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Defending Argumentation Ethics

This chapter is based on an article originally published in 2002 on the now-defunct site Anti-state.com, as a response to an article by Robert P. Murphy and Gene Callahan (hereinafter, MC), on the same forum,   
which was critical of Hoppe’s argumentation ethics.\*

\* My article was “Defending Argumentation Ethics: Reply to Murphy & Callahan,” *Anti-state.com* (Sept. 19, 2002), which is thesis of this chapter. It was a response to Robert P. Murphy & Gene Callahan, “Hans-Hermann Hoppe’s Argumentation Ethic: A Critique,” *Anti-state.com* (Sept. 19, 2002; archived at https://tinyurl.com/5n62x6zc and https://perma.cc/D395-3JSW). The original links for both our pieces are bad (as this was a *libertarian* publication, ‘natch) but MC later published a substantially similar version of their article as “Hans-Hermann Hoppe’s Argumentation Ethic: A Critique,” *J. Libertarian Stud.* 20, no. 2 (Spring 2006; https://mises.org/library/hans-hermann-hoppes-argumentation-ethic-critique): 53–64. In the later version of their paper they did not respond to my critique. As their earlier paper is no longer online, in this chapter I will reference the later article for quotes and page citations, and sometimes with in-line citations.

I later debated my longtime friend Bob Murphy, whose work I greatly respect and admire, on this topic. See Kinsella, “KOL278 | Bob Murphy Show: Debating Hans Hoppe’s ‘Argumentation Ethics,’” *Kinsella on Liberty Podcast* (Nov. 24, 2019).

See also various responses to MC and other criticisms of Hoppe, cited in “Dialogical Arguments for Libertarian Rights” (ch. 6), n.15, including Frank van Dun, “Argumentation Ethics and the Philosophy of Freedom,” *Libertarian Papers* 1, art. no. 19 (2009; www.libertarianpapers.org); Marian Eabrasu, “A Reply to the Current Critiques Formulated Against Hoppe’s Argumentation Ethics,” Libertarian Papers 1, art. no. 20 (2009; www.libertarianpapers.org); Walter Block, “Rejoinder to Murphy and Callahan on Hoppe’s Argumentation Ethics,” *J. Libertarian Stud.* 22, no. 1 (2011; https://mises.org/library/rejoinder-murphy-and-callahan-hoppes-argumentation-ethics): 631–39; and Norbert Slenzok, “The Libertarian Argumentation Ethics, the Transcendental Pragmatics of Language, and the Conflict-Freedom Principle,” *Analiza i Egzystencja* 58 (2022), 35–64. Hoppe re-presented his argument and responded to a variety of critics in his 2016 speech, at “PFP163 | Hans Hermann Hoppe, ‘On The Ethics of Argumentation’ (PFS 2016),” *The Property and Freedom Podcast*, ep. 163 (June 30, 2022) (which includes a transcript).

I intend here to provide a short guide to the relevant literature followed by a limited response to MC’s critique of Hans-Hermann Hoppe’s argumentation ethics.

BACKGROUND

Hoppe published several pieces expounding his “argumentation ethics” defense of libertarian rights, including “The Ultimate Justification of the Private Property Ethic” in *Liberty* magazine in 1988,[[1]](#footnote-1) which resulted in a large number of commentaries from several libertarian thinkers.[[2]](#footnote-2) Over the next few years, Hoppe’s theory was intensely debated and commented on by several libertarians. Several replies and reviews, for example, were published in *Liberty* and elsewhere, by libertarians such as Murray Rothbard, David Gordon, Tibor Machan, David Friedman, Loren Lomasky, David Osterfeld, Sheldon Richman, Leland Yeager, David Ramsay Steele, Douglas Rasmussen, David Conway, and others. Hoppe responded to many of these pieces at length.[[3]](#footnote-3)

Several of the replies to Hoppe were unusually nasty and unfair. Some were shocked anyone would argue for “untrammeled anarchism” and others were turned off by the idea that libertarian rights could be rigorously proved.[[4]](#footnote-4) Others badly misconstrued Hoppe’s argument. Still others, like Rothbard, recognized that Hoppe’s theory was a revolutionary advance in libertarian theory, as have a growing number of adherents over the years. As Rothbard wrote:

In a dazzling breakthrough for political philosophy in general and for libertarianism in particular, he [Hoppe] has managed to transcend the famous is/ought, fact/value dichotomy that has plagued philosophy since the days of the scholastics, and that had brought modern libertarianism into a tiresome deadlock. Not only that: Hans Hoppe has managed to establish the case for anarcho-capitalist, Lockean rights in an unprecedentedly hard-core manner, one that makes my own natural law/natural rights position seem almost wimpy in comparison.[[5]](#footnote-5)

Since the original article upon which this chapter is based was published, there have been many more contributions expanding on and defending Hoppe’s argumentation ethics. In the years since Hoppe’s theory was first published, several scholars have worked to defend, clarify and extend it.[[6]](#footnote-6) I have also commented and built on Hoppe’s work in my own writing.[[7]](#footnote-7)

To fully appreciate Hoppe’s argument and to fairly evaluate MC’s critique, I suggest reading Hoppe’s own work[[8]](#footnote-8) and various secondary sources.[[9]](#footnote-9)

LIBERTARIAN RIGHTS

The central question here is: does Hoppe’s theory establish that there are libertarian rights?

Scarce (conflictable) resources are those things over which there can be conflict; two or more individuals may want to use or control a given scarce resource at the same time, but only one of them can, because use by one excludes use by the other. Thus, as Hoppe explains, a theory of interpersonal ethics must be a theory of property rights, “a theory of the assignment of rights of exclusive control over scarce means.”[[10]](#footnote-10) The purpose of rights is to specify which individual has the right to control a given scarce resource, so that conflicts may be avoided. The person who has the right to control a given scarce resource—its owner—is the person who is *justified* in using the resource, in excluding others, and in enforcing this exclusion against non-owners who would act in disregard of the owner’s property rights.

Everyone has at least an implicit view of rights. An aggressor—or at least one who would try to justify his aggression—maintains that he is entitled to a given scarce resource “because” he is strong enough to take it. Others, such as socialists, believe that the state is entitled to the means of production “because”—well, because they are the state, “because” capitalists “exploit” workers, and so on. Mainstream liberal-democratic types believe that, for example, the poor are entitled to property formerly owned by the not-poor, “because” the property is transferred from the latter to the former by means of a democratic process, which is “legitimate.” Everyone assigns each disputed scarce resource to *some* owner—whether to a thief, the state, or a relatively-poor “needy” person—for *some* reason.

The libertarian view is that each person presumptively owns his own body, and for other, previously-unowned resources, the owner is determined in accordance with the principles of original appropriation and contractual title transfer. Thus, under libertarianism, an individual has (a) a right to the exclusive control of the scarce resource of his body, sometimes called “self-ownership”; and (b) a right to the exclusive control of other, previously-unowned scarce resources that are originally appropriated by the individual or by his ancestor-in-title.[[11]](#footnote-11)

So the question is, does Hoppe’s theory establish that the libertarian view of rights, as opposed to competing views, is the correct one?

HOPPE’S THEORY: LET’S TRY AGAIN

I do not intend here to restate Hoppe’s entire argument, as I believe it has been adequately explicated and defended already by Hoppe in the literature referenced above. And he has already replied to numerous criticisms, including arguments similar to those leveled by MC.[[12]](#footnote-12) Instead, I will try to show, as simply as possible, why Hoppe succeeds. I’ll then address, in view of this, a few of MC’s concrete critiques, but it should be clear by this point why I think their criticism is off base.

Hoppe starts by noting that if any proposed theory of rights is going to be justified, it has to be justified in the course of an argument (discourse). As Hoppe writes:

Whether or not persons have any rights and, if so, which ones, can only be decided in the course of argumentation (propositional exchange). Justification—proof, conjecture, refutation—is *argumentative* justification. Anyone who denied this proposition would become involved in a performative contradiction because his denial would itself constitute an argument. Even an ethical relativist must accept this first proposition, which has been referred to as the *a priori of argumentation*.[[13]](#footnote-13)

I fail to see how MC can disagree with this without falling into contradiction. It follows that if any norms, ethics, facts, or rules of discourse are *necessarily presupposed* by participants in argumentation simply by virtue of arguing, then no theory that contradicts these presupposed facts or norms could ever be justified. By contrast, any proposed theory that is consistent with, indeed implied by, these presuppositions, would have to be seen as irrefutably justified. This type of reasoning is called the “apriori of communication and argumentation,” and was pioneered by German philosophers Jürgen Habermas (Hoppe’s PhD advisor) and Karl-Otto Apel, although, unlike Hoppe’s approach, this method was applied by them to reach non-libertarian (social-democratic) results.

And there certainly are norms presupposed by argumentative justification as such. As Hoppe writes,

[A]rguing never just consists of free-floating propositions claiming to be true. Rather, argumentation is always an activity, too. But given that truth claims are raised and decided upon in argumentation and that argumentation, aside from whatever is said in its course, is a practical affair, it follows that intersubjectively meaningful norms must exist—precisely those which make some action an argumentation—which have special cognitive status in that they are the practical preconditions of objectivity and truth.

Hence, one reaches the conclusion that norms must indeed be assumed to be justifiable as valid. It is simply impossible to argue otherwise, because the ability to argue so would in fact presuppose the validity of those norms which underlie any argumentation whatsoever. [[14]](#footnote-14)

Again, I fail to see how MC can disagree with any of this, in general. Rather, the disagreement is over what norms are actually implicit in the activity of argumention—that is, over what participants in discourse *must presuppose to be true* in order to participate in argumentation. Whatever these presuppositions are, they rule out of court any proposed norms inconsistent with them. And, any such normative presuppositions, or norms deduced from these presuppositions, would have to be considered to be ultimately and irrefutably justified, as their validity could never be coherently denied.

UNIVERSALIZABILITY

So let’s see what Hoppe contends. First, any norm proposed in argumentation is presumed to be *universalizable*. Writes Hoppe:

Quite commonly it has been observed that argumentation implies that a proposition claims *universal* acceptability, or, should it be a norm proposal, that it is “universalizable.” Applied to norm proposals, this is the idea, as formulated in the Golden Rule of ethics or in the Kantian Categorical Imperative, that only those norms can be justified that can be formulated as general principles which are valid for everyone without exception.[[15]](#footnote-15)

In other words, any proposed norm—that is, an attempted justification for a given action—is not justified if it is not universalizable. This rule is presupposed by the very attempt to argumentatively justify something, because “argumentation implies that everyone who can understand an argument must in principle be able to be convinced of it *simply because of its argumentative force*.” Because the universalizability principle is an inherent feature of argumentation in general, “the universalization principle of ethics can now be understood and explained as grounded in the wider ‘apriori of communication and argumentation.’”[[16]](#footnote-16) I.e., no one can deny that only universalizable norms can be justified.[[17]](#footnote-17)

So, we have our first presupposition: that only universalizable ethics can be possible candidates for being justified.[[18]](#footnote-18) By the same token, so-called “particularizable” norms are not justifiable. However:

[T]he universalization principle only provides a purely formal criterion for morality. To be sure, checked against this criterion all proposals for valid norms which would specify different rules for different classes of people could be shown to have no legitimate claim of being universally acceptable as fair norms, unless the distinction between different classes of people were such that it implied no discrimination, but could instead be accepted as founded in the nature of things again by everyone. But while some norms might not pass the test of universalization, if enough attention were paid to their formulation, the most ridiculous norms, and what is of course even more relevant, even openly incompatible norms could easily and equally well pass it. For example, “everybody must get drunk on Sundays or be fined” or “anyone who drinks alcohol will be punished” are both rules that do not allow discrimination among groups of people and thus could both claim to satisfy the condition of universalization.

Clearly then, the universalization principle alone would not provide one with any positive set of norms that could be demonstrated to be justified.[[19]](#footnote-19)

But even though universalizability is merely a formal requirement, it does eliminate many proposed norms, such as those underlying most versions of socialism which amount to “I can hit you but you cannot hit me” particularizable rules.

[T]he property theory implicit in socialism does not normally pass even the first decisive test (the necessary if not sufficient condition) required of rules of human conduct which claim to be morally justified or justifiable. This test, as formulated in the so-called golden rule or, similarly, in the Kantian categorical imperative, requires that in order to be just, a rule must be a *general* one applicable to every single person in the same way. The rule cannot specify different rights or obligations for different categories of people (one for the red-headed, and one for others, or one for women and a different one for men), as such a “particularistic” rule, naturally, could never, not even in principle, be accepted as a fair rule by everyone. Particularistic rules, however, of the type “I can hit you, but you are not allowed to hit me,” are … at the very base of all practiced forms of socialism.[[20]](#footnote-20)

Thus universalizability acts as a first-level “filter” that weeds out all particularistic norms. This reduces the universe of possibly justified normative claims but does not finish the job since many incompatible and unethical norms could be reworded in universalizable ways.

It is for this reason that Hoppe next examines other, more substantive, presuppositions inherent in argument itself. These are then used in a second filtering process to reject additional proposed norms, those that are universalizable but incompatible with the other presuppositions of discourse. And, because some of these presuppositions turn out to be presupposed *norms*, Hoppe then shows that the libertarian conception of rights can be deduced from these presupposed norms and facts.

SUBSTANTIVE FACTS AND NORMS   
PRESUPPOSED IN ARGUMENTATION

The universalization principle filters out many possible norms, but many possible, mutually incompatible, and nonlibertarian candidates remain (“anyone who drinks alcohol will be punished”).

However, there are other positive norms implied in argumentation aside from the universalization principle. In order to recognize them, it is only necessary to call three interrelated facts to attention. First, that argumentation is not only a cognitive but also a *practical affair*. Second, that argumentation, as a form of action, implies the use of the *scarce resource* of one’s body. And third, that argumentation is a *conflict-free* way of interacting.[[21]](#footnote-21)

Participants in discourse cannot deny the existence of scarcity (discourse is a form of action, after all, and action implies scarce resources, in one’s body and in external objects or means of action) nor the possibility of conflict over these scarce resources. They also value the ability to participate in argument (they are engaging in it, after all) and thus its *practical preconditions*, namely the ability to actually use scarce resources in order to survive (for argumentation is not possible without survival). And because argumentation/discourse is a cooperative, civilized, peaceful activity, and because “justifying *means* justifying without having to rely on coercion,”[[22]](#footnote-22) participants in discourse necessarily value being able to use scarce resources in a conflict-free way. One adopting a civilized, peaceful stance and trying to justify a norm cannot coherently advocate non-peaceful norms. In fact, the very attempt to justify a resource allocation norm is an *attempt to settle conflicts* with regard to the use of that resource. Thus, a participant in discourse could never justify the proposition that there is no value to being able to use resources, or that conflict should not be avoided, or that cooperation and peacefulness are bad things. Valuing the avoidance of conflicts also presupposes the value of attempting to find rules that make conflict avoidance possible. I.e., property rules.

Accordingly, participants in discourse, in particular those seeking to justify proposed norms, implicitly recognize the value and legitimacy of assigning specified property owners to specified scarce resources—for reasons that are universalizable and that make conflict-avoidance possible. However, property rights make conflict avoidance possible by establishing perceivable boundaries to resources indicating the resource’s borders and who the owner is, and by basing the assignment on universalizable rules that could be accepted as fair by all potential participants in discourse, in argumentative justification. For this reason, the assignment of property rights has to be based on some *objective link* between the claimant and a particular resource.[[23]](#footnote-23)

What all this means is that anyone ever attempting to (argumentatively) justify any norm is already presupposing a host of norms and argumentative rules. The substantive presupposed norms rule out many proposed norms, even if they are universalizable. For example, a rule such as “no one should ever be able to use any scarce resource” could never be justified. It is incompatible with the speaker’s evident value for the ability to use scarce resources, because he has to (be able to) use the scarce resource of his body in order to engage in any activity, including argumentation. And he, or someone, had to be able to use other scarce resources such as food, shelter, etc., so that the arguers are alive and able to argue (remember, discourse is a practical affair, and requires the speakers to be alive, to have control of their bodies and their standing room, etc.).

In addition, a rule specifying that all resources, or even some resources, should have no owner at all, simply does not allocate ownership in the scarce resources at issue, i.e., it does not fulfill its function of conflict-avoidance. Unless property rights are allocated to someone, conflict over each scarce resource is possible; that is the nature of scarcity. (As a practical matter, most such rules also imply that if a given resource should not be “owned,” then some person or agency is authorized to *prevent* others from using the thing. In which case the rule is, in reality, assigning ownership to the agency with control and would need to be justified. For example, the public forests are said (by some libertarians) to be “unowned,” but the federal government prevents homesteaders from moving in. Clearly here the federal government is asserting ownership. The necessity of justifying this cannot be avoided by the fiction that the property is not owned.)

There is no way any norm can be justified that does not seek to assign ownership of every scarce resource to particular owners, based on an objective link between the owner and the owned resource. No rule could ever be justified if it refrains from deciding who owns a particular resource or if it specifies that no one owns a resource. And any justification offered has to be universalizable. The reasons for all these requirements should be clear by now, as discussed above. Particular owners must be assigned to each and every scarce resource—this is what any theory of property—any ethic—has to do. There must be an objective link between the owner and the resource, so that conflicts can be avoided, and also to comply with universalizability. “Every” scarce resource must be owned by someone, for conflict-avoidance and other reasons given above.

To this point the case is fairly general, and only establishes the framework for examining various competing norms. The libertarian insistence on objective links between resources and owners, and its particular view of what constitutes such objective links, is what completes the case.

OBJECTIVE LINKS:FIRST USE, VERBAL CLAIMS,   
AND THE PRIOR-LATER DISTINCTION

So now we come to libertarianism. It turns out that libertarianism is the only theory of rights that satisfies the presuppositions of discourse, because only it advocates assigning ownership by means of objective links between the owner and the resource in question.

Hoppe first establishes property rights in bodies. As noted above,[[24]](#footnote-24) argumentation is a *conflict-free* way of interacting, and justifying means justifying without having to rely on coercion. In other words, the nonaggression principle is presupposed in argumentation. Thus, in the case of one’s own body, the rule of “self-ownership” is implied, since saying that a participant in discourse is not permitted to aggress against the body of other participants is tantamount to recognizing a property right in each participant’s body. The nonaggression principle and self- (body-) ownership are just different ways of expressing the same idea. The objective link here is each person’s control over and identification with his own body.[[25]](#footnote-25)

As for previously-unowned, external scarce resources, the objective link that is relevant to property rights is first use, or original appropriation. Only the norm assigning ownership in a thing to its *first user*, or his transferee in title, could fulfill this requirement, or the other presuppositions of argumentation.

There is clearly an objective link between the person who first begins to use something, and emborders it, and all others in the world. Everyone can see this. No goods are ever subject to conflict unless they are first acquired by someone. The first user and possessor of a good is either its owner or he is not. If he is not, then who is? The person who takes it from him by force? If forcefully taking possession from a prior owner entitles the new possessor to the thing, then *there is no such thing as ownership*, but only mere possession.[[26]](#footnote-26) But such a rule—that a later user may acquire something by taking it from the previous owner—does not avoid conflicts, it rather authorizes them. It is nothing more than mights-makes-right writ large. This is not what peaceful, cooperative, conflict-free argumentative justification is about.

What about the person who verbally *declares* that he owns the good that another has appropriated? Again, this rule is not justifiable because it does not avoid conflicts—because everyone in the world can simultaneously decree that they own any thing. With multiple claimants for a piece of property, each having an “equally good” verbal decree, there is no way to avoid conflict by allocating ownership to a particular person. No way, other than an objective link, that is, which again shows why there must be an objective link between the claimant and the resource.

As Hoppe states:

Hence, the right to acquire such goods must be assumed to exist. Now, if this is so, and if one does not have the right to acquire such rights of exclusive control over unused, nature-given things through one’s own work, i.e., by doing something with things with which no one else had ever done anything before, and if other people had the right to disregard one’s ownership claim with respect to such things which they had not worked on or put to some particular use before, then this would only be possible if one could acquire property titles not through labor, i.e., by establishing some objective, intersubjectively controllable link between a particular person and a particular scarce resource, but simply by verbal declaration; by decree.… The separation is based on the observation that some particular scarce resource had in fact—for everyone to see and verify, as objective indicators for this would exist—been made an expression or materialization of one’s own will, or, as the case may be, of someone else’s will.[[27]](#footnote-27)

As Hoppe notes, assigning ownership based on verbal decree would be incompatible with the “nonaggression principle regarding bodies,” which is presupposed due to the cooperative, peaceful, conflict-free nature of argumentative justification. Moreover, it would not address the problem of conflict avoidance, as explained above.

Thus, Hoppe is correct, when he writes:

Hence, one is forced to conclude that the socialist ethic is a complete failure. In all of its practical versions, it is no better than a rule such as “I can hit you, but you cannot hit me,” which even fails to pass the universalization test. And if it did adopt universalizable rules, which would basically amount to saying “everybody can hit everybody else,” such rulings could not conceivably be said to be universally acceptable on account of their very material specification. Simply to say and argue so must presuppose a person’s property right over his own body. Thus, only the first-come-first-own ethic of capitalism can be defended effectively as it is implied in argumentation. And no other ethic could be so justified, as justifying something in the course of argumentation implies presupposing the validity of precisely this ethic of the natural theory of property.[[28]](#footnote-28)

In other words, cognition and truth-seeking as such have a normative foundation, and the normative foundation on which cognition and truth rest is the recognition of private property rights.[[29]](#footnote-29)

MURPHY’S & CALLAHAN’S CRITIQUE

I am really at a loss as to where MC would part company with this theory. Do they deny, for example, that there is scarcity in the world or that conflicts are possible? I doubt it. Do they deny that universalizability is a requirement for justified norms? I doubt it, unless they are also ethical skeptics, in which case I wonder why they consider themselves libertarians.[[30]](#footnote-30) Do they deny that rights have to be justified, and that justification has to occur during argument? Such a denial would be a neat trick, as it would itself be an argument. Do they maintain that participants in discourse do not presuppose *any* truths?—or do they just say that none of these are *normative*? Or do they think that argumentation is not a conflict-free way of interacting?—in which case they would seem to think bashing someone over the head or stealing their wallet is also a form of peaceful, cooperative discourse.

Or, do they think it is coherent for a participant in the peaceful, cooperative activity of discourse, while searching with the other for a universalizable, conflict-avoiding property allocation rule, to advocate socialism, or any other non-libertarian approach? If they are libertarians surely there must be *some* advantage to libertarian rights that would factor in to such a generalized argumentative justification context. Or, would MC seriously maintain that a norm could be argumentatively justified, if the norm, if followed, would render human life, and thus argumentative justification itself, impossible?[[31]](#footnote-31)

MC do not attempt to debunk argumentation ethics in general, or, alternatively, to show just what ethics *are* implied in argumentation (and why these are not the ones that Hoppe proposes). Do they believe *any* norms are implied in argumentation? If not, they would seem to reject the entire edifice of work in this regard, including work by Jürgen Habermas, Karl-Otto Apel, Frank van Dun, G.B. Madison, Alan Gewirth, Roger Pilon, Tibor Machan, and others discussed in “Dialogical Arguments for Libertarian Rights” (ch. 6).

On the other hand, if they accept that argumentation implies *some* norms, which are they? Do these norms support libertarianism? Socialism? Or are they only non-rights-related interpersonal norms, like “be nice” or “don’t lie”?[[32]](#footnote-32) Are these argumentatively-presupposed norms at least consistent with libertarianism? MC write:

Hoppe next invokes the “ethics of argumentation,” which was developed by Habermas and Apel…. They contend that whenever people are engaged in debate, they have implicitly agreed to a certain set of norms, for example, that they will restrict themselves to peaceful means in their efforts to persuade other participants of their contentions. [54]

It is not clear whether MC are merely paraphrasing this basic insight or whether they agree with it. If they do, are there *no* implications to be drawn from this? Does it place no constraints whatsoever on the legitimacy of norms propositionally advanced in the course of (peaceful!) argument? After all, later they say “Hoppe has shown that bashing someone on the head is an illogical form of argumentation.” (p. 58) Does this concede that argumentation does presuppose some norms? It’s not clear.

It seems to me that if MC accept any form of argumentation ethics as valid—that is, if there are some norms implied in discourse—then, as libertarians who believe libertarian norms *are* (somehow) justified, they would have to believe that the argumentative norms are at least compatible with, if not the grounding for, libertarian rights. That is, if you accept that there are some norms presupposed by argumentative justification, *and* if you yourself accept libertarian norms, you must believe that the norms of argumentation ethics are at least compatible with, and possibly relevant to, the greater set of libertarian norms.

*Universalizability*

What about universalizability? I am not sure if MC really reject the universalizability requirement—but if they do, I fail to see how they can themselves adhere to any notion of rights; rejecting universalizability means that any norm whatsoever can be proposed by simply making up a particularistic reason for it. Without the universalizability principle, literally “anything goes,” which of course leads to ethical relativism and/or skepticism. I will assume that MC are not ethical relativists or skeptics and thus do not reject universalizability. But I am not sure they fully appreciate this principle.

Consider this comment by MC:

To simply declare that ownership rights must be “universalizable” is no help, either; after all, communists could cite the same principle to “prove” that everyone should have equal shares to all property. [59 n.3]

MC write here as if they are totally unaware that Hoppe has explicitly stated that “the universalization principle only provides a *purely formal criterion for morality*.”[[33]](#footnote-33) Of course, even if socialism’s principles were reformulated in a completely universalizable way, it will still be inconsistent with other norms presupposed in argumentation, as noted above.

And regarding universalizability, MC also state:

Our final point in this section is to note that, even setting aside all of the above difficulties, it’s still the case that Hoppe has only proven self-ownership for the individuals in the debate. This is because, even on Hoppe’s own grounds, someone denying the libertarian ethic would only be engaging in contradiction if he tried to justify his preferred doctrine to its “victims.”

For example, so long as Aristotle only argued with other Greeks about the inferiority of barbarians and their natural status as slaves, then he would not be engaging in a performative contradiction. He could quite consistently grant self-ownership to his Greek debating opponent, while denying it to those whom he deems naturally inferior…. Aristotle need only contend [that] barbarians [] are not as rational as Greeks. [58, 59]

Do MC think that merely “deeming” or “contending” something to be so is automatically compatible with universalizability? I believe they are simply misapplying the universalizability principle here (or, rather, failing to apply it). For Aristotle to grant rights to himself and Greeks, but not to other individuals, would simply be particularistic. He would have to show that there is some reason, objectively grounded in the nature of things, that justifies rights in Greeks but not in other people identical to Greeks in all respects *except for* their Greekness. Again, either the universalizability requirement is taken seriously, or it is not. If not, the door to ethical skepticism is opened wide.[[34]](#footnote-34)

Moreover, I would assume MC themselves do *not* agree that one can mount a viable argument that Greeks have rights (for some reason) but other humans do not. So why would they think it’s “consistent” to make such an argument, when even they would (presumably) disagree with such an argument?

*Entire Body vs. Parts of the Body*

One criticism MC make is the argument that Hoppe has not succeeded in arguing for ownership of one’s entire body, but, at best, only parts of it:

At best, all Hoppe has proven is that it would be a performative contradiction for someone to deny in an argument that his debating opponent (and perhaps those in the same “class”) own the body parts (such as eyes, brain, and lungs) necessary for debate, for the duration of the debate. This is a far cry from showing that it would be a contradiction for someone to deny the case for libertarianism. In particular, a collectivist could argue that people can rightfully be forced to give up a kidney, or go to war, if such actions would help the rest of society. [60]

Hoppe has subsequently responded to this type of argument:

Some critics have argued that this does not demonstrate a person’s ownership of his entire body, but at best only of parts of it. Why? Because to argue it is not necessary to use all body parts. And true enough, you do not need two kidneys, two eyes or an appendix to argue. Indeed, you also do not need your body hair or even arms and legs to argue. And hence, according to such critics, you cannot claim to be the lawful owner of your two kidneys or eyes, your legs and arms. Yet this objection does not only appear silly on its face—after all, it implies the recognition of these “un-necessary” parts as *natural parts of one unitary body* rather than as separate, stand-alone entities. More importantly, it involves, philosophically speaking, a category mistake. The critics simply confuse the *physiology* of argumentation and action with the *logic* of argumentation and action. And this confusion is particularly surprising coming from economists, and even more so from economists familiar also with praxeology. For the fundamental distinction made in economics between “labor” and “land” as the two originary means of production, which corresponds exactly to the distinction made here between “body” and “external world,” is also not a physiological or physicalistic distinction, but a praxeological one.

The question to be answered is not: which body parts are physiologically necessary requirements for one person arguing with another person. Rather, the question is: which parts of my body and which parts of your body can I or you argumentatively justify as my or your lawful possessions. And to this a clear and unambiguous answer exists. I am the lawful owner of my nature-given body with everything naturally in it and attached to it, and you are the lawful owner of your entire nature-given body. Any argument to the contrary would land its proponent in a performative or dialectic contradiction. For me to say, for instance, in an argumentation with you, that you do not rightfully own all of your nature-given body is contradicted by the fact that in so arguing, not fighting, with you, I must recognize and treat you as another person with a separate body and recognizably separate physical boundaries and borders from me and my body. To argue that you do not lawfully own your entire natural body, which you actually possess and have peacefully taken into possession before I could have possibly done so indirectly by means of my natural body, is to advocate conflict and bodily clash and hence contrary to the purpose of argumentation: of peacefully resolving a present conflict and avoiding future conflict.[[35]](#footnote-35)

*Arguing With Your Slave*

MC introduce supposed “counterexamples” of God and slavery. Take the slavery case. They recognize that

Hoppe and Rothbardian libertarians in general do *not* believe in universal self-ownership. In particular, they believe that *criminals* may be rightfully enslaved to pay off their debts to victims (or their heirs). [62]

Well, of course! Hoppe is a libertarian. To advocate self-ownership means that a person has the right to control his body, as a default or *prima facie* matter. But if someone commits aggression, of course the victim now is a partial “owner” of the aggressor’s body, because he has a right to use force against it. So consider a man who now “owns” an aggressor who, say, murdered the man’s wife. Of course, the owner could engage in debate with the slave, but only by granting the slave the right to use his body for purposes of argument. But how does this change the fact that no one can argumentatively deny the normative presuppositions that imply libertarianism? Let’s assume the owner is libertarian. He believes in the need for property rules and conflict-avoidance. He believes any norms have to be universalizable. If he advocated socialism, his argument would be incompatible with necessary argumentative presuppositions of peace, prosperity, and conflict-avoiding prosperity—because socialist rules are either not universalizable or are not based on objective links between owner and resource.

But his claim that he has a right to wield force against the slave is perfectly justified. It is universalizable, because the different treatment of the slave-aggressor and the master-victim is not arbitrary but is grounded in the objective fact of the act of aggression. It is compatible with objectively assigning property rights, because it is a way of *enforcing* objectively assigned property rights that are violated.[[36]](#footnote-36)

And another way to look at this issue is this. As pointed out in chapter 4 (n.17), and as alluded to by Hoppe in the quote at note 35, above, and also his comments in the Foreword, the reasons for the self-ownership norm is that a person’s direct control over his own body has logical-temporal priority over the control by another person which must be *indirect*. Since the person always maintains direct control, another person attempting to control the person’s body by indirect control (basically, coercion) will always, necessarily, generate conflict. But the purpose of property norms is to reduce conflict or allow conflict to be avoided. So one of the reasons the slavery-norm cannot be accepted as justified is that it generates conflict. (There are other, interrelated reasons as well, such as: someone claiming ownership of another by indirect control claims ownership of his own body due to direct control; so it is contradictory to deny the same right to the other person.)

Now when the victim of a crime seeks to enslave the criminal, it is true that this will be a conflict: the indirect control of the victim will clash with the direct control of the criminal over his own body. Yet it is too late to avoid conflict; the criminal’s criminal act was already an act of conflict. So now we do not have two peaceful people seeking a conflict-reducing norm to allow them to live peacefully together. Now we have a victim of aggression and conflict who seeks to obtain some kind of rectification from the aggressor, *even if* that involves violently coercing or dominating the aggressor, overwhelming his direct control with indirect control via coercion. So there is no contradiction in Hoppe’s theory in opposing the slavery-norm as being contradictory and granting the legitimacy of a type of slavery in limited situations. In the first case, Hoppe is observing that a property norm aimed at reducing conflict cannot be justified if it sets up conflict. In the second case, conflict has already happened and now the victim is not seeking to avoid conflict but is instead seeking restitution.[[37]](#footnote-37)

*God as Slaveowner*

As for God—you can’t just *posit* that God owns everyone and “therefore” we are not self-owners. Moreover, even if God *does* own us, then this would be because God has some objective link that gives him a better claim or title to a person’s body than this person has—some kind of logical-temporal priority that takes precedence over the person’s own claims to own his body because of his direct control of his body. If we are positing this kind of magic, then God himself might have a sort of “super” direct control over our bodies that gives him a better claim. For example, as Hoppe points out (note the text I have italicized):

The answer to the question what makes my body “mine” lies in the obvious fact that this is not merely an assertion but that, for everyone to see, this *is* indeed the case. Why do we say “this is my body”? For this a twofold requirement exists. On the one hand it must be the case that the body called “mine” must indeed (in an intersubjectively ascertainable way) express or “objectify” my will. Proof of this, as far as my body is concerned, is easy enough to demonstrate: When I announce that I will now lift my arm, turn my head, relax in my chair (or whatever else) and these announcements then become true (are fulfilled), then this shows that the body which does this has been indeed appropriated by my will. If, to the contrary, my announcements showed no systematic relation to my body’s actual behavior, then the proposition “this is my body” would have to be considered as an empty, objectively unfounded assertion; and likewise this proposition would be rejected as incorrect if following my announcement not my arm would rise but always that of Müller, Meier, or Schulze (*in which case one would more likely be inclined to consider Müller’s, Meier’s, or Schulze’s body “mine”*).[[38]](#footnote-38)

Now Hoppe’s italicized example here is not intended to be realistic, anymore than the hypothetical construct of the “evenly rotating economy,” or ERE, employed by Mises and Rothbard; or the magical world of the Garden of Eden or the Land of Cockaigne (or Schlaraffenland), in which there is no scarcity or conflict possible, but in which human action is also virtually inconceivable.[[39]](#footnote-39) (This is unlike Robinsonades, which analyze the economic implications of the actions of Crusoe alone on his island, which is not unrealistic at all, just highly simplified.)[[40]](#footnote-40) It was merely a way to emphasis the crucial centrality of direct control with a somewhat unrealistic and whimsical hypothetical. Likewise, until someone can prove there is a God, and that he owns us, I fail to see the relevance of this example. In any case, as Locke argues, God “gave” self-ownership to each person, “manumitting” them in a sense.[[41]](#footnote-41) Notes Van Dun in this regard:

Assume that Murphy and Callahan refer to a theist in the Judeo-Christian tradition: Would God claim justifiable possession or control of a creature that He put out of his Garden when He discovered that it was capable of reason and free will? What does all the biblical talk about Covenants mean if we are asked to consider a covenant between an owner and his property?[[42]](#footnote-42)

Van Dun also observes that MC

fail to note the difference between arguing about God and arguing with God. The question of God’s ownership would have to be decided in an argumentation with God, not with any self-proclaimed representative of God, who would have a hard time proving his credentials anyway—so much so that it is doubtful that he would ever get to discuss the question of God’s ownership itself. The same applies to discussions about Society or The People’s having ultimate ownership of our bodies or other things.[[43]](#footnote-43)

Moreover, the purpose of property rights and human law is to govern interpersonal behavior among human beings, here on earth. Even if there is a God out there that has some kind of super-ownership claim over us, as his subjects or creations, within the human realm and among other humans, we are still self-owners *vis-à-vis* each other. As Walter Block observes, “libertarianism is a theory that concerns the relationship between man and man, not between man and God.”[[44]](#footnote-44)

Thus, the positing of a hypothetical God in no way refutes the conclusion that only the libertarian norms, including especially self-ownership, can be argumentatively justified amongst fellow humans.

*Claims Made During Argumentation Only*

MC try to make much of their notion that propositions advanced “during” argument are not subject to the presuppositions of argument if the rule is designed to be applied in a non-argumentative context. But propositions *can only* be justified during argumentation. A participant in discourse cannot deny that conflict-avoidance is good. *When he seeks to justify something*, it is always some action he seeks to justify. The justification takes place at one time; the action to be justified, at another. So what? Are MC saying that *no* action can ever be justified, other than argument itself? Consider an act of theft, or property acquisition, or rape: all non-argumentative actions. Obviously, these actions are not justifying-actions, because they are not arguments. The only time they could possibly be justified, or criticized, is at another time, during argument. In any event, this critique seems to miss the point. As Hoppe notes: “In the same way as the validity of a mathematical proof is not restricted to the moment of proving it, so is the validity of the libertarian property theory not limited to instances of argumentation. If correct, the argument demonstrates its universal justification.”[[45]](#footnote-45)

Thus, if two people seek to agree upon a fair, universalizable rule for assigning property rights in scarce resources to individuals in a way that would allow conflict to be avoided and the resources to be used—of course the rule they are considering will be applicable to future property disputes. I am baffled at how they could think otherwise.[[46]](#footnote-46)

1. See Hans-Hermann Hoppe, “The Ultimate Justification of the Private Property Ethic,” Liberty 2, no. 1 (Sept. 1988; https://perma.cc/6TYM-BJRZ): 20–22, republished as “On the Ultimate Justification of the Ethics of Private Property,” ch. 13 in Hoppe, The Economics and Ethics of Private Property: Studies in Political Economy and Philosophy (Auburn, Ala.: Mises Institute, 2006 [1993]; www.hanshoppe.com/eepp). See also Hoppe, “From the Economics of Laissez Faire to the Libertarianism” and “The Justice of Economic Efficiency,” chaps. 11–12 in The Economics and Ethics of Private Property; idem, “The Ethical Justification of Capitalism and Why Socialism Is Morally Indefensible,” in A Theory of Socialism and Capitalism: Economics, Politics, and Ethics (Auburn, Ala.: Mises Institute, 2010 [1989]; www.hanshoppe.com/tsc); and later pieces such as idem, “Of Common, Public, and Private Property and the Rationale for Total Privatization,” in The Great Fiction: Property, Economy, Society, and the Politics of Decline (Second Expanded Edition, Mises Institute, 2021; www.hanshoppe.com/tgf). I discuss argumentation ethics in “Dialogical Arguments for Libertarian Rights” (ch. 6); “The Undeniable Morality of Capitalism” (ch. 22); Kinsella, “Argumentation Ethics and Liberty: A Concise Guide,” StephanKinsella.com (May 27, 2011); and idem, “Hoppe’s Argumentation Ethics and Its Critics,” StephanKinsella.com (Aug. 11, 2015). [↑](#footnote-ref-1)
2. See the symposium “Breakthrough or Buncombe,” Liberty 2, no. 2 (Nov. 1988; https://perma.cc/A5UU-P64A): 44–53. [↑](#footnote-ref-2)
3. See Hoppe, “Appendix: Four Critical Replies,” in The Economics and Ethics of Private Property; see also idem, “PFP163 | Hans Hermann Hoppe, ‘On The Ethics of Argumentation’ (PFS 2016).” See also references in note \*, above. [↑](#footnote-ref-3)
4. See, e.g., Loren Lomasky, “The Argument from Mere Argument,” Liberty 3, no. 1 (Sept. 1989; https://perma.cc/38XS-ZDEL): 55–57; Hoppe’s reply, “Intimidation by Argument—Once Again,” Liberty 3, no. 2 (Nov. 1989; https://perma.cc/4382-RKSQ): 37–39, republished as “Intimidation by Argument” section III in “Appendix: Four Critical Replies” (to Lomasky’s complaint that Hoppe’s treatise is “no less than a manifesto for untrammeled anarchism,” Hoppe responds, “Only someone advocating the trammeling of private property rights would take offense”); and Rothbard’s response to Lomasky, “Hoppephobia,” originally published in Liberty 3, no. 4 (March 1990; https://perma.cc/JT7K-YTUJ): 11–12, reprinted at LewRockwell.com (Oct. 4, 2014; https://perma.cc/5HH6-2P78):

   [Lomasky] is shocked and stunned that Hoppe is not simply a defender of existing capitalism; his book is “no less than a manifesto for untrammeled anarchism.” Well, heavens to Betsy! Anarchism! One wonders where Lomasky has been for the last 20 years! Perhaps the knowledge has not yet penetrated to the fastnesses of Minnesota, but anarchism has been a vibrant part of the libertarian dialogue for a long time, as most readers of Liberty well know. [↑](#footnote-ref-4)
5. Murray N. Rothbard, “Beyond Is and Ought,” Liberty 2, no. 2 (Nov. 1988; https://perma.cc/8LZR-DN6Y; also https://mises.org/library/beyond-and-ought): 44–45, 44. The hapless Leland Yeager later dishonestly tried to claim that Rothbard disavowed his earlier support for Hoppe’s argumentation ethics before his death. See “Dialogical Arguments for Libertarian Rights” (ch. 6), n.15. Yeager was also confused about self-ownership and knowledge and the calculation problem. On the former, see “How We Come to Own Ourselves” (ch. 4), n.1; regarding the latter issue, see “Legislation and the Discovery of Law in a Free Society” (ch. 13), at n.66. See also “The Undeniable Morality of Capitalism” (ch. 22), n.2, criticizing Yeager. [↑](#footnote-ref-5)
6. See Kinsella, “Argumentation Ethics and Liberty: A Concise Guide.” [↑](#footnote-ref-6)
7. See, e.g., “Dialogical Arguments for Libertarian Rights” (ch. 6); “The Undeniable Morality of Capitalism” (ch. 22); “A Libertarian Theory of Punishment and Rights” (ch. 5); also Kinsella, “Argumentation Ethics and Liberty: A Concise Guide.” [↑](#footnote-ref-7)
8. A good starting point would be: chapters 1 and 2 of A Theory of Socialism and Capitalism (discussing notions of scarcity, aggression, property, norms, and justification); chap. 7 of A Theory of Socialism and Capitalism, “The Ethical Justification of Capitalism and Why Socialism Is Morally Indefensible” (esp. pp. 154–71); “Appendix: Four Critical Replies”; and “PFP163 | Hans Hermann Hoppe, ‘On The Ethics of Argumentation’ (PFS 2016).” See also related material in Kinsella, “Argumentation Ethics and Liberty: A Concise Guide.” [↑](#footnote-ref-8)
9. In particular, some of the works cited in “Dialogical Arguments for Libertarian Rights” (ch. 6), n.15, including Van Dun, “Argumentation Ethics and the Philosophy of Freedom”; Eabrasu, “A Reply to the Current Critiques Formulated Against Hoppe’s Argumentation Ethics”; Block, “Rejoinder to Murphy and Callahan on Hoppe’s Argumentation Ethics”; and Slenzok, “The Libertarian Argumentation Ethics, the Transcendental Pragmatics of Language, and the Conflict-Freedom Principle.” See also Kinsella, “Hoppe’s Argumentation Ethics and Its Critics.” [↑](#footnote-ref-9)
10. Hoppe, A Theory of Socialism and Capitalism, p. 158 n.120; also p. 18 et pass. See also Kinsella, “On Conflictability and Conflictable Resources,” StephanKinsella.com (Jan. 31, 2022); Hoppe, “Of Common, Public, and Private Property and the Rationale for Total   
    Privatization.” See also Kinsella, “KOL259 | “How To Think About Property”, New Hampshire Liberty Forum 2019,” Kinsella on Liberty Podcast (Feb. 9, 2019), and “Selling Does Not Imply Ownership, and Vice-Versa: A Dissection” (ch. 11). [↑](#footnote-ref-10)
11. For more on this, see “What Libertarianism Is” (ch. 2), at n.4 et pass. For my attempt at a concise formulation of the libertarian view on self-ownership and external property rights, see Stephan Kinsella, “Aggression and Property Rights Plank in the Libertarian Party Platform,” StephanKinsella.com (May 30, 2022). See also references in “How We Come To Own Ourselves” (ch. 4), n.6. [↑](#footnote-ref-11)
12. See Hoppe, “PFP163 | Hans Hermann Hoppe, ‘On The Ethics of Argumentation’ (PFS 2016)”; idem, “Appendix: Four Critical Replies.” See also references in note \*, above. [↑](#footnote-ref-12)
13. Hoppe, The Economics and Ethics of Private Property, p. 384. See also idem, A Theory of Socialism and Capitalism, pp. 154–55:

    [I]t must be presupposed of any intellectual position, that it is meaningful and can be argued with regard to its cognitive value, simply because it is presented in a language and communicated. To argue otherwise would already implicitly admit its validity. One is forced, then, to accept a rationalist approach towards ethics for the very same reason that one was forced to adopt a rationalist instead of an empiricist epistemology.…

    The above argument shows us that any truth claim—the claim connected with any proposition that it is true, objective, or valid (all terms used synonymously here)—is and must be raised and decided upon in the course of an argumentation. And since it cannot be disputed that this is so (one cannot communicate and argue that one cannot communicate and argue), and it must be assumed that everyone knows what it means to claim something to be true (one cannot deny this statement without claiming its negation to be true), this has been aptly called “the a priori of communication and argumentation.” [↑](#footnote-ref-13)
14. Hoppe, A Theory of Socialism and Capitalism, p. 155. [↑](#footnote-ref-14)
15. Ibid., p. 157. [↑](#footnote-ref-15)
16. Ibid. [↑](#footnote-ref-16)
17. See also Kinsella, “The problem of particularistic ethics or, why everyone really has to admit the validity of the universalizability principle,” StephanKinsella.com (Nov. 10, 2011); “What Libertarianism Is” (ch. 2), the section “Self-ownership and Conflict Avoidance”; “How We Come to Own Ourselves” (ch. 4), n.15; “A Libertarian Theory of Punishment and Rights” (ch. 5), Part III.D.2; and “Dialogical Arguments for Libertarian Rights”   
    (ch. 6), n.43 and accompanying text. [↑](#footnote-ref-17)
18. Murphy appears to concede this point that universalizability is an undeniable requirement for normative justification; he simply thinks it isn’t useful. In the informal discussion on Anti-state.com following my original response article, there was this exchange:

    Kinsella: “No one, that I can see, has been denying that fundamental moral principles should be universalizable.”

    Murphy: “Right. All I (and I think Gene) have argued is that ‘universalizability’ doesn’t really help much in deciding between concrete systems. At a formal level, socialism doesn’t imply ‘I have the right to hit you but you don’t have the right to hit me’ anymore than capitalism does. Socialism really says, ‘I have the right to hit you if the elected government [or whatever] says it’s legitimate,’ and capitalism really says, ‘I have the right to hit you in defense of my property rights.’ So the issue boils down to whether socialism and capitalism can be justified on other grounds. I.e., the universalization principle doesn’t give us any help in picking between the two.

    Archived at https://tinyurl.com/54rzjcnp and https://perma.cc/UU8S-2APB (emphasis added).

    Callahan, by contrast, does not appear to even grant the universalizability requirement. From our exchange at the same page:

    lee\_mccracken: “does this ‘universalizability’ principle imply that there can’t be special moral duties (say, the duties of parents to children or vice versa)? Hoppe says that such principles could be found to be universally acceptable if they are ‘grounded in the nature of things’, but I’m not quite sure what this means. Can anyone explain that further?”

    Callahan: “My cynical view: ‘the nature of things’ means whatever you want it to in order to get to the conclusion you want anyway.”

    Kinsella: “Right. As [] I suspected, you do not seem to accept the validity of the universalizability principle. Which, as I indicated, leads to skepticism, which of course goes hand in hand with cynicism.… Gene, I’d ask you to confirm or deny that you reject the universalizability principle—but I won’t hold out hope that you will do this. But if you would confirm it, I’d say—you are subject to this criticism (about the nature of things) yourself. And if you deny it, I’d ask you—do you really realize the implications of such a denial?”

    Callahan did not to respond to this direct question.

    Murphy is correct that some socialist norms can be universalized, as Hoppe himself explicitly notes (see text at note 19). However, as Hoppe points out, this does not mean that all invalid norms can be reformulated to avoid violating universalizability, and can serve as a first-level “filter” for eliminating some particularizable norms; nor that the universalizability criterion is useless for, if one is forced to reformulate an apparently particularized (and thus facially invalid) norm to avoid this problem, it exposes the nature of the claimed norm more clearly so that it can be compared to other, more substantive, norms necessarily presupposed by any participants in argumentative justification. See text at note 20 below, et pass. See also Eabrasu, “A Reply to the Current Critiques Formulated Against Hoppe’s Argumentation Ethics,” p. 11 et pass. [↑](#footnote-ref-18)
19. Hoppe, A Theory of Socialism and Capitalism, pp. 157–58 (emphasis added). [↑](#footnote-ref-19)
20. Ibid., p. 14. [↑](#footnote-ref-20)
21. Ibid., p. 158 (emphasis added). [↑](#footnote-ref-21)
22. Ibid., p. 159. [↑](#footnote-ref-22)
23. See, on this, “How We Come To Own Ourselves” (ch. 4), references in n.6; also Kinsella, “KOL259 | “How To Think About Property”, New Hampshire Liberty Forum 2019”; “Selling Does Not Imply Ownership, and Vice-Versa: A Dissection” (ch. 11); idem, “Aggression and Property Rights Plank in the Libertarian Party Platform”; also Hoppe, “Of Common, Public, and Private Property and the Rationale for Total Privatization.” See also “What Libertarianism Is” (ch. 2). [↑](#footnote-ref-23)
24. See text at notes 21–22, above. [↑](#footnote-ref-24)
25. See also “How We Come To Own Ourselves” and “What Libertarianism Is” (ch. 2). [↑](#footnote-ref-25)
26. On the distinction between possession and ownership, see “What Libertarianism Is” (ch. 2), at notes 22–24 and accompanying text, et pass. [↑](#footnote-ref-26)
27. Hoppe, A Theory of Socialism and Capitalism, pp. 161–62; see also pp. 169–71. See also Hoppe, “Appendix: Four Critical Replies,” in The Economics and Ethics of Private Property, p. 412:

    if actors were not entitled to own physical resources other than their bodies, and if they as moral agents … were to follow this prescription, they would be dead and no problem whatsoever would exist. For ethical problems to exist, then, ownership in other things must be justified. [↑](#footnote-ref-27)
28. Ibid., p. 171. [↑](#footnote-ref-28)
29. Hoppe, The Economics and Ethics of Private Property, p. 345. [↑](#footnote-ref-29)
30. As noted above (note 18), Murphy seems to acknowledge the universalizability principle, and is a libertarian, while Callahan appears to reject it and apparently, as far as I am aware, no longer considers himself a libertarian (or Austrian). [↑](#footnote-ref-30)
31. See also Rothbard’s criticism of the “communist” rule of universal equal and other-ownership:

    Can we picture a world in which no man is free to take any action whatsoever without prior approval by everyone else in society? Clearly no man would be able to do anything, and the human race would quickly perish. But if a world of zero or near-zero self-ownership spells death for the human race, then any steps in that direction also contravene the law of what is best for man and his life on earth.

    Murray N. Rothbard, “Interpersonal Relations: Ownership and Aggression,” in The Ethics of Liberty (New York: New York University Press, 1998), pp. 45–46, at 46, reproduced in substantially similar form in idem, “A Crusoe Social Philosophy,” Mises Daily (December 7, 2021; https://mises.org/library/crusoe-social-philosophy). See also related discussion in “How We Come to Own Ourselves” (ch. 4), n.14 and “Law and Intellectual Property in a Stateless Society” (ch. 14), n.27.

    For a related insight regarding the importance of the prior-later distinction and the necessity that property rights be able to answer the question of who can use what resource now, rather than waiting for some future information, otherwise people would not be able to survive because they could not use resources to produce and consume in the present, see Hoppe, “From the Economics of Laissez Faire to the Ethics of Libertarianism,” in The Economics and Ethics of Private Property, pp. 328–30; Hoppe, “On the Ultimate Justification of the Ethics of Private Property,” in The Economics and Ethics of Private Property, p. 345 (“Nobody advocating a wait-for-the-outcome ethic would be around to say anything if he took his own advice seriously. Also, to the extent that utilitarian proponents are still around, they demonstrate through their actions that their consequentialist doctrine is and must be regarded as false. Acting and proposition-making require private property rights now and cannot wait for them to be assigned only later.”); Hoppe, “Appendix: Four Critical Replies,” in The Economics and Ethics of Private Property, p. 407; idem, “The Ethics and Economics of Private Property,” in The Great Fiction, at section III, “Misconceptions and Clarifications.” See also Rothbard, “Beyond Is and Ought” (emphasis added):

    In the modern libertarian movement, only the natural-rights libertarians have come to satisfyingly absolute libertarian conclusions. The different wings of “consequentialists”—whether emotivists, utilitarians, Stirnerites, or whatever—have tended to buckle at the seams. If, after all, one has to wait for consequences to make a firm decision, one can hardly adopt a consistent, hard-nosed stance for liberty and private property in every conceivable case.

    See also Hoppe, “The Justice of Economic Efficiency,” in The Economics and Ethics of Private Property, at 337:

    While every person can have control over whether or not his actions cause the physical integrity of something to change, control over whether or not one’s actions affect the value of someone’s property to change rests with other people and their evaluations. One would have to interrogate and come to an agreement with the entire world population to make sure that one’s planned actions would not change another person’s evaluations regarding his property. Everyone would be long dead before this could ever be accomplished.

    For more on the prior-later distinction, see “What Libertarianism Is” (ch. 2), at notes 32–36 and accompanying text, et pass. [↑](#footnote-ref-31)
32. Van Dun does seem to have a somewhat broader conception of the scope of discourse ethics type reasoning than Hoppe or myself. See Van Dun, “Argumentation Ethics and the Philosophy of Freedom,” p. 32 n.73, regarding the “right to lie.” [↑](#footnote-ref-32)
33. Hoppe, A Theory of Socialism and Capitalism, p. 157 (emphasis added). [↑](#footnote-ref-33)
34. See also, on this “Greek” issue, Van Dun, “Argumentation Ethics and the Philosophy of Freedom,” pp. 24–25. See also Eabrasu, “A Reply to the Current Critiques Formulated Against Hoppe’s Argumentation Ethics,” pp. 17–23; Block, “Rejoinder to Murphy and Callahan on Hoppe’s Argumentation Ethics,” p. 635–36; Slenzok, “The Libertarian Argumentation Ethics, the Transcendental Pragmatics of Language, and the Conflict-Freedom Principle,” p. 55 et pass. [↑](#footnote-ref-34)
35. Hoppe, “PFP163 | Hans Hermann Hoppe, ‘On The Ethics of Argumentation’ (PFS 2016).” See also a similar quote in “How We Come to Own Ourselves” (ch. 4), at n.17. See also Van Dun, “Argumentation Ethics and the Philosophy of Freedom,” p.20 n.46, p.23 n.55, and accompanying text, et pass.; Eabrasu, “A Reply to the Current Critiques Formulated Against Hoppe’s Argumentation Ethics,” pp. 13–15; Block, “Rejoinder to Murphy and Callahan on Hoppe’s Argumentation Ethics,” p. 633; Slenzok, “The Libertarian Argumentation Ethics, the Transcendental Pragmatics of Language, and the Conflict-Freedom Principle,” pp. 55–56 et pass. [↑](#footnote-ref-35)
36. See “A Libertarian Theory of Punishment and Rights” (ch. 5) and “Dialogical Arguments for Libertarian Rights” (ch. 6). See also Hoppe’s rejection of a similar “slavery” argument in Hoppe, “Appendix: Four Critical Replies,” in The Economics and Ethics of Private Property, section II, “Utilitarians and Randians vs. Reason,” pp. 404 et seq. and also in Hoppe, “PFP163 | Hans Hermann Hoppe, ‘On The Ethics of Argumentation’ (PFS 2016)”:

    [M]atters are quite different when it comes to an argumentation between slave master and slave about the subject of slavery, i.e., the conditions under which their argumentation takes place. In this case, if the slave master would say to the slave “let’s not fight but argue about the justification of slavery,” and he would thereby recognize the slave as another, separate and independent person with his own mind and body, he would have to let the slave go free and leave. And if he would say instead “so what, I have recognized you momentarily as another independent person with your own mind and body, but now, at the end of our dispute, I deny you ownership of the means necessary to argue with me and prevent you from leaving anyway,” then he would be involved in a performative or dialectic contradiction.

    See also Slenzok, “The Libertarian Argumentation Ethics, the Transcendental Pragmatics of Language, and the Conflict-Freedom Principle,” p. 57 et pass.

    Of course, as I noted in the text above, if the slave had committed aggression against the master-owner, then the owner would not be involved in contradiction by treating the slave differently than himself. See also, on this issue, Van Dun, “Argumentation Ethics and the Philosophy of Freedom,” pp. 26–27; also p. 24 (emphasis added):

    [Hoppe’s] argument is that when A and B enter into an argumentation both of them do so under the dialectically valid presumptions of rationality, innocence, and self-ownership—presumptions that will hold until there is proof that they should be withdrawn.

    And ibid., p. 16 n.34 (emphasis added):

    [MC] assert “We cannot convince you of anything by clubbing you, but we may quite logically try to convince you that we should have the right to club you” (M&C, p.58). True, they may try to convince me that they ought to have the right to punish me for my crimes, if I have committed any. There is a good chance that they will succeed. But how on earth do they hope to convince me by means of logical arguments that they should have the right to club me, regardless of what I may have done or will do? If the (unqualified) statement “We have a right to club you” were justifiable then clubbing a person would be a justifiable action also in an argumentation.

    See also ibid., p. 26 n.62:

    Obviously, as noted before, there may be cases where the use of force to deprive another of his freedom is justified, for example to make him pay for his crimes, or to stop him from completing the crime he is in the process of committing. One may be justified in using uninvited force against such persons. However, these are not paradigmatic cases of the sort of slavery to which Friedman or Murphy and Callahan refer. [↑](#footnote-ref-36)
37. See further discussion of this matter at “How We Come To Own Ourselves” (ch. 4), the sections “Direct Control” and “Summary”; “Law and Intellectual Property in a Stateless Society” (ch. 14), Part II.C. [↑](#footnote-ref-37)
38. Quoted in “How We Come to Own Ourselves” (ch. 4), at n.17. [↑](#footnote-ref-38)
39. See the criticism of the ERE in Jörg Guido Hülsmann, “A Realist Approach to Equilibrium Analysis,” Q.J. Austrian Econ. 3, no. 4 (Winter 2000; https://mises.org/library/realist-approach-equilibrium-analysis): 3–51. On the Schlaraffenland construct, see Hoppe, “Of Common, Public, and Private Property and the Rationale for Total Privatization,” in The Great Fiction, p. 86; Hoppe, A Theory of Socialism and Capitalism, p. 219. See also the Wikipedia entry for “Cockaigne,” https://en.wikipedia.org/wiki/Cockaigne. These are both discussed in “On Libertarian Legal Theory, Self-Ownership and Drug Laws” (ch. 23), at notes 16–17. [↑](#footnote-ref-39)
40. See Ludwig von Mises, The Ultimate Foundation of Economic Science: An Essay on Method (Princeton, N.J.: D. Van Nostrand Company, Inc., 1962; https://mises.org/library/ultimate-foundation-economic-science), p. 41; idem, Epistemological Problems of Economics, 3d ed., George Reisman, trans. (Auburn, Ala.: Mises Institute, 2003), pp. 14–16, 30–31, 87–88; idem, Human Action: A Treatise on Economics, Scholar’s ed. (Auburn, Ala.: Mises Institute, 1998; https://mises.org/library/human-action-0), p. 64 et seq. See also Hoppe, A Theory of Socialism and Capitalism, p. 142, as quoted in “Causation and Aggression” (ch. 8), n.4. See also related discussion in “Knowledge, Calculation, Conflict, and Law” (ch. 19), at n.65, and “A Libertarian Theory of Punishment and Rights” (ch. 5), n.36. [↑](#footnote-ref-40)
41. See John Locke, Second Treatise on Civil Government (1690; https://www.johnlocke.net/2022/07/two-treatises-of-government.html), §25: “every man has a property in his own person: this no body has any right to but himself.” [↑](#footnote-ref-41)
42. Van Dun, “Argumentation Ethics and the Philosophy of Freedom,” p. 21 n.50. [↑](#footnote-ref-42)
43. Ibid., p. 21. [↑](#footnote-ref-43)
44. Block, “Rejoinder to Murphy and Callahan on Hoppe’s Argumentation Ethics,” p. 636. [↑](#footnote-ref-44)
45. Hoppe, The Economics and Ethics of Private Property, p. 406. [↑](#footnote-ref-45)
46. See also Hoppe, “PFP163 | Hans Hermann Hoppe, ‘On The Ethics of Argumentation’ (PFS 2016)”:

    Another “objection” to my argument from argumentation, advanced repeatedly and by several opponents in a seemingly most serious manner, actually better qualifies as a joke. It boils down to the claim that, even if true, my argument is irrelevant and inconsequential. Why? Because the ethics of argumentation is valid and binding only at the moment and for the duration of argumentation itself and even then only for those actually participating in it. Curiously, these critics do not notice that this thesis, if it were true, would have to apply to itself, too, and hence, render their own criticism irrelevant and inconsequential also. Their criticism itself then would be just talk for the sake of talking, without any consequence outside of talking. For, according to their own thesis, what they say about argumentation is true only when and while they are saying it and has no relevance outside the context of argumentation; and moreover, that what they say to be true is true only for the parties actually involved in argumentation or even only for them alone, if and insofar as there is no actual opponent and they say what they say in an internal dialog only to themselves. But why, then, should anyone waste his time and pay attention to such private “truths”?

    For others’ criticism of this “duration” part of MC’s argument, see Van Dun, “Argumentation Ethics and the Philosophy of Freedom,” p. 7 n.20, p. 19 n.43, and accompanying text, et pass.; Eabrasu, “A Reply to the Current Critiques Formulated Against Hoppe’s Argumentation Ethics,” pp. 15–17; Block, “Rejoinder to Murphy and Callahan on Hoppe’s Argumentation Ethics,” p. 633–34; Slenzok, “The Libertarian Argumentation Ethics, the Transcendental Pragmatics of Language, and the Conflict-Freedom Principle,” p. 55. [↑](#footnote-ref-46)