

**SLIDE 1**

**“LESSONS FROM THE BIRDS”  
Searching for a Shared Ethics**

**MARGARET SOMERVILLE**  
AM, FRSC, A.u.A (pharm.), LL.B. (hons),  
D.C.L., LL.D. (hons. caus.), D.Sc.(hons. caus.)

**Catholic Health Association of Canada  
Annual Convention**

**Sheraton Wall Centre  
Vancouver  
24<sup>th</sup> - 26<sup>th</sup> April, 2009**

**Copyright © 2009 Margaret A. Somerville  
Not to be copied or cited without permission of the author**

## SLIDE 2

### 1. Setting the scene

#### “BIRD ON AN ETHICS WIRE”

Over the last year I have been looking at the changes in how values are formed and the role values play in our individual and collective lives, especially in the political public square.

Because healthcare is one of the most important contexts in which we form and re-form our collective values, I'd like to begin by briefly telling you what I've done and found.

This is important because what's happening “out there” is likely to affect us “in here” and vice versa.

## SLIDE 3

In my current work I have been:

- Looking at the various **divides** we currently have and what we can do to **reduce them**;
- Proposing that the **old divides** and the dichotomies they reflected, between, for example, liberal and conservative political ideologies, **no longer accurately reflect our values differences**;

rather, as a result of new communications technologies, a **spontaneous dynamic** order emerges from thousands of individual decisions, including those about values.

#### **SLIDE 4**

Pollster **Michael Adams**, from Environics, speaks of "values tribes" forming around shared values. He notes that, unlike in the past, modern communications technology, education, travel and mobility mean people are as likely to have fellow tribe members anywhere in the world as they are in their immediate neighbourhoods. The 13 tribes he identifies differ from each other in regard to their attitudes to tradition (institutional authority) as compared with individuality, and the degree to which a person's decision making is inner-determined (autonomy), as compared with other-directed (pleasing others). Moreover, bonding is fluid for young adults whether they are "open cosmopolitans" or "continental conservatives."

**Frank Graves** of Ekos Research, an Ottawa polling firm, describes "open cosmopolitans" as "younger Canadians extremely receptive to diversity, immigration and the external world, who are relatively disconnected from government and politics and see themselves as

post-nationalists." He found them overrepresented in Generation X (30 to 40 year olds). In contrast, "continental conservatives" are young people who are "strong supporters of the War on Terror and North American integration. They are very comfortable with the current national direction, particularly the mission in Afghanistan." They were overrepresented in Generation Y (20 to 30 year olds).

And Newsweek speaks of "First Globals".

- All of this means that our systems and institutions have become less hierarchical.

Non-hierarchical systems mean paradoxically that individual decisions are more important to the society, not less important – they don't concern just "me".

That's **particularly true of controversial decisions in the**

**healthcare context:** Take, for instance

the Baby Kaylee case at Toronto Sick Kids Hospital –  
sets a precedent about treatment of disabled newborn  
babies

or the Golobchuck case in Winnipeg – sets a precedent  
about treatment of old people on life support

## SLIDE 5

- Then, I've been arguing that the **either/or approach** that creates some of the currently prominent divides – for instance, either science or religion, either reason or Faith – adopted by fundamentalist religious people and fundamentalist neo-atheists such as Richard Dawkins, are **seriously misguided** and very harmful in our contemporary world;
- As well, I've been explaining that, from the perspective of the values we support, **who the “we” are** with respect to **one issue** can differ radically from who the “we” are with respect to a **different issue**. So, for instance, feminists and some religious groups form a “we” with respect to being opposed to surrogate motherhood, but they are radically opposed on abortion.

**Bonding is fluid** for young adults whether they are “open cosmopolitans” or “continental conservatives”, which means it is **no** longer possible to group people into neat, **clearly demarcated “values camps”** – a “we” - **which creates problems for politicians because they cannot predict with any certainty how they will vote;**

## SLIDE 6

- I've been arguing that there is a **fluidity to our exploration of values**
  - which is not to say that all values are fluid, as moral relativists would claim – which means we need to engage in an **ongoing process**
  - a search - to articulate them;
- We need to note that many scholars and public thinkers are speaking of **“third spaces”** created outside established national and international institutions and the changes wrought by an **interconnected, interdependent world**, which are phenomena that will **affect both our values and who the “we”, who share those values, are;**

**Healthcare** is one of those “third spaces” and an especially important context in values formation, particularly in a secular society, because it implicates some of our most fundamental values and everyone personally relates to it and, therefore, the values it establishes or destroys; and

## SLIDE 7

- In light of all these developments and changes I'm proposing that we need to introduce a concept I've called a **shared ethics**. I believe that

searching for a shared ethics can help us to understand these developments and deal with the changes they bring.

In short, **we are in a time of major change with regard to whom we bond with in terms of shared values and the way in which we find and affirm values**, the process that has always generated and will continue to generate the glue that **bonds us as a society and enables us to function as a collective.**

The challenge is to find shared values that allow us to be *both* a “me” and a “we” in that world.

#### **SLIDE 8**

To achieve that duality, we will need to **balance the needs and rights of individuals** and those of the **community.**

In the recent past, depending on our own values orientation, many of us **chose between strong individualism and strong communitarianism**, with the former clearly prevailing in Western democracies over the last forty years.

Today we need a **new integration of the “me” and the “we”**, which might be another manifestation of a “third way”, as could be the concept of **retro-progressive values**.

That concept captures the idea that we make a serious error in simply abandoning traditional values and replacing them with what we see as *avant garde* ones.

Rather, in an on-going process we need to balance and blend the old and the new, in order to find and protect the values from the past that we still need and to integrate them with the new ones that will guide us into the future.

In short, **“retro-progressive values”** represent a combination of the ancient wisdom and the new knowledge that we need if we and our world are to survive. It captures the wisdom of First Nations people’s practice of looking back seven generations and looking forward seven generations in making important communal decisions.

The looking back is to seek knowledge through **history – human memory**.

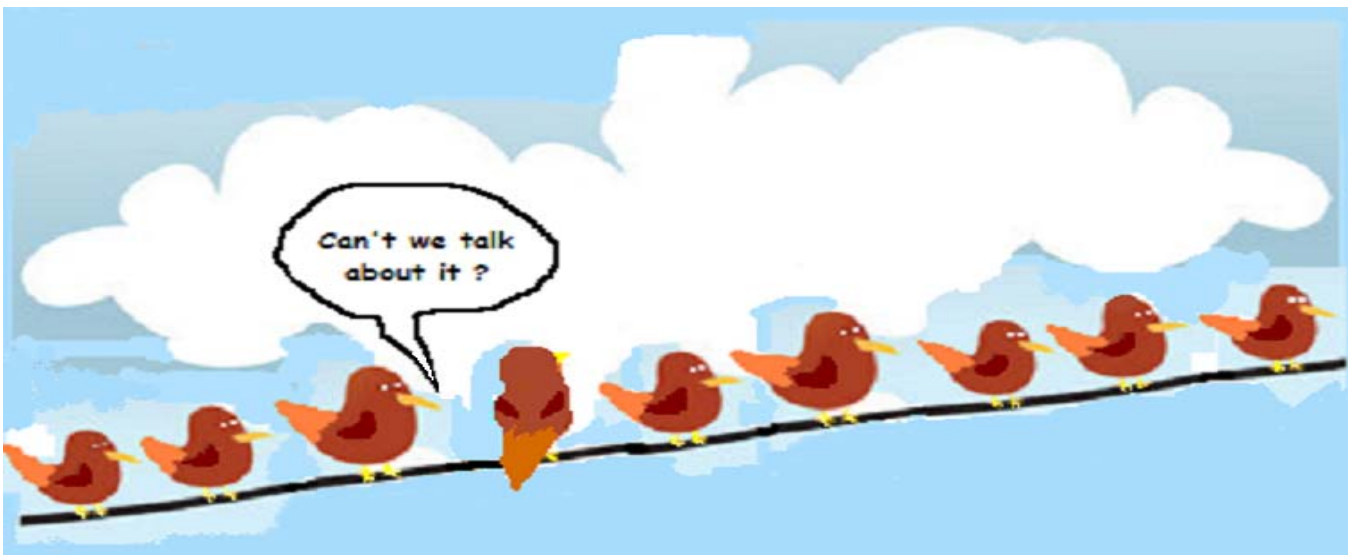
The looking forward is to seek knowledge through the **power of the imagination**.

The concept of “**retro-progressive values**” could also cause us to consider whether **worshipping progress** – while much progress is good, worshipping it, uncritically acclaiming the new and unhesitatingly abandoning the old, is not - may not be the best way to survive into the future, either physically or morally.

Thinking about a shared ethics and how we might engage in an ongoing process of finding that, caused me to free associate to a cartoon that I’ve often laughed at.

## **SLIDE 9**

### **CARTOON**



It captures the idea that we need to talk to each other to find ethics and we need to start from our agreements rather than our disagreements, as we most commonly do, if we are to find that shared ethics – starting from agreement, rather than disagreement, sets a different tone for our engagement with each other.

## **SLIDE 10**

Because I believe the concept of a shared ethics is **central to protecting the world of the future**, I'd like to take a few moments to explain what I mean by it and describe some of its features.

## **2. SEARCHING FOR A SHARED ETHICS**

### **SLIDE 11**

**First**, let me say what I **don't mean** by a shared ethics:

**I do not mean that we will have one monolithic, universal ethics.**

**Nor** do I mean that **we will all just accept one another's ethics**

— what is called an **“ethical pluralism.”**

**Nor**, as I've explained, do I accept **moral relativism**

— that there is no grounded truth or deep base to ethics and, therefore,

**everyone's views** on ethics are **as good** as anyone else's.

**Nor** do I accept **ethical cosmopolitanism**,

if that means that we must be **equally concerned for**

and **equally bonded to everyone**.

Humans have **evolved over hundreds of thousands of years**

**to bond to**

**special others**, such as family and friends

or some larger group;

some **special other living beings**, such as pets;

and **special land**, often a country of birth or homeland.

We **bond more strongly or in a different way**

inside these parameters than outside them.

**Ethics must accommodate those realities.**

## **SLIDE 12**

**Second**, we must be realistic and recognize that groups at either end of a broad spectrum of values will **never buy into a shared ethics**, but the vast majority of people can cross the divides between them to find common ground. That means we must actively preserve intellectually open spaces.

In order to do that, we need to be careful not to confuse liberal values with **open-mindedness** or traditional or conservative values with **close-mindedness**, as is common in the mainstream media.

People can have **liberal values and be close-minded and conservative values and open-minded.**

**Third**, I propose that we must start our conversation from consensus and move to disagreement, not, as we currently do, focus entirely on our disagreements. That will set a different tone for our interaction. Searching for a shared ethics from that starting point will help us to **emphasize what we have in common and allow us to have an experience of belonging to the same moral community.** When we simply **took that commonality for granted**, we could afford the **luxury** of starting from and **focusing on our disagreements**, but this is **no longer our situation.**

**Fourth**, we need to recognize that we are **all trying to do the right thing**, trying to be ethical, and that where we disagree is what that is. The vast majority of people are not evil and that designation must be reserved for cases in which there is no doubt it applies.

## SLIDE 13

**Fifth**, we need to balance **intense individualism with a robust concern for the community** and we need to consider the collective impact of our individual decisions.

For example, Quebec is proposing to **offer all pregnant women screening for Down syndrome**.

Whether or not we think that is a **good idea and ethical**, the **cumulative effect** of each woman's individual decision (including the decisions not to abort when the fetus is "normal") is to implement a 21<sup>st</sup> Century eugenics.

Only the decision not to abort when the fetus has Down syndrome is not a eugenic decision.

As I mentioned before, in our interconnected world a **spontaneous dynamic order** emerges from thousands of **individual decisions**.

Likewise, we need to extend the scope of our analyses beyond an **intense present** to consider the needs and rights of **future generations**.

And we must **"hold in trust"** for them, not just our physical world, but our metaphysical one – the values, principles, beliefs, stories and so on that create and represent the "human spirit", that which makes us human.

In light of the unprecedented power of the new technoscience to radically alter the nature of Nature, including human nature, we must address the question, “What is the **essence of our humanness** that we must not destroy?” which is a far from easy question to answer.

**Sixth**, as I’ve explained, not only can we, but we must, cross the secular/religious divide, the science/religion divide and the divide between religions, if we are to find a shared ethics and avoid our world - and that inherited by future generations - being one of “competing sorrows”.

#### **SLIDE 14**

So to summarize what I mean by a shared ethics means.

I am speaking of establishing a **base or starting point**  
that consists of ethical **concepts and values**  
**that we already share** and on which we **can build**;

I am **NOT** suggesting that  
we **all have to agree on everything**.  
Rather, I’m looking for **limited areas** where **some** of us *can* agree.  
The groups of people who agree will **vary from issue to issue**.

The idea is to **find**  
what we have **in common ethically**  
so that we can **experience** ourselves  
as belonging to the **same moral community**.

As those **experiences accumulate**  
we will be more **able to find common ground**

## SLIDE 15

Engaging in a **collective search**  
to find those limited areas  
is likely to **produce greater agreement**  
than we **presently have** or that we can **find in any other way**.

### **It is also realistic:**

getting **all** of us to **agree** on everything is a **utopian goal**,  
but it's **not a realistic** one in our **fragmented world**.

I believe it is **important** to have **realizable goals** in ethics  
and to **avoid** the **disappointments** that **unrealizable** ones  
create.

Such **disappointments** are **not neutral** in their impact;  
they are harmful because  
they result in **loss of hope, and cynicism**  
in particular, **about ethics and the need to be ethical** .

## SLIDE 16

I am proposing a **thick overlap of borders concept**  
— that we might start from different poles, but there is  
a big (one hopes) overlap of **common territory** in the middle,  
**in which we all are, in fact, “at home.”**

**My hope** is that the ideas such as I've just proposed might help us  
to **bridge the differences between us on matters of ethics**  
and, in so doing, **help us to find a shared ethics**.

**The survival of the world of the future,**  
**at least as the kind of world most of us would want to live in,**  
**may well depend on our success in achieving that goal.**

We must hold both our **physical and metaphysical worlds on trust for future generations**, which does not mean that we must not change them. Rather, we have to be certain that if we do so, we are **ethically justified** in making those changes.

We must constantly ask ourselves in all that we do:

**Can the future trust us and what do we need  
to do and not do to ensure that it can?**

**SLIDE 17**

I'd like to turn now to **two more precise issues, first, the difference between respect for human dignity and respect for human life, and, second, respect for freedom of conscience**, that I believe are very important for you to consider in relation to their impact on ethics in healthcare.

The request of the Convention organizers to address the **difference between respect for human dignity and respect for human life** came about because I expressed reservations about using the term "human dignity" when I was asked to review the CHAC ethics guidelines. Let me explain why I had those reservations.

## SLIDE 18

### 3. HUMAN DIGNITY AND RESPECT FOR LIFE

#### i). Human dignity cf. respect for life

#### Extrinsic dignity cf. intrinsic dignity

Human dignity has two formulations:

**Intrinsic human dignity** – we all have it, and must be accorded the respect it demands, just because we are human. No problems with that.

But **extrinsic human dignity** is more along the lines that there is nothing inherently special about being human - we have dignity, if others see us as having it and if they see us as undignified, they will restore our dignity by putting us out of our misery.

**Dignity** a concept meant to protect life  
- **turned on its head** to justify taking life

Same outcome with **quality of life**

Meant to establish a **claim to minimum health care resources**  
necessary to sustain life and protect health

Instead used to **deny access** on basis  
have a **quality of life not worth living**  
and use of resources a **waste**

**Baby Phebe** case in Montreal  
- withdrawal of feeding tube  
die from dehydration and starvation  
not underlying disease

## SLIDE 19

Suggest need to speak of **respect** for

All life  
and, in particular, human life  
Human beings  
Intrinsic human dignity  
Persons

These are cumulative categories, not alternative ones,  
in all of which respect is required.

## SLIDE 20

### ii). Personhood

We **need to be careful** with the concept of personhood. It's a **legal concept**:

Legal personhood means the entities with it have legal rights attributed to them and can exercise those rights.

Slaves were not legal persons, neither, traditionally, were women or children, consequently they were not capable of being bearers of legal rights, including those to protection.

We no longer allow slavery and women and children are now regarded as persons. (It was only in the late 1920's that women were recognized as persons in Canadian law, in the famous "Persons case" decided on appeal to the Privy Council in London.)

In contrast, in Canadian constitutional law, for example, the Supreme Court of Canada has ruled that **fetuses are not legal persons** and hence have no right to protection as such. However, corporations - and ships and aeroplanes - are legal persons.

As this shows, **who is a person for the purposes of the law depends on whether or not the law attributes personhood to an entity**. It is an artificial and discretionary attribution.

And, moreover, just as personhood can be attributed, it **can be withheld** or taken away, or its attribution can depend on whether or not the entity to which it might be attributed **displays certain characteristics**.

For instance, some philosophers argue that a human being is only a person if they are **conscious, self-aware with a sense of their own past, and able to relate to others**, which would mean some mentally disabled people are not persons, and therefore do not have the same rights as persons, for instance, to respect for their lives. This concept of personhood parallels a concept of **extrinsic human dignity** - we only have dignity and, therefore, deserve respect, if others perceive us as having dignity.

I suggest that we should speak of **human beings, not persons**, as having rights and dignity. Human being is a biological classification and all human beings, simply by virtue of being such, have the same rights to respect. This is a concept of **intrinsic human dignity** - we have dignity and, therefore, deserve respect, simply because we are human.

So, whether or not fetuses are persons, they are human beings at the earliest stage of development and, as such, deserve the same respect as any other human being.

#### **SLIDE 21**

**iii).** This leads to another contentious question: **Do humans deserve special respect?**

At the heart of the debates on the ethics of the new technoscience, including propositions such as the transhumanists put forward that humans are obsolete models on their way out who will be replaced by “post-humans” created through the new technoscience, is the issue of **whether humans deserve special respect as compared with animals or robots** and whether we have **absolute obligations to protect and preserve the essence of our humanness**.

I believe we deserve special respect **simply because we are human**.

But some people **don't agree that there's anything intrinsically special about being human.**

**And that disagreement is at the heart of our disagreements about the ethics of using the new technoscience, such as new genetic and reproductive technologies, to alter human nature.**

**It's also at the heart of our disagreements about abortion and euthanasia.**

**Rodney Brooks**, the scientist who heads the artificial intelligence laboratory at the Massachusetts Institute of Technology,

**criticizes the idea that human beings are "special"**

**in any important way**

**and therefore deserve respect of a different kind**

**from machines or robots**

**or, indeed, from animals** which he,

like Princeton animal rights philosopher **Peter Singer**,

would **not differentiate from humans**

**in the kind of respect they are owed .**

Brooks believes that **machines**

— including robots —

will become **more intelligent than us**

and therefore could **deserve greater respect than we do.**

It is clear that the developments in robotics and artificial intelligence  
will **challenge our traditional concepts of what is a “being”**  
and **what kinds and degrees of respect**  
**are owed different life forms, especially humans.**

**To summarize** the general point I’m making here:

There are **important messages and warnings** relevant to healthcare ethics to be found in the underlying principles of contemporary theories of human identity, such as transhumanism, and philosophies that equate humans, animals and robots.

**We must understand and challenge those messages and principles if we want to hold the line, for instance, against legalizing euthanasia – it’s no longer enough just to argue about euthanasia itself.**

➤ *Humans are special...*

- The traditional way in which we have expressed the **belief and moral intuition that humans are special**, and therefore deserve **special respect**, is through the **concept of soul**  
(for those who are religious in an Abrahamic tradition)  
For those who are not religious we can do the same through the idea of **human spirit**

- The **human spirit** is a term I use in a religiously neutral sense, in that it can be accepted by people who are not religious and those who are, and, if religious, no matter what their religion.

By it I mean the intangible, immeasurable, numinous reality that all of us need access to in order to find meaning in life and to make life worth living; that deeply intuitive sense of relatedness or connectedness to all life, especially other people, to the world, and to the universe in which we live; the metaphysical – but not necessarily supernatural - reality which we need to experience to live fully human lives.

The human spirit is the means through which we can experience **transcendence and perhaps transformation.**

In other words, the **possession of soul or human spirit**

is the way we establish a **difference in kind, not just in degree,**

**between humans and other living entities**

(wonder-inspiring as they are),

and therefore a **difference in the kind of respect** owed to each.

But if we do not believe in a soul or that the human spirit means human are different from other animals and machines, then there is **no basis** on which to argue humans deserve **special respect.**

## **SLIDE 22**

In the context of euthanasia, for instance, that view is expressed in an argument often put forward by euthanasia advocates:

If your **dog** was suffering, out of compassion, you would euthanize him, so how can you justify not doing the same for another person?

The short answer is we **are not dogs**.

(Australian sociologist Jaklin Elliott's research showed this was the reaction of terminally ill cancer patients who were asked about the analogy to animal euthanasia.)

So, **special respect for human beings,**  
**in particular respect for their lives,**  
is, and should continue to be,  
**predicated on nothing more than having human origins.**

This is where I had concerns about use of the term "**human dignity**" in the CHAC guidelines, as compared with the concept of **respect for life**.

The second issue I'd like to turn to is **respect for healthcare professionals' freedom of conscience**.

## **SLIDE 23**

### **RESPECT FOR CONSCIENCE MUST BE A SOCIAL VALUE**

In mature Western democracies we have competing societal values, with abortion at the eye of the storm.

## **SLIDE 24**

### **Current threats to conscience...**

New legislation in Victoria, Australia, “decriminalizes abortion and forces **doctors** with a conscientious objection to refer a woman to a doctor who will do an abortion. In the event of an ‘emergency’ abortion ... regardless of their moral qualms, doctors must do [an abortion] themselves.

Victorian **nurses** will be in an even worse predicament. They must participate in an abortion if ordered by their boss.”

The same scenario, in a somewhat softer version, is being played out in the **United States and Canada**. Here, codes of professional conduct or regulations, rather than legislation, are being proposed to limit freedom of conscience rights, including with respect to abortion.

An effort is also underway by pro-abortion advocates, led by International Planned Parenthood, to have the United Nations declare access to **abortion a universal human right**.

Healthcare professionals who, despite such coercion, follow their conscience risk a variety of legal threats. Their conduct can be found to constitute **discrimination under human rights codes**, or **professional misconduct** when it would result in disciplinary proceedings and penalties ranging from reprimands to fines and loss of a license to practice medicine or to practice as a nurse.

Needless to say, this state of affairs has caused deep concern for many healthcare professionals.

**What has led to this situation and what might be its wider consequences?**

To respond to that question and deal with this situation, I believe we need to understand two new realities, a **political reality** and a **medical reality**.

## **SLIDE 25**

### **The political reality**

I suggest there is a political problem caused by the **disproportionate influence on politicians of what are being called “hard minorities”** such as the pro-choice lobby, as compared with **“soft majorities”**.

Prime Minister Stephen **Harper’s stance on abortion** in the context of the last Federal election reflects this reality.

He said he “would ‘whip’ his front bench so that none of his cabinet ministers would support any private member's bills that could re-open the [abortion] debate”. (Globe and Mail, 29 Sep).

**What about respect for “freedom of conscience” of his cabinet ministers? His position reflects that taken recently by the Ontario Human Rights Commission in advising the College of Physicians and Surgeons of Ontario.** It warned that physicians who refused to facilitate procedures contrary to their moral or religious beliefs, which patients requested, could be in breach of the patients’ human rights. It recommended physicians “leave their personal beliefs outside the surgery” -- park their ethics and values with their cars. Such a stance is “power speaking to truth”, even if it’s only the truth of some cabinet ministers’ consciences.

I'm an ethicist, not an activist, and I'm far from being a classical anti-abortion activist. While I believe that abortion is always a serious ethical issue, I do not support legally prohibiting early abortion, although I fervently hope it would be a rare occurrence. My position has put me at odds with both some pro-life and all pro-choice groups. That said, I'm more and more convinced that abortion is the single most important issue we are dealing with in terms of the future shared values on which we will base our society and that history's verdict will affirm that.

Among the reasons are that abortion is not just an issue for individual women, much as pro-choice advocates adamantly push that view. Unavoidably, our collective stance on abortion is an important element in establishing society's value of respect for life. The current Canadian situation -- a unique one among comparable countries of having no law to protect even viable fetuses -- necessarily damages that value, especially when abortion is commonplace and regarded with equanimity. It also seriously damages our "values environment" as a whole. We need to be as sensitive to caring for that as we now recognize we must be in caring for our physical environment.

**But why are politicians, whose personal values are not consistent with those of pro-choice advocates, so frightened of them?** One probable reason is that the strategy of these advocates is to deliberately paint an either/or picture -- either no restrictions on abortion at all, or total prohibition of abortion -- that terrifies the vast majority of Canadians. Given only that choice, they choose no restrictions, although, as polls show, the majority would like to see our society have a more nuanced and balanced

response to law on abortion. Politicians who take a lead in providing such an option so that, as a society, we can re-affirm our respect for life, could be surprised by the support they receive.

Another reason might be that these politicians think that people like me, who would hope to see some protection of unborn children, will continue to vote for them because we have nowhere else to go. It's true we often have nowhere else to go, which is a threat to democracy. But it's not necessarily true we will continue to vote for them.

## **SLIDE 26**

### **The medical reality**

The push to abolish respect for physicians' and other healthcare professionals' freedom of conscience reflects an emerging view that **physicians are mere technicians** able to provide services **that patients want and have a right to access**. Thus, physicians have a duty to provide these services and no right to bring their moral or ethical reservations into play; to do so is discrimination. (I'm using physicians as the example here because those opposing freedom of conscience have focused on physicians, probably because if they can succeed with respect to physicians having no freedom of conscience, the same will apply to all other healthcare professionals. But what I argue applies equally to other healthcare professionals.)

Think of having your **car repaired**: for a mechanic to refuse to service your car just because you were a woman would be discrimination and a human rights offence. Some say physicians' refusal of medical services for moral or ethical reasons is the same thing.

Unlike the mechanic, however, a physician who refuses to be involved in abortion is not providing the service to one patient but not another, or basing his refusal on any characteristic of the patient. Rather, he is **refusing the service to all patients and doing so because of the nature of the procedure**, which he believes is morally and ethically wrong.

And, unlike medicine, usually **car repairs don't raise moral and ethical issues**. But what if you were a bank robber preparing a getaway car and told the mechanic that? Suddenly automotive repair would become an ethical and moral issue. Would a refusal still be wrong or might it even be required? And referring the bank robber to another mechanic would make you complicit in the wrongdoing.

**The practice of medicine always and unavoidably involves ethical and moral issues**, although when we all agree on how they should be dealt with, we might not be consciously aware of them in day-to-day practice. It's only when something goes wrong or there is a conflict of values that the ethical issues flash up on the big screen.

Treating physicians as mere technicians **fails completely to take that omnipresent ethical aspect into account**.

Treating physicians as mere technicians is also the antithesis of the traditional concept of a physician as a professional with ethical and legal obligations to exercise good professional judgment. Most notable among those obligations is “**first, do no harm**”, which means that a physician may not simply fulfill a patient’s request, but must make an independent judgment as to its acceptability.

At its extreme, treating physicians as mere technicians can result in an argument that **bizarre requests should be fulfilled**. For instance, some people argue that if a person wants their healthy right leg amputated, they have a right to that surgery. On a more everyday level, patients’ lifestyle choices -- and the Ontario Human Rights Commission (OHRC )warns that failure to honour them could be discrimination -- can be a problem. Some women who rejected physicians’ advice to change their diet if they wanted to lose weight and instead demanded Phenphen, a weight-loss drug, died as a result.

Treating physicians as mere technicians **denies that respect is required for physicians’ freedom of conscience and their ethical and moral values**. Quite apart from the serious wrong to physicians that denial inherently constitutes, such an understanding of the physician- patient relationship would do a great disservice -- not only to the medical profession and society in general, but also to patients, because maintaining respect in any human encounter, including the physician-patient encounter, requires that respect be mutual.

In stark contrast to fostering such mutual respect, I refer again to the OHRC's startling view of a physician's obligation in the physician-patient encounter: **“It is the Commission’s position that doctors, as providers of services that are not religious in nature, must essentially ‘check their personal views at the door’ in providing medical care.”** The commission makes clear that physicians' “personal views” include their deepest and most important ethical and moral beliefs and values. Obviously, that raises serious problems for physicians, but again it also raises problems for patients: **Would any of us really want to be treated by a physician who had complied with a directive to “park your ethics and values with your car outside the surgery”?**

It's true **sometimes that acting on personal views can be discrimination:** Refusing to treat a patient simply because they were homosexual is discrimination and wrong. But that's not the issue here. Rather, the problem lies in classifying as discrimination a refusal to provide or refer for a service, such as abortion, euthanasia, or artificial reproduction, that the physician believes -- and many other people believe -- is morally and ethically wrong. Such refusals should be treated differently from refusals of morally and ethically neutral services, such as refusals to rent an apartment to a person or serve them in a restaurant on the basis of a prohibited ground of discrimination. We can all agree that is wrong.

## **SLIDE 27**

In Canada, having achieved a black hole on abortion law -- there is no law -- pro-choice advocates are not content with having the freedom to act according to their values; **they want to make others, for whom it would be**

**a breach of their values, act likewise. And they want to have their beliefs and values publicly affirmed.** Obtaining official rulings from human rights tribunals that physicians have no freedom of conscience protection regarding abortion establishes that their values should predominate as the societal norms. That is even truer when coercive legislation enshrining those beliefs is enacted, as in Victoria.

### **SLIDE 28**

**In short, these people claim freedom of values belief for themselves, but refuse to respect others' freedom. That's why they will not tolerate a respect-for-freedom-of-conscience exception. No matter what our values or views, we should all be concerned by such totalitarianism and fundamentalism.**

So this leads me to the final points I want to make:

### **SLIDE 29**

#### **PLACING AND KEEPING ETHICAL ISSUES IN A MORAL CONTEXT**

All of the ethical issues we face in healthcare, for example, freedom of conscience, respect for life, human dignity, euthanasia, pre-natal screening or new reproductive technologies, needs to be seen as part of a much **broader group of ethical-social-values issues** being raised in our societies, including, as a result of unprecedented changes in values and the powers made available by the new technoscience. And they all need to be **seen and dealt with in a moral context.**

The challenge you face, and with respect to which you are among the most important people in our society, is what you can do to try to ensure that these issues are **seen and dealt with in a moral context**.

It's the **loss of that moral context** which is the most dangerous development ethically.

We need to both identify what has caused that loss and what we can do to reverse it.

I'll share just a few thoughts in that regard.

We can see what happens when we fail to keep that moral context, by **looking at what has happened with abortion** – it's lost its moral context.

**Abortion is always a moral and ethical issue** - or it should always be. The Archbishop of Canterbury, the Reverend Rowan Williams, writing recently, in London, England's The Observer, says however that we have lost our sense that abortion involves a "major moral choice" – it's been "normalized" – "something has happened to our assumptions about the life of the unborn child, ...when one third of pregnancies in Europe end in abortion".

Abortion has **gone from being a rare exception to the norm** – the same would happen with other situations, for instance, some uses of new reproductive technologies or euthanasia.

## **SLIDE 30**

➤ **So how can we place and keep the issues that we have to deal with in healthcare in a moral context?**

**1. Consider whether we are making a mistake to be always arguing about the law whether on abortion or euthanasia or other issues.**

We used to be able to assume that the law reflected our collective morality, but now that is not necessarily the case.

However, the law does establish collective values and what these values are is important.

So, for example, what would legalizing euthanasia do to our collective values?

That is **focus our arguments more on the values** that will be affected rather than the law.

**2. Use all our human ways of knowing**

We need to use the full range of our human ways of knowing in “doing ethics” to keep the issues we are faced with in a proper moral context.

## **SLIDE 31**

**3. Take the medical cloak off ethical issues, for instance, euthanasia.**

If we had euthanasia, **who should carry it out?**

**Not physicians** because that makes people fear physicians, accepting pain relief treatment, and hospice and palliative medicine and care.

Consider the impact of placing a medical cloak on euthanasia: Safe, ethical and humane.

Consider having **specially trained lawyers**. Even people who are euthanasia advocates are shocked and appalled by this proposal.

#### **4. Choose language that does not dull our moral intuitions:**

“Just a bunch of cells”

“extract tissue”

physician assisted death cf. physician assisted suicide

active and passive euthanasia

argument by **analogy between active and passive – a false one**.

difference between allowing to die and killing

killing cf. VAE (acronym) or “merciful act of clinical care”

Language of **mercy and compassion** to support euthanasia

Language can **suppress moral intuition** and emotional responses  
that warn us ethically.

#### **5. Work to prevent depersonalization**

Depersonalization is also an issue related to language, because  
**depersonalization is mediated through language.**

## SLIDE 32

### 6. Articulate retro-progressive values.

We've already discussed these.

I've been arguing for some time now that we make a serious mistake when we throw out old values and virtues simply on the basis that they're old.

What we need is to reconsider these and decide whether they still offer us important foundations for our individual and collective lives.

If so they might need to be dusted off, polished a little, and perhaps **renamed more compatibly with contemporary language use**. So, for instance, I call the old virtue of prudence "wise ethical restraint". Other principles, concepts or values that need re-exploring in the context of euthanasia include:

Conscience

Compassion

Courage – especially moral courage

Confidence

Hope – "mini hopes"

Generosity

Trust

### 7. Be consistently pro-life: Oppose capital punishment

It's ironic that pro-life conservatives who support capital punishment do not see the contradiction in their stance: Such support is to act contrary to a true pro-life position.

## **8. Recognize that we need an ethics of complexity, uncertainty and potentiality**

Someone asked me recently what I thought would be the big ethical issues for the immediate future.

Without thinking I blurted out, creating an ethics that can accommodate **complexity, potentiality and uncertainty.**

### **SLIDE 33**

#### **Conclusion**

Moral and social considerations are the way to challenge positions with which we disagree ethically.

Must understand the arguments on the other side and challenge them openly, honestly, carefully, courageously and with deep understanding of their content and that of the arguments against them.

Simply repeating all the old will no longer suffice to prevent positions that we believe are unethical being implemented as social and public policy.

### **SLIDE 34**

We have obligations to **hold the future in trust** for future generations, and nowhere is that more important than in the context of the ethics of healthcare

To fulfill that obligation we must explore in great depth, with humility, courage and wisdom:

- What is the essence of our humanness?
- What does holding the essence of our humanness in trust require, in general?

## **SLIDE 35**

To finish as I began with birds: Here's the cover of my latest book and here's what I wrote about the cover when I first saw it:

"I hope the cover of this book, as well as the words and ideas within, might stimulate insights. For me, the bird on the man's shoulder symbolizes the human spirit, imagination, freedom, and the capacity and courage to explore physical, intellectual, and spiritual unknowns ... It's hard to tell whether the bird is a pigeon (a messenger) or a dove (a symbol of harmony, love, and peace), but in either case she's an ordinary, everyday bird. As such, she carries the message that all of us, not just a 'chosen few,' need to exercise our ethical imaginations and engage in journeys of the human spirit."

We all need to be “wise old birds” not just for our own sakes, but for others' sake, especially our society both present and future.