

My Body, My Speech

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Abstract

A popular tactic for defending abortion rights is appealing to self-ownership: since I own my body, a foetus has the right to occupy it only if I allow it. One cannot be forced to bring a pregnancy to term because that would violate one's self-ownership. The same logic applies to speech: we have freedom of speech because we produce speech using the bodies that we own. To curtail that speech violates our self-ownership, or in a phrase: my body, my speech.

Perhaps the most popular argument for the moral permissibility of abortion is an appeal to what ethicists call self-ownership: people own their own bodies, and thus may employ them however they choose given they don't infringe on the rights of others. Likewise, women own their bodies, and so are allowed to use them as they want, including deciding who, if anyone, gets to occupy their womb – women have a right to decide how their bodies are used. The philosopher Judith Jarvis Thomson defended this point with a famous thought experiment:

You wake up ... and find yourself back-to-back in bed with ... a famous unconscious violinist. He has been found to have a fatal kidney ailment, and the Society of Music Lovers has canvassed all the available medical records and found that *you alone have the right blood type to help*. They have therefore kidnapped you, and last night the violinist's circulatory system was plugged into yours, so that your kidneys can be used to extract poisons from his

blood as well as your own. The director of the hospital now tells you, 'Look, we're sorry the Society of Music Lovers did this to you – we would never have permitted it if we had known. But still, they did it, and the violinist is now plugged into you. To unplug you would be to kill him. But never mind, it's only for nine months. By then he will have recovered from his ailment, and can safely be unplugged from you.' Is it morally incumbent on you to accede to this situation? No doubt it would be very nice of you if you did, a great kindness. But do you have to accede to it? ... What if the director of the hospital says, 'Tough luck, I agree, but now you've got to stay in bed, with the violinist plugged into you, for the rest of your life. ... All persons have a right to life, and violinists are persons. *Granted you have a right to decide what happens in and to your body*, but a person's right to life outweighs your right to decide what happens in and to your body ...'. I imagine you would regard this as outrageous.¹



Thomson grants *for argument's sake* that, just like the violinist, the foetus is a person with the rights afforded one: among others, the foetus has a right to life. The question, then, is whether the right to life on the part of the foetus overcomes the right of a pregnant woman to self-determination. It is here that Thomson appeals to the violinist thought experiment above: the violinist no doubt has the right to life – it would be wrong, for example, simply to kill for no good reason. However, even granting this, it still doesn't follow that the violinist *has a right* to use the body of whomever he is hooked up to, even if unhooking him would result in his death, since the person to whom he is hooked up has bodily self-ownership – call this *the self-ownership argument*.

The self-ownership argument underlies slogans we often hear in the abortion debate: 'my body, my choice', the most famous of them. The idea conveyed in this pithy expression is that women have the right to choose what to do about a pregnancy in virtue of their bodily self-

ownership. The thought experiment above is intended to block a basic objection to the morality of abortion, namely: a foetus is a human person with various rights afforded it, like the right to life, just like a robust adult human. The violinist thought experiment is meant to show that even if the foetus is a human person with the right to life, it still doesn't follow that such a right trumps the woman's right to bodily self-ownership, and thus it would be morally wrong for her to abort it. After all, the violinist is a human person with a right to life – no one denies that – yet we do not think that the violinist has a right to use someone's kidneys without consent.

An Objection

Here critics will push back on the thrust of the argument by emphasizing with respect to most pregnancies, unlike the famous violinist example where one is kidnapped and forcibly hooked up to the violinist to save his life, that women engage in voluntary sexual intercourse that results in the

pregnancy either because they neglected birth control or because the birth control failed – most pregnancies do not result from coercion, unlike the case of the famous violinist where coercion is a central feature of the example. And the fact that a woman brought a child into existence without coercion, along with her sexual partner, is a salient moral difference – freely bringing someone into existence appears to confer moral duties. Perhaps bodily self-ownership isn't robust enough to overcome the moral difference here.

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This objection isn't as compelling as it appears. Imagine one's adult son needs a kidney to survive, and his mother matches as a donor. Would the mother have a moral duty to provide that kidney to her adult son, especially since she was (partially) responsible for bringing him into existence? We may think her a mean person if she refused; however, it isn't clear that she is morally required to give the kidney to her son, especially since surgery, even under the best conditions, can risk the life of those undergoing it. The mere fact that one is responsible for bringing someone else into existence doesn't look sufficient to entail that one has a moral duty to provide them with a kidney. And even if one isn't convinced by this move, we will grant for the sake of argument that bodily self-ownership trumps the right to life to see the implication for freedom of speech.

From Abortion to Free Speech

Few abortion rights supporters, who defend their position by appealing to bodily self-ownership, appear to recognize that this line of reasoning supports the right to freedom of speech: everyone should be free to express their views and ideas without retaliation, censorship or legal sanction, except perhaps if the speech incites impending violence – producing speech that conveys one's idea is, after all, just another instance of someone exercising their right to bodily self-ownership. If women have the right to terminate their pregnancy because foetuses must use their bodies to survive, they have a right to speak as they see fit too: we lack the right to control women's speech, just as we cannot control their reproduction, since both activities are simply an exercise of bodily self-ownership. One's self-ownership extends beyond what someone does with their reproductive abilities to their capacities in general – one lacks the right to control her vocal cords just as one lacks the right to control her reproductive capacity.

Unfortunately, some people believe that we should curtail freedom of speech to protect members of marginalized groups: words can hurt and hurt badly, and verbal abuse can produce permanent psychological scars. There's a sense in which free expression can marginalize, control and even erase individuals and groups from the social conversation society deems *other*: voicing such views, especially repeatedly, can inflict major psychological trauma. This is often a point made by free speech critics (applied to campus life, but the point generalizes):

This logic expects members of marginalized groups to debate their very humanity. As a queer faculty member, it means I am expected to engage in a discussion about the validity of my identity: whether it is real, whether it might be symptomatic of demonic possession or perhaps a mental illness. Students and faculty of color, similarly, are expected to debate the reality of their experiences and their right to equitable systems.²

While there is a point here, we must acknowledge the same logic applies both to aborting a foetus and to unplugging from the violinist: both actions may harm someone, yet this fact doesn't justify trying to control women or their reproductive capacities on the pro-choice perspective. There is clearly a moral risk of *some kind* to having an abortion: even though one may find the arguments for the pro-choice position compelling, while finding pro-life arguments lacklustre, there is still a chance that one is simply wrong about the relative strength (and weakness) of the arguments on either side. It is simply *too easy* to be wrong about complicated issues in metaphysics and ethics. As the philosopher Dan Moller argues:

[The] main reason for supposing there is a non-negligible possibility of error isn't the sheer existence of anti-abortion arguments. It is rather that the subject matter involved is the sort of thing it is *all too easy for people like us to be mistaken about; abstruse moral reasoning involving far-out cases and complex principles is something we find very difficult and are disposed to get wrong* reasonably often.³

The fact that a practice, either having an abortion or exercising freedom of speech, can do harm to someone clearly isn't a reason not to engage in

such practices – many actions we take, without moral objection, can pose risks to others. The mere fact of risk, in and of itself, isn't sufficient to curtail one's bodily self-ownership. To put it differently: if the chance that we are putting others at risk is reason to curtail freedom of speech, then it would also curtail the right to an abortion. Our argument still holds: if one has the right to an abortion, on the basis of bodily self-ownership, then one has the right to flutter one's vocal cords to express ideas. Or, to express the point in the form of a catchphrase: my body, my speech.

'Our argument still holds: if one has the right to an abortion, on the basis of bodily self-ownership, then one has the right to flutter one's vocal cords to express ideas.'

Notes

- ¹ Judith Jarvis Thomson, 'A Defense of Abortion', *Philosophy and Public Affairs*, 1 (1971): 47–66, at pp. 48–9 (my emphasis).
- ² From Kamden K. Struck, 'Free Speech for Some, Civility for Others', *Inside Higher Ed*, 21 September 2018.
- ³ Dan Moller, 'Abortion and Moral Risk', *Philosophy* 86.3 (2011): 425–43, at p. 432 (my emphasis).

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