



## From the SelectedWorks of Jakob Cornides

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### Letter to the editor

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It is probably unusual for an article published in the IJHR to become the subject of angry letters to the editor. My contribution 'Human Rights Pitted against Man' has provoked reactions from the representatives of two pro-abortion advocacy groups, Jon O'Brien of 'Catholics for a Free Choice' (CFFC) and Luisa Cabal and Jennie Pasquarella of the 'Center for Reproductive Rights' (CRR).

The editors have kindly agreed to publish my answer to these critics.

O'Brien claims to have found so many flaws in my arguments that he must restrict himself to the most glaring one: I misrepresent the teaching of the Roman Catholic Church by saying that it was opposed to abortion. According to O'Brien, *"there is much in the Catholic tradition that supports the pro-choice position."*

In this regard, it suffices to note that the Catechism of the Catholic Church, which must be regarded as a reliable source for the Church's teaching, clearly states (at sec. 2271): *"Since the first century the Church has affirmed the moral evil of every procured abortion. This teaching has not changed and remains unchangeable. Direct abortion, that is to say, abortion willed either as an end or a means, is gravely contrary to the moral law"*. If O'Brien believes that his 'pro-choice position' can draw support from the Second Vatican Council, I would also recommend him to read the Constitution *Gaudium et Spes*, sec. 51, which describes abortion as an *"abominable crime"*. I am not sure whether any of these statements lends support to O'Brien's claim that the Catholic tradition supports his pro-choice position.

Be that as it may, the question whether the Catholic Church opposes (as suggested by the Catechism), or whether it is supportive of, abortion (as O'Brien believes), is actually of no relevance at all to the argument I was making in my article. My point was that 'conscientious objection' against abortion is not necessarily inspired by a religious belief, but simply by the fact that many medical practitioners, including many non-Catholics, hold the view that the fetus, too, is the holder of human rights, and that the right to life of one person cannot be superseded by subordinate rights (such as self-determination) of another. I therefore believe that representing 'conscientious objection' as a legal privilege for unenlightened religious believers carries the risk of misinforming the debate. The pro-abortion lobby dismisses opposing views as 'religious' in order to avoid the argument on substance.

I fully share the view that religious communities in a secular State should, when they comment on social and political issues, base their arguments on reason, and that they should not be given any veto power. Indeed, I believe this applies to *all* persons or groups participating in public debates. At the same time, I note that O'Brien himself appears to believe that certain religious beliefs, namely his own, should be given such special consideration, or indeed a veto power. He writes that *"laws must not prevent people of other faiths from practising their faith. Since many religions support a woman's right to choose, laws against abortion would violate their rights."* In other words: abortion should be legal because a woman seeking abortion is 'a woman practising her faith'. Is there any better evidence for the subjectivism, not to say irrationality, of the 'pro-choice position'?

The letter of Mrs. Cabal and Mrs. Pasquarella, too, accuses me of having made *"many inaccurate and misleading representations"*. In actual fact, they identify only two such 'inaccuracies', leaving me in complete ignorance of all the others.

The first of these two ‘inaccuracies’ is my statement that ‘in all western countries, abortion is still in principle considered a serious crime and sanctioned with severe penalties’. Against this assertion, Cabal/Pasquarella object that *“the vast majority of European countries permit abortion without restriction as to reason or on broad grounds during the first trimester”*.

While I cannot not enter here into the details of each and every legislation concerned, it may suffice to point to just one example: that of the United Kingdom, the country where the IJHR is published. The UK arguably has one of the most ‘liberal’ abortion laws in the world. The Abortion Act allows a woman to receive an abortion: (1) to save the woman's life; (2) to prevent grave permanent injury to the woman's physical or mental health; (3) under 24 weeks to avoid injury to the physical or mental health of the woman; (4) under 24 weeks to avoid injury to the physical or mental health of the existing child(ren); (5) if the child is likely to be severely physically or mentally handicapped. These can be described, as Cabal/Pasquarella do, as ‘broad grounds’; yet both the substance as well as the drafting of the law suggest that these grounds must be seen as *exceptions to the general rule that abortion, in the absence of any of these grounds, is a crime*. It would therefore be wrong to say that abortion were not, in principle, considered a crime in the UK, or that it were permitted ‘without restriction’. The same applies to all other countries in Europe, except that the grounds to permit abortion are less ‘broad’ in most of them.

The second ‘inaccuracy’ Cabal/Pasquarella claim to have discovered is my comment that the EU Expert Network Legal Opinion has created a new ‘right to access to abortion’ that supersedes the ‘right to conscientious objection of medical practitioners’. This, they believe, is doing injustice to the balanced approach of the Network.

However, as Cabal/Pasquarella themselves acknowledge, the Legal Opinion recommends that medical practitioners refusing to perform abortions with their own hands should be obliged by law to refer women to practitioners not objecting to perform them. Unfortunately, they fail to explain how that suggestion would be able to *“ensure that both rights can coexist without one right impinging on the other right’s enjoyment”*. Is it not self-evident that referring a woman to a practitioner that is willing to perform an abortion would be tantamount to organising that abortion? Such an obligation would in no way accommodate the conscientious objections of the practitioners concerned, but would, on the contrary, coerce them to act against their conscience.

If O’Brien and Cabal/Pasquarella, in their search for ‘flaws’, ‘inaccuracies’ and ‘misrepresentations’ in my article, have not discovered any other than these, I trust that such flaws must be difficult to find.

Jakob Cornides