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IMAGES OF HEALING AND LEARNING

Refusal in “Bartleby, the Scrivener”: Narrative Ethics and Conscientious Objection

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Introduction

In 1853 Herman Melville published “Bartleby, the Scrivener,” his now most well-known piece of short fiction, which over a century and a half later we can certainly read as an illuminating dramatization of conscientious objection [1]. There are, of course, important differences between Melville’s approach to refusal and how we have come to discuss it in medical ethics. The story’s setting, for instance, is not clinical; the central exchanges are between the head of a law office and an employee who politely but insistently refuses to carry out his understood duties. The stakes of each demanded task are not as clear and urgent as those in medicine. But Melville was writing figuratively here, at a moment in his own career when he decided *not* to write the kind of fiction expected of him and *not* to fulfill the presumed duties of his profession [2-5]. He persisted, instead, in making his case for literature as a means to explore the period’s more vexing philosophical questions. And his mode of objection—a literary one—produced for readers of his time and ours an opportunity to understand the texture of refusal and to examine its moral dimensions in the formal setting of narrative.

Melville’s objection also has ethical resonances for scholars of the mid-to-late nineteenth century, who have regularly emphasized how central conscience, duty, and religion were to the period’s debates on slavery, war, and capital punishment [6-8]. It is no coincidence, then, that by the time of his death in 1891 Melville had been more openly thematizing conflicts between individual character and societal obligations. His work in this vein is often identified in *Billy Budd*, a last unfinished novella [9], in which moral conflict is set at sea in the struggles of a ship captain to abide by the law and execute a comparatively innocent, though legally mutinous, sailor [10]. In this novella we are taken through a series of deliberations to something like a culminating insight on consciences, that though they remain “as unlike as foreheads,” each and every intelligence, “not excluding the Scriptural devils who ‘believe and tremble,’ has one” [11, 12].

Melville’s narrator here famously recognizes the plural nature of conscience, its relationship to intelligence, its place alongside religion, and the universal access to it humans are meant to enjoy. But that insight is also fleeting, and there remains a sense that Melville’s work on the matter was unfinished, that in its unresolved qualities his novella describes the unfinished project of post-Civil War society, that it prefigures an ongoing effort to ascertain the conditions under which one may

exercise private morality in the setting of contested law, and that it maps out fiction's promise as a method for further deliberation. It is a promise carried through by present-day scholars in the field of law and literature, who have taken up the novella as a source text for a branch of ethics examining the moral limits of professional obligations and the moral costs of dutifully attending to what one may not believe to be right [13].

As may be clear already, there is much that the field of literature and bioethics can say on the matter of conscience. My own comments will center on the contemporaneous intervention of narrative ethics in bioethics and medicine, and then on the insights a further reading of Melville could offer to our current discussions of refusal for conscience reasons.

Narrative Ethics and the Dialogic Imagination

The debate on conscientious objection raises a number of contentious issues: namely, questions about the form and content of what we may define as a rigorously ethical referral—questions, that is, about the extent of an objector's responsibility to not only fully inform but also empower a patient to access care elsewhere; questions, too, about aspects of authority conceded by a physician when explaining refusal in both medical and moral terms; and questions about the different quality of duty met when objecting clinicians remain open to persuasion by patients. I would argue that addressing these questions would be difficult without an approach to dialogue that has for some time been illuminatingly characterized in literature and its theorization—in humanistic writing that has since the nineteenth century not only honed several literary means for dramatizing the complexities of conversation in the setting of refusal but also thought through the obligations to engage with an *other* in ways that dutiful forms of dialogue demand [14-16].

The claim I am making here is central to the fields of literature and medicine, narrative medicine, and narrative ethics, in which scholars and practitioners such as Howard Brody, Tod Chambers, Rita Charon, Arthur Frank, and David B. Morris have endeavored to translate ethics insights from literary study to the clinical encounter [17-21]. Their projects are admittedly disparate and evolving, but they share the effort to bring literary attention to bear at moments when medical narratives are listened to, written, and read—the effort, in other words, to do for discourse in the clinic what theorists like Mikhail Bakhtin have done for discourse in the novel [22, 23].

The general temptation has been to conflate advances in narrative ethics with advances in teaching communication and cultural competence at medical schools and residencies. This temptation, and its power, emerge from medicine's understandable emphasis on procedural skills to be perfected and incorporated rather than on theoretical insights that call for profound shifts in practice and approach. That emphasis has helped generate ways to make narrative ethics immediately useable by physicians and more easily folded into established methods for handling the difficult conversations conscientious objection may now require. Yet the reduction of

narrative ethics to a set of extractable skills comes at a great loss, particularly when the reading of its source texts—literature—no longer seems essential. The more difficult and potentially instructive goal would be to have dialogue remain a site of interdisciplinary engagement, where several understandings of the term *dialogic* (derived from scholarship in the ethics of reading as well as the ethics of medicine) may intervene on equal footing and thus make clear the critical value of the medical humanities [24, 25].

To put it another way, the more robust response of narrative ethics to the questions raised by the conscientious objection debate would be to insist that ethical conversations between physicians and patients are not possible without a concern for how we responsibly engage with others in person and in representations. That the hoped-for shift in contemporary bioethics away from universalizing principlism to microethics, away from applying broad precepts to enabling individuals to think through the particularities of their positions, necessitates not just an exchange of values but also a translation of their meaning—and that this ideal dialogue cannot easily occur in the absence of an exercise in reading *or* of the imagination. Nor can physicians and bioethicists become adept at it without continually returning to literature.

If we were to accept this strong argument for narrative ethics, we would take up as a clarifying example Melville's open invitation to read his fiction allegorically, and reexamine the dynamics of conscientious objection with "Bartleby, the Scrivener" as a focalizing lens. Again, literary criticism teaches us to approach the story as a dramatization of refusal that is no less conscientious for the mysterious nature of its rationale. Bartleby famously communicates little more than what he "prefers not to do." Yet the presumption of the narrative, and of the lawyer who tells this case, is that there is a temporarily inaccessible reason for Bartleby to not "come forth and do [his] duty," and to not comply with a request made "according to common usage and common sense" that he serve as scrivener and carefully reproduce the expected discourse of the profession.

There is value, then, in maintaining a reader's sympathy with the lawyer, who responds to Bartleby's refusal in the terms and stages given to him by a professional code of expectations, moving from surprise and query and complaint to indifference and preoccupation, repulsion and pity, departure and return, dismissal and punishment. What comes next is death: by the story's end, Bartleby has refused to do his duties, refused to leave the premises (or profession), been arrested as a vagrant and sent to the Tombs, where on being visited by his former employer he refuses to eat.

This is obviously refusal pushed to an unlikely extreme by Melville, but it magnifies for us aspects of professions that reproduce profound failures in handling objection and the fact that these failures recur even when—or especially when—the intent is an exchange of reasons and values. "Bartleby" makes evident the impasse that arises when opposing attitudes to dialogue meet and the consequences of that impasse in

the absence of any overlap in understanding. Fiction here does not imagine away the way structural relations within professional communities frame dialogue or how our handling of those relations may be reproduced when the profession meets with outside society. And given privilege of place is the poignancy—felt at the end by lawyer and reader—of dismissing from the profession members who do not reach or participate in consensus [26]. In this reading, Bartleby’s death would not represent the actual passing of an objector, but it does crystallize the moral injury of marginalization as borne by the refuser and the profession that rejects him.

Still, to read “Bartleby” only as a negative example would be to miss the critical reading and writing practices the story demands and the lawyer models, the insights about form and language they both provide, and the opportunity to notice several aspects of what we may now readily see as the ethical texture of refusal: namely that Bartleby’s repeat objection disrupts the normal proceedings of a profession (one central definition of an ethics case) [23], that his willed death haunts the conscience of a professional (another core definition) [27], and that both compel the lawyer to reflect via narration, to review his encounters with Bartleby using an alternative mode of analysis, employing conventions of telling not commonly understood as legal, and producing writing that no longer fits within the professional discourse he had repeatedly asked Bartleby to reproduce.

The story itself therefore enacts a discursive irony and reversal, an unraveling of the lawyer’s established ways of writing, and if we were to follow this reversal from the story’s chronological end back to the textual beginnings, we would be reminded of its central place in the lawyer’s own ethical turn. We would notice that though he sets out to give account of a “more than ordinary contact” with the “strangest” scrivener he had ever seen, he frames the account to follow with an acknowledgment of its incompleteness, of his inability to provide “a full and satisfactory biography of this man,” and of the “irreparable loss to literature” that the lacuna represents [28]. Loosened from the surety of legal contract and case, the lawyer admits to the fallibility of his representation, and he does so as an early act of responsibility to Bartleby. So in lieu of a biographical history explaining Bartleby’s recalcitrant nature comes the setting of a different scene—an extended review of “my life, my employe[e]s, my business, my chambers, and general surroundings”—a laying out of his profession that he provides because it is now “indispensable to an adequate understanding of the chief character about to be presented” [28].

This is an archetypically narrative convention, and the move sets aside the desire to ascertain the characterological origins of Bartleby’s objection for the more self-reflective project of describing its conditions. And what it places on display, what it permits us to recognize and examine, are the various rhetorical forms objection can assume; the effect of expressing refusal as Bartleby does, in terms of a negative preference; how this nuanced resistance serves as an entry point, a way in which objection has often been introduced into professions; how it serves as a means of negotiating past the powerful rhetoric of policy and duty to articulate an internal critique; how, too, such language alters the scene of practice, permeates the diction

of colleagues, and eventually becomes essential to the lawyer's means for shaping his own ethical voice and conscience. Here below is a notable passage, worth quoting at length because it effectively dramatizes how confluent moral provocation and moral deliberation become in scenes of objection:

Nothing so aggravates an earnest person as a passive resistance. If the individual so resisted be of a not inhumane temper, then, in the better moods of the former, he will endeavor charitably to construe to his imagination what proves impossible to be solved by his judgment. Even so, for the most part, I regarded Bartleby and his ways. Poor fellow! thought I, he means no mischief; it is plain he intends no insolence; his aspect sufficiently evinces that his eccentricities are involuntary. He is useful to me. I can get along with him. If I turn him away, the chances are he will fall in with some less indulgent employer, and then he will be rudely treated, and perhaps driven forth miserably to starve. Yes. Here I can cheaply purchase a delicious self-approval. To befriend Bartleby; to humor him in his strange wilfulness, will cost me little or nothing, while I lay up in my soul what will eventually prove a sweet morsel for my conscience [29].

There is here both the reenactment of forms of reasoning provoked by instances of refusal *and* the overlay of belated insight produced upon retelling and revisiting the encounters. Both kinds of thinking are often placed under the rubric of “ethics,” though it is the latter that makes it possible for the lawyer to *see* charity, judgment, self-interest, self-approval, conscience, mood, and even the imagination, to be able to review and assess these facets of encounter in a manner akin to the processes of critical reflection advocated by “medical ethics.” The belated nature of the lawyer's review points to a number of missed opportunities, a different set of admissions to have made to Bartleby, and a different way to have entered into conversation. Yet the insight also readily reveals how ethical understanding during actual encounters is often articulated in silence in large part because it is often *being* produced at that moment, as an integral part of the response to, and being in relations with, an other.

Melville's story essentially narrativizes the development of a moral imagination through the act of fallible, nonprofessionalized, and self-aware representation. Reviewed in this way, dialogue in the setting of refusal no longer features an ethics of the self, distinct from the other, nor does it rely on a set of personally held values to be explained and exchanged. Conscience, however varied its manifestation, is formed and reformed in relation. And this is another fact of conversation that “Bartleby” refuses to let readers imagine away or as a qualification. Extrapolated out from fiction, then, the conditions for a productive and ethical instance of conscientious objection would start with an acknowledgement of the values being constituted at moments of encounter.

Conclusion

“Bartleby, the Scrivener” ends with the lawyer’s gaining something like empathy and understanding—his oft-quoted insight into humanity—when he learns of Bartleby’s previous employment in the Dead Letters Office, where his duties would have been to burn correspondence that hadn’t reached its intended destination. Much has been written about the possible content of that understanding, but I would again focus on the methodological import of that moment and on the characteristically literary insights it offers to our ongoing discussion of conscientious objection. The bleak light at the demise of Bartleby certainly exemplifies for readers a kind of conscience and consciousness that may develop when an exchange of values has failed, when death has resulted instead of care. But it is also worth reiterating that the lawyer arrives at that place via a textual shift in practice and an imaginative shift in perspective. Giving account of self and Bartleby in an alternative mode has awakened in him an ethical form of “curiosity” to think through an imagined circulation of texts, in order to consider the possible effects, even the meaning, of Bartleby’s placement and displacement within that circulation. This form of empathy is not simply interpersonal, though it cannot help but be, precisely because it is openly imaginative and enables the lawyer to both recognize and see past the contours of his struggle with Bartleby.

The mode of perception at Melville’s ending thus presents a model for developing different ways for society to handle refusal—the kind of reading and writing that could produce different endings to similar cases as they occur just outside the borders of fiction. The recent situation of Savita Halappanavar in Ireland, for example, only clarifies rather than confuses matters [30-32]. For even as—or if—inquiries make evident that no “Catholic ethos” factored into the nonprovision of care and that this was not a case of physicians uncertain of the legal consequences of carrying out either duty, the case still foregrounds the difficulty and even incapacity of law and medicine’s professionalized approaches to bring about the brand of dialogic ethics that care demands, which must occur simultaneously at the level of encounter and society.

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