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## Retort to Wiśniewski on Evictionism and Praxeology

**Abstract:** Wiśniewski (2025) takes on a Herculean task. It is not quite as difficult drawing a square circle, but it almost belongs in that realm. This scholar's target is to erase the gigantic and totally justified chasm that exists between the normative and the positive realms of discourse. His thesis is that Austrian praxeology can at least shed light on the abortion controversy, if not actually solve it. I cannot believe that his claim is true; but we can all learn from his valiant attempt. I am in awe of anyone who would even endeavor to establish such a momentous intellectual breakthrough.

**Keywords:** abortion, pro-life, pro-choice, evictionism, praxeology, Austrian economics

Wiśniewski<sup>1</sup> starts off his splendid essay by noting that our previous debate on evictionism<sup>2</sup> was “intellectually stimulating and analytically produc-

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<sup>1</sup> Jakub B. Wiśniewski, “Evictionism in the Light of Praxeological Economic Theory”, *Studia z Historii Filozofii* 16(1): 101–110. All my subsequent references to this author will be solely to this one paper of his.

<sup>2</sup> Block, 2010, 2011A, 2011B, 2014; Wiśniewski, 2010, 2011, 2013.

tive, but also unsurprisingly inconclusive”.<sup>3</sup> I agree fully and enthusiastically with this first claim, but not with the second. I learned a lot from it, so it was very productive for me, and I am delighted that my learned friend benefited too. However, as to the second part, I demur. In my view, our interchange was conclusive in that evictionism was still left standing as the best libertarian analysis of the very complicated abortion issue.<sup>4</sup> Our author now attempts to rectify this supposed inconclusivity via the use of praxeology. As I see matters, the same result still prevails.

Wiśniewski starts off with these words: “[...] while it is entirely appropriate to regard economics as value-free, one should not forget that it is also value-relevant”.<sup>5</sup>

I cannot succeed in wrapping my mind around the concept that the dismal science is and should be value free, on the one hand, with the idea that it is also “value-relevant”. The objection that pops up is: either economics is value free, or it is not. If the former is the case, then the two universes of discourse never interact – not even one tiny little bit. A Venn diagram depicting the two disciplines would not overlap; there would be two disconnected circles indicating their relationship.

I have no doubt that economics can impact ethics in many manners, shapes and forms. Consider the minimum wage law. If you think it boosts compensation for low productive workers, you might have one ethical perspective on this enactment. If your view is that it creates unemployment for them, you might well take on a very different ethical perspective on the matter. Thus, there will be a *correlation* between ethical and economic viewpoints. However, at least based on libertarian legal theory, no matter what the actual effects of this law are, it would still be improper to incarcerate consenting adults for agreeing to a wage below that level mandated by such a regulation. This holds true whatever the economic results of such a directive are. So it is not at all clear what “relevance” can even mean in the present context, let

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<sup>3</sup> Wiśniewski, “Evictionism in the Light of Praxeological Economic Theory”, 102.

<sup>4</sup> Not a perfect one, thanks in great part to his many comments; but the perfect is the enemy of the merely good.

<sup>5</sup> Ibidem, 102–103.

alone how it can undermine such a purely ethical, e.g., non-economic, issue as evictionism. If it cannot do so for the minimum wage law, it is unclear as to how it can suffice for the issue now under consideration.

Asserts my learned colleague: “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”<sup>6</sup>

He makes an excellent point here. One hand washes the other. Scholarship is a two way street. If praxeology can shed light on the all but intractable philosophical challenge of abortion, then, perhaps, matters can work, also, in the other direction. Conceivably, our better understanding of the pro-choice versus pro-life intellectual battle can also inform Austrian economics. Would that this were true. However, I cannot see my way clear to agreeing with this supposition; given the gigantic gap, I continue to see between the positive and the normative.

In his brilliant but mistaken analysis, our author focuses on two considerations: “[...] depriving an agent of the very capacity to act”<sup>7</sup> and the claim “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”<sup>8</sup>

These are both excellent points. It is indeed true that an eviction will sever the connection between the fetus and the general conditions of his action. It would be akin to cutting off a person’s supply of air. There is, however, a difficulty with this very clever position: air is unowned, whereas the general condition of the fetus’ action is owned by someone. It consists of a part of the body of his mother. Thus, there is a rather large hole in this analogy.

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<sup>6</sup> Ibidem, 103.

<sup>7</sup> Ibidem, 104.

<sup>8</sup> Ibidem.

Next, Wiśniewski engages in “treating the fetal environment as a specific capital structure of production”.<sup>9</sup> Again, I must take my hat off to this original and imaginative manner of looking at the matter. But the difficulty is similar to this author’s previous foray: the “capital good” relied upon by the fetus, the womb which he now occupies, is the private property of someone else, namely, of course, his mother. Thus, according to the Wiśniewski’s interpretation, because part of the mother’s body serves, also, as part of the capital equipment for the fetus, somehow it would be improper for her to take this away from him. But she is the first homesteader of her body, not he. She has been living in it for quite a few years; he has only appeared on the scene a matter of minutes or even seconds ago. From a libertarian perspective based upon private property rights, in any dispute between the two, she must prevail, if justice is to be upheld.

Our author now wields the economic concept of complementary factors of production to his highly problematic ends. He continues:

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. This is a normatively significant observation insofar as long-term transactional relationships can be seen as implied contracts, 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.<sup>10</sup>

This opens up the proverbial can of worms. First of all, there is no such thing as a libertarian “ethic”. This political philosophy is concerned, solely, with just law, not morality.<sup>11</sup> Second, “fraud” is most certainly “normatively significant”, but how did we get from pure economics to the normative

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<sup>9</sup> Ibidem.

<sup>10</sup> Ibidem, 104–105.

<sup>11</sup> Many people consider addictive drugs, pornography, homosexuality, gambling, alcohol, prostitution, and other such victimless crimes as “unethical”. Libertarianism, properly understood, takes no stand on this matter at all. It only maintains that when conducted by consenting adults, all such activities should be legal.

realm, or ethics? Hume (1739) famously demonstrated that you cannot deduce an ought from an is. It is difficult to reject the claim that this is precisely what Wiśniewski is doing in this statement of his. Third, this would not apply to the case of rape, wherein the fetus is not “voluntarily conceived”. But it is hardly the fault, or responsibility, of the young pre-born child that his father is a criminal. It is also difficult to deny that all such infants have the same identical rights, even when their parentage varies. Fourth, why, just because the youngster is “voluntarily conceived”, does it logically follow that this, in effect, invitation must last for a full nine months? *A* invites *B* for dinner. At 10pm, *A* starts hinting that *B* should leave. At 11pm the former outright asks the latter to depart. His response? I am staying here for the full nine months. This is hardly credible. Most pertinent to this thesis is the question of whether any of this logically flows from the economic considerations such as “asset-specific relationship” or “transactional relationships”. As for “implied contracts”, this can stretch to cover pretty much anything the speaker wishes. For example, I now claim that Wiśniewski has an implied contract to agree with me on evictionism. So far, he is engaged in fraud against me by not living up to this implication of our relationship as friendly debating partners.<sup>12</sup>

Wiśniewski summarizes his thesis: “[...] 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.”<sup>13</sup> I cannot see my way clear to agreeing with him. My claim is that he is once again violating the is–ought distinction. I appreciate his attempt to meld these two unmeldable intellectual disciplines, economics and ethics; I regard that as heroic on his part.<sup>14</sup> But I cannot see how he has succeeded in this Herculean effort of his.

Wiśniewski now, quite reasonably, considers a series of objections to his thesis. First, can praxeology apply to the fetus? That is, does the pre-born

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<sup>12</sup> I do not oppose all implicit contracts. You sit down at a restaurant and order a meal. There is an implicit contract that you will pay for it. And, also, that you will not be charged one million dollars for it either.

<sup>13</sup> Ibidem, 105.

<sup>14</sup> The more uses for economics, the better I like it, *ceteris paribus*.

young human being engage in human action? Based on my limited knowledge of biology, I cannot see how this could be the case. I go further. It is not at all clear to me that even a new-born, let alone a baby of a month or two of age, can engage in human action either. They can cry when uncomfortable or hungry, but this seems more akin to the reflex such that when your knee is tapped with a rubber mallet your foot rises; or with sneezing; or with peristalsis or the heart-beat. Even Wiśniewski himself admits that “the fetus presumably lacks volition”.<sup>15</sup> If so, this strongly counts against his ability to engage in the type of human action that Mises (1962) describes.<sup>16</sup> But no less is required as a bare minimum if praxeology is to take its rightful place in the debate over evictionism.

At this point, Wiśniewski says of the fetus: “[...] 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”.<sup>17</sup>

Consider again the aforementioned example of *A* inviting *B* for dinner. Posit, now, that if *A* gets his way and ejects *B* from his house, the latter will perish, unless he is allowed to stay there for nine months. Would *A* now be obliged to put up with *B* as a house guest for this duration of time? According to some philosophical systems he would, but not according to the libertarian one that Wiśniewski and I share. In that perspective, there are no positive obligations, and to require this hospitality of *A* would certainly fit that bill. Moreover, it is difficult to see how any of this can be deduced from purely value-free praxeological economics.

Wiśniewski avers as follows: “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

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<sup>15</sup> Ibidem, 107.

<sup>16</sup> Ludwig von Mises, *The Ultimate Foundation of Economic Science: An Essay on Method* (Indianapolis: Liberty Fund, 2006 [1962]).

<sup>17</sup> Wiśniewski, “Evictionism in the Light of Praxeological Economic Theory”, 107.

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”.<sup>18</sup> But this constitutes somewhat of an abnegation of his thesis, to the effect that praxeology can shed light on the debate over abortion. The phrase, “at least morally, if not legally” gives the game away. It has not been demonstrated that ethics or law can be deduced from Mises’ action axiom, the bedrock of praxeology.

Wiśniewski is to be congratulated for attempting to scale not one Mount Everest, intellectually speaking, but ten of them, all piled up on top of each other, while dressed in a t-shirt and shorts, with no oxygen or other such supplies. It is a pleasure to witness this eminent scholar trying to square the circle. It cannot be done, but this learned friend of mine makes a valiant attempt. There is simply an unbridgeable chasm between the ethical or legal issue of abortion and praxeological economics. He somewhat concedes this point when he allows that “the debate on abortion is necessarily entangled in fundamental ethical investigations”. Has his effort been in vain, even supposing that my criticism of his paper is correct? Not a bit of it. I learn, greatly, from it, as I do from all of his output, whether I agree with it or not. This essay is no exception to that general rule.

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<sup>18</sup> Ibidem.

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