



EVICITIONISM AND PRIVATE PROPERTY RIGHTS

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Abstract

Evictionism is a compromise position between the pro-life and pro-choice positions on abortion. The former prohibits killing or removing the fetus from the womb apart from the mother's health considerations at any time during the pregnancy; the latter allows for both. Evictionism splits this particular "baby in half" by legally permitting the ejection of the pre-born baby at the mother's discretion, but not killing this very young person. Given present medical technology, the fetus is viable in the third trimester, very rarely before that. Thus, evictionism resembles to the pro-life result at this stage of development of the fetus, in that the mother has the reject to eject or evict the fetus from her body, and the latter is viable outside of the womb. However, in the first two trimesters, the results of evictionism and the pro-choice position overlap: when evicted, the fetus will not survive. However, as medical technology improves, and the pre-born baby is viable outside of the womb earlier and earlier, evictionism will more and more come to resemble the pro-life position. However, evictionism will always, at any level of technology, remain separate from these two other more extremist positions. Evictionism is thus the moderate position between these two extreme perspectives. Block in a series of publications supports evictionism; Wisniewski rejects this theory. Grisillo castigates both for elements of their debate concerning improvement and the use of analogies. The present paper is a critique of this latter paper.

Keywords: Abortion; evictionism; pro-life; pro-choice; analogies; improvement.

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I had an ongoing debate with Wisniewski concerning whether my theory of evictionism was both correct and compatible with libertarianism.¹ I attempted to apply the non-aggression principle (NAP) of libertarianism plus its emphasis on

¹ See on this Block, 2020, 2011A, 2011B, 2014, 2021; Wisniewski, 2010A, 2010B, 2011; see also Cesario, 2021

private property rights to the controversy concerning abortion. My thought was that the unwanted fetus is in effect a trespasser.² Therefore, the ordinary rules concerning such an eventuality should be applied. The property owner in question, the mother in this case, should be able to remove the law breaker from her premises. Should she also be entitled to kill the rights violator? Of course not, that would be murder!

Allow me, please, to quote Grisillo's³ summary of my side of this debate, since he does so far more succinctly than I have ever succeeded in doing. He states as follows:

"Block's theory of evictionism distinguishes the act of ejecting a fetus from a mother's womb from the act of ejecting a fetus from a mother's womb and then killing it. The former is evictionism, the latter is abortion."

What is Wisniewski's objection to this clearly correct⁴ analysis? To put this into my words in his behalf, he argues by analogy: Suppose that A drugs B, and then surreptitiously hides him on C's private airplane. The latter discovers this trespass only when he is 30,000 feet in the air. As in the case of the preborn baby occupying the mother's womb, B is entirely innocent. To "evict" him from the airplane at this time would send him to certain death. There are no parachutes available we may assume, and, in any case, the plane is now over the ocean and B cannot swim. Wisniewski maintains this analogy of his is an apt one. Further, that it would be totally and completely unjust for C to eject B from his plane. Given that, the pro-life viewpoint in the abortion controversy is sound: just as C may not legally jettison B from his aircraft, neither may the mother perpetrate the analogous act upon her progeny. C should be required by law to land B safely; ditto for the mother after a normal nine month's pregnancy.

In my view Wisniewski's perspective is flawed. The analogy is weak. If the mother kills her baby when she could have, only, evicted him⁵ she is a murderer.⁶ Thus, she has only the right to eject,

not kill. Whereas, in sharp contrast, if we take seriously private property rights and the right of property owners to separate themselves from trespassers, C had every legal right to send B to his death via expulsion.⁷ Of course, there is a murderer in this scenario, too. But it is not C. Rather, it is A.

I also rejected Wisniewski's critique based upon a second disanalogy: A was a kidnapper. He worsened B's condition. One, by drug-raping him. That is a crime. Two, by placing him in an extremely dangerous environment. That is a second rights violation. In sharp contrast, the mother did no such thing. She merely became pregnant; that is of course not criminal behavior. Nor did she, assuming no abortion, place the baby in any danger. If anything, she improved the baby's position, vis a vis becoming pregnant, compared to what it otherwise would have been: non-existence.

Here is where Grisillo steps into this controversy. He objects to the latter claim:

"Block attacks Wisniewski's analogy by suggesting that a pregnant mother 'improves' the position of the fetus by giving it life, as opposed to a man (A) who does not improve his friend's (B) position by kidnapping him and placing him in an environment (C) without his consent. Block's main criticism of this analogy, on which much of his discourse with Wisniewski is predicated, is flawed, however."⁸

Grisillo continues:

"Block does not explain how a mother can improve the welfare of a fetus simply by getting pregnant... Certainly, a mother helps to create the fetus in the first place. This may be an improvement to her life, but cannot be one to the fetus's, because the acts of creation and improvement are necessarily mutually exclusive... An improvement can only be made to something (or that something's welfare) after it has already been created... Block's

² An innocent one, to be sure, lacking any element of mens rea.

³ Unless otherwise indicated, all my references to Grisillo will be to this one article of his.

⁴ If I say so myself

⁵ This is possible given present medical technology in the third trimester.

⁶ The doctor who enabled her to do so would have aided and abetted her in this crime, and thus is also guilty of criminality.

⁷ We say nothing about the morality of such an action, since it would take us, unduly, away from the issue addressed in this paper.

⁸ I have inserted the (A), (B) and (C) into this quote.

position implies that a fetus somehow exists prior to its creation in the womb. How else can its creation within the womb be an improvement to its welfare? In fact, it cannot. It has no welfare before its creation. Rather, its welfare is established and perhaps apparent when it is created, but only after that moment can it then be improved.”

I claim that I am herein having at least a verbal debate with Grisillo; many would characterize it as a mere verbal dispute, unworthy, perhaps, of taking place. We are only arguing about definitions after all, it might be contended. Perhaps an exception can be made to this general rule, given the importance of the abortion issue, both as a practical and a philosophical matter. Maybe it is of graver moment than that. My present debating partner also maintains that my position is even worse: “Unfortunately for Block, his error this time is not just one of semantics, but one of logic.”

To wit, it is logically impossible, and a semantic mistake as well, if I may put words into his mouth, for something presently non-existent, to be “improved” by coming into existence or being made to come into existence.

Perhaps there are counter examples. He who has Aladdin’s lamp at his beck and call can call into existence all sorts of things that heretofore did not exist. But can they be “improved” if they did not exist beforehand? This all depends upon the meaning of “improve.”

Synonyms for this word include: “make better, better, ameliorate, upgrade, refine, enhance, boost, build on, help, raise, revamp, brush up, polish up, perk up, tweak.”

Certainly, if something already exists, and flaws in it are reduced it has been “improved.” But it is difficult to see why the thing, the object, the person, necessarily had to exist beforehand. Grisillo’s understanding of language, I contend, is rather rigid. Mine contemplates more grey areas. If his interpretation were correct, the following statement would not merely be false, they would be, literally, meaningless:

The Big Bang, which occurred billions of years ago, was an improvement.⁹

It is also an improvement if all potential people started out as disembodied souls, and only some of us became “embodied” thanks to our mothers getting pregnant with us. Is Grisillo prepared to deny this possibility? I, of course, cannot offer any evidence in favor of this hypothesis, but I think that the burden of proof rests with him to demonstrate not that it is not true, but that it is literally incoherent, silly, nonsense, meaningless, gibberish. There must be millions of religious people, all speakers of language, who would disagree.¹⁰

Moreover, language is continually changing. Sensitive people¹¹ no longer use the “N word” to describe black people, the “C word” for women, the “K word” describing Jews, the “O word” to indicate Asians. Not too many years ago if you told people to “google that” they would not have had the slightest idea of what you were talking about. Ditto for “mouse,” “Facebook,” “tweet,” “motherboard” and hundreds of others related to the “Internet.” It appears it is no longer appropriate, at least in certain quarters, to use the phrase “colored people”; instead, “people of color” is accepted by the cognoscenti; and this despite the continued existence of the National Association of Colored People. Ditto for “Negro,” even given the continued thriving of the United Negro College Fund.

This being the case with language flexibility, is it really such a stretch to contemplate the meaningfulness of people improving their lot by being conceived? I go further. This is not really a stretch of language at all. Ordinary language speakers can certainly understand the concept of an entity’s being improved by being called into existence. For religious people, God created human beings. Where were the latter before this miraculous event took place? Nowhere, that is where. Then, thanks to God’s act, Adam and then Eve were created. If this is not an “improvement” in their situation, then nothing is. Surely all religious people would acquiesce in that contention. Thus, this claim could hardly be

⁹ My knowledge of physics is woefully inadequate. I am assuming, *arguendo*, that before this event literally nothing existed.

¹⁰ See for example Wood 2020.

¹¹ That is, politically correct wokesters.

meaningless, as Grisillo is contending. As to whether or not it is false, that is an entirely different question, whose truth is beyond the ken of the present essay.

Consider, now a not unrelated issue brought up by Rothbard (1982, pp. 100, 103):

"We must therefore state that, even from birth, the parental ownership is not absolute but of a 'trustee' or guardianship kind. In short, every baby, as soon as he is born and is therefore no longer contained within his mother's body, possesses the right of self-ownership by virtue of being a separate entity and a potential adult. It must therefore be illegal and a violation of the child's rights for a parent to aggress against his person by mutilating, torturing, murdering him, etc....But when are we to say that this parental trustee jurisdiction over children shall come to an end? Surely, any particular age (21, 18, or whatever) can only be completely arbitrary. The clue to the solution of this thorny question lies in the parental property rights in their home. For the child has his full rights of self-ownership when he demonstrates that he has them in nature—in short, when he leaves or 'runs away' from home."

Not so fast. I fear that only a person who has never had children of his own, particularly sons, could write this. My own son, at around age three, was continually "running away from home."¹² He was not, God forbid, abused in any way. He was

just adventurous. As soon as his little baby legs could carry him, he was off. He was "away" as the British would say. Presumably, there were greener pastures out there, somewhere, anywhere, and he was intent upon experiencing them. My wife and I should have allowed him to launch himself forth upon an unsuspecting world? Of course not. He was a baby. He didn't know what was in his best interest: staying right at home under our loving care, trusteeship, guardianship.

Yet it cannot be denied, there is core of truth in Rothbard's claim. Children, particularly those at least a little bit older who are not abused still have the right to leave the parental home and take up with other parents who are willing to do so, or, to set up housekeeping on their own. Child athletes, actors, performers, can earn enough wherewithal so as to become financially independent. Any legal age of departure can be nothing but arbitrary. However, in a civilized order, there would be some, well, order, placed upon children leaving the homes of their parents; again, we are assuming not even a scintilla of abuse; not even any moderate well-deserved spankings. How, then, should this work? The courts must step in.¹³ If and only when a legitimate judge gives his approval of a child's departure from the parental home, then and only then would the right of the child to "run away" be allowed. Presumably, no such authorization would have been granted to my son, certainly not when he was three years old and totally helpless.

Declaration

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WORKS CITED

- Benson, Bruce L. 1990. *The Enterprise of Law: Justice Without the State*. San Francisco: Pacific Research Institute for Public Policy.
- Benson, B. L. (2002). *Justice without Government: The Merchant Courts of Medieval Europe and Their Modern Counterparts*. Printed in Beito, Gordon, and Tabarrok (editors) /*The Voluntary City: Choice, Community and Civil Society*. Oakland, CA: The Independent Institute, pp. 127 - 150.

¹² My daughter never did anything of the sort.

¹³ In the free society, they would all be private; see on this: Benson, 1990, 2002; Friedman, 1979, 1989; Hoppe, 2001; Osterfeld, 1989; Peden, 1977; Richman,

2004; Rothbard, 1973A, 1973B, 1982, 1991; Stringham, 1998-1999; Tannehill and Tannehill, 1984; Woolridge, 1970



- Block, W. E. (2010). Rejoinder to Wisniewski on Abortion. *Libertarian Papers*, 32(2).
<https://libertarianpapers.org/2010/32-block-rejoinder-to-wisniewski-on-abortion/>;
<https://libertarianpapers.org/articles/2010/lp-2-32.pdf>
- Block, W. E. (2011A). Response to Wisniewski on Abortion, Round Two. *Libertarian Papers*, 3(4).
<https://libertarianpapers.org/2011/4-block-response-to-wisniewski-on-abortion-round-two/>
- Block, W. E. (2011B). Response to Wisniewski on Abortion, Round Three. *Libertarian Papers*, 3(6), 1-6. <https://libertarianpapers.org/2011/37-block-response-to-wisniewski-on-abortion/>
- Block, W. E. (2014). Response to Wisniewski on Abortion, Round Four. *Management Education Science Technology Journal (MEST Journal)*; 2(2), 1-14;
https://www.fbim.meste.org/FBIM_2_2014/Sadrzaj_eng.html;
https://www.fbim.meste.org/FBIM_2_2014/4_01.pdf
- Block, W. E. (2021). *Evictionism: The compromise solution to the pro-life pro-choice debate controversy*. Springer Publishing Company. <https://link.springer.com/book/10.1007/978-981-16-5014-7>
- Cesario, A. J. (2021). Walter Block vs Jakub Bozydar Wisniewski Debating Abortion: A Summary. *MEST Journal*, 10(1), 12-30;
<https://www.meste.org/ojs/index.php/mest/article/view/1224/1339>;
doi:10.12709/mest.10.10.01.02
- Friedman, D. (1979). Private creation and enforcement of law: a historical case. *University of Chicago Law Review*. <https://www.daviddfriedman.com/Academic/Iceland/Iceland.html>
- Friedman, D. (1989). *The Machinery of Freedom: Guide to a Radical Capitalism*. La Salle, IL: Open Court, 2nd ed.
https://www.daviddfriedman.com/Libertarian/Machinery_of_Freedom/MofF_Chapter_41.html;
https://www.daviddfriedman.com/Libertarian/Machinery_of_Freedom/MofF_Chapter_42.html
- Grisillo, T. (2015, Fall). Block versus Wisniewski: Not Over Yet. *Reason Papers*, 37(2), 76-78.
https://reasonpapers.com/wp-content/uploads/2016/02/rp_372_7.pdf
- Hoppe, H.-H. (2001). *Democracy - The God That Failed: The Economics and Politics of Monarchy, Democracy, and Natural Order*. Rutgers University, N.J.: Transaction Publishers
- Osterfeld, D. (1989, Winter). Anarchism and the Public Goods Issue: Law, Courts, and the Police. *The Journal of Libertarian Studies*, Vol. 9(1), 47-68.
https://www.mises.org/journals/jls/9_1/9_1_3.pdf
- Peden, J. R. (1977, Spring). Property rights in Celtic Irish law. *The Journal of Libertarian Studies*, 1(2), 81-96
- Richman, B. D. (2004). Firms, Courts, and Reputation Mechanisms: Towards a Positive Theory of Private Ordering. *104 Columbia Law Review*, 2328-2367.
https://scholarship.law.duke.edu/faculty_scholarship/1119/
- Rothbard, M. N. (1973A). *For a New Liberty*. Macmillan, New York;
<https://mises.org/rothbard/newlibertywhole.asp>
- Rothbard, M. N. (1973B, March). Free Market, Police, Courts, and Law. *Reason Magazine*, pp. 5-19.
<https://reason.com/1973/03/01/free-market-police-courts-and/>
- Rothbard, M. N. (1982). *The Ethics of Liberty*. Humanities Press, Atlantic Highlands, N.J.
<https://cdn.mises.org/The%20Ethics%20of%20Liberty%2020191108.pdf>
- Rothbard, M. N. (1991, Oct.). On Denationalizing the Courts. *Rothbard-Rockwell Report*, 2(10), 304-306. Burlingame, CA: Center for Libertarian Studies,
https://cdn.mises.org/The%20Irrepressible%20Rothbard_2.pdf?token=VbWyjEt5

- Stringham, E. (1998-1999, Winter). Justice Without Government. *Journal of Libertarian Studies*, 14(1), 53-77.
- Tannehill, M., & Tannehill, L. (1984). *The Market for Liberty*. New York: Laissez Faire Books
- Wisniewski, J. B. (2010A). A Critique of Block on Abortion and Child Abandonment. *Libertarian Papers* 2(16). <https://libertarianpapers.org/2010/16-wisniewski-block-on-abortion/>
- Wisniewski, J. B. (2010B). Rejoinder to Block's Defense of Evictionism. *Libertarian Papers*, 2, Art No. 27; <https://libertarianpapers.org/articles/2010/lp-2-37.pdf>
- Wisniewski, J. B. (2011). Response to Block on Abortion, Round Three. <http://libertarianpapers.org/2011/6-wisniewski-response-to-block-on-abortion-round-three/>
- Wood, A. (2020, Apr 15). Disembodied Souls Without Dualism: Thomas Aquinas on Why You Won't Go to Heaven When You Die (but Your Soul Just Might). <https://christianscholars.com/disembodied-souls-without-dualism-thomas-aquinas-on-why-you-wont-go-to-heaven-when-you-die-but-your-soul-just-might/>
- Woolridge, W. C. (1970). *Uncle Sam the Monopoly Man*. New Rochelle, N.Y.: Arlington House

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