

ample, Aquinas distinguished between *synderesis* and *conscientia*, in which *synderesis* does the epistemological heavy-lifting, while *conscientia* delivers the goods of practical deliberation as the conclusion of a practical syllogism in which the major premise is given by *synderesis* and the minor premise is the assessment of the circumstances in a given case. Of course, accounts of conscience can just as well combine practical reasoning with motivation: ideally, conscience would engage our rational deliberation and lead us naturally into action based on the best rational solution.

But action based on rational deliberation is in most people a rare occurrence. We also know that the most difficult cases of conscientious objection will come from those who claim to have knowledge of the dictates of conscience or from those who have deliberated and concluded that their conscience is at odds with some public policies. Those who have motivational issues of conscience are somehow less problematic. Let us turn to the conflict between conscience and the law.

For the moment, I have deliberately left open the definition of conscience. Its ambiguity is reflected in the way we address instances of conflict between law and conscience. Indeed, the way we frame the conflict depends on the way we conceive of conscience. I will begin with the case of conscience posing a motivational problem. There are people who object to going to war for conscientious reasons. They might have pondered the question long and hard, or they might have a strong intuition that taking up arms is always wrong. In both cases, those who object to war feel strongly that to be coerced to take part in a war is contrary to their moral convictions; thus, they would ultimately be highly unmotivated. It is not so hard to see why a state would want to recognize a limited number of exemptions from being drafted: it is not in the interest of the state, the army, or the soldiers to be burdened by a number of people who are likely to dampen the morale of the troops. Moreover, offensive war has very weak legitimacy to begin with, so to coerce objectors could be fatal for the legitimacy of the state.

For similar reasons, it is very hard to coerce medical doctors to perform actions that they consider incompatible with their conscience, such as abortion. An unmotivated doctor who is coerced to perform such an action is more prone to errors that could have devastating consequences on the patient. The comparison between war and abortion, however, ends there. In virtually all liberal democracies, legislation entrenches a right to abort. The state has a positive obligation to secure the efficacy of that legal right, which requires that women be assisted in the exercise of their right at no extra cost or burden. In some cases of scarcity of resources, that might even overrule a request for exemption or justify the woman's request for extra costs incurred.

When conscience is chiefly a matter of motivation to engage in certain acts, it is hard to justify state coercion that can compromise the autonomy underlying the act. In both cases, however, we assume that someone else will be available to

perform that action in good conscience. If that was not the case, and the country needed soldiers to defend itself, then again reasons of survival would trump conscientious objections. In the case of medical objection, as long as the medical intervention is legal, there might be a space for individual objection, but that also increases the responsibility of the health provider to find suitable alternatives to meet the needs of the patient. In both cases, the most important question has to do with the cost of conscientious objection: how big a cost can the society pay and who should bear it?

The second type of conflict between law and conscience has to do with conscientious objection based on a claim of moral knowledge, direct or indirect. In these cases, we are no longer trying to establish how big a cost the society can bear; rather, it seems that anything short of a full exemption would compromise the integrity of the individual. For, in these cases, conscientious objectors insist that their moral conscience is not disputable and points to the immorality of the law. They take exception to the morality of the law, even if the action requested by the law is itself a requirement of their job. In this case, objectors raise the rhetorical stakes by claiming that the law would make them complicit with evil-doing.⁹ An example of this scenario is the public officer who, for religious reasons, refuses to sign marriage certificates for homosexual couples. Note that in this case, the motivation and the emotional state of the conscientious agent is not central to the performance of the action: they can perform the action routinely for other people. Also note that the action is not controversial *per se*. Registrars do not object to signing the document; that is their job. They object to signing the document for a class of people. By doing so, they object to the morality of legislation that extends privileges to previously discriminated classes of people.

Conscientious objection is used as a sword against policies that have liberalized sexual and reproductive morality by decriminalizing abortion and contraception, and by legalizing marriage and adoption for sexual minorities. Conscientious objection is no longer aimed at showing that the state is making a mistake by engaging in military action. Rather, conscientious objection now aims to show that the basic values that underpin some fundamental liberal policies are wrong and cannot be regarded as a legitimate use of political authority. Ultimately, such conscientious claims aim to disrupt the moral and political order of liberal democracies.

Thus, the stage for a genuine conflict between conscience and authority is set. Legitimate authority claims to rule on the basis of right reasons. According to one prominent account, authority mediates between right reasons and people's actions. An authority provides a service to people by presenting them with a conclusive reason to perform a certain action on the basis of all the relevant reasons that apply to the agent. Legal authority works along those lines: it mediates between agents and the reasons that apply to them. Insofar as law does this, it can be considered as legitimate.¹⁰

But conscience-as-moral-knowledge also claims to be informed by right reasons. In fact, according to some accounts, conscience works analogously to authority.¹¹ It does not create any new reasons but it alerts us to the reasons that apply to the action we have taken.¹² Thus, conscience mediates between reasons and actions, and it performs a cognitive role in giving agents cause to act in a way that tracks all the right reasons.

If we were to accept an understanding of conscience-as-moral-knowledge, then we would have to conclude that both legal authority and conscience offer us what philosopher Joseph Raz has called exclusionary reasons. These are second-order reasons that exclude other reasons from deliberation; second-order reasons tell us to refrain from further deliberation.¹³ It follows that the conflict between conscience and law is a conflict between two exclusionary reasons. The consequences could not be starker: there is no room for compromise or accommodation between two exclusionary reasons. One or the other must give way.

Conscience-as-moral-knowledge works here on the assumption that if its claim is successful then the legitimacy of legal authority would be undermined. Blow by blow, a number of liberal policies could be questioned and ultimately revised. Those who define conscience as moral knowledge have an interest in presenting the conflict as total, rather than partial. A partial conflict implies that neither of the two reasons of conflict is nonnegotiable. In fact, it would just point out that on each side, there are defeasible reasons. But when there are two exclusionary reasons that conflict, accommodation is not possible because it would require reopening the balance of the first-order reasons that have been captured by the formulation of exclusionary second-order reasons.

Bakers and registrars claim that their conscience offers them cause not to act on the reason offered by legislation that requires them not to discriminate. This conflict between conscience and law is set up to question the rationale of some liberal policies. It is a total conflict, the point of which is to introduce a strong tension between competing worldviews and restore traditional values in matters of morality. But there seems to be a disruptive agenda, too: the intent is to dismantle the moral and political order so as to conquer it again.¹⁴ Just like the case of Greek city-states, the political institutions of liberal democracies are losing their grip on the ethical fabric of the society.

The third category of conflict between law and conscience is when a conscientious objector makes a claim based upon rational reflection. The thought process is more hypothetical here: what would we do if faced with such a situation? If the conscientious case is compelling, then it is likely to influence a policy or a legal change. If the law is blatantly wrong, then conscientious objection is the only right response available upon reflection. A public officer working under an apartheid regime could give up his job or refuse to implement the policies of the regime that are harming a category of people. The latter could be a deliberate strategy to

undermine the regime from within and so it must be the result of a mature reflection about the demands of conscience.

The conscientious case might in this case be so cogent that conscientious objection will slowly but surely become the voice of the majority and transform itself into civil disobedience. In this third scenario, conflict is never total: that is to say, it does not create a deadlock between the law and conscience, where one claim must give way to the other as a conclusive matter. Conscientious claims based upon reflection invite political authority to reflect on the moral basis of the law or of the policy. And if this type of dialogue can be established, then it is likely that the law will ultimately be open to change and to correct mistakes.

If a genuine conflict between law and conscience arises as described above, its treatment depends on the comparison between the authority of the law and that of conscience: it boils down to the strength of the reasons on each side, even if the inescapable problem is that both sides claim to have conclusive authority.

Sometimes a conflict can be avoided by restricting the scope of conscience. Conscience has been described as being necessary to avoid evil, but not sufficient to do the right thing. This was Paul's view.¹⁵ He thought that conscience was negative and backward-looking; conscience pricked those who had already committed a wrongful action. At most, conscience begs us to refrain from repeating that wrongful action, lest we be subject to the same pain that cannot be shaken away. In Paul's account, both the knowledge and the motivation tend to be negative: we have a reason not to act against the law, and we are also motivated to do so by the desire to avoid pain.

This understanding of conscience is modest and limited in scope: Conscience is not a guiding light of human action. It is rather a brake to what can be done. Another account that constrains the scope of conscience attributes to it a very specific role in practical reasoning, as Aquinas claimed. One thing is to ascertain the reasons that guide us, another is to apply those reasons to individual situations. Aquinas is careful to argue that conscience operates at the second level only. To be precise, the working of conscience can be presented as a syllogism. We have knowledge of first principles, and we are presented with a set of circumstances. Conscience is the capacity that applies basic principles to particular circumstances; it is the third, and final, step in a syllogism.

Because of its applied nature, conscience is fallible. First, we have a problem that has to do with the accessibility of right reason. Without questioning the existence of right reasons, we can question our human capacity to discover them. Since conscience is an act of application of knowledge to a set of facts, we can be mistaken about the particular facts or about how right reasons apply to particular facts. Whether we are correct or mistaken, we still feel that conscience binds

us and we would do something wrong if we acted against our conscience: when we experience it, we want to refrain from action and we provide conscience as a reason for not acting. But because conscience is fallible (if you follow Aquinas), then it cannot always excuse. It depends on the nature of the mistake: when the agent has no means to ascertain his mistake and the mistake is involuntary, then conscience binds and excuses. But if the mistake can be avoided or corrected, then conscience will not excuse the agent.

While the authority of *synderesis* is not questionable, the authority of conscience is by nature fallible. It follows that a conscience in this account does not necessarily lead to a deadlock with the law. There is space for the external authority to probe the reason of the conscientious objector and to assist with the reasoning if there is a mistake.

Another strategy to acknowledge legitimate authority to both the law and the claims of conscience while avoiding their conflict is by distinguishing their domains: law makes claims in the public sphere, while conscience makes claims in the private sphere. By doing so, one preserves the integrity of both, but might miss out on the dialogue between law and conscience.

Those who prefer to separate the domains tend to look at conscience as the outcome of an inner judicial process.¹⁶ The process is entirely played out within one's mind and the agent is at the same time the accuser, the accused, and the judge. The sentence reached through the inner judicial process can be one of acquittal or a guilty verdict. In the latter case, the punishment is the feeling of guilt. A trial model of conscience gives a rational basis to the authority of conscience, but it also takes away from conscience its more critical role *vis-à-vis* questionable public policies and laws.

It is possible to ground conscience's authority on an ideal deliberative process, in which the agent is in search of the truth, but she is also conscious that that research is complex and burdened by one's own epistemic and motivational biases. Reflection can begin with the questioning of the law or with the questioning of one's own moral norms. Individual development happens by testing the boundaries of external authority; children learn to internalize norms that way. At a second stage, children question the reasons that back parental directives. Most social and political norms are open to revision, and practical authorities are strengthening themselves when they can articulate in public their reasons in a successful manner.

A deliberative model of conscience is rooted in self-reflection but does not stop there. It constantly engages external authorities to test their limits and integrity; it also adjusts one's own norms in light of better forms of reasoning. The authority of conscience is therefore no longer seen as a second-order reason, but as a way to engage and test one's own beliefs and convictions in light of their impact on the external world.

Can we accommodate conscience? It is easier to accommodate reflection-based conscience than it is to accommodate knowledge-based conscience. The latter presents itself as a conclusive reason that bears no compromise. It does not recognize the authority in front of itself, while insisting on its own infallibility. Conscience-as-knowledge is bent on depriving the external authority of its own legitimacy and replacing it with the authority of individual conscience.

On the other hand, conscience-as-reflection is more modest while still authoritative. The individual recognizes her own practical reasoning as binding, but there is openness to the possibility of being mistaken. In such a case, the external political authority must also display a certain degree of humility and modesty. It must start by acknowledging the negative feeling of the individual and must attempt to engage in a dialogue in order to let claims of conscience be considered in the open. In this way, the most obvious mistakes with regard to right reason or to the examination of the facts of the case can be dismissed more easily.

Genuine claims of conscience must be the object of public and open scrutiny. This is the first step toward accommodation, and it is true in both cases of correct or incorrect conscience. If conscience is regarded as correct after public deliberation, then the political authority would have a strong reason to conform to it. An interesting test case was provided by Prime Minister Tony Blair's decision to go to war in Iraq. Blair presented his decision as dictated by his own conscience, and in this discussion, let us take him at his word. A mass protest, perhaps the biggest in recent British history, followed this decision, creating a stand-off between the prime minister's conscience and the public's conscientious objection to it. The public wanted the prime minister to avoid a major mistake: going to war without having sufficient evidence. Tony Blair resisted public pressure and brushed it off by claiming the authority of his inner conscience. History, and Sir Brian Leveson's public inquiry, showed us that Tony Blair should have listened and accepted that his conscience was mistaken. A public deliberation would have shown that there was no final evidence to support military action.

The prime minister's conscience was not merely accommodated, since he was leading the conversation on what to do. His voice needed to be heard and debated, but that does not mean that the legitimacy of his action cannot be contested. On the contrary, had he been open to contestation, he would still enjoy a reasonable degree of legitimacy, which he jettisoned the day of his decision. The legitimacy of political authority comes partly from its openness to being mistaken; and so it is for the moral authority of conscience: it should always be respected, and it is because it is respected that it should be scrutinized when it aims to guide action.

That is where accommodation stops: conscience can and should be heard. But it does not have the privilege of legal or political protection every time it makes a claim. Conscience can claim to be heard but does not systematically excuse who-

ever claims it: there is no general or special right to conscientious objection; rather, conscience is covered by a right to be heard.¹⁷

Conscience is at its best when it preserves a healthy distance from religious and political authorities. History shows us that conscience can become dangerously unhinged from its surroundings to the point of bringing about unrest and conflict. Liberal democracies suffer from a structural inability to give conscience its proper place. Because liberal democracies fail to grasp the structure of the claims of conscientious objection, they are liable to be undermined by Antigone's claim.

Liberal democracies display opposite attitudes toward conscience: either it is repressed in the name of right reasons or it is fetishized and undermines the legitimacy of the authority that protects it.¹⁸

There are two types of conscience fetishism: knowledge fetishism and reason fetishism. If a liberal democracy defines conscience as the ability to access one's own deepest convictions and beliefs, and if that polity provides special protection to those beliefs and convictions, then we can speak of knowledge fetishism. No political regime can survive the rise of conscientious claims of this kind: it only takes an organized group to use this weapon against the very fabric of the liberal democracy. I do not think that it makes sense to protect conscience as a preferential pathway to moral knowledge.

Reason fetishism is equally problematic. In its ideal form, it presents conscience as an inner tribunal in which the agent weighs reasons for or against a certain action. In these accounts, conscience is the centerpiece of private morality and public authority must respect the findings of the court of inner reason. The inner tribunal of conscience works in parallel with the public tribunal of law. That gives liberal thinkers the false impression that conscience and law have two separate domains in which reason plays the role of king. Reason fetishism amounts to the false belief that conscience can regulate itself from within.

I resist both knowledge fetishism and reason fetishism and will conclude by sketching an account of conscience as a potential assistant of public deliberation. Most philosophical theories of conscience present a mixed account that is rooted either in a knowledge-based or reflection-based idea of conscience. I favor an account that begins with emotional reactions to wrongdoing as a starting point for public deliberation on the merits of an action. Political authorities have an obligation to hear the claims of conscience. They also have a strong interest in understanding and evaluating the motivational force of conscience.

A well-balanced individual, unlike Hamlet, is engaged in the right amount of action and introspection. There is no solution of continuity between the two, nor is there priority of one over the other. In fact, someone who is thriving will engage in action and reflection in a spontaneous and seamless way. Conscience as a feel-

ing of guilt, as a pang, will only appear if there is a glitch in one's life: there might have been a mistake or an accident. At that point, conscience requests a review of one's action and can intimate a change in behavior. Other times, it is possible that one's action is perfectly fine, and the problem is with the external barrier to one's own action. In this case, conscience assists with the task of changing the external world so as to remove barriers of rightful action. Thus, conscientious claims can hold political authorities to account.

In this picture, conscience is in constant exchange with the external world: it is prepared to be corrected by, and to correct, norms of behavior that shape the normative landscape. The spark of conscience is a feeling that something is not quite right. To take seriously that spark of conscience is fundamental, but it cannot stop there: the feeling of something wrong can be an occasion to deliberate on what needs to be changed and adapted. In the case of Hamlet, once again, what is wrong is his psychological state that is afflicted by overwhelming emotions. His conscience, as a result, is incapable of breaking the vicious circle that forces him into a vortex of endless introspection.

The second step of my account of conscience is deliberative. Pangs of conscience make a legitimate claim on us and on external authorities to review the reasons that back certain norms of behavior. The best contribution of conscience is to ask us to revise mistakes that cloud our deliberation, and to review biases that color actions. As noted at the beginning, Othello is the example of a man who would benefit from the assistance of a healthy deliberative process. As a leader and commander in chief, Othello is too prone to follow his emotions without examination, and that leads him into a series of mistakes with regard to Iago's "honesty," Cassio's integrity, and Desdemona's loyalty. In contrast with Othello's tragic decision-making based on naked emotions stand the decisions of the republican city-state of Venice, taken by deliberation in council. Open deliberation allows councillors to examine problems and to discard basic mistakes and biases that can be a hindrance to a fair deliberation. For example, Brabantio's accusation that Othello used black magic to seduce her daughter is dismissed in a public session in which conclusive evidence showed that the accusation was based on racial bias.

Conscientious claims must be sifted and examined in a process of deliberation. Conscience can assist in that process by bringing to the attention of the public some cases that need to be discussed to dispel social biases and mistakes. Thus, conscience contributes to public deliberation by requiring public authorities to provide positive reasons for their actions.

It is in the interest of political authorities and individuals to have a continuous open search for truth that is serious about conscientious feelings and emotional reactions. Political authorities must be open to be mistaken and eager to respond to conscientious claims in a way that tackles the source of conscientious unrest. Likewise, in a functioning deliberative process, individuals trust external author-

ities to provide the right reasons against which their behavior can be assessed, guided, and corrected. In this way, conscience can assist the process of striving for the truth. But conscience can only be protected by the law when it can show that the law is making a mistake that needs to be rectified.

Other times, conscientious objection is openly in conflict with external authorities. In those times, Antigone reminds us that we must be wary of those warning signs: it might signal that collective authority is no longer anchored to a truth-seeking exercise. The very fabric of the society is threatened by claims of conscientious objection that are not open to be falsifiable during public deliberation. In these cases, rather than assisting deliberation by pointing out mistakes and biases and strengthening authority, conscientious claims point to the fact that the legitimacy of state authority is in sharp decline.

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ENDNOTES

- ¹ *Masterpiece Cakeshop, Ltd. v. Colorado Civil Rights Commission*, 584 U.S. ____ (2018).
- ² C. A. Pierce, *Conscience in the New Testament* (London: SCM Press, 1955), 76.
- ³ Contemporary moral psychology highlights the fact that there is no sharp divide between cognition and emotion.
- ⁴ Later, I will construe my own concept of conscience on the basis of insights gathered in the following discussion.
- ⁵ Rom. 2:14–15.
- ⁶ William Shakespeare, *Othello*, 1.2.1–3; emphasis mine.
- ⁷ Joseph Butler seems to have a purely reflection-based account of conscience; see Joseph Butler, *Sermons Preached at the Rolls Chapel* (London: J. and J. Knapton, 1726).
- ⁸ William Shakespeare, *Hamlet*, 3.2.82–87.
- ⁹ Douglas NeJaime and Reva Siegel, “Conscience Wars in Transnational Perspective: Religious Liberty, Third-Party Harm, and Pluralism,” in *The Conscience Wars: Rethinking the Balance between Religion, Identity, and Equality*, ed. Susanna Mancini and Michel Rosenfeld (Cambridge: Cambridge University Press, 2018).

- ¹⁰ The *locus classicus* for this account is Joseph Raz, *The Authority of Law*, 2nd ed. (Oxford: Oxford University Press, 2009).
- ¹¹ Religious accounts of conscience treat it this way.
- ¹² It is unclear whether conscience can be considered as prospective or whether it is simply retroactive.
- ¹³ The main difference between legal authority and conscience is that the former is the result of public deliberation, while the latter is the result of inner deliberation.
- ¹⁴ Disruptive strategies are very strong in the marketplace: think of Uber, Airbnb, or Deliveroo. Political agents like Trump use similar strategies to conquer the political sphere.
- ¹⁵ Pierce, *Conscience in the New Testament*, 99.
- ¹⁶ Immanuel Kant provides an account of this kind. See Allen Wood, “Kant on Conscience,” available at <https://web.stanford.edu/~allenw/webpapers/KantOnConscience.pdf>.
- ¹⁷ I made this argument elsewhere; see Lorenzo Zucca, “Is There a Right to Conscientious Objection?” in *The Conscience Wars*, ed. Mancini and Rosenfeld.
- ¹⁸ With the exception of Raz. See Raz, *The Authority of Law*, chap. 15.