

Liberty of Conscience.

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Yesterday in the context of shame – or rather the lack of it – we looked at this beautiful piece of narrative from the Old Testament somewhere around 2,500-3,000 years ago. Jeremiah the prophet has just dictated a judgment against the king with an opportunity to change his ways and thus save Jerusalem from destruction. The scribe is Jehudi.

It was the ninth month and the king was sitting in the winter apartment, with a fire burning in the firepot in front of him. Whenever Jehudi had read three or four columns of the scroll, the king cut them off with a scribe's knife and threw them into the firepot, until the entire scroll was burned in the fire. The king and all his attendants who heard all these words showed no fear, nor did they tear their clothes. (Jeremiah 36:22-24)

Fast-forward to 2008AD. On the 10th day of the 10th month at 10.35pm the abortion bill passed the Victorian Upper House effectively and legally allowing abortion through to term by any method for any reason and with doctors compelled to be complicit in the process.

Specifically, the Victorian bill allows abortion for any reason up to 24 weeks on demand and then after 24 weeks through to term if considered "appropriate" by a doctor who only has to consult with another doctor who also considers it appropriate but does not need to see the mother. There is effectively no restriction. No counselling is required, nor is there any "cooling-off" period; there is no restriction as to method of abortion including the horrific partial birth abortion, nor are there any guidelines re abortion for foetal abnormality.

Eugenic selection of even minor correctable abnormalities such as cleft lip has crept in under the radar in Victoria. This now has legal sanction.

All amendments failed including the one to take out the clause eliminating doctor's conscientious objection.

It was with a sense of disbelief that I heard that all amendments failed. I did not even consider that the amendment re doctor's compulsion would fail. Words like unbelievable, incomprehensible come to mind. How can any government, anywhere, say that a doctor *must* cooperate in something that is against his or her conscience – especially when this involves killing?

Well-presented arguments against the bill's provisions were made by over 200 Victorian doctors and 150 doctors in other states. That these arguments should be over-ruled demonstrates the single-mindedness and power of the pro-abortion lobby. It is also sobering to consider the part that Emily's List has played in this "historic moment for the recognition of women's rights in Victoria... able to access safe, legal terminations free from persecution... free from harassment ..."

Until it is reversed, the refusal of doctor's right of conscience has paved the way for compulsory participation in other processes e.g. euthanasia; physician assisted suicide.

Yesterday we heard from Sven¹ that abortion is our biggest battle and from Bill² and Warwick and Alison³ that the marriage and gender battles were the biggest. Please allow me the privilege of putting this together.

Humanity's greatest crisis is the rebellion against what it means to be created in the Image of God, a rejection of who God is and what it means to be human – and I agree with Sven that the frontline of this battle is abortion. Congratulations Sven on what you are doing in showing what abortion is. And Bill highlighted the country's knee jerk reaction to the horrifying images of cattle slaughter. I wrote 2 years ago about the dolphin slaughter in Taiji, Japan and abortion

How can it be that we betray the most helpless of humans? Our animal activist friends get really upset when they see a dolphin or whale foetus cut from its mother and rightly so. Yet these are frequently intact and have not been shredded or pulled apart. How can it be that our society is so schizophrenic that we get upset about dolphin slaughter yet rabidly defend our right to kill our unborn babies? How can this be?

It may be that this battle too may be won with word pictures and visual images and a new generation will thank us and wonder why the truth was withheld for so long.

So, thankyou Sven. And, by the way, I think we are changing the culture on this one – I sense we are winning. OK, that's humanity's greatest crisis.

¹ Dr. Sven Frederick Østerhus www.doctorsagainstabortion.com

² www.billmuehlenberg.com

³ Warwick and Alison Marsh, of Fatherhood Foundation www.fatherhood.org.au

Society's greatest risk is the threat to marriage and family, the move to re-define male and female and thus ultimately destroy the fabric of society.

And the third great risk is to freedom of belief and to speak of what we believe – to even speak or show the truth re abortion or marriage or even quote scripture - and includes freedom of religion and liberty of conscience and that brings us to *medicine's greatest challenge*.

And as we said yesterday these three core elements are the basis of the [Manhattan Declaration](#), the [Westminster Declaration](#) and the [Canberra Declaration](#).

In practical terms the battle fronts for medicine are:

(I make no apology for using "battle"; traditional medicine is under attack; we are not the instigators of the changes; we must defend what we know is best and true)

- The push for legalised abortion with no restriction on time, method or reason
- Routine pre-natal diagnosis with implied embryo selection or abortion of the defective (even compulsory)
- Euthanasia and physician assisted suicide – unrestricted even for the non-dying (even compulsory)
- The traditional doctor/patient relationship being replaced by a mere service-provider/consumer contract including
 - Overriding of conscience
 - Truly informed consent

(which is suppressed by those of particular ideology particularly abortion – the evidence for the breast cancer connection and Post-Abortion Syndrome cannot be so easily dismissed)

The push for these things is coming from the public, consumer groups, groups with specific agendas (e.g. abortion, euthanasia), health bureaucracies, from politicians committed to a particular agenda, and from within the medical profession.

I want to look in more detail now at liberty of conscience and then finally, what must we do? Firstly, it has been said that

The obligation to practice conscientiously is the obligation on which all other medical ethics are built. (Dr Farr Curlin, MacLean Center for Clinical Medical Ethics, University of Chicago).

Then from the [ConscienceInMedicine.net.au](#) website we read in the preamble:

The exercise of conscience is foundational to good medicine. It underlies every aspect of *good medical practice, to make good patient care our first concern and to practice medicine safely and effectively.* (*Italics* from Australian Medical Council Code of Professional Conduct.)

Liberty of conscience is critical for individual doctors as it lies at the very heart of our integrity and self-identity. It is conscience that must compel doctors to refuse to participate in treatments they believe to be un-ethical or that they consider not to be in the best interests of patients.

It is not enough for doctors to simply be providers of medical services on demand from consumers or third parties, providing all that is legal whether or not it is consistent with their ethical base. To sacrifice conscience and be concerned only with service provision is to destroy the heart and soul of medicine.

Governments may legislate to permit certain practices or procedures but governments must never force doctors to violate their conscience by compulsory engagement in such practices or procedures.

Infringement of conscience is a serious challenge facing modern medicine. Medical codes of conduct must never be subject to degradation by government.

And the Declaration itself reads:

We, the undersigned, seek to maintain the ethical independence of the medical profession and the liberty to practice medicine according to our conscience. We believe it

is in the patient's best interests for doctors to adhere to a code of ethics that is independent of any standards set by governments or practices that may be permitted by legislation. We believe that as health professionals we have a duty to educate and inform fully so that best management decisions can be made and that such may include a refusal to comply with patient demand where such is inconsistent with good medical practice. We further believe there are times when the patient request cannot be complied with because it conflicts with our integrity and ethical stance.

It is our right and obligation to practice medicine according to our conscience. We will not engage in or facilitate procedures or practices that we believe are in conflict with our conscience.

Now there are of course other existing Declarations of Conscience

From the *Universal Declaration of Human Rights 1948* Article 18.

Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief, and freedom, either alone or in community with others and in public or private, to manifest his religion or belief in teaching, practice, worship and observance. <http://www.un.org/en/documents/udhr/>

From the *Declaration of Geneva* adopted by the WMA (2006) and ratified by the AMA (2006)

I will practise my profession with conscience and dignity;

I will maintain, by all the means in my power, the honour and the noble traditions of the medical profession

I will maintain the utmost respect for human life <http://ama.com.au/node/2468>

[however the original 1948 Geneva declaration further stated "...from the time of its conception, even under threat"]

From *Medicine with Morality* 2006:

We assert our right and obligation to practice medicine according to our conscience. We will not engage in or facilitate procedures or practices that we believe are inconsistent with the above manifesto. www.medicinewithmorality.org.au

From the *Manhattan Declaration* 2009:

Because we honor justice and the common good, we will not comply with any edict that purports to compel our institutions to participate in abortions, embryo destructive research, assisted suicide and euthanasia, or any other anti-life act;

<http://www.manhattandeclaration.org>

From the *Canberra Declaration* 2010:

We will not comply with any directive that compels us to participate in or facilitate abortion, embryo-destructive research, assisted suicide, euthanasia, or any other act that involves the intentional taking of innocent human life. <http://www.canberradeclaration.org.au/>

From the *Hippocratic Oath*. Original, written 400 BC Translated by Francis Adams

I will follow that system of regimen which, according to my ability and judgment, I consider for the benefit of my patients, and abstain from whatever is deleterious and mischievous. I will give no deadly medicine to any one if asked, nor suggest any such counsel; and in like manner I will not give to a woman a pessary to produce abortion. With purity and with holiness I will pass my life and practice my Art.

<http://classics.mit.edu/Hippocrates/hippooath.html>

And finally and bizarrely from the *Charter of Human Rights and Responsibilities Act* 2006 Victoria:

(1) Every person has the right to freedom of thought, conscience, religion and belief, including—

(a) the freedom to have or to adopt a religion or belief of his or her choice;

and

(b) the freedom to demonstrate his or her religion or belief in worship, observance, practice and teaching, either individually or as part of a community, in public or in private.

(2) A person must not be coerced or restrained in a way that limits his or her freedom to have or adopt a religion or belief in worship, observance, practice or teaching.

[http://www.legislation.vic.gov.au/Domino/Web_Notes/LDMS/PubStatbook.nsf/f932b66241ecf1b7ca256e92000e23be/54D73763EF9DCA36CA2571B6002428B0/\\$FILE/06-043a.pdf](http://www.legislation.vic.gov.au/Domino/Web_Notes/LDMS/PubStatbook.nsf/f932b66241ecf1b7ca256e92000e23be/54D73763EF9DCA36CA2571B6002428B0/$FILE/06-043a.pdf)

So how did the Victorian parliament pass Section 8 of the Abortion Act compelling doctors to act against their conscience and be in breach of their own charter?? This failure is even more remarkable given that the Victorian Scrutiny of Acts and Regulations Committee drew attention to this potential breach and then very properly referred its concern in two questions to

Parliament neither of which was answered. The Victorian government spectacularly failed to uphold its own charter just two years after it was passed.

Article 18(1) of the *International Covenant for Civil and Political Rights* states identically that 'everyone shall have the right to freedom of thought, conscience and religion' and has set this up as a non-derogable right i.e. *that cannot be waived – even in national emergencies* – thus showing how significant freedom of conscience is.

Likewise the UDHR of 1948 states that 'everyone shall have the right to freedom of thought, conscience and religion'. Remember, this was formulated to ensure that the atrocities and beliefs of those preceding horrific years *would never be repeated*. How can it be that we dismiss these warnings so readily and discard the lessons of history?

Dr Deirdre Little, President of *Obstetricians Who Respect The Hippocratic Oath*, writes:

In 1996, on the fiftieth anniversary of the Nuremberg medical trials, German doctors gathered together in conference. They commemorated this anniversary under the title "Medicine and Conscience" and reminded their medical peers throughout the world that the separation of biological power from a moral sense would always be a danger to the profession... The removal of conscience from medicine creates an amoral medical force, but worse still, a force that can be sent in any direction. "Medicine can be distorted by state; physicians must be above state-decreed strategies," they warned.

As we have said, it is one thing to pass a law that permits evil but it is something more to pass a law that compels evil. The government of Victoria remains condemned and its people on the whole do not understand what their government has done. It introduced a charter that excluded abortion and child destruction and then failed to apply what was good in the charter to liberty of conscience. Why even introduce such a charter? (We're gonna do it our way and we'll ignore it if we want to.)

When legal code supersedes moral code, the slope of a culture's decline is steep and swift.
J. Scott Ries, MD

I am aware of the dangers of playing the "Nazi Card". People switch off. But there must be no apology for the re-statement of history on which we learn and have learned the lessons of history. The argument for eugenic selection of the newborn in Germany's 1939 decision included the calculation of cost: *A hereditarily sick person costs on average 50,000 Reichsmarks up to the age of 60.*

In a chilling reflection of this it was submitted in evidence to the 2008 Senate hearings, at which I was present, into Medicare item 16525 for mid-trimester abortion as a reason for its retention

The cost and impact of an increased number of individuals with severe disabilities living in Australia cannot, however, be ignored, and additional resources and services will need to be made available for this.

The financial cost of caring for a severely disabled individual is high not only for the family, but for the greater community.

It is logical to assume that an increase in demand for disability services as a result of the abolishment of item 16525 will place greater demand on what is already an underfunded and overwhelmed sector.

[Submission by *The Australian Reproductive Health Alliance* and also Senator Clair Moore on behalf of 41 other MPs (most of whom it seems did not know their names were on the submission)].

It was hotly denied that thereby they were using financial reasons for eugenic selection but, nevertheless, there it was in black and white.

Already parents who do not agree to have their babies "de-selected" are labelled "genetic outlaws" and face the accusation "how dare you bring this financial impost on the community." It is a serious risk that voluntary eugenic screening and elimination of any imperfection that might cause an extra cost to the community will become compulsory because of that cost – just as

euthanasia and PAS become more palatable financially than palliative care. After permission comes compulsion but we will have to leave that for another time.

Much has been written about the delightful nature, the possibility of good education and of a valued place in the community of Down Syndrome people yet eugenic selection of this group of people – which can be justly called genocide – is taking place here in Australia with some 90-95% effectiveness. The issue of informed consent in antenatal care is critical with respect to this as many mothers have little idea of what they might be facing with a positive screen and may have little idea of just how well Down Syndrome people can function – and will have less and less idea in the future as there will be less and less of them around.

I was sharing antenatal care with an obstetrician colleague for a lady who did understand clearly the implications of such screening and elected not to have it done – a genetic outlaw according to some. The obstetrician agreed not to request the test. When I sent her for some clearly listed basic tests the pathologist saw that she was at a certain maturity and decided to add genetic screening which came back positive. Understandably my patient was very angry and upset that it had been done without her permission. I did want to check that my obstetrician colleague had not requested it so I rang the pathologist to confirm – the answer was “no” and that he just decided himself. My patient went through the pregnancy without further testing and you will be relieved to know the baby was perfectly normal.

And we are seeing more refined diagnostic and screening testing for serious abnormalities being hailed as medical breakthroughs “cures on the way” despite the fact that a positive diagnosis then may mean death for the baby – not exactly a “cure”, just an elimination. A not-to-be-seen subheading on such articles would read “eugenic purification of the human race marches inexorably on.”

As we said earlier the threat to liberty of conscience also comes from within. Unfortunately there are those in high places who say that doctors who are not prepared to do that which is legal should not be doctors.

If people are not prepared to offer legally permitted, efficient, and beneficial care to a patient because it conflicts with their values, they should not be doctors. Professor Julian Savulescu, Oxford Uehiro Centre for Practical Ethics, BMJ 2006;332:294-297 February 4

Lachlan de Crespigny and Julian Savulescu in the Medical Journal of Australia argue *moral objections to beneficial, desired, legal and just medical interventions... cannot compromise patient care.* Crespigny L and Savulescu J. Pregnant women with fetal abnormalities: the forgotten people in the abortion debate. MJA Vol 188 No.2: 21 January 2008

Clearly there are different views on what may compromise patient care. Good and beneficial medicine involves much more than that which may be desired and legal. Further, that which may be considered legally permissible should never compromise the ethical independence of the medical profession. We have been down that track before and must never go there again.

Let's tease this out a little. If we are not prepared to do it “best and legal” we should not be doctors. There is now no place for the ordinary doctor to stay out of the debate – our ability to practice medicine according to our conscience is under threat.

But the mind-set that Savulescu exemplifies has an even broader significance for the future of medicine.

It would lend legitimacy to the exclusion from O&G training places for doctors who refuse to do abortions. If euthanasia became legal – or infanticide of premature newborns – it would lend legitimacy to the exclusion from anaesthesia or neo-natal paediatric training places for doctors who refuse to participate in these procedures.

It would lend legitimacy to government setting ethical standards for the practice of medicine with the risk of de-registration of doctors not prepared to carry out procedures prescribed by the law e.g. an anaesthetist not prepared to give anaesthetic to a prisoner being executed.

It then becomes possible for doctors to suffer disciplinary action – including deregistration – not for *taking* life but for *not* taking it or even for not suggesting how it might be taken.

Now some will be inclined to play down the significance of the Victorian legislation and just urge doctors to give the appropriate referrals. But the push for personal autonomy and demand for services to be provided by doctors as mere service providers will not end there. It will inevitably involve Physician Assisted Suicide (PAS) at the very least.

Let's look at the practical aspects of this. Abortion cannot and is not carried out by most GPs, not just for reasons of conscience but simply because most of us would not regard ourselves as having the current expertise to do it, but PAS is within every doctor's capability and can be justified by the principle of continuity of care. A doctor who has cared for their patient for the last decade or two and who is now looking after their dying patient at home is going to be in a seemingly indefensible position when requested to specifically assist with PAS if it was "legal". It would seem very appropriate for the patient to say "You are my doctor, you have looked after me for the last 10 years, you are caring for me now and I want you to carry out this final service for me." Now I might add in four decades of looking after my dying patients at home I have never been faced with such a request. But if PAS was legal and doctor's liberty of conscience was overruled then I could be justifiably charged with dereliction of duty of care if I were to not only refuse the request but also refuse to refer to someone who would accede to the request.

There are many challenges that medical graduates face depending on the field of medicine they enter. There are scientific challenges, third-world health, public health, research – the list is endless – but I see the conscience challenge as being fundamental to all. In particular if we damage the relationship between the doctor and patient where patient health is our primary goal – our *raison d'être* – then all of medicine will have been damaged. I believe this to be the greatest risk to the future of medicine.

What do we need to do? We need to be involved in mountains of influence.

1. We need to be alert and informed; get your updates from www.billmuehlenberg.com and also from www.chooselifeaustralia.org.au ; CMDA USA resources e-newsletters, checking CMF UK. Here in Australia CMDFA also has a functioning ethics committee. We need to know where the battle lines are.
2. We need to inform and educate – to our medical colleagues, to our fellow Christians who are asleep and to pastors in particular – on the whole they do not understand the gravity of these things. They bemoan the lack of unity in Christians of Australia but we will find that unity in a common voice – an audible voice and a visible witness – in these issues that we have talked about today. Ask your pastor to preach on the Biblical principles in creation, of being created in the Image of God, of being male and female.
3. We personally also need to be a voice; we are the watchmen – for the profession, for our churches, and for the community.
4. We need to be involved in other mountains of influence – e.g.
 - professional organizations like the *AMA*
 - Australian Christian Lobby*
 - Sign in to the *Canberra Declaration* and the *Manhattan Declaration* or the *Westminster Declaration*
 - Sign in to *Medicine With Morality*
 - Sign in to the *Conscience in Medicine Declaration*
 - Join your local Christian Medical organisation
 - Get on to the board of your medical defence organisation (MDOs) and into Medical Boards themselves to influence the mindset of these organisations

5. We need to be political – adopt a Senator, adopt an MP; enter politics; know how to vote and teach others how to vote for a minor party and not lose your vote (I think this only applies to Australia).

We need to declare foundational Truth

Human life has intrinsic value in all states of dependency and disability from fertilisation to life's natural end.

We must never create human life with the intention of its destruction.

In the field of medical ethics we must not sacrifice one human life for another.

Killing should never be seen as a solution for misery.

Killing should never be seen as a solution.

Compassionate care means much, much more than simple acquiescence to patient demand.

Any legislation permitting physician-assisted suicide sends a wrong message to the community about the legitimacy of suicide as a solution for distress.

Legislation has never been successful in limiting euthanasia to those capable of informed consent and it has been shown for this not to be possible.

It is one thing to pass a law that permits evil but it is something more to pass a law that *compels* evil.

There must be no confusion! We must not devalue human life!

We assert our right and obligation to practice medicine according to our conscience.

So why do I mention MDOs? Well, MDOs have a role in upholding good medical practice and indeed run educational exercises to encourage good medicine. It is appropriate to ask what attitude might they take with PAS if this becomes legally enforceable? Will they only concern themselves with risk management in an ethical vacuum and therefore descend to being just another commercial insurance company? Or will they rise to the defence of liberty of conscience?

Public education is very important. The loss of liberty of conscience is a challenge for our nation, for our people. It has been said that requiring men to violate and disregard their conscience results in the loss of virtue and undermines the basis for democratic self-government. Surely we realise it was ethical failure that has caused our global financial crisis. Do we expect an ethical conscience in our governments? Do we want Codes of Conduct that are of a high standard in business, in accounting, in our legal professions, in sport? I think we do.

Get to know your politicians. You will find some are only there to push their own social engineering agenda and that they are implacably resistant to all reason. Then you must become really involved and educate people how to vote these people out of parliament and maybe run for office yourself. Cognisant of the lessons of history, critical issues like liberty of conscience are defining issues, watersheds if you like, on which each MP must make a decision and should be judged harshly if they fail their responsibility to be guardians for the future of our nation.

These are years of great risk. We cannot afford to tire. But we also know whose children we are and who we must serve until His return.

Lachlan Dunje. Brisbane, June 2011.
