

BLOCK VS. FESER ET AL. DEBATING ABORTION: A SUMMARY



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Abstract:

The topic of abortion is, without a doubt, one of the most controversial issues currently being debated. Several decades ago, philosopher and economist Walter Block developed an ingenious solution to this seemingly uncompromisable issue based on libertarian principles. According to Block's solution, which he has called "evictionism," it would be illicit for a pregnant woman to unnecessarily end the life of a fetus in her womb once it's viable but it would not be illicit for the mother to evict the fetus at any time for any reason, even if such a removal necessarily results in the death of the fetus, due to the fact that the woman is the one who owns her womb. Although Block's solution is a principled compromise of the traditional pro-life and pro-choice positions, very few people have actually heard of it and even fewer people have actually been persuaded by it. As a result, Block has had several written debates with his critics about some of the problems with his solution that they perceive. This paper provides a summary of one of the main debates that Block has had on the topic.

Keywords: evictionism, abortion, pro-life, pro-choice, property rights

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INTRO

One of the main debates that Walter Block had defending evictionism was with Edward Feser, Jonathan Goodwin, James Sadowsky, Laurence Vance, and Michael Watkins starting all the

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way back in 1978 and ending in 2017.¹ His debate with each person, though, only lasted one round, except for Goodwin, who issued a rejoinder to which Block has yet to respond.

The scope of this paper is to present, in chronological order, the positions expressed throughout the years in the debate surrounding the difficult question of abortion. The debate has split the libertarian movement in two, with both sides making legal and ethical points that are worth rehashing, considering the current debates in the United States, which in 2021 will be considered (again) by the Supreme Court.

FESER'S CRITICISM OF EVICTIONISM (Feser, 2004)

The first argument in this set of debates, titled “Self-ownership, Abortion, And the Rights of Children: Toward a More Conservative Libertarianism”, was published by Edward Feser (2004). He began by thoroughly reviewing the concept of self-ownership. He then appeared to conflate morality with legality by making the distinction that there are moral principles involving rights, which should be established into law, and moral principles involving the promotion of virtue and the avoidance of vices, which should be established through “the everyday practices of moral praise and blame” (Feser, 2004, p. 92).

Feser also asserted that self-ownership entails that people refrain from using their own “powers and property in a way that nullifies the self-owned powers of others” (Feser, 2004, p. 99). In an attempt to justify this, he brought up libertarian philosopher Eric Mack’s suggestion that “respect for others’ self-ownership rights entails abiding by restrictions on the use of one’s own property and self-owned powers enshrined”, which he called the “Self-Ownership Proviso (SOP)” (Mack, 1995).

¹ To review each debate individually, see Block, 2017; Feser, 2004; Goodwin, 2015; Mosquito, 2015, 2017; Sadowsky, 1978; Vance, 2008, 2012; Watkins, 2006.

To clarify, Feser claimed that if someone homesteaded an island and came to own it, they would not be justified in preventing someone who gets shipwrecked near the island from coming onto land due to the fact that this “this use of his property would, however non-invasively, violate [the other person’s] self-ownership in that it would effectively disable [their] capacity to use [their] self-owned abilities” (Feser, 2004, pp. 99-100). In an attempt to underscore this point, he added, “genuine respect for others’ self-ownership thus entails that one abides by the SOP - that one refrain from using one’s own powers and property in a way that nullifies the self-owned powers of others” (Feser, 2004, p. 100). Basically, by saying this, Feser appeared to be suggesting that people essentially have a positive obligation to let others use their property if not doing so will result in their death.

Next, Feser turned his attention to the analogies used by Thomson to basically justify abortion (Thomson, 1995). First, he argued that it’s not clear how Thomson’s violinist analogy would justify any abortion that involves the direct killing of the fetus. He also claimed that it’s not clear how the analogy would justify anything other than abortions in the case of rape. To clarify, he added, “surely a pregnancy resulting from consensual intercourse - which, as everyone knows, has a chance of resulting in pregnancy even when contraception is used - is not analogous to Thomson’s example” (Feser, 2004, p. 101).

Feser then claimed that while Thomson tries to get around the disanalogy with a “people seeds” example (Thomson, 1995), that analogy also fails because “sperm is hardly as difficult to avoid as Thomson’s people seeds are, and unlike the latter, one has positively to do something to get it, something one is fully capable of refraining from” (Feser, 2004, p. 101). After making this point, Feser suggested that even then abortion should still be condemned because “how the fetus came into existence is irrelevant” (Feser, 2004, p. 102). To justify this, he referred back to Mack’s island example.

Specifically, he stated, “Adam obviously could not justify letting Zelda drown by saying ‘I never consented to Zelda’s coming ashore, and it’s not my fault she happened to get shipwrecked near my island!’. This remains true even if Zelda’s coming ashore seriously inconveniences Adam. We can sympathize with him in his bad luck, but we cannot absolve him of his duty to abide by the SOP” (Feser, 2004, p. 102). In an attempt to make his point even more clear, he added, “a woman pregnant as a result of rape is in a situation analogous to Adam’s: it isn’t her fault that the fetus is in her womb, but then, neither is it the fetus’s fault. It is the rapist who must, as far as is possible, be made to compensate for putting the woman (and the fetus) in the position he’s put them in. In the meantime, the fetus cannot justifiably have his self-owned powers nullified” (Feser, 2004, p. 102).

Feser then pointed out that this would also mean that in the violinist example (see below Watkin’s Criticism), someone would be forced to remain attached to the violinist but noted that those who attached the two together must also be forced to do everything possible to free the person from this circumstance as soon as possible, and to also compensate them for the inconvenience they experienced. Next, Feser argued that positive obligations extend “far beyond abortion” (Feser, 2004, p. 104). To clarify, he stated, “children, unlike the progeny of non-human animals, are entirely helpless at birth. It follows that, on libertarian principles, anyone who brings a child into the world has a duty to do what is necessary to provide for that child, since not to do so would be a clear violation of that child’s self-ownership - a putting of that child in a position in which its capacities are completely nullified” (Feser, 2004, p. 104).

Toward the end of his paper, Feser claimed that in addition to providing for the child, parents also have a positive obligation to educate their child and teach them about morality. Specifically, he stated, “it follows from the thesis of self-ownership, then, that a child has a right properly to be reared by his parents, and that their failure to provide for such an upbringing constitutes an

injustice” (Feser, 2004, p. 105). He also mentioned that if the child’s parents are to die, then the positive obligation is transferred to their next of kin.

Before concluding, Feser asserted that another implication of the SOP is that “anyone who influences a child in a way that makes him less able to fulfill his capacities, including by corrupting his moral character, commits an injustice - he commits a violation of the child’s rights, a positive harm rather than merely a (negative) failure to fulfill a positive obligation” (Feser, 2004, p. 106). According to Feser, this, therefore, means that the “government has, in principle, a role to play in protecting those rights” (Feser, 2004, p. 106).

To clarify, he used pollution as an analogy. Specifically, he argued that just like it would be justified to use force to stop people from polluting the air, it would be justified to use force to stop people from morally polluting the “atmosphere” where the child is raised (Feser, 2004, p. 107). Underscoring this point, he added, “any ‘negative externalities’ that tend to undermine the moral character of a child, by making it significantly more difficult for him to develop the moral virtues that the proper exercise of his self-owned capacities require are, given the SOP, on a par with the negative externalities caused by pollution” (Feser, 2004, p. 107).

BLOCK’S RESPONSE TO FESER (Block, 2017)

In 2017, Block published a paper titled “Abortion Once Again: a response to Feser, Goodwin, Mosquito, Sadowsky, Vance and Watkins” responding to Feser’s position on abortion (Block, 2017). He began by first pushing back against Feser’s conflation of morality with legality. He also completely objected to Feser’s embrace of positive obligations, which, as noted by Block, is an “anathema for the libertarian” and claimed that the doctrine presented by Feser “is hardly a libertarian one” (Block, 2017, p. 13).

Block then complimented Feser for “quite properly” taking Thomson (1995) to task for favoring the pro-abortion side and “convincingly” undermining her position (Block, 2017, p. 13).

After doing so, he then attempted to reduce Feser's "insistence that even in the case of rape the victim is precluded from separating herself from the fetus" to absurdity (Block, 2017, p. 14). He did so by pointing out that, "if followed to its logical conclusion, any criminal may do anything he wishes to any victim – up to and including rape, murder, enslavement – provided only that the perpetrator requires this action in order to maintain his well-being" (Block, 2017, p. 14).

In an attempt to underscore this point, Block added, "here we have a veritable clash of rights, something else that is anathema to the libertarian philosophy" (Block, 2017, p. 14). Toward the end of his response, Block argued that Feser misconstrued Thomson's "people seeds" example (Thomson, 1995) when she claimed that it's easier to avoid sperm than people seeds and stated that, unlike the people seed example, someone has to actually do something to get pregnant (Block, 2017, pp. 14-15). To clarify, he mentioned that "the different likelihoods of creating a baby in the ordinary way, or an adult in this science fiction-ish manner" is irrelevant because they're discussing principles, not probabilities (Block, 2017, p. 15). He also pointed out that "in both cases is it true that the woman must 'do something to get it' "because they either have to agree to sexual relations or open a door or window" (Block, 2017, p. 15).

Before concluding, Block noted that his theory of evictionism was, unfortunately, not brought up anywhere in Feser's paper. He then suggested that the only thing that can really be said about Feser's analysis "is that it is difficult to reconcile with libertarianism" (Block, 2017, p. 15).

GOODWIN'S CRITICISM OF EVICTIONISM (Goodwin, 2014)

The second argument in this set of debates, titled "Libertarians and Abortion", was published by Jonathan Goodwin (2014). He began by first suggesting that Block had written in

favor of abortion. After doing so, Goodwin quoted Block's view that abortion is abominable and mentioned that he agrees with Block about where life begins.

Next, he argued that Block's comparison of abortion with "the act of failing to come to the aid of another" was not a good analogy because in the case of a drowning swimmer, "the potential rescuer (presumably) did nothing to cause the swimmer to drown" whereas "the woman did take an action in the situation the act of becoming pregnant" (Goodwin, 2014). To clarify, he added, "aborting the unborn child is like deliberately throwing a non-swimmer into the middle of the Pacific Ocean after providing a formal invitation to a nine-month cruise – a cruise with no scheduled stops. The invitation conveys an obligation; the act of throwing the person overboard is an aggressive act, in violation of the non-aggression principle" (Goodwin, 2014).

Goodwin then pushed back against the idea that the fetus is a trespasser by reiterating once again that the woman took an action that could have resulted in a pregnancy. From here, he pushed back against Block's claim that there cannot be a contract with the fetus by pointing out that it actually is possible to have a contract with a minor but that the contract is "voidable" by the minor (Goodwin, 2014). Basically, this means that while it's technically not illegal to enter into a contract with a minor, any contract that they enter can be voidable, at their discretion, but is binding otherwise.

Goodwin also criticized libertarian philosopher Murray Rothbard's suggestion that even if there was some sort of original agreement, the mother could change her mind whenever she wants (Rothbard, 1973, p. 132). Specifically, he stated, "it seems a rather one-sided out clause – where the one breaking the agreement suffers little if any consequence... while the ultimate consequence is paid by the party that (presumably) was satisfied with the terms of the original deal. It doesn't seem like any clause to which the unborn child would have agreed up front" (Goodwin, 2014).

He then added that most contracts have language covering the possibility of one party wanting out of the contract. To clarify, he asserted, “if the mother changes her mind... it will cause irreparable harm to the unborn child. Money damages will most certainly not be sufficient for the benefit of the now-dead unborn child. The counter-party (the unborn child) would be entitled to equitable relief, including specific performance, and such relief shall not be opposed” (Goodwin, 2014).

Next, Goodwin brought up once again that he doesn’t view the unborn child as a trespasser but instead someone who was invited into the womb by the action of the woman. In an attempt to underscore this point, he noted, “when the party host extended the invitation, she knew it would be for a nine-month visit with no possible way for the guest to depart in the meantime” (Goodwin, 2014). He then argued that there is “significant fault” with Block’s assertion that the woman’s right to defend her property should be held “above the valuable life of the fetus” by pointing out that property rights can only legitimately be defended proportionately (Goodwin, 2014).

Specifically, Goodwin stated, “the victim... has the right to exact punishment up to the proportional amount as determined by the extent of the crime, but he is also free either to allow the aggressor to buy his way out of punishment, or to forgive the aggressor partially or altogether” (Goodwin, 2014). To further clarify this point, he added, “the proportionate level of punishment sets the right of the victim, the permissible upper bound of punishment; but how much or whether the victim decides to exercise that right is up to him” (Goodwin, 2014). Basically, this means that someone could not use deadly force to remove a trespasser because killing them would be disproportionate to the act of trespass.

Goodwin then illustrated his claim by arguing that shooting a six-year-old for stealing a candy bar would “is nowhere consistent with the non-aggression principle” and compared this example to the act of evicting an unborn child before they’re viable, thus

killing them in the process (Goodwin, 2014). After making this point, he then suggested that the relationship between the mother and her unborn child is similar to that of a landlord and tenant, which means that the same contractual principles that apply in real estate should also apply to them.

Next, Goodwin asserted that “the woman’s ‘conduct’ during intercourse brought on the ‘result’ of pregnancy” and then claimed that because of this, “it is difficult to accept that the woman somehow has no responsibility at all for the pregnancy (and therefore, the unborn child) directly caused by her conduct” (Goodwin, 2014). From here, he argued that since the woman basically invited the fetus into her womb, the unborn child can rely on certain conditions, namely that they’d receive “the benefit of the full term in the womb” (Goodwin, 2014).

Toward the end of his response, Goodwin reiterated that the mother and unborn child basically entered into a fixed-term tenancy lease and suggested that the landlord would not be justified in evicting without cause. Before concluding, he added that since the unborn child has a lease with the mother, “the tenant is protected in his right to enjoy the property without disturbance” due to what is known as the “covenant of quiet enjoyment”, which basically has to do with a landlord promising the tenant that they won’t be disturbed during the time of their tenancy nor will their use and enjoyment of the premises be disturbed (Goodwin, 2014).

BLOCK’S RESPONSE TO GOODWIN (Block, 2017)

Block’s response to Goodwin was also published in the paper, “Abortion Once Again: a response to Feser, Goodwin, Mosquito, Sadowsky, Vance and Watkins” (Block, 2017). He began by pushing back against Goodwin’s claim that he has written in favor of abortion because it conflates eviction and abortion. He then acknowledged that they are both in agreement about where life begins.

Next, Block corrected his own claim that “abortion is not, in and of itself, an act invasive of other people or their property rights, even when fetuses are considered persons” (Block & Whitehead, 2005) to “eviction... is not, in and of itself, an act invasive of other people or their property rights, even when fetuses are considered persons” (Block, 2017, p. 17). He then argued against Goodwin’s claim that there is a disanalogy between a drowning swimmer and a fetus due to the fact that the woman had to take action by pointing out that “merely ‘taking an action’ does not logically imply responsibility for the results of that action” (Block, 2017, p. 17). To clarify, he brought up an example where a woman gets raped in Egypt because she was decided to take the action of wearing a mini skirt out in public without first hiring a bodyguard or arming herself.

Block also pushed back against Goodwin’s claim that the child is not trespassing because the mother took action that could have resulted in pregnancy by bringing up cases of rape. In an attempt to underscore this point and reduce Goodwin’s position to absurdity, he pointed out that a woman who goes out into public and a woman who stay home are both taking an action, which means that a woman would, according to Goodwin, be responsible for a pregnancy that resulted from rape whether she went out into the street or was innocently sitting at home behind locked doors.

He then criticized Goodwin’s claim that a fetus could enter into a contract because minors can do so by arguing that making such a claim “seems to stretch the meaning of a ‘contract’ so far as to rend it asunder” because an eight-year-old or twelve-year-old child is one thing while a fetus is quite another (Block, 2017, p. 18). After making this point, he then pushed back against Goodwin’s argument that the mother cannot change her mind because she’s entered into a contractual agreement by reiterating that at the time of intercourse, the fetus did not yet exist. From here, he objected yet again to Goodwin’s claim that the unborn child is not a trespasser by referring to cases of rape and also arguing that

even if there was an invitation, “it need not be for a ‘nine-month visit” (Block, 2017, p. 19).

Next, Block accused Goodwin of committing a “philosophical howler” by equating defense and punishment when discussing proportionality (Block, 2017, p. 19). Specifically, he pointed out that proportionality only applies to punishment after the fact, not stopping a crime when it is occurring. To clarify, he stated, “while the crime is being committed, the victim has no idea as to whether or not deadly force will be used by the perpetrator. The latter may only want to steal a can of beer, but the grocer cannot know that. Thus, he is entitled to kill the intruder. In contrast, it would not be a civilized court that would impose the death penalty for such petty theft” (Block, 2017, p. 20).

Block also mentioned that in a situation where a child is stealing a candy bar the only time it would be justified in killing the child would be if doing so was necessary to stop the theft, such as a paraplegic store owner whose only functioning finger is their trigger finger, due to the fact that “property rights are sacrosanct” for the libertarian (Block, 2017, p. 20). He noted, though, that the store owner would be justified in using deadly force against an adult or an armed child because “there is a threat of dire consequences” (Block, 2017, p. 20).

After clarifying this, he pushed back on Goodwin’s claim that the relationship between the mother and child is similar to the relationship between a landlord and a tenant by arguing that such a comparison “seems like a bit of a stretch” since they never signed a lease and no monthly fees were ever paid (Block, 2017, p. 20). Block then attempted to reduce Goodwin’s assertion that the woman is responsible for the unborn child because she was a causal agent in her pregnancy to absurdity. He did so by first bringing up a situation where someone’s love of apples causes the price to rise and pointed out that using Goodwin’s reasoning, the person would be “responsible” for their “conduct” and thus owe others who can no longer afford the apples at the new price compensation (Block, 2017, p. 21). According to Block,

“preposterous’ would appear the only possible response to any such claim” (Block, 2017, p. 21).

To further reduce Goodwin’s assertion to absurdity, he then brought up another situation where someone doesn’t ask an “ugly” girl to dance at a party and as a “result” she kills herself and mentioned that the person who didn’t ask the girl out is “caused” her death and can, therefore, be held responsible for it using Goodwin’s reasoning (Block, 2017, p. 21). Block, however, explained that “causing something may well be necessary for having committed a crime, but it is certainly not sufficient” (Block, 2017, p. 21).

Next, Block pushed back against Goodwin’s claim that the mother has made a promise to let the fetus remain in her womb until birth by quoting Rothbard’s refutation of promise theory, which he rejected because going back on a promise does not amount to theft of any kind and is thus not a rights violation (Rothbard, 1998, pp. 133-134).

He then objected to Goodwin’s nine-month cruise analogy on the grounds that the boat owner invited the non-swimmer on board whereas the mother made no such invitation to the unborn baby, who didn’t even exist at the time of intercourse. He clarified, though, that the boat owner would not be justified in throwing out someone who was invited on a nine-month cruise because they have an implicit understanding that such a thing would not happen since both parties actually exist and noted that since the fetus does not exist at the time of intercourse, which is when the mother supposedly offered the invitation, they do not have the same implicit understanding.

Block also pointed out that in the case where a boat owner invites someone on board their ship and then throws them overboard, the welfare of the person who was thrown overboard would have been worse than if he had never agreed to embark on the trip but in the case where a mother gets pregnant and then evicts, the welfare of the unborn baby would have actually been better than if they were never conceived. To clarify, he stated, “in

the case of the pregnant woman who evicts her baby, whether or not it perishes, the latter's position was improved if we can claim that existence even for a short time is better than no existence at all" (Block, 2017, p. 23).

After making this point, Block pushed back against Goodwin's argument that the mother would be unjustified in evicting because she's bound by a unilateral contract. He did so by explaining that a unilateral contract is really just a type of promise and reiterating that promises are not legally binding. Toward the end of his response, Block called Goodwin's claim that the unborn baby is leasing the mother's womb "nonsense on stilts" because there was never any kind of rent payment given to the mother (Block, 2017, p. 24).

Before concluding, Block criticized Goodwin's claim that the unborn baby is entitled to a legal covenant of quiet enjoyment by pointing out that such a covenant would actually require far more of the mother than simply not evicting the fetus. He also questioned how many would actually be willing to sign a contract that made such demands.

MOSQUITO'S CRITICISM OF EVICTIONISM (Mosquito, 2015)

The third argument in this set of debates, titled "Walter Block, Specific Performance Contracts, and Abortion", was published by Goodwin as a blog post under the username "Bionic Mosquito" (Mosquito, 2015). He began by stating that "the unborn child has the right to the use of the womb for the term of the pregnancy" and argued that while the mother is the owner of the womb, the child is a tenant who has in no way breached their lease agreement by simply existing in her womb (Mosquito, 2015).

In an attempt to support this claim, he asserted that the mother is bound by a "performance contract", which is a specific type of contract that legally compels someone to engage in an act even if they change their mind (Mosquito, 2015). To clarify, he reiterated, "if the mother changes her mind... it will cause irreparable harm to the unborn child. Money damages will most

certainly not be sufficient for the benefit of the now-dead unborn child. The counter-party (the unborn child) would be entitled to equitable relief, including specific performance, and such relief shall not be opposed” (Goodwin, 2014).

BLOCK’S RESPONSE TO MOSQUITO (Block, 2017)

Block’s response to Goodwin’s blog post under the name “Bionic Mosquito” was also published in the paper, “Abortion Once Again: a response to Feser, Goodwin, Mosquito, Sadowsky, Vance and Watkins” (Block, 2017). He began by first pointing out that they are in large agreement when it comes to most matters, including performance contracts. After acknowledging this, though, he then pushed back against the idea that the mother is bound by a performance contract. He did so by reiterating that the existence of “any such contract” between the mother and fetus is doubtful due to the fact that a fetus doesn’t come into existence until some time after a woman engages in sexual intercourse (Block, 2017, p. 27).

Specifically, he stated, “this entire line of reasoning, brilliant as it is, founders on the fact that there is no contract, there can be no contract, of any kind, between mother and the sperm and the egg, which are the only entities that exist at the time of voluntary sexual intercourse” (Block, 2017, p. 27). Before concluding, he pointed out that “even if we posit that there can be a contract between the mother and the pre-born infant”, which he claimed was “an entirely heroic assumption”, it would still not be “sufficient to support the Mosquito’s contention” (Block, 2017, p. 27).

GOODWIN/MOSQUITO’S REJOINDER TO BLOCK (Mosquito, 2017)

Goodwin published a rejoinder to Block, titled “Block Responds on Abortion”, on his blog (Mosquito, 2017). He began by criticizing Block for repeatedly bringing up rape as an argument against his position when he did not once make an

argument in the case of rape. He also pushed back against Block's distinction between eviction and abortion by arguing that there is no difference between the two in the first two trimesters. He also asserted that evicting a fetus to its death in the first two trimesters would be an act of murder and then suggested that "murder is justified under evictionism" (Mosquito, 2017). From here, he argued that since murder is a violation of the NAP, evictionism is inconsistent with the NAP.

Next, Goodwin rejected Block's claim that "merely 'taking an action' does not logically imply responsibility for the results of that action" (Block, 2017, p. 17) as well as his examples of a woman who wears a woman out in public and a woman who leaves a window open on the grounds that there's a "drastic difference in 'logic' between consensual intercourse and the examples Block offers" (Mosquito, 2017).

To clarify, he defined logic as "according to or agreeing with the principles of logic; reasoning in accordance with the principles of logic, as a person or the mind; reasonable; to be expected" and then suggested that it is absolutely "reasonable to expect" that pregnancy could follow intercourse since it's a fact of biology (Mosquito, 2017). After making this point, Goodwin pushed back against Block's claim that it seems like a stretch to compare "the relationship of mother and unborn baby to that between landlord and tenant" by arguing that it actually isn't a stretch because Block uses the term "evictionism", which is something a landlord does to a tenant (Mosquito, 2017). He also pointed out that there doesn't need to be a signature and that "consideration" doesn't always have to come "in the form of a monetary instrument, or even a physical good" (Mosquito, 2017).

Goodwin then brought up Block's example of someone's love for apples causing the price of apples to increase and basically suggested that it was disanalogous. Toward the end of his response, he argued against the Rothbard quote against promises (Rothbard, 1998, pp. 133-134) that Block offered in his objection to promises and unilateral contracts (Block, 2017, pp. 21-22) by

questioning why “there can be no property in someone’s promises or expectations” (Mosquito, 2017). He then dismissed Block’s claim that there is no contract involved in offering a reward or making a promise to pay and criticized Block for relying on Rothbard’s reputation rather than making a case on his own merits.

Before concluding, he pushed back against Block’s criticism of the blog he wrote under the username “Bionic Mosquito” by reiterating that contrary to what Block stated, there does, indeed, exist a unilateral performance contract that constrains a mother from evicting a fetus inside of her womb. He also argued against Block’s claim that even claiming “that there can be a contract between the mother and the pre-born infant” (Block, 2017, p. 27) is insufficient to support his contention by questioning why a valid contract would not be sufficient (Mosquito, 2017). Block has not yet responded to this rejoinder.

SADOWSKY’S CRITICISM OF EVICTIONISM (Sadowsky, 1978)

The fourth argument in this set of debates, titled “Abortion and Rights of the Child”, was published by James Sadowsky (1978). He began by pushing back against Block’s position on the grounds that “the majority of abortions do not fit the above description” (Sadowsky, 1978, p. 2). To clarify, he stated, “what is wanted in most cases is precisely the death of the child. Most of those seeking abortions would be horrified at the thought that the child might survive his expulsion” (Sadowsky, 1978, p. 2).

Next, Sadowsky questioned whether “the mere fact that a man is a stowaway justify our throwing him out of the aircraft” and suggested that the justified thing to do would be to wait until the aircraft lands (Sadowsky, 1978, p. 2). He then added that “traditional natural law theory and the common law have it that our response to aggression should be proportionate to our need to resist and the nature of the attack” (Sadowsky, 1978, p. 2).

Toward the end of his response, he argued that when a fetus is removed from the womb, it “does not die as a result of the mother’s failure to extend the means of life” but instead “it dies of the attack itself” (Sadowsky, 1978, p. 3). Sadowsky concluded by claiming that the fetus has a right to be in the womb because the womb “is its natural habitat” (Sadowsky, 1978, p. 3). In an attempt to underscore this point, he added, “when we cast him out, we are depriving him of that which nature gave him. To do this is to violate his rights” (Sadowsky, 1978, p. 3).

ROTHBARD’S RESPONSE TO SADOWSKY (Rothbard, 1978)

Directly following Sadowsky’s paper, Rothbard, who edited the journal where Sadowsky’s paper was published, issued a response to some of the claims that he made (Rothbard, 1978). First, Rothbard pushed back against the idea that life starts at conception by arguing that “the foetus only acquires the status of human upon the act of birth” (Rothbard, 1978, p. 3). To clarify, he stated, “it seems to me that the problem with the Block-Sadowsky thesis of asserting the foetus to be human is that that act of birth, which I had always naively assumed to be an event of considerable importance in everyone’s life, now takes on hardly more stature than the onset of adolescence or of one’s ‘mid-life crisis’” (Rothbard, 1978, p. 3). In an attempt to underscore this point, he asked, “does birth really confer no rights?” (Rothbard, 1978, p. 3).

After making this point, Rothbard brought up airplane example and explained that while it may be true that evicting a stowaway from a plane in midair would be “overkill”, when it comes to abortion, evicting a fetus to its death would not be overkill because “just as an assault on someone’s body is a more heinous crime than the theft of his property, so the trespassing on or within a person’s body is a far more heinous trespass than merely strolling on his land or stowing away on an aircraft” (Rothbard, 1978, p. 3). He then added, “for the crime of

trespassing within a person's body, any means necessary to evict the trespasser should be legitimate" (Rothbard, 1978, p. 3).

Toward the end of his response, he pointed out that the treatment of the fetus would be no different than the treatment of someone who becomes attached to another person's kidneys for nine months. According to Rothbard, "you would have the right, not merely to unplug yourself from his kidneys, but to be damned 'brutal' about it if necessary to get your body out of its enslavement, even if it kills the pianist in the process" (Rothbard, 1978, p. 3).

Before concluding, Rothbard pushed back against the idea that the womb is its natural habitat by bringing up a situation where a fetus is created inside a test tube. Specifically, he stated, "in the relevant possible future case of a 'test-tube' foetus, grown of course in a man-made means of life, it surely would not be 'murder' to pull the plug, to cease investing resources in keeping the foetus alive" (Rothbard, 1978, p. 3).

BLOCK'S RESPONSE TO SADOWSKY (Block, 2017)

Block's response to Sadowsky was also published in the paper, "Abortion Once Again: a response to Feser, Goodwin, Mosquito, Sadowsky, Vance and Watkins" (Block, 2017). He began by pointing out that he actually doesn't disagree with Sadowsky's criticism of women who would not want their child to survive being evicted even if they could and mentioned that if they were to unnecessarily kill their unborn baby during the eviction process, they would be a murderer. He then noted that as medical technology progresses, evictionism would become closer and closer to resembling the pro-life position when it comes to whether or not the fetus survives. To clarify, he stated, "for every ten or twenty years of new medical technology that passes, the fetus will be viable outside of the womb a few days earlier. Perhaps in 50 years from now, the fetus may be able to live

outside the womb as early as its sixth month of existence; maybe in 100 years, in the fifth month” (Block, 2017, p. 28).

Next, Block addressed Sadowsky’s question about how throwing a stowaway out of an aircraft is justified. He did so by first pointing out that the stowaway may be a danger to those on board. He then pointed out that even if that wasn’t the case, and the person was completely innocent and harmless, it wouldn’t matter because that specific part of the analogy doesn’t hold when it comes to pregnancy due to the fact that an aggression against a person’s body is a far more heinous crime than an aggression against a person’s property.

Block also pointed out that Sadowsky conflated self-defense and proportionality. Specifically, he explained that Sadowsky basically equated what may be done when stopping a rights violation with what may be done as punishment after the fact. In an attempt to underscore this point, he stated, “the victim may use deadly force to protect himself, and, I would add, his property, down to and including nickels stolen from him, forsooth” (Block, 2017, p. 29). Basically, this means that it doesn’t matter if throwing someone out of a plane is disproportionate to being a stowaway because proportionality only applies to punishment after the fact. It’s irrelevant when it comes to stopping a rights violation. All that matters is using acting in the gentlest manner necessary to stop the rights violation (and that may be extremely disproportionate to the rights violation). Block then criticized Sadowsky for once again confusing eviction with abortion when he claimed that the fetus doesn’t die because the mother failed to extend aid to it but because it was attacked. He then pointed out that while it’s true that before the fetus is viable it will be “attacked” once it’s viable “the fetus need not perish” (Block, 2017, p. 29).

Before ending his response, Block addressed Rothbard’s “salient critiques” of Sadowsky’s argument by quoting what he said about being able to be “damned brutal” (Rothbard, 1978, p. 3) about unplugging oneself from a pianist who is attached to one’s

kidneys even if it kills them in the process (Block, 2017, p. 29). He then concluded by noting that while he agreed with most of Rothbard's response, he disagreed with him about when life starts. According to Block, birth "is akin to a mere change of address, for that is all that happens in the few seconds before and after birth: a change of address, slight in the geographical sense, momentous insofar as dependency on the mother is concerned" (Block, 2017, p. 30).

VANCE'S CRITICISM OF EVICTIONISM (Vance 2008, 2012)

The fifth argument in this set of debates was published by Vance as two different blog posts (2008, 2012). In his first blog post, titled "Is Ron Paul Wrong on Abortion?", Vance began by claiming that the libertarians who disagree with Ron Paul on abortion are either in the group "I support Ron Paul even though he is wrong on abortion" or in the group "I don't support Ron Paul because he is wrong on abortion" (Vance, 2008). He then quoted Paul's pro-life views on abortion and then asked, "why would a libertarian have a problem with these statements?" (Vance, 2008). To clarify, he added, "why should it be considered libertarian to kill a baby in the womb or unlibertarian to oppose such killing? And even worse, why would a libertarian say that it was unlibertarian to advocate killing foreigners in an aggressive war but not non-libertarian to kill a baby in the womb?" (Vance, 2008).

Next, he argued that there are two kinds of "pro-choice" libertarians (Vance, 2008). The first kind, according to Vance, "recognizes that abortion is not a settled issue in the libertarian community and therefore hesitates to castigate fellow libertarians who oppose abortion as anti-libertarian or unlibertarian. They are civil, amiable, and likable — like Walter Block" (Vance, 2008). He noted that the second group, though, are more vocal and is "made up of those who are adamant in their belief that opposition to abortion is anti-libertarian or unlibertarian" (Vance, 2008). To

clarify, he claimed that the second group believes that “fetuses are parasites who derive all their nutrients from the bodies of their hosts, and quite often pose to their hosts serious health complications and risks” and that “any woman carrying a fetus is being generous” (Vance, 2008). In an attempt to further underscore this point, he asserted that this group of pro-choice libertarians believe that “a fetus is not really a human being” and that forcing a woman to keep a child in her womb against her will is akin to overriding her right to self-defense and enslaving her (Vance, 2008).

From here, Vance brought up the NAP and quoted Rothbard’s claim that libertarianism “is not and does not pretend to be a complete moral, or aesthetic theory; it is only a political theory, that is, the important subset of moral theory that deals with the proper role of violence in social life” (Rothbard, 1980, p. 9). Vance then added, “killing someone is the ultimate form of aggression. Especially a helpless, defenseless fetus that is only guilty of suddenly waking up in a womb” (Vance, 2008). To clarify, he stated, “the fetus certainly had no control over being a parasite, aggressing against a woman, invading a woman’s body, or adding unwanted pounds to his host — but its mother certainly did” (Vance, 2008).

After making this point, he attempted to reduce the pro-choice position to absurdity by arguing that “if an unborn child is not entitled to protection of life, then to be consistent, libertarians should have no problem with the abortion of a fetus from one month old to nine months old” because “the nine-month-old fetus is no more viable than the one-month-old one” (Vance, 2008). He then pointed out that a one-month-old baby also has the same degree of viability as the other two.

Toward the end of his blog post, Vance reasoned that despite his views on abortion, “the solution is not a federal law or a constitutional amendment banning abortion” because the federal government should not be involved in crime fighting since that power belongs to the states. He then underscored this by stating, “since the federal government has no authority to involve itself in

the abortion issue, a federal law banning abortion in the states would be just as wrong as *Roe v. Wade*" (Vance, 2008).

Before concluding, he suggested that "the antagonism toward Dr. Paul among some libertarians is deeper than the abortion question" and mentioned that it's because his critics don't know the difference between libertarianism, which is a political philosophy based on the NAP and private property rights, and libertinism, which has to do with living one's life without any moral or sexual constraints (Vance, 2008).

In his second blog post, titled "Libertarianism and Abortion", Vance began by reiterating that he bases his view of abortion on the NAP (Vance, 2012). Specifically, he stated, "because a child in the womb is helpless, not initiating violence, not committing aggression, and not there of its own accord, I believe that, to be consistent, libertarians should not only be opposed to abortion, but in favor of making it a criminal act just like murder, rape, kidnapping, theft, assault, and robbery would be in any libertarian society based on the non-aggression principle" (Vance, 2012).

He then quoted several criticisms of his position and then made nine different points about what was said. First, he asserted that opposing abortion is "not an exclusively far-right wing or conservative position" (Vance, 2012). Second, he argued that just because it is true that "often a fertilized egg fails to implant in the lining of the uterus and is expelled during menstruation", that doesn't necessarily make God the "biggest performer of abortions" because God was the one who gave life, which means that he could take it away "anytime he chooses in any manner he chooses" (Vance, 2012). Third, he claimed that since abortion is a violation of the NAP, should be criminalized like murder and robbery. Fourth, he argued that just because people are currently imprisoned for victimless crimes doesn't mean that abortion shouldn't be criminalized. He also noted that when it comes to criminalizing abortion, it should be done at the state level, not at the federal level.

Fifth, he asserted that criminalizing abortion “would not lead to a greater police state that increases the bureaucratic apparatus and violates privacy” (Vance, 2012). Sixth, he claimed that force would not be justified to try and prevent a possible or potential aggression. To clarify, he mentioned that it would “not be okay to enslave a pregnant woman by forcing her ‘to carry an unwanted child to term’ or put her ‘in a straitjacket in a padded cell and force feed her to keep her and her fetus healthy’” (Vance, 2012). In an attempt to underscore this point, he noted, “the way to stop abortion is by persuading pregnant women to not undergo abortions or educating them sufficiently in the pro-life position before they get pregnant so they won’t consider abortion an option should they get pregnant” (Vance, 2012).

Seventh, he argued that while a fetus is a parasite in the sense that “it lives inside, is dependent upon, and obtains nutrients from a host”, the same thing can also be said about a newborn baby and even a six-month-old infant (Vance, 2012). He then asked, “are libertarians who advocate abortion on demand ready to allow the procedure at any time before birth in the name of consistency? And what about the gruesome practice of partial-birth abortion?” (Vance, 2012).

Eighth, he claimed that “when a woman engages in an activity the natural consequence of which is pregnancy, she is obligating herself to bring to term a completely separate individual with uniquely different DNA that didn’t choose to ‘invade’ ”her body or ‘aggress’ against her” (Vance, 2012). He also mentioned that their argument would only apply to rape but suggested that even in rape, it would not be justified to evict the child to its death because the child is innocent and was placed there by the rapist. He then asked, “if someone owned a ship and discovered a child on board that someone had stowed away, would he be well within his rights to throw the child overboard for being a trespasser? Should he not rather give the child up safely at the end of his voyage?” (Vance, 2012).

And finally, he pointed out that if a woman doesn't want to keep her baby, then she should give it up for adoption. He then claimed that pro-lifers "have dropped the ball here" because if they decided to start paying women with unwanted pregnancies "to not abort their child, carry it to term, and give it up for adoption", then they would be doing "more to prevent abortions than they are doing now" (Vance, 2012).

BLOCK'S RESPONSE TO VANCE (Block, 2017)

Block's response to Vance was also published in the paper, "Abortion Once Again: a response to Feser, Goodwin, Mosquito, Sadowsky, Vance and Watkins" (Block, 2017). He began his response by first pointing out that he and Vance both agree on libertarianism but oppose abortion for very different reasons.

Block then addressed Vance's blog posts in reverse order. Regarding the second blog post, he pointed out that he started on a high note by centering libertarianism around the NAP and mentioned that libertarianism should indeed be opposed to abortion but not to mere eviction. Next, Block pushed back against Vance's claim that an unborn child in the womb is not committing aggression by bringing up cases of rape. He then added that all fetuses are equal which means that it would be justified to not just evict fetuses that result from rape but also fetuses that result from voluntary intercourse. Block also argued against Vance's claim that a newborn baby is a parasite by asserting that "dependency is an entirely different matter than parasitism" (Block, 2017, p. 32). In an attempt to underscore this point, he stated, "it is not true that the post birth baby is at all a parasite, as is the (unwanted) one in the womb" (Block, 2017, p. 32).

Block then criticized Vance's claim that a woman who engages in sex obligates herself to care for any child that results by noting that in cases of rape, the victim certainly doesn't obligate herself to anything. He also pointed out that when it

comes to a woman who engages in voluntary intercourse, “she no more obligates herself to anything at all, any more than does Thomson’s woman who opens a door or window and thus makes it easier for the burglar to attack her” (Block, 2017, p. 32).

To clarify, he added, “the ‘natural consequence’ of a woman who walks out alone, unescorted by a male relative in some Arab countries, is to be raped, and perhaps impregnated. The ‘natural consequence’ of a female who dresses in revealing clothing is much the same in such nations. And, yet, at least according to libertarian law, she has every right to do so, and is not ‘obligating’ herself to anything at all” (Block, 2017, p. 32). Basically, this means that just because something is a natural consequence of one’s action does not necessarily mean that they are legally responsible.

Regarding the first blog post, Block mentioned that he is in the group of libertarians who “support Ron Paul even though he is wrong on abortion” (Block, 2017, p. 32). He then pushed back against Vance’s claim that he is pro-choice by pointing out that he is not at all pro-choice but instead an evictionism, which is “the compromise position between that and pro-life” (Block, 2017, p. 33). He also pointed out that he is very “adamant” in his belief “that both the pro-choice and the pro-life positions are incompatible with libertarianism” (Block, 2017, p. 33).

Next, Block attempted to answer Vance’s question about what problems a libertarian could possibly have with Paul’s pro-life position. He did so by asserting that while “it is unlibertarian to kill innocent foreigners, who never came close to, or even had the power to, attack our country” the same cannot be said about evicting a fetus because “an unwanted ‘baby in the womb’ is a trespasser” (Block, 2017, p. 33). Block then pointed out that while Vance cited Rothbard to defend his pro-life position, he failed to point out that Rothbard was actually “a staunch defender of the pro-choice view” (Block, 2017, p. 33).

Toward the end of his response, Block claimed that while he agrees with Vance’s claim that “the fetus certainly had no control

over being a parasite, aggressing against a woman, invading a woman's body" (Vance, 2008), he disagrees with Vance that the mother did have this control (Block, 2017, p. 34). To clarify, he brought up cases of rape. He also noted that there's a massive difference between a one-month-old fetus and a nine-month-old fetus because "if both are evicted, not aborted, the former will die, but not the latter" (Block, 2017, p. 34).

WATKIN'S CRITICISM OF EVICTIONISM (Watkins, 2006)

The sixth and final argument in this set of debates, titled "Re-Reading Thomson: Thomson's Unanswered Challenge", was published by Watkins (2006). He began by first asserting that "Thomson's paper is the best and most important paper ever written on the morality of abortion" (Watkins, 2006, p. 41). He then claimed that despite this, it is usually misread as arguments by analogy instead of counterexamples. Basically, this means that Thomson's various examples are not intended to analogize pregnancy but to instead show that the various arguments against abortion fail because it does not extend to other situations.

Next, Watkins explained that Thomson's arguments ultimately show several things. First, it demonstrates that "it is morally permissible for a woman to secure an abortion in order to save the woman's life" (Watkins, 2006, p. 42). Second, it shows that "it does not follow merely from a fetus' being a person that abortion is ever immoral" (Watkins, 2006, p. 42). And third, it demonstrates that "the most obvious strategies for showing that abortion is immoral rest on false premises" (Watkins, 2006, p. 42).

From here, Watkins reasoned that "collectively, the arguments provide a case for a fourth conclusion: no general argument against abortion will prove successful" (Watkins, 2006, p. 42). After making this point, Watkins then focused on Thomson's violinist counterexample and explained that both arguments have the same structure, which means that if the argument that a

woman cannot evict a fetus was correct, then that would also mean that a person cannot disconnect themselves from a violist attached to their kidney against their will. According to Watkins, though, it isn't wrong to unplug yourself from the violinist, which means that the core argument against abortion is unsound. He then added, "to ask whether the violinist example is a good analogy or not is to commit a red herring" (Watkins, 2006, p. 45).

Watkins then pointed out that while one may object that the violinist example is not actually a valid counterexample, such an objection does not succeed. To clarify, he stated, "it isn't clear that we can avoid saying the same about the fetus. If disconnecting yourself from the violinist doesn't kill him (it merely allows him to die), then disconnecting yourself from the fetus doesn't kill him (it merely allows him to die)" (Watkins, 2006, p. 45).

In an attempt to underscore this point, he added, "it is true, of course, that as abortions are usually carried out, fetuses are directly killed. But does anyone think that it would be morally better to surgically remove a nonviable fetus without killing it, knowing that it cannot survive outside the womb? So the active-passive distinction, whatever moral weight it might have in some cases, would seem to be irrelevant for morally evaluating cases of abortion" (Watkins, 2006, p. 45).

After making this point, Watkins focused on the objection that the violinist example only covers cases of rape by bringing up Thomson's example where someone is stuck in a very small house with a rapidly growing child that will crush them if they don't kill it first and clarified that the example was also intended to be an analogy to show that "directly killing an innocent child is sometimes permissible to save one's life" (Watkins, 2006, p. 45).

Watkins then brought up Thomson's response to those who argue that the right to life of the unborn child is "weightier than anything other than the mother's own right to life" (Thomson, 1971, pp. 54-55) and asserted that Thomson's point was that "it has not been shown that rights are in conflict whenever a woman

contemplates whether to have an abortion, even if we assume that a fetus has a right to life” (Watkins, 2006, p. 48).

Next, Watkins claimed that “the target of Thomson’s arguments is to show only that no sound argument against abortion has yet to be provided even after we grant that a fetus is a person” and added that it will be “very unlikely that any general argument against abortion will be found once we properly understand Thomson’s general argument strategy” (Watkins, 2006, p. 52).

To clarify, he stated, “that strategy is not, as is often assumed by Thomson’s readers, to show that most cases of abortion are like the cases of the famous violinist, Henry Fonda, and the airborne people seeds. Rather, her strategy is to show that most cases of abortion are unlike those cases of injustice and moral indecency that we might be tempted to treat as analogous to abortion”. He then added, “and she does this by showing how hard it is to find a general principle that is both obviously true and that applies to a wide range of abortion cases” (Watkins, 2006, p. 52).

Toward the end of the of his paper, Watkins used Thomson to show how an argument that abortion is wrong because it deprives someone of future life also fails. Before concluding, Watkins reiterated that Thomson gives everyone good reason to believe “that no general argument strategy will ever successfully show that abortion is immoral in a broad range of cases” (Watkins, 2006, p. 57).

BLOCK’S RESPONSE TO WATKINS (Block, 2017)

Block’s response to Watkins was also published in the paper, “Abortion Once Again: a response to Feser, Goodwin, Mosquito, Sadowsky, Vance and Watkins” (Block, 2017). He began by acknowledging that Watkins is correct in pointing out that Thomson’s arguments are, indeed, counter-examples rather than analogies. Block then added that Watkin’s analysis focused on

morality rather than legality and doesn't entirely address evictionism except to point out that there's a difference between disconnecting from another person and allowing them to die and simply killing them. He noted, though, that while Watkins claimed this difference does not amount to much because it would not be morally better to remove a fetus knowing it will die instead of just killing it, it does, indeed, make a huge difference in the third trimester, where a fetus could be evicted without necessarily dying as a consequence.

Next, Block pushed back against Watkin's claim that it would be justified for someone who is "stuck in a very small house with a rapidly growing child" (Watkins, 2006, p. 46) who will crush them if they are not killed to end the life of the child by pointing out that it depends on who owns the house (Block, 2017, p. 36). To clarify, he claimed that if, hypothetically, the baby was the one who owned the house, then it would be unjustified to end their life. In an attempt to underscore this point, he mentioned that the womb is the "mother's house", which means that she "has a right to remove inhabitants of these premises of hers she does not, or no longer, welcomes" (Block, 2017, p. 36). He also brought up Thomson's example of the violinist (Thomson, 1971) and noted that since the violinist is an innocent trespasser, the person they're connected to does not have a right to slit their throat or shoot them (Block, 2017, p. 36). According to Block, they must instead be removed "in the gentlest manner possible" (Block, 2017, p. 36).

After making this point, Block then pushed back against Watkin's claim that the point Thomson was making in her argument was that it has not been shown that rights are in conflict when a considers having an abortion even if it's assumed that the fetus has a right to life. He did so by first altering "right to life" to "right not to be murdered" and then arguing that this is false because there is a clash in rights when a woman decides to have an abortion (Block, 2017, p. 36). To clarify, he pointed out that abortion is not just eviction, but also killing. Basically, this means

that while there is not a clash of rights with evictionism, there does appear to be a supposed clash of rights with abortion.

Toward the end of his response, Block objected to Watkin's comment about it being hard to find a general principle that "is both obviously true and that applies to a wide range of abortion cases" (Block, 2017, p. 37). He did so by pointing out that the NAP coupled with private property rights is a general principle against abortion. Prior to concluding, he pushed back against Watkin's claim that "no general argument against abortion will prove to be successful" by pointing out that Watkins didn't consider evictionism (Block, 2017, p. 37). To underscore this point, he noted that, unlike the other arguments, evictionism covers a broad range of cases.

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