

A Right to Abortion?

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We can't say whether a woman has an inalienable right to abortion until we know what an inalienable right is.

Two ideas of rights

It is important to notice that to say someone has a right to do something is *not* to say that doing that thing would be the right thing to do. We have the right to do all sorts of things that might be morally wrong, e.g. we have the right not to look after our parents when they grow old, but it might be morally wrong of us to do this.

To say someone has a right to do something, then, means, in the first instance, that other people would be wrong to interfere with their choice about doing that thing. We can say that other people have a *duty not to interfere* with my choice. So if a woman has a right to abortion, other people would be wrong to stop her from having an abortion. More generally, if I have a right to do what I want with my body, other people would be wrong to stop me from doing whatever I want with my body.

This interpretation of what a right is doesn't work for all rights. For example, if the foetus has a right to life, we cannot say that other people would be wrong to interfere with its choice about living, because a foetus can't make choices. The right to education is a different case again. If a child has a right to education, we don't just mean that no one should stop it from getting an education if that is what it chooses. We mean that someone else has the *duty to provide* it with an education. So sometimes when we talk about rights, for example the right to education, we mean that someone has a duty to ensure that we get what we need.

These two different interpretations of rights can be seen clearly in the debate over a right to life. On the first interpretation of rights, sometimes called 'liberty rights', if I have a right to life, you shouldn't take my life away from me if I want to live; on the second interpretation, sometimes called 'claim rights', you, or someone, should keep me alive. This could mean providing me with food or medical care, and so it means doing a lot more than simply not killing me.

In the question 'does a woman have an inalienable right to abortion?', are we talking about a liberty right or a claim right? The natural reading is liberty right – the question is about whether anyone would be wrong to stop her if she wanted to have an abortion. But when people talk of the foetus's right to life, the natural reading is claim right – someone has the duty to keep the foetus alive.

Inalienable right

An inalienable right is one that you have even if you try not to have it. You can't get rid of it. For example, if you have an inalienable right to life, then even if you wanted someone to kill you, they would be wrong to kill you. They would still be violating your inalienable right to life, because you can't give up your right to life just because you want to. Compare promising. Suppose someone promises to take you to lunch, but then they can't make it and ask you to forgive the promise. If you forgive the promise, you *waive* your right to be taken out to lunch – you no longer have the right to what the promised, because you have released them from their promise. So rights created by promises are alienable.

An inalienable right to abortion

Why would we think there *could* be an inalienable right to abortion? Normally, we don't think we have a right to kill other beings! The right to abortion must derive from some other rights that the woman has. The two obvious rights are 1) a right to do what one wants with one's body; and 2) choice about what to do in one's life. Both are cases of liberty rights – other people would be wrong to stop me doing what I choose. I'm not saying that we have these rights, just that if a woman has a right to an abortion, it is likely to derive from one of these other rights.

But are either of these rights inalienable? Sometimes my right to do what I want with my body is compared to rights over property. I 'own' my body, so I can do what I want with it, just as I can do what I want with my property. But I can sell my property. And I sell my property, I no longer have any rights over it. So rights to property are alienable. Could I sell my body, and so have no rights over it? Many people would argue that I can't. People can't sell themselves into slavery, and selling one's body would mean slavery. If I did, I would still have the right to run away. The right to be free, to make choices, is an inalienable right. Because owning my body is part of being free, my rights over my body are also inalienable.

But what about the specific right to an abortion? If a woman has a right to an abortion, is it an inalienable right? For example, if she promised the father of the child not to have an abortion, would she still have the right to an abortion? I really don't know the answer! In this kind of case, I feel it is better to ask whether she would *be right* to have an abortion rather than ask if she *has a right* to have an abortion.