K. Brownlee


In *Conscience and Conviction: The Case for Civil Disobedience*, Kimberly Brownlee provides a strong, well-argued theoretical justification of conscientious objection and civil disobedience. Two concepts, “conscience” and “conscientious moral conviction,” and a moral principle, “the principle of humanism,” are core components of the theoretical framework that underlies her analysis. Conscience and conscientious moral conviction are said to ground strong moral claims, and Brownlee argues that there is a (non-absolute) moral right to refuse to comply with legal, institutional, and formal role-related rules and obligations if the refusal is either conscience-driven or based on conscientious moral conviction. She rejects the general view that moral rights establish a *prima facie* case for corresponding legal rights, and she argues against a legal right to civil disobedience. However, she presents arguments for two legal defenses for civil disobedience. One, a “demands-of-conviction” defense, is an excusatory defense based on personal autonomy and psychological integrity. The second is a justificatory defense. It is a necessity defense that applies to some, but not all, acts of civil disobedience. Due to space limitations, this review will only consider her moral analysis.

The argument for a moral right to conscience-driven disobedience flows straightforwardly from Brownlee’s conception of conscience as a *moral property*:

> Conscience is a moral property. It means not just that we take morality seriously (conscientiousness), but also that we are genuinely, self-consciously morally responsive and aware of the *actual moral quality* of our own and others’ conduct (p. 16; emphasis added).

According to Brownlee’s conception, conscience is “a rich set of practical moral skills” (p. 2) that can be more or less well-developed. Since some people lack the relevant skills, not everyone can make conscience-based claims: “Conscience, as I characterize it, is not something that all people can claim to have and invoke as a shield against regulation or reproof” (p. 53). Moreover, having conscience does not entail moral infallibility. It entails only “genuine, self-conscious, moral responsiveness, which comes in degrees” (p. 62). Accordingly, if an agent’s conscience is adequately well-developed, her judgments and actions will demonstrate appropriate sensitivity to relevant moral values.
In view of Brownlee’s conception of conscience as a *moral* property, it seems plausible to claim, as she does, that genuine conscience-driven acts merit respect and toleration. However, this argument for the moral authority of conscience applies only if it is *adequately well-developed*. But how are we to determine whether a person’s disobedience is driven by an adequately well-developed conscience? Brownlee answers that a person with an adequately well-developed conscience is one who recognizes her moral responsibilities: “[T]he moral demands that we should privilege, and that we will privilege if our conscience is adequately well developed, are those that track the moral responsibilities that are ours” (pp. 62–3). In effect, then, a person can be said to have an adequately developed conscience if and only if she has the capacity to discern her moral responsibilities; and the moral right of conscience is a moral right to fulfill *moral responsibilities*:

The moral right of conscience...is a claim against interference by others with our carrying out our moral responsibilities. It is in essence a duty-based right. It protects a justified moral claim founded on a sufficiently weighty interest in being able to fulfill our moral responsibilities even when competing considerations make fulfilling those responsibilities morally problematic (p. 127).

Insofar as moral responsibilities provide the moral justification of acts of refusal and disobedience, the heavy lifting is done by moral responsibilities, not conscience. The fundamental question is whether an act of refusal is required for a person to fulfill her moral responsibilities and not whether the refusal is “conscience-driven.” Hence, the justificatory significance of *conscience* is unclear.

Brownlee does not offer a systematic theory of moral responsibilities. However, she claims that “many, if not most, of our moral responsibilities are ours in virtue of our moral roles” (p. 63), and she offers an extensive discussion of acts of refusal that are based on alleged moral roles. Her discussion of moral roles draws on a distinction between “the formal codifiable dictates of normatively legitimate offices and positions” (e.g., judge, doctor, legislator, juror, journalist, police, and citizen), on the one hand, and “the broadly non-codifiable moral responsibilities of the moral roles that underpin and legitimate those positions” (e.g., mediator, educator, carer, guard and guardian, and coordinator), on the other hand.

The general claim that there are specifiable moral roles that “underpin and legitimate” formal positions is subject to challenge. However, even if one were to accept this claim in principle, there are alternative conceptions of the moral