Part 5

Freedom and the Law

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Law, Argumentation Ethics, Hoppe and Me

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A long time ago, during a coffee break at one of those then frequent Liberty Fund conferences in Europe, I was approached by a somewhat younger attendee, Hartmut Kliemt. He told me that I reminded him very much of Hans-Hermann Hoppe. “I mean,” he added, “the way you think, not your looks or personality.” I had heard of HHH, but I had not read any of his writings and had not met him in person. Before I became a regularly invited guest or speaker at meetings of his Property & Freedom Society in Bodrum, I had met Hans only once, when he was in Belgium to advise on the foundation, in 2001, of the Brussels-based Mises Institute, Europe.

I could only guess what had caused Hartmut Kliemt to make that remark. When I eventually found the time to read some of Hans’s writings, my best guess was the striking resemblance between his “argumentation ethics” and my “ethics of the dialogue.”[[1]](#footnote-1) If it was not that, then it might have been our preference for the axiomatic-deductive method in presenting theories and the fact that our axiomatic statements were strikingly similar. In what follows, I shall take the similarities for granted and focus on some of the differences in our approaches.

Hoppe’s principal concern in those early days was the concept of self-ownership, which Rothbard had discussed in his *The Ethics of Liberty* (1982) and raised to the status of the axiom of libertarian legal thought. Hans noted that its status was similar to the status of the “action axiom” in Mises’s *Human Action*.[[2]](#footnote-2) Hoppe’s use of argumentation ethics[[3]](#footnote-3) served the purpose of interpreting and justifying “self-ownership” as an argumentatively incontrovertible “natural right.” Consequently, one should be able to understand all the theorems Rothbard derived from “self-ownership” as justifiable statements concerning natural rights—for such is the nature of a deductive theory: if its axioms are justifiable then so are all its theorems, provided there are no logical errors in their deduction. Note that Rothbard’s—and by implication, Hoppe’s—primary interest was “comparative systems theory.”[[4]](#footnote-4) Their argumentative context was the then ubiquitous claim, made on behalf of socialism, communism and other forms of collectivism, that free-market capitalism is an immoral, unethical economic system.

As for me, I had stated my axiom of legal thought in the opening sentences of my aggregation-thesis[[5]](#footnote-5) *Het fundamenteel rechtsbeginsel* (submitted to the examination board in 1981, published in 1983)[[6]](#footnote-6): “The fundamental principle of law, the principle of substantive justice, is that every man[[7]](#footnote-7) is a sovereign subject of law. Every man has the right to do whatever he wants with his own, with all his own resources; no man has the right to do anything with the resources of another, without the other’s consent. To each his own; each man master of himself and of no one else—that is the principle of law.” In short, in thinking about law or lawful relations, each person is to be presumed master of himself and no one else. I did not mention self-ownership, but many thought that that was simply a terminological matter, not a conceptual one.

My starting point for validating this fundamental principle or axiom was the observation that most people most of the time have a certain amount of control over a few parts of their body, which allows them to do things at will. They can perform certain “basic actions” (controlled movements, e.g., of limbs, cheeks, eyes, eyelids, tongue, fingers) without first having to do something else and without being made to do them by some external force. That people have “by nature” a measure of immediate control over their bodies seemed to me as solid a factual basis for a discourse on law as I could imagine. For lack of a better term, I referred to it as “the power of self-determination.” It was certainly an argumentatively validated proposition: No participant in an argumentation can credibly argue that he is not arguing, asking and answering questions in response to an opponent’s statements and questions. The problem, of course, was to get from that incontrovertible fact to principles of law, which everybody understands to mean principles that state that something ought to be or ought to be done. In other words, how do we get from the *power* to the *right* of self-determination and, from there, to a right to things outside one’s body? How do we get from “a right as *rectum*” (a thing one can effectively control, direct, steer or govern, a thing within one’s power)[[8]](#footnote-8) to “a right as *ius*” (a justified claim)[[9]](#footnote-9)—from a power that, no matter how natural, can be overpowered in many ways to a *ius*-right that ought to be respected in any case?

Hoppe’s argumentative validation of Rothbard’s axiom of self-ownership seemed to imply that demonstrating the undeniability of a natural power of persons over their bodies is sufficient to establish an undeniable personal natural *ius*-right, viz. self-ownership. At least, he did little to convince his critics that that was not his argument.

Although I referred frequently to dialogue ethics, most often in the third and sixth chapters of my thesis, I did not use it to validate my axiomatic statement of the fundamental principle of law. Instead, I asked readers to consider the logical alternatives to that axiom. Would you accept that some are to be presumed masters of some or all others; that all are to be presumed masters of some or all others; or that no one is to be presumed a master of anything, even his own body?[[10]](#footnote-10) However, that was merely a way to establish the plausibility of the principle. It was also a way of drawing attention to the distinction between the concept of legal system (or theory) and the concept of law.[[11]](#footnote-11)

My aggregation thesis might be—and was—taken for the presentation of a Rothbardian type of legal system. However, its purpose was to present private law as something to think about, not as something to memorize in the way one has to memorize the rules of the road, or the rules of games such as chess or soccer. Of course, as a teacher in a faculty of law, I could not avoid discussing legal systems. On the modern understanding, the legal system of a society determines where the chips of anybody’s actions may or should fall, and an effective government makes sure that they end up falling in, or being moved to, the prescribed places. However, I care more about people than about systems or their governments. What do people do with systems; what do systems do to people? Which kind of people does it take to make a system work as it is advertised to work? Count me among those who hold the view that a theoretically excellent political, legal or economic system means little, if it falls into the hands of barbarians, buffoons or opportunists, no matter how well-schooled and academically certified they may be. In the hands of wise judges (rulers, not governors), even theoretically flawed systems will do reasonably well. Reflecting on the Constitution of the United States of America (1789), John Adams (1735–1826), one of the founding fathers of the American republic, wrote that it was “made only for   
a moral and religious people. It is wholly inadequate to the government of any other.” Edmund Burke (1729–1797) voiced the same opinion: “Men are qualified for civil liberty in exact proportion to their disposition to put moral chains upon their appetites.” Assuredly, no people is entirely moral and religious or disposed to put moral chains on their appetites. However, if it is so lacking in morality or religiosity, so much inclined to licentiousness that it cannot distinguish sages from rascals then no legal system will deliver it from slavery. Regrettably, the modern understanding of a legal system does not pay much attention to moral or ethical considerations. The “separation of law and morals” was one of its much-touted accomplishments, although modern legal systems criminalize far more vices than Aquinas allowed the “human law” to do in his answer the question “Whether it belongs to the human law to repress all vices?”[[12]](#footnote-12)

My thesis was not an exercise in “comparative systems.” It was addressed primarily to university professors of law—it was after all an aggregation thesis. It was intended as a critique of how private law was taught, not of what was taught under the heading “private law.” The basic motivating idea was that, certainly at the university level, teaching law from principles was far superior to teaching it in the usual dogmatic form, i.e. by reciting or paraphrasing the contents of various officially approved codifications of what once had been customary law, opportunistically produced legislated texts, and occasionally one or other court verdict. For one thing, teaching from principles fosters a more critical attitude among students than the dogmatic method can ever achieve—and is fostering critical attitudes not the raison d’être of the university, that which distinguishes it from a trade school? When I submitted my thesis, many members of the law faculty still shared that conviction. However, in their teaching, almost all stuck to the positivist canon: “Like it or not, the law is what the officially approved texts tell us it is”—meaning, “It is what our currently authorized approvers (political masters) permit us to say it is.” Few would go further than saying “Yes, that decision is or was controversial, but it is part of the law. That’s all you need to know”—the equivalent of the quantum physicist’s “There is nothing to understand[[13]](#footnote-13); so shut up and do your calculations.” In fact, no longer institutions dedicated to philosophy (the pursuit of wisdom), the universities had become caterers to the demands of the labour market, of all kinds of corporate interests.

My thesis dealt with the “what” and “why” of the private law as it was taught in the universities. Accordingly, it focused on the philosophical presuppositions of *modern* private law in the West. These presuppositions were essentially Lockean[[14]](#footnote-14) and overwhelmingly materialistic, although not quite to the point of implying that only material things can be “property” or “property holders.” The thesis was to be followed by a second volume on the “how” of law—how law can manifest itself in the daily business of life, in particular in the context of the proceedings in courts of law. Rothbard’s answer to the “how”-question was his purely economic theory of anarchocapitalism: there is a market for justice and on that market the best providers of justice will come out on top. Unfortunately, there is also a market for injustice. Consequently, the anarchocapitalist argument rested on the unsubstantiated assumption that satisfying the demand for justice is more profitable than satisfying the demand for injustice. That assumption is hard to reconcile with the facts of history.

My answer to the “how”-question was different. The projected second volume would elaborate the notion of argumentation ethics as the logical basis for assessing the fairness and justice of judicial trials in particular and interpersonal interactions in general.[[15]](#footnote-15) The basic idea—which Hoppe referred to as the “a priori of argumentation”—was that argumentation is the life of the law, not for lawyers only but for all speech-enabled persons; that argumentation is the proper method for validating principles of law, including principles of Natural Moral Law.[[16]](#footnote-16) Thus, the second volume would venture into territory that, from the point of view of all varieties of legal positivism, was of no interest to students of legal systems.

However, that second volume was never written. The first volume had ruffled too many feathers, not so much in the Faculty of Law of what was then the State University of Ghent as in the Department of Philosophy, where Marxists of various sorts had come to dominate the sections of moral and political philosophy. The result of their maneuverings was that, late in 1983, I was “cancelled” (as it would now be called) and had to move my workplace from Belgium to The Netherlands. My teaching duties there required me to develop from scratch and then to co-ordinate and update several “meta-juridical” courses in an increasingly bureaucratic context. Beside lecturing and tutoring, it meant writing and coordinating the writing of course books, exercise books and instructions for tutors, many of whom had no interest in or knowledge of most or any of the subjects covered in a course: e.g., philosophy, institutional history, economics, history of ideas. That, and the burdens of twenty years of weekend marriage and ditto parenthood, prevented me from writing the planned second volume of my thesis.

I had intended to submit my thesis in 1978. However, just as I was about to start writing a presentable version, I happened to acquire a number of Austro-libertarian books, among them Rothbard’s *For a New Liberty*. Although I had previously read some books and papers by Hayek, I was unaware of the existence of an American school of libertarian legal thought that appeared to rely heavily on the “Austrian”  
school of economics. I therefore decided to postpone submitting my thesis until I had worked my way through the literature of the American Austro-libertarian school[[17]](#footnote-17) and its European predecessors and like-minded theoreticians (e.g., the German school of *Ordo-Liberalismus*[[18]](#footnote-18)). However, although some of that reading ended up in the notes, I found no reason to revise or expand the main arguments of my thesis. In the text of the thesis—leaving aside the notes—the word ‘libertarianism’ occurs only once, in opposition to ‘egalitarianism’, each of them denoting an aberration from the even then not quite forgotten understanding of private law as an order of freedom and equality among persons. Nevertheless, the thesis got some notoriety as “a libertarian theory of law” (in the Rothbardian sense of the word ‘libertarian’). This resulted in my receiving many invitations[[19]](#footnote-19) to speak to audiences with an interest in the politics and economics of freedom, in particular the theories of Hayek, Mises and Rothbard. By the end of the nineteen-eighties, that interest began to wane, primarily because by then most law faculties were adopting the “Universal Declaration of Human Rights” (1948) as their favourite Ersatz for critical thinking about law without relinquishing their positivistic attitudes.

I had picked up the idea of an ethics of dialogues in an earlier existence as a researcher in the field of foundations of logic.[[20]](#footnote-20) It was the idea that objective validity is, and can be, established only argumentatively, in a dialogue, where each speaker tries to think along with—i.e. to understand—the other, while asking and answering questions to the best of his ability. For a dialogue to be possible the speakers must be able and be allowed to speak freely and as equals. That idea, rebranded “argumentation ethics” rather than “dialogue ethics,” got wings in certain Austro-libertarian circles, when, as noted above, Hoppe introduced it into the discussion on self-ownership as the axiomatic base of Rothbard’s theory of natural rights. Rothbard appeared to appreciate Hoppe’s move, even though he may have had some misgivings, because the requirement to justify through argumentation (rather than deduction from supposedly evident axioms) endangered the neatness of his Misesian economics and his Libertarianism as axiomatic and deductive formal systems. It is one thing to take a proposition and declare it an axiom of a system or theory; it is another and much more hazardous thing to assume that the system or theory is semantically complete—e.g., that it is possible to deduce all truths about law from the axioms of a legal system. There is no need to read Gödel to get the point. Theories and systems deal with “formal,” not with “material” objects. They articulate a particular perspective on aspects of reality—reality itself is not within their reach.

While sympathetic to Hoppe’s demarche, because it gave argumentation a central place in truth finding, I thought it overstated his case. For argumentation to be possible, it is indeed necessary that the participants have the natural power and the opportunity to speak their minds. However, establishing the participants’ power and opportunity does not prove that their use of that power is a justifiable right, a right that *ought* to be respected. The proof of an “ought” can be delivered only in and through argumentation. An “ought” cannot be empirically observed; it is sola *mente perceptibile*. For perceiving argumentations as different from other forms interactions among several persons, it is also necessary to *presume* that the participating speakers speak freely, in their own name; that they speak seriously, honestly, have no hidden agenda, do not aim to deceive or to intimidate with threats or promises—  
in short, they must be presumed innocent, bona fide speakers. Even more importantly, for argumentation to be possible, the speakers must presume each other’s bona fide. Precisely these presumptions make it possible to speak of argumentation *ethics*. The essential point, however, is that they are *presumptions*, not certified facts.

Presumptions are defeasible. It may turn out in the course of an argumentation that a speaker is not in control of himself, not honest; that he is a liar, mercenary hack, manipulator, conman or flimflammer. In such cases, the presumption that he is rightfully exercising his self-control must be abandoned. Then, the presumed respectability of his positions and arguments proves groundless, as do the rights that were accorded to him when he seemed willing to participate in a genuine argumentation. Dialogue rights, in the sense of *iura*, attach to the undefeated presumption that one is a bona fide speaker. Consequently, the rights that are established in an actual dialogue or argumentation are presumptive, defeasible rights. That goes no less for the right of self-ownership than for any other *ius*-right.

None of this would matter, if one considers argumentation nothing more than a game that some people might, and others might not, want to play. However, life is not an optional game for a living creature—and argumentation is not an optional game for an intelligent human creature, i.e. for man as a reason-able animal, an *animal rationis capax*. Intelligent creatures can define any number of different games that can be played using a square chessboard with 8 columns and 8 rows and 32 chess pieces, or using a rectangular soccer field (90 to 120 metres long, 45 to 90 metres wide, divided in 11 sections) and a spherical ball. Using their intelligence, they can design any number of games that require the players to be more or less intelligent. They can design any number of games for testing intelligence but not any number of ways of being (as distinct from giving the appearance of being) intelligent. Quoting Cicero, we may say that intelligence is the faculty, “which alone gives us so many advantages over beasts,” “by means of which we conjecture, argue, refute, discourse, and accomplish and conclude our designs”[[21]](#footnote-21), regardless of the subject matter of our conjectures and refutations, our arguments, discourses and designs. It is worth noting that most translations use ‘reason’ (not ‘intelligence’) to render Cicero’s term “ratio.” To modern ears, ‘reason’ and ‘rationality’ refer primarily to the ability to calculate or deduce correctly, following scientifically explicated and validated rules and methods, not to the ability to judge wisely. Paradoxically, it is now quite acceptable to speak of animal intelligence but not of animal rationality­, even though the evidence that animals can calculate correctly (e.g., the force needed to jump from one branch of a tree to another) is quite strong, while there is no evidence that they conjecture, argue, refute, discourse in search of wisdom. Because they calculate intuitively but not methodically, they are denied rationality. Debunking intelligence and idolizing calculating or deductive reasoning is a characteristic of “modern thought.”[[22]](#footnote-22)

Notwithstanding my reservations about Hoppe’s restrictive use of “argumentation ethics,” I did not question his insistence on the “a priori of argumentation”—but others did. His intervention was not welcomed by all “Austrians,” including most Misesians,[[23]](#footnote-23) especially those who subscribed to Mises’s conception of rationality as *Zweckrationalität* and persisted in attempts to reduce ethics and politics to “technical decisions based on factual propositions” about the usefulness of “the means to attain ultimate ends.”[[24]](#footnote-24) This conception had led Mises to embrace a technocratic view of societal government: “There prevails among the members of society disagreement with regard to the best method for its organization. But this is a dissent concerning means, not ultimate ends. The problems involved can be discussed without any reference to judgments of value”[[25]](#footnote-25)—i.e. without any reference to choices concerning “ultimate ends” or “absolute values.” For Mises, ultimate ends and absolute values are irrational things, beyond reason, especially beyond the possibility of rational, utilitarian calculation, which he considered the scientific perfection of *Zweckrationalität*. Of course, what Mises meant was that there is no choice between ultimate ends, because there is only one ultimate end that needs to be considered, viz. “happiness”—  
a subjective notion, which he later reformulated and objectified as “social cooperation” without specifying the end or form of social or other types of cooperation.[[26]](#footnote-26)

Despite his reputation as a radical, uncompromising classical-liberal free-market economist, Mises had explicitly qualified his liberalism as applying only to a state of affairs in which the optimum population size is not yet reached.[[27]](#footnote-27) Arguably, problems of overcrowding are as old as the first appearance of cities, and cities have always been laboratories for experimenting with illiberal forms of government, not paragons of respect for private property, let alone self-ownership. Today, global overcrowding and its effects are almost daily in the news. Moreover, egged on by the recommendations of today’s corporate, technocratic elite, the hot money is in constructing “smart cities”—read “central planning,” “total surveillance,” “block-chained digital currencies,” “Happiness is owning nothing,” and other shibboleths of Establishment ideology.[[28]](#footnote-28) It is too late to ask Mises what he thought about the multitude of arguments about local, regional or global overpopulation that are doing the rounds. All we know is that he accepted that societal decision-making was a technical matter and should be based on facts—i.e. on facts ascertained by scientifically qualified experts. However, he gave no indication of where one should draw the line between such “facts” and “expert opinions.” Nor did he provide an answer to questions about ways to prevent, let alone remedy, the problems of overcrowding. Unsurprisingly, Rothbard felt   
a growing need to return to the idea of a Natural Moral Law—which implies recognition of absolute, objective values—even if it meant dissociating his Austro-libertarianism from its Misesian presuppositions and their utilitarian and technocratic implications.

More to the point of the main theme of this essay, I do not see how it would be logically possible to subsume argumentation ethics under Mises’s concept of human action. Merely stating, “To argue is to act,” while true, is not enough. Argumentation does not fit into the subjectivist, relativistic paradigm that the anti-Hoppean Misesians hold dear above all: “All values are relative and subjective.”[[29]](#footnote-29) How can argumentation do what it is supposed to do, if argumentation does not imply its own inarguable, absolute and objective norms and values? How can it do so, when, according to Misesian methodological preconceptions, argumentation can be nothing more than a subspecies of negotiation, of seeking to reach a compromise? Argumentation, negotiation and debate are unique to humans—they involve speech and logic. No other animal or natural object exhibits anything that resembles human argumentation, negotiation or debate. However, while making threats and promises is the common fare of negotiations, it has no place in argumentations. Argumentation also differs from debate. In a debate one seeks the applause of a majority of the audience, often with rhetorical tricks or demagogical chicanery. The uniqueness of argumentation is that it alone presupposes common sense or common knowledge in the specific sense of *conscientia*, conscience. Conscience is the *conditio sine qua non* of argumentation. To argue is to appeal to another speaker’s conscience. From a logical point of view, argumentation is different from making a sales pitch, which appeals to another’s personal interests or preferences, to his prejudices, fears and hopes.

Argumentation does not seek to play on another’s particular interests, preferences or prejudices. Rather, it plays on what people agree they ought to agree on, on what they know in their hearts they cannot deny, even if, as a matter of fact, they are not inclined to pay much attention to it. Argumentation starts from the common knowledge of human fallibility— *Errare humanum est.* It appeals to one’s sense of values such as Truth, Logic, Justice, Goodness and the like, i.e. values which are not person- or situation-relative and not subjective but absolute and objective—values which no mature (intelligent, conscientious) person can deny without contradicting his claims to intelligence or conscientiousness. The maxim of argumentation is “Take one another seriously as conscientious persons.” Superficially, argumentation may seem a mere exchange of words between two persons, between an “I” and a “You,” but in reality it is a dedicated, conscientious attempt to uncover the “We” that must be there, if taking one another seriously is to be at all possible. Unfortunately, in the prevailing intellectual climate, conscience is nearly always considered at best an atavistic sentimental illusion, and at worst partisan hypocrisy.

1. For more on the former, see Kinsella, “Argumentation Ethics and Liberty: A Concise Guide,” StephanKinsella.com (May 27, 2011; www.stephankinsella.com/publications); on the latter, see Frank van Dun, “Argumentation Ethics and the Philosophy of Freedom,” *Libertarian Papers* 1, art. no. 19 (2009; www.libertarianpapers.org).  [↑](#footnote-ref-1)
2. See “Ludwig von Mises, Human Action: A Treatise on Economics, Scholar’s ed. (Auburn, Ala: Mises Institute, 1998; https://mises.org/library/human-action-0); Hoppe’s 1998 Introduction, “Murray N. Rothbard and the Ethics of Liberty,” in Murray N. Rothbard, *The Ethics of Liberty* (New York: New York University Press, [1982] 1998). [↑](#footnote-ref-2)
3. Hans-Hermann Hoppe, *A Theory of Socialism and Capitalism: Economics, Politics, and Ethics* (Auburn, Ala.: Mises Institute, 2010 [1989]; www.hanshoppe.com/tsc), especially chapter 7. [↑](#footnote-ref-3)
4. In “Murray N. Rothbard and the Ethics of Liberty,” Hoppe called Rothbard “a grand system builder.” [↑](#footnote-ref-4)
5. Cf. the French, *thèse d’agrégation de l’enseignement supérieur*, similar to the German *Habilitationsschrift*; it is part of an exam, the purpose of which is to check whether a candidate has something of value to contribute to the teaching of a particular subject at the university level. The system was about to be abolished—mine was the last aggregation acknowledged by the Faculty of Law in Ghent. The main formal difference with the PhD system was that the candidate did not need being promoted by an already established “promoter.” [↑](#footnote-ref-5)
6. Obviously, I had not read The Ethics of Liberty. [↑](#footnote-ref-6)
7. “Man” is a translation of the Dutch “mens” (German “mensch”), which means “human being.” The German “Man” (Dutch “men”) means “people,” but does not identify any particular persons. “Man sagt” (G.) and “Men zegt” (D.) translate as “People say” or “It is said.” [↑](#footnote-ref-7)
8. “Rectum” is the supine noun form of the verb “regere” (rego, rexi, rectum), *to make straight, lead, steer, direct, govern*. Thus, “rectum” means “that which is made straight, governed.” English “right,” German “Recht,” Dutch “recht,” French “droit,” Swedish “rätt”—all derive from “regere.” They determine the positivistic interpretation of “a right.” With respect to that interpretation, I use the term “rex-rights”—rights established by effective power. As such they have no normative connotation. [↑](#footnote-ref-8)
9. “Ius” derives from “iurare” (“iuro, iuravi, iuratum,” *to swear, vow, speak solemnly* (as if *under oath*). [↑](#footnote-ref-9)
10. Rothbard used the same line of argument in his Ethics of Liberty, p.45 (1998 edition) [↑](#footnote-ref-10)
11. My “The Lawful and the Legal,” *Journal des économistes et des études humaines*, VI, 4, 1996, 555–79. [↑](#footnote-ref-11)
12. *Summa Theologiae*, I-IIae, Q.96, art 2. [↑](#footnote-ref-12)
13. Freeman Dyson, “Innovation in physics,” in *Scientific American*, 199, n°3 (1958), p.78 [↑](#footnote-ref-13)
14. This too was noted in *The Ethics of Liberty*, chapter 4 [↑](#footnote-ref-14)
15. A short presentation is included in my “Argumentation Ethics and the Philosophy of Freedom.” [↑](#footnote-ref-15)
16. For a first sketchy attempt at elucidating the theme of the second volume, see my “The Philosophy of argument and the logic of common morality” in E.M. Barth & J.L.Martens, eds., *Argumentation: Approaches to Theory Formation* (1982), 281–293 [↑](#footnote-ref-16)
17. In October 1978, I went to the USA, to New York and then on to the sixth Libertarian Scholars Conference, held at Princeton University. [↑](#footnote-ref-17)
18. E.g., Walter Eucken, Alexander Rüstow, Wilhelm Röpke. Hayek’s turn from economist to political thinker (e.g., *The Constitution of Liberty*, 1960) was in many ways influenced by Ordo-liberal thought. [↑](#footnote-ref-18)
19. Vince Miller, Bruce Evoy (International Society for Individual Liberty), Chris Tame, Sean Gabb (Libertarian Alliance), Ralph Harris, Arthur Seldon (Institute of Economic Affairs), later also The Institute of Humane Studies and The Liberty Fund gave me international platforms in those pre-Internet days. [↑](#footnote-ref-19)
20. Mainly from Paul Lorenzen: Logische Propaedeutik (with W. Kamlah, 1967), *Normative Logic and Ethics* (1969); see my “The Modes of Opposition in the Formal Dialogues of Paul Lorenzen,” *Logique et Analyse*, 57/58, 1972, 103–136 (special issue edited by Leo Apostel). [↑](#footnote-ref-20)
21. Cicero, *De Legibus*, I§10 (My translation, based on Adolf de Mesnil’s 1879 edition). [↑](#footnote-ref-21)
22. E.g., J. Ralston Saul, *Voltaire’s Bastards—The dictatorship of Reason in the West* (1992) [↑](#footnote-ref-22)
23. An important opponent of Hoppe’ argumentation ethics was Leland B. Yeager, *Ethics as a Social Science: The Moral Philosophy of Social Cooperation* (2001), which was inspired by another utilitarian libertarian economist, Henry Hazlitt (*The Foundations of Morality*, 1964). For obvious reasons, Hoppe’s argumentation ethics was ignored by prominent but non-Austrian utilitarian and libertarian economists (e.g., David Friedman, *The Machinery of Freedom*, 1973, 1989, and Hidden Order, 1996). [↑](#footnote-ref-23)
24. Ludwig von Mises, *Theory and History* (1957), p. 12 [↑](#footnote-ref-24)
25. Ibid., p. 52 [↑](#footnote-ref-25)
26. Ibid., p.12, and the section ‘The Utilitarian Doctrine Restated’, p.55sqq. [↑](#footnote-ref-26)
27. Ibid., p.40: “So long as there is social cooperation and population has not increased beyond the optimum size, biological competition is suspended.” [↑](#footnote-ref-27)
28. Patrick Wood, *Technocracy—The Hard Road to World Order* (2018) [↑](#footnote-ref-28)
29. Many assume that “absolute values” connote medieval obscurantisms such as “the human conscience,” from which Luther’s doctrine of “private conscience” supposedly had liberated modern man. (Never mind that “private conscience” is a *contradictio in terminis*, unless one equates the “con” in “conscience” with the “con” in “conman.”) Luther’s doctrine eventually came down to the Humean and Hayekian “Go with the flow of your neighbours,” then Kant’s “Criticize freely, but obey” and Mises’s “Think what you will, but be a social co-operator.” [↑](#footnote-ref-29)