

JAKUB BOŻYDAR WIŚNIEWSKI

UNIVERSITY OF WROCŁAW

UNIVERSITY OF NEW YORK IN PRAGUE

E-MAIL: JAKUB.WISNIEWSKI@UWR.EDU.PL

ORCID: 0000-0003-4126-1867

Evictionism in the Light of Praxeological Economic Theory

Abstract: Praxeological economics has proven itself to be a potent source of universally valid insights capable of circumscribing and deepening our normative intuitions. In view of this, in the present paper, I argue that invoking economic concepts such as the general conditions of action, complementary capital goods, and long-term transactional relationships allows for articulating a critique of evictionism that is grounded in more than deductions derived from essentially contestable normative intuitions. By doing so, I intend to approach the subject of evictionism from the perspective of positive science, thus hopefully demonstrating that there is still an untapped interdisciplinary potential to be unleashed in discussions on fundamental ethical issues.

Keywords: abortion, agency, economic theory, evictionism, libertarianism, non-aggression, praxeology

Introduction

My debate¹ with Walter Block on the subject of evictionism and its compatibility with the libertarian principle of non-aggression was, in my estimation, intellectually stimulating and analytically productive, but also unsurprisingly inconclusive. Perhaps the main reason for that is the fact that discussions on fundamentally contentious, philosophically laden issues that are contained within the ambit of individual disciplines naturally tend to gravitate in the direction of ever more pedantic conceptual distinctions and increasingly minute deconstructions of particular thought experiments. Thus, since in the present text I intend to broach the topic once again, I thought it might be fruitful to approach it from another angle, giving my argumentation an interdisciplinary character.

More specifically, since the theory of evictionism is ultimately, as its very name implies, a set of propositions concerning conflicts over property rights and the proper way of resolving them, and since, next to political and legal philosophy, it is economics that has the most to say about the nature and significance of property rights, I would like to ground my analysis primarily in praxeological economic theory. In this connection, I hasten to add that I fully acknowledge the value freedom of “the science of human action,”² but I simultaneously see it as an essential auxiliary tool in the realm of ethics, capable of identifying potential logical errors and existential inconsistencies in one’s normative arguments.³ In other words, while it is entirely appropriate to regard economics as value-free, one should not forget that it is also value-

¹ Walter E. Block, “Rejoinder to Wisniewski on Abortion”, *Libertarian Papers* 2(32) (2010); Walter E. Block, “Response to Wisniewski on Abortion, Round Two”, *Libertarian Papers* 3(4) (2011); Walter E. Block, “Response to Wisniewski on Abortion, Round Three”, *Libertarian Papers* 3(37) (2011); Jakub B. Wiśniewski, “A Critique of Block on Abortion and Child Abandonment”, *Libertarian Papers* 2(16) (2010); Jakub B. Wiśniewski, “Response to Block’s Defense of Evictionism”, *Libertarian Papers* 2(37) (2010); Jakub B. Wiśniewski, “Response to Block on Abortion, Round 3”, *Libertarian Papers* 3(6) (2011); Jakub B. Wiśniewski, “Abortion, Libertarianism, and Evictionism: A Last Word”, *Libertarian Papers* 5(1) (2013).

² Ludwig M. Lachmann, “The Science of Human Action”, *Economica* 18(72) (1951): 412–427.

³ Murray Rothbard, *Man, Economy, and State: A Treatise on Economic Principles with Power and Market*, Scholar’s Edition (Auburn, AL: Ludwig von Mises Institute, 2004 [1962]), 1297.

relevant.⁴ It is precisely this value-relevance of sound economic theory that I intend to utilize in highlighting the shortcomings of evictionism in the following section.

This argumentative move indicates that the debate on the merits of evictionism is not merely an investigation into the applicability of the libertarian non-aggression principle to a narrowly focused bioethical problem, but also a broader intellectual dive into the status of agency and its contractual ramifications. Hence, it is likewise a potential contribution to grounding libertarian theorizing in a comprehensively developed praxeological framework, which is itself independent of any specific normative presuppositions.

Praxeology, Evictionism, and the General Conditions of Action

Praxeology defines action as purposive striving to attain specific ends with the use of scarce means. In this context, it introduces the distinction between economic goods (whose supply falls short of the corresponding demand, thus implying the existence of opportunity costs and unsatisfied wants) and free goods (which, for all practical purposes, are available in superabundance). Furthermore, it designates those free goods that are indispensable for the actualization of a given entity's agency as the general conditions of action,⁵ some of their examples being breathable air and living space.

That being said, it becomes readily apparent that what counts as the general conditions of action is ultimately a contextual matter, dependent on the specific vital needs of a given agent. Hence, for instance, they are substantially different for a full-grown person and for a fetus.⁶ While the former requires

⁴ Jakub B. Wiśniewski, "Economics and ethics: neither independent nor intertwined, but mutually relevant", in: *Defending liberty: essays in honor of David Gordon*, ed. Douglas B. Rasmussen, Jakub B. Wiśniewski (Auburn, AL: Ludwig von Mises Institute, 2022), 227–252.

⁵ Murray Rothbard, *Man, Economy, and State: A Treatise on Economic Principles with Power and Market*, Scholar's Edition (Auburn, AL: Ludwig von Mises Institute, 2004 [1962]), 4.

⁶ At this point, one might immediately protest by suggesting that fetuses are not agents, since they lack consciousness and volition. While this is a fair point that needs addressing, let me postpone its discussion until somewhat later, when the initial argument is fully formulated.

an atmosphere with a chemical composition comparable to that of planet Earth, the latter requires the nutritional environment of the mother's womb. Now, whereas in my original critique of Block I likened evicting a consensually conceived fetus from the womb to forcibly removing a previously invited guest from one's property with deadly results,⁷ here I intend to liken it to depriving an agent of the very capacity to act.

In other words, in my original critique, I argued that the principle of non-aggression is breached on account of the evicting mother being both the initiator of the causal chain responsible for bringing the fetus into the safety of the womb and the ultimate causal agent responsible for exposing it to the deadly outside environment. On the other hand, here I am arguing that a violation of the principle of non-aggression consists in severing the relationship between the fetus and the habitat that constitutes the general conditions of its action. The normative equivalence of these two scenarios derives from the fact that in both of them the person ultimately responsible for bringing the fetus into existence is also ultimately responsible for terminating the prerequisites for its continued existence. However, in my estimation, the latter case is potentially more analytically fruitful insofar as it is explicitly grounded not only in purely ethical considerations, but in their praxeological economic foundations as well.

A slightly different, though logically analogous formulation of the argument in question consists in treating the fetal environment as a specific capital structure of production. Within this structure, the organs responsible for the intrinsic developmental potential of the fetus and the essential nutritional capacity of the womb can be seen as indispensably complementary factors of production. Now, if the mother suddenly deprives a consensually conceived fetus of the crucial "services" of her womb, she might be justifiably regarded as generating a fatal hold-up in an asset-specific relationship.⁸ This is a normatively significant observation insofar as long-term transactional relation-

⁷ Jakub B. Wiśniewski, "A Critique of Block on Abortion and Child Abandonment", *Libertarian Papers* 2(16) (2010): 2.

⁸ Benjamin Klein, "Asset specificity and holdups", in: *The Elgar Companion to Transaction Cost Economics*, ed. Michael E. Sykuta, Peter G. Klein (Aldershot: Edward Elgar Publishing, 2010), 120–126.

ships can be seen as implied contracts,⁹ which suggests that creating an intentional hold-up problem might be treated as fraudulent breach of trust. Hence, since fraud is an implicit form of aggression, expelling a voluntarily conceived fetus from the womb once again turns out to be incompatible with the libertarian ethic.

In response, one might question whether the above argument applies to situations in which the mother-fetus relationship happens to be short-term, i.e., those in which the mother terminates pregnancy as soon as she finds out she is pregnant. This, however, is an erroneous contention insofar as it focuses on the actual length of the pertinent relationship, not on the normal length of maternal care that is necessary to ensure the survival and proper development of the fetus. In other words, since keeping the fetus alive and healthy requires establishing a long-term relationship with it, its voluntary conception can be treated as tantamount to signing an implicit contract whereby the mother offers the services of her womb for the normal period of approximately nine months. Thus, shortening the duration of this expected relationship to the detriment of the fetus can be seen as a breach of trust in its own right.

In sum, relying on the praxeological theory of the general conditions of action, complementary capital goods, long-term transactional relationships and similar economic concepts allows for articulating a critique of evictionism that is grounded in more than deductions derived from essentially contestable normative intuitions. However, to make sure that it does not rely on another, equally contestable set of intuitions, let me now consider some potential objections to it.

Potential Objections and Possible Replies

In this section, I shall concentrate on some challenges that might be leveled against the praxeological train of thought presented above. In countering them, I shall attempt to demonstrate that it forces the proponents of evic-

⁹ Debbie Harrison, "Is a long-term business relationship an implied contract? Two views of relationship disengagement", *Journal of Management Studies* 41(1) (2004): 107–125.

tionism to restate their position on not only ethically, but also economically sounder grounds.

First, doubts may be thrown on the very notion that the fetus qualifies as a subject of praxeological analysis, since its possession of agency is a highly debatable and convention-dependent issue.¹⁰ By the same token, it appears misleading to suggest that there are any general conditions of action of which it can be deprived in virtue of being evicted from the womb or otherwise exposed to physical harm.

This objection can be countered by contending that even if the fetus is not a full-blooded agent – or at least does not display any outward signs of enjoying this status, such as consciousness and volition – it is nonetheless the case that it is a future agent. In other words, the fetal stage of human development belongs to the same natural causal chain as the infant stage of human development (and every subsequent one that is clearly characterized by agency). Furthermore, the capacity to behave in an intentional manner is present in a new human being from the moment of conception, so it can be expected with near certainty to acquire agency if its natural maturation is not interfered with. That is to say, even if it is infelicitous to claim that the environment of the mother's womb constitutes the general conditions of action of the fetus, it appears justified to contend that it constitutes the meta-conditions of action of the eventual fully conscious and volitional human being. In sum, there is a clear and undeniable link between fetal expulsion and the incapacitation of human agency.

At this point, one could claim that more explanatory work is needed with regard to defining the concept of natural human development, given that the fetus's subsistence requires various actions on the mother's part, which might imply that there is nothing unnatural about the latter's decision to terminate pregnancy or otherwise interfere with the fetus's maturation. Such a contention, however, might seem overly pedantic insofar as it is rather uncontroversial to define naturalness as consistency with one's inherent ontological potential, and it is clear that the mother's uninterrupted cooperation is nec-

¹⁰ Monica J. Casper, "Reframing and grounding nonhuman agency: What makes a fetus an agent", *American Behavioral Scientist* 37(6) (1994): 839–856.

essary for the fetus to reach that stage of its potential in which it is capable of surviving as an independent organism. In other words, it appears difficult to determine why being inherently reliant on the care of another agent should cast any doubt on the naturalness of such a relationship and its harmonious maintenance.

Another objection that can be raised in this connection consists in pointing out that since the fetus does not own and cannot conceivably own the mother's womb or any part of it, treating the fetal environment as a capital structure of production in which the fetus has a legitimate stake is inadmissible. By the same token, it might be argued that it is logically incoherent to regard it as a potential victim of the hold-up problem whereby the mother cuts it off from the contractually promised complementary factors of production.

Admittedly, since the fetus presumably lacks volition, let alone the ability to productively transform its surroundings in Lockean fashion, it cannot be meaningfully thought of as a co-owner of the maternal reproductive system. However, given that its continued existence and development is crucially dependent on its undisturbed use of the system in question, and insofar as its appearance in the womb bears all the hallmarks of a voluntary invitation, it can be justifiably said to have an easement in the occupancy of the organ whose natural function is to provide it with nutrition and ensure its survival.¹¹ Thus, its lethal eviction can still count as a breach of an implied contract, which amounts to a violation of the non-aggression principle.

One potential objection that can be raised here is the suggestion that if the absence of volition compromises ownership, then the same might apply to easements and any other jural position. However, as soon as we agree that the maturation of the fetus into a full-blooded, purposive right-bearer requires continued cooperation on the part of the mother, and that voluntary initiation of such cooperation can be likened to a caring long-term invitation, it is only natural to conclude that the mother is obliged – at least morally, if not legally – to carry the fetus to term. Thus, the use of jural concepts appears perfectly commonsensical in this connection, especially if we follow the stand-

¹¹ For a classical analysis of easements in the libertarian tradition, see Murray Rothbard, "Law, Property Rights, and Air Pollution," *Cato Journal* 2(1) (1982): 55–99.

ard definition of an easement as a limited right to use another person's "land" (in this case the maternal womb) for a specific and limited purpose (in this case, the ability to survive until the moment of starting one's existence as an independent organism and an unambiguously volitional agent).

Finally, one might suggest that, regardless of whether we consider the fetus to be an actual or a future agent, we have to agree that every attribution of agency requires the underlying assumption of personhood, and whether the fetus is a person is ultimately a metaphysical, not a praxeological question. Hence, one might claim that the whole economically informed train of thought presented above stands and falls with the implicit ontological presupposition on which it is necessarily based. This, in turn, might be taken to imply that it adds no logical value to the existing arguments against evictionism.

The primary problem with this objection consists in the fact that it is grounded in a category mistake. That is to say, every argument that pertains to a specific, narrowly focused social science can be faulted with resting on interminably debatable metaphysical assumptions, but that is an irrelevant reduction to absurdity rather than a valid counterargument. For instance, the whole theoretical edifice of praxeology can be discounted by the assertion that human beings lack full-blooded libertarian free will, but instead of invalidating the insights of praxeological economics, such a contention, if accepted, would simply render any theoretically cogent discussion of human action unintelligible.¹² In sum, invoking the debate surrounding the personhood of the fetus is ultimately a red herring in this context, at least inasmuch as we are willing to acknowledge that unobstructed fetal development results in the emergence of a being whose behavior is intelligible exclusively in intentional terms.

In response, it might be argued that the present paper does not belong within the remit of any narrowly focused social science, but is rather a philosophical piece, which, as such, cannot dismiss considerations of fetal personhood as an irrelevant distraction. On the one hand, this is a correct observation, since the debate on abortion is necessarily entangled in fundamental

¹² See, e.g., Ludwig von Mises, "Necessity and Volition", in: Ludwig von Mises, *The Ultimate Foundation of Economic Science: An Essay on Method* (Indianapolis: Liberty Fund, 2006 [1962]).

ethical investigations. On the other hand, however, my more strictly circumscribed debate with Block on the compatibility of evictionism with libertarianism is grounded in our commonly shared assumption that, for the sake of the argument, the fetus is to be treated as a person.

Our views diverge only afterwards, with Block claiming that, regardless of its personhood, the fetus can be evicted from the mother's womb to its death if no non-lethal methods of preserving its life in the external environment are available, and myself claiming that this is not an admissible conclusion from the libertarian point of view. While in my original exchange with the aforesaid author I rely primarily on philosophical arguments and thought experiments, my purpose in this paper is to supplement them with reasoning based on economic theory in the praxeological tradition. Thus, I feel justified in leaving the much broader issue of fetal personhood out of the picture, since getting bogged down in it in no way advances my discussion with Block conducted on its own specific terms.

In sum, the argument spelled out in the present paper appears sufficiently robust to potential objections and challenges to warrant further investigation and discussion.

Conclusion

Praxeological economics has proven itself to be a potent source of universally valid insights capable of circumscribing and deepening our normative intuitions. In view of this, I hope that my foregoing analysis of evictionism through the lens of concepts such as the capital structure of production and asset-specific relationships will turn out to be an effective stimulant of fruitful intellectual exchanges on the subject of abortion and its status vis-a-vis the libertarian non-aggression principle. Such a result would indicate that there is still an untapped interdisciplinary potential to be unleashed in discussions on fundamental ethical issues, which would be an analytically welcome conclusion for all researchers striving to advance genuine academic knowledge on these matters.

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