

BREAKING THE ABORTION DEADLOCK:

From Choice to Consent

by Eileen L. McDonagh

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Reviewed by PEG TITTLE

This is an exceptional book. In a deft move that is as simple as it is strong, McDonagh uses the argument of pro-life advocates to support abortion.

The abortion deadlock referred to in the title is the 'fetus as person' debate: pro-life advocates claim that the fetus *is* a person, while pro-choice advocates claim that it is *not*. McDonagh sidesteps this deadlock by focusing on what the fertilized ovum *does* rather than on what it *is*, then backtracks to say 'Okay, "to the extent that the law protects the fetus as human life, the law must hold the fetus accountable for what it does" (7).

And what it does, quite simply, is "[intrude] on a woman's body and [expropriate] her liberty" (7): the placenta "is a new tissue structure, more complicated than a lung, that grows inside a woman's body..." (70); her "...heart rate increases 15 percent, stroke volume increases 30 percent ... and diastolic blood pressure increases 15 percent" (70); the pituitary gland doubles in weight (71); some hormones increase to 400 times their normal levels (71). Now, "if a woman does not consent to this transformation and use of her body, the fetus's imposition constitutes injuries..." (7). And, "if a fetus is to be protected from harm, it must be restricted from causing harm" (125).

How restricted? Well, existing law, supported by both pro-life and pro-choice advocates, is such that we have a right to use deadly force to stop that which endangers our life. However, in fact, the (American--and Model Penal Code) law of self-defence extends *beyond* threats to one's life: threats of serious bodily injury and the loss of liberty *also* allow the use of deadly force. Thus, abortion is 'already' justified.

And McDonagh doesn't stop there. Insofar as it is the state that treats the fetus as a human life, "to the degree that the state stops human life from intruding upon the bodies and

liberties of others, the state must stop the fetus from imposing pregnancy upon women without consent" (8)--the state is therefore obligated to *fund* abortion.

Anticipating that we will make the mistake, McDonagh shows (chapter 3) that it is not the man who makes the woman pregnant, it is the fertilized ovum that does this. The man simply puts his sperm into the woman's vagina--a necessary *but not a sufficient condition* for pregnancy.

This also takes care of the 'to consent to sex is to consent to pregnancy' argument: sex doesn't cause pregnancy--a fertilized ovum does. McDonagh's distinction between "a sexual relationship between a man and a woman and a pregnancy relationship between a fetus and a woman" (40) is, well, liberating.

McDonagh also anticipates and neatly dissolves the 'reasons for abortion' issue: "A woman, for example, may not consent to sexual intercourse with a man because of his hair or skin colour, his social class background, or the tone of his voice--or because she just does not like him. ... [B]ut what justifies her right to use deadly force to stop a man from raping her, according to law, is *not* the reasons she might have for saying no to his imposition on her, but rather the invasiveness of the imposition itself. *Similarly with nonconsensual pregnancy*" (10 my emphasis). With typical clarity, McDonagh spells it out: "Regardless of a woman's reasons for seeking an abortion, her right to kill a fetus is based on her primary right of privacy to be free from intrusions of her body and liberty by other private parties. This principle would be immediately apparent if a born person were to do to another born person the equivalent of what a fetus does to a woman..." (11).

In addition to these broad but incisive strokes, McDonagh's book is full of important clarifications (for example, the distinction between 'innocent' and 'weak', with respect to the fetus--96-99), and illuminating comparison (for example, we have the right to refuse consent to a blood test, so why not to pregnancy--102-104). And her pursuit of consistency is relentless (for example, "if the state allows the fetus to do what the state allows no born person to, it becomes apparent that children lose rights at birth. But how can people have more constitutional rights

before rather than after birth...?"--138).

This is an excellent book: "By moving from choice to consent, [it] reframes abortion rights in terms of both a woman's right to choose what to do with her own body and woman's right to consent to what another entity, the fetus, does to her body when it makes her pregnant, as well as her right to state assistance to stop a fetus on her behalf" (20). It is a cement-breaking book. It should be read widely and spoken of loudly.