

The Liberal Intolerance of Conscience: the Example of Sweden

Most of the oxygen around the abortion questions is taken up by the obvious one of the conflict rights issue: one human being's right to bodily autonomy vs another's right to live. However this conflict of rights is by no means the only question abortion raises. Another is the right (in countries where abortion is defined as a right) of a woman to an abortion versus the right of medical professionals to practice in accord with their own conscience, in this case, to decline to perform or assist in abortions, and in some countries, to decline to refer patients for abortions. In some cases, the issue may spill over to medical practitioners who are not doctors, such as pharmacists. In a notable case in Sweden, it extended to those wishing to work as midwives.

Some countries try to protect the right of conscience by allowing medical practitioners to opt out of performing abortions—but not all. Sweden is one country that

adamantly refuses to recognise any right of freedom of conscience. It is impossible to train to become a doctor in Sweden without learning to perform abortions.

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This does not mean simply learning the procedure out of a textbook, but assisting in performing abortions. It is not only obstetricians / gynaecologists who are forced to do this training, but all doctors. If you want to become an orthopaedic surgeon or a psychiatrist, you, too, must put in your time performing abortions. If you wish to become a nurse, you can opt out, but only with great difficulty. Most stunningly, if you wish to become a midwife, you can be refused employment for refusing to participate in abortions, even though logic suggests that the role of midwives is to bring babies to live birth, not to kill them.

The midwives' requirement ended up being tested in the Swedish and European courts. Two midwives who had completed their training found they were unable to get jobs because they would not assist in performing abortions. They took their case to court and several Swedish courts ruled against them. They attempted to appeal to the European Court of Human Rights on the grounds that their freedom of conscience had been violated and that they had suffered discrimination but the ECHR dismissed their case and its decision cannot be appealed.

A justification of the decision was given by Hans Linde, a sex education campaigner in Sweden, who said it was "not a human right for nursing staff to refuse to provide care". He told Reuters news agency that the ECHR decision would "help to protect women's health, the right to good quality care and to be treated with respect when seeking an abortion".

Note carefully the assertions made by Linde. First, forcing the unwilling to perform abortions somehow protects women's health. It's not clear how abortions protect women's health, given that the overwhelming majority of abortions are performed simply because the pregnancy is unwanted, not because there is any health risk to the mother. Second, he

provides no evidence that if those in Sweden whose consciences are afflicted by this procedure failed to perform it, there would not be plenty of others who would. Third, how is the fact that a particular midwife is not involved in an abortion impeding the provision of 'good quality care'?

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Linde begins by begging the question of how a procedure whose whole purpose is to end a human life could be described as 'care' (see more about this argumentative fallacy [here](#)). From that inauspicious start, he tumbles into a further logical problem:

how are abortion dissenters vital to provision of such 'care'? Why can't all those whose consciences are *not* afflicted provide this 'care'? Finally, in what way are women not being treated with respect simply because particular providers do not assist in their abortions? Why would any woman wanting an abortion even know that this or that midwife did not want to participate? Does it matter that at any given point, some staff will not be on duty? Why does it matter that X is there and Y is not? The midwives, who can now not find employment in Sweden (and I guess Sweden must have enough medical staff to waste: there's a midwife shortage in the UK), aren't participating in these hypothetical abortions anyway, precisely because of their objection to assisting in abortions, so Linde and his like have accomplished nothing other than wasting medical training and excluding willing and potentially dedicated people from the pool of available candidates.

The decision of the ECHR is likewise pointless. It was based on the notion that no Swedish law had been violated. But what is the point of having a higher court devoted to human rights if all it considers is whether an individual country is following its *own* laws? Isn't the relevant question whether those laws uphold or impede human rights as the higher court understands human rights? If a country's national law allowed employers to discriminate against women could the court decline to hear a discrimination case simply because in a previous judgement that country's discriminatory laws had been followed?

The real issue is the one Linde declined to acknowledge: if women's lives would be in danger by providing exemptions for conscience, this would imply that a significant number of health workers would seek such exemptions. So the ban on exemptions for conscience presupposes, either, that a lot of health workers are troubled by assisting with abortions and must therefore be coerced into doing what offends their moral convictions or that there are not many such people, but the few who exist must be penalised from dissenting from the national orthodoxy, even though their small number means they pose no threat to public health.

Perhaps Linde (whom I take only as a published example of a patently absurd defence of coercion: there are no doubt many others who think the same way) does not see the implications of what he asserted. Another possibility is that he knows his arguments are absurd, but it doesn't matter that they are: the irrationality is covered by the fig leaf of

ostensible compassion, via the appeal to 'good quality health care' and 'respect'. Linde does not explain how a *person* is being disrespected because a medical professional objects to performing a particular *procedure* or for that matter, why anyone would have a right to have their *opinions or choices* respected: in a democracy, people have the right to express their opinions, but not to demand that others approve of those views.

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complete unwillingness of one side to make any compromise that would address the rights and needs of *both* sides. Other countries (the UK is one example) allow medical practitioners to refuse to perform abortions and the abortion mill continues, so the notion

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that a conscience exemption would impede access to abortion is nonsense. Sometimes, a solution that accommodates both sides can be surprisingly simple. In the case of Kim Davis, a county clerk in Kentucky, who refused to sign marriage licenses for gay couples on religious grounds, it was only after numerous lawsuits and appeals that a new state governor found a one-stroke

solution: on arrival in office, he ordered that county clerks' names be removed from all state marriage licenses, which meant no clerk was personally connected to a particular license. His decision protected the freedom of conscience of one side without inconveniencing the other.

The response of the pro-abortion lobby would undoubtedly be that in the case of abortion, if any leeway for conscience were given, there would not be enough providers. In the US, where there is no mandate that all doctors perform abortions, only 14% of practising obstetrician/ gynaecologists perform abortions—yet the abortion rate remains high, refuting the notion that access to legal abortion can only be ensured through the violation of the consciences of particular individuals.

What Linde's remarks reveal is not a reasoned argument, but an emotional response, one which most likely underlies the attitudes of other proponents of abortion. The issue is not whether conscience can be accommodated at the same time as making provision for a procedure many people believe is no more significant than having a mole removed. The issue for the abortion advocates is that any provision which recognises the deep moral objection of some constitutes an acknowledgment that even in highly secular, sexually permissive but ideologically intolerant societies like Sweden, there are still people who

deem abortion to be morally abhorrent.

Linde's own remarks regarding the supposed 'lack of respect' that would be implied by allowing anyone to opt out of performing abortions shows that the real issue for him and others like him is the desire to paper over the moral debate itself, to erase any public acknowledgement that people differ on this matter. No dissent from the majority view can be acknowledged,

much less accommodated. The fiction of a society where everybody happens to toe the party line must be maintained. People otherwise qualified for the medical professions must be kept out of them if they are ideologically impure.

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It's one approach to shaping a society—just not any society based on liberal principles or diversity.