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Abortion, Evictionism, and Libertarianism: Introduction to the Special Issue of *Studia z Historii Filozofii*

Professor Walter Block's evictionism is the received libertarian view on abortion, at least as far as the Rothbardian tradition is concerned. It attempts to offer a principled compromise solution to this vexing problem by incorporating both the metaphysical insights of the pro-life position and the juridical arguments of the pro-choice camp. In a nutshell, it contends that even if the unwanted fetus is ontologically and morally on a par with you and me, the pregnant woman may still evict it from her self-owned body, pretty much the same as you may evict the unwanted tenant from your house (if you think that there is a world of difference between evicting the tenant who will then go about his life and evicting the fetus who will then inevitably die, wait until you read the following papers; for one thing, it is not entirely clear whether evicting the fetus involves letting it die or requires preserving its life beyond the eviction procedure). However, as evicting the unwanted tenant is a far cry from killing him, so evicting the fetus is a far cry from aborting it. For besides

removing the fetus from the woman's body, abortion also involves killing it, at least according to Professor Block (as far as I am concerned, abortion might also involve letting the fetus die rather than killing it). And as killing the unwanted tenant would clearly be an excessive means of securing your property rights to your house, so aborting the unwanted fetus is an excessive means of defending the woman's rights to her body. In both cases, eviction is sufficient. It grants the proper protection to the woman's self-ownership rights by allowing her to expel the unwanted fetus (the pro-choice prong) while respecting the fetus's moral status by shielding it against killing (the pro-life prong). Or so argues Professor Block.

In the special issue of the *Studia z Historii Filozofii* that is now before your eyes, various authors try to wrestle with this evictionist argument by Professor Block. Thus, Łukasz Dominiak and Igor Wysocki in their paper "Evictionism is Either Redundant or Contradicts Libertarianism: Response to Walter Block on Abortion" argue that evictionism faces a dilemma between, on the one hand, collapsing into a well-known doctrine of doing and allowing (DDA) by equating eviction with letting die and therefore becoming unoriginal or redundant and, on the other hand, avoiding this redundancy but contradicting libertarianism by postulating positive duties to look after the evicted fetus. Doing so, Dominiak and Wysocki also intimate that it might not be entirely clear what eviction ultimately boils down to. Is it just a different name for letting the fetus die, or does it require taking steps to preserve its life?

In turn, Stanisław Wójtowicz in his paper "Against Evictionism: Creation of Peril, Positive Duties, and Libertarianism" attacks perhaps the most fundamental premise of the evictionist argument, namely the claim that the woman does not have any positive duties to the fetus. In order to support his contention that notwithstanding the appearances to the contrary, libertarianism might recognize the woman's positive duty to carry the pregnancy to term, Wójtowicz evokes a somehow forgotten idea considered at the early days of libertarianism (e.g., in Williamson M. Evers's 1978 paper "The Law of Omissions and Neglect of Children") that positive duties can arise from creation of peril. Wójtowicz ingeniously argues that getting pregnant can, in normal circumstances, be viewed as a creation of peril for the fetus and thus as generat-

ing correlative positive duties on the woman's part. If Wójtowicz's argument succeeds, then the import thereof for evictionism is of course extremely disruptive. For if the woman has a positive duty to carry the pregnancy to term, the whole evictionist argument turns out to be moot from the get-go.

Incidentally, a very similar onslaught on evictionism is delivered by Jakub Bożydar Wiśniewski in his paper "Evictionism in the Light of Praxeological Economic Theory", although this time the targeted evictionist premise that the woman has no positive duties to the fetus is attacked from a praxeological rather than strictly moral or juridical angle. Thus, Wiśniewski argues that since the prenatal environment of the developing fetus can be regarded as a specific capital structure of production or a milieu of necessary conditions for the fetus's (future) action, abortion (or eviction for that matter) can in turn be viewed as a hold-up in an asset-specific transactional relationship or as a severance of the general conditions of the fetus's action. Accordingly, eviction can be considered a fraudulent breach of trust as the person who is responsible for establishing what was supposed to be a transactional, asset-specific relationship, is also responsible for its abrupt and unilateral termination. Since praxeology is an important aspect of the Rothbardian libertarianism, Wiśniewski's praxeological argument to the effect that by getting pregnant the woman incurs a sort of free-market or transactional responsibility for upholding the initiated structure of production adds a new twist to a more typical ethical and juridical case against evictionism. However, it is also worth mentioning that there is an additional, almost ineffable merit to Wiśniewski's article, for in a sense, it revisits Wiśniewski's seminal debate with Professor Block that both authors engaged in fifteen years ago in the pages of the famous *Libertarian Papers*.

Finally, Kacper Wąsiak in his paper "Evictionism and Negative Homesteading" takes up Professor Block's otherwise contentious doctrine of negative homesteading and juxtaposes it with evictionism. Wąsiak argues that these two theories conflict with each other since the woman who evicts the fetus in order to avoid whatever misfortune or difficulties that currently beset her and that would exacerbate if she carried the pregnancy to term, shifts her misery to the fetus. However, since it is her who, if you will, homesteads the misery, then under the doctrine of negative homesteading, it is also her who

should suffer the thus homesteaded misfortune. In other words, she has no right to shift it to the fetus. Hence, it seems that whereas under the doctrine of evictionism she has a right to evict the fetus, under the doctrine of negative homesteading she has no right to do any such thing. In the face of this looming contradiction, Wąsiak argues for the rejection of the doctrine of negative homesteading, thereby adding to the burgeoning literature (e.g., David Gordon and Wanjiru Njoya) critical of this peculiar idea.

All the papers included in the present volume are discussed by Professor Block in separate rejoinders and a summary reply. Although until the moment of writing these words I have not seen Professor Block's responses and the same as you, my dear reader, have to wait for them to be published in order to peruse them, I can bet that Professor Block leaves no stone unturned in his examination of the above-sketched arguments. I base my prediction on the fact that it is difficult to think of a better polemicist than Professor Block. He mastered the art of disputation more than anyone I can think of while his innumerable rejoinders already became legendary in libertarian circles. Immersed in his sundry polemics, Professor Block almost single-handedly created a genre of libertarian literature which I like to call a libertarian casuistry (it is such a shame that this word acquired also a pejorative meaning in our language – not so with regard to Professor Block's writings though) and which consists in finding out, predominantly in disputes with other authors, how almost any imaginable case and dilemma should be solved from the point of view of the libertarian principles of justice. As a student and a follower of this method, I am really pleased that we can now observe its latest application to the question of evictionism in no other place than our own-beloved journal, *Studia z Historii Filozofii*.