

## A CRITIQUE OF BLOCK ON ABORTION AND CHILD ABANDONMENT

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ACCORDING TO BLOCK'S THEORY of "evictionism" (1977, 1978), a fetus can be aborted only if it is not killed as a result (provided that it is a genuine medical possibility). Block claims to derive such a conclusion from the libertarian axiom of non-aggression, which prohibits harming other human beings (even those not [yet] conscious of their humanity), but allows for forcible removal of trespassers from one's private property (in this case the woman's womb). Further, he denies that the voluntariness of the pregnancy obliges the woman to carry the fetus to term; such an obligation could stem only from there being an implicit contract between the two, and Block denies the existence of any such contract on the ground that one cannot consent (even implicitly) to any decision made before one came into being.

Thus, he contends that the only valid reason for obliging the mother to carry out the pregnancy could stem from the existence of a relevant positive right (e.g., fetus's right to life), which is a notion incompatible with libertarian ethics. And yet, curiously enough, as indicated in the first paragraph, he also asserts that lethally aborting the fetus counts as a murder only given the existence of non-lethal ways of performing abortion, but does not so count if no such methods are available. This in itself seems to me to undermine Block's proposal, since it appears to introduce an arbitrary complication into the principle of non-aggression—after all, if evicting a trespasser is a right of every human being, and one should not be thought of as responsible for what happens to the trespasser after he is evicted, then why should the moral evaluation of the act of eviction depend on what eviction options are available and on which of them is applied to the trespasser?

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CITE THIS ARTICLE AS: Jakub Bozydar Wisniewski, "A Critique of Block on Abortion and Child Abandonment," *Libertarian Papers* 2, 16 (2010). ONLINE AT: [libertarianpapers.org](http://libertarianpapers.org). THIS ARTICLE IS subject to a Creative Commons Attribution 3.0 License ([creativecommons.org/licenses](http://creativecommons.org/licenses)).

In any event, I shall not pursue this objection any further. Instead, I shall argue that even in those cases where there are no non-lethal eviction options available, aborting the fetus should count as murder. Why do I think so? Falling back on Block's "airplane ride" example (1977) will be convenient in this context. Obviously enough, Block agrees that inviting someone for an airplane ride and then, while 10,000 feet up in the air, asking that person to leave would be an example of a very wicked breach of contract. But now imagine a different, though related scenario, in which X gets Y drunk to the point of the latter's passing out and drags him onboard the plane, and then, as soon as Y regains consciousness, asks him to jump out.<sup>1</sup> There is no contract involved, and for the sake of the argument we can even suppose there is no *implicit* contract involved (we might assume that X and Y disclaim any reliance on standard hospitality customs).

Now, it seems to me that the conjunction of the premises that it is X who is responsible for bringing Y onto his property and that it is X who is responsible for then removing Y from his property, when it is known that the outside circumstances are lethal, implies that X is responsible for Y's death and hence is a murderer (X is the crucial and indispensable element of every link of the causal chain in question). To bring up some additional analogies—it appears obvious to me that pushing someone out of one's room into an area full of blazing flames, poisonous fumes, etc., would count as an instance of murder. But these types of situations are strictly parallel to the case of abortion (again, let us remember that we are talking about the scenarios in which there are no methods of removing the fetus from the womb without killing it). To the fetus, the outside world is a lethal place, and if it is the mother who is responsible for bringing it into the safe haven of the womb (analogous to the airplane from one of our previous examples) and it is the mother who now wants to expel it from that safe haven, it is also the mother who is taking upon herself the direct responsibility for the fetus's death (the mother is the crucial and indispensable element of every link of the causal chain in question).

Thus, my conclusion is that in such cases the mother is guilty of violating the libertarian axiom of non-aggression. There is no need to bring in the notion of positive rights here, except in the limited and idiosyncratic sense described by Long (1993), where "derivative" positive rights are "sponsored" by the corresponding negative rights, in our case the example of the former being the right to remain in the womb until capable of

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<sup>1</sup> If one were to claim that dragging unconscious Y onboard the plane is an instance of aggression, then so is, metaphorically speaking, "dragging an unconscious fetus into the womb". Neither Y nor the fetus can consent to or protest against being placed in their respective locations.

withstanding the outside circumstances and the example of the latter being the right not to be aggressed against. In other words, the libertarian principle of the non-initiation of force trumps the right to evict trespassers from our property if it is us who are responsible for making someone a “trespasser” in the first place.

Similar conclusions apply to Block’s proposal vis-à-vis child abandonment (2001, 2004). With regard to this issue, he invokes the non-existence of positive rights in the libertarian moral framework to argue that a child can be legitimately abandoned by its parents provided that the latter meet all the relevant criteria of the proper abandonment procedure. One of such criteria is that they have to make sure that there is no one else in the world willing to take up the role of the guardian of their offspring (until they do that, they cannot be said to have relinquished the homesteading rights in the child and thus remain liable for their misuse). And while I am perfectly sympathetic to Block’s contention that as soon as such a person is found, the parents can think of themselves as discharged from any duties vis-à-vis the child, I cannot accept his claim that if no guardianship offer is forthcoming, they can abandon the child to die or engage in an act of mercy killing.

As in the case of pregnancy, it has to be noted that it is the parents who are directly responsible for bringing their offspring into the world (without its consent). And the world is a place much too harsh for a newborn child to survive in without any help and care from others. Therefore, if the parents first bring it into the safe haven of their care and then decide to expel it into the lethal environment outside, they are acting analogously to a person who drags his unconscious companion onboard a plane and then, when the plane is up in the air, orders him to jump out. Again, one need not postulate the existence of positive rights to argue that the above-mentioned actions are morally wrong according to the libertarian ethic—it suffices to realize that if one is responsible for (non-consensually)<sup>2</sup> bringing X onto one’s property or into one’s custody in the first place, then eviction (or any other use of force) which directly exposes X to harmful hazards is an act of initiatory aggression. Thus, what the morally upstanding parents need to do is to take care of their progeny until it can survive on its own outside the parental household.

In conclusion, I claim that Block’s proposals vis-à-vis abortion and child abandonment are defective because he fails to appreciate the fact that if one voluntarily initiates the causal chain which leads to someone else ending

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<sup>2</sup> Perhaps it is worthwhile to stress once again that lack of consent need not imply acting *against* one’s will—it might imply acting *independently of* one’s will. Dragging an unconscious person onboard a plane might be done neither in accordance with nor against that person’s wishes. And the same can certainly be said with regard to bringing a fetus into existence.

up on his property, the latter person cannot be considered a trespasser. Furthermore, any direct effects resulting from that person's eviction are the responsibility of the property's owner. All of this follows from the simple logical fact that at all stages of the process under consideration (or, to put it in other words, in all links of the causal chain under consideration), the owner is the ultimate causal agent.

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