

NONCONSENSUAL INSEMINATION: BATTERY

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When a man ejaculates inside of another person without that person's consent, that act constitutes a criminal battery. If the other person, male or female, does not consent to the contact with semen, then the ejaculation is offensive and against the person's will. Ejaculation has consequences. Nonconsensual insemination harms people through the nonconsensual transmission of disease. In most states, the nonconsensual sexual transmission of disease is specifically prohibited by state statute. When insemination does not cause or transmit a disease, this act can still lead to serious bodily harm through pregnancy. Because nonconsensual insemination may cause an unwanted pregnancy, the government has an important interest in preventing nonconsensual insemination. Pregnancy, childbirth, and abortion are commonly known to

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have serious and permanent effects. Inflicting serious bodily harm, such as pregnancy, on an unwilling person is illegal. In fact, punishing rapists who impregnate their victims is not a new facet of the law. Defending a woman's right to have unprotected sex without blaming her if she is victimized by nonconsensual insemination, however, is a relatively new idea. Because ejaculation carries serious consequences and ejaculation is an independent and separate act from intercourse, the law requires a person expressly consent to ejaculation. Otherwise, the man has committed a criminal battery.

Section II of this article provides working definitions of criminal, aggravated, and sexual battery. Section III discusses generally some ways that pregnancy damages the female body and explains briefly why both childbirth and abortion cause bodily harm when resulting from reproductive coercion. Section IV discusses the possible levels of general intent scienter for battery. Section V

analyzes why expressed consent must be required prior to insemination. Section VI explains how insemination can be distinguished from ejaculation/unprotected sex and Section VII discusses victim-blaming. These sections address why nonconsensual insemination is not the woman's fault. Section VIII applies Sections II through VIII synergistically to the overreaching theme of this paper, that nonconsensual insemination is a battery. Further, Section IX advocates for therapeutic justice, rather than incarceration, to deal with nonviolent, nonconsensual insemination. Finally, Section X concludes that reproductive coercion is illegal as a general intent crime, and society cannot blame a victim for her unwanted pregnancy caused by unwanted insemination.