

# A Generalization and Critique of Hoppean Ethics\*

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Hans-Hermann Hoppe (1993, 2004) attempts to provide a rigorous argument for the ethical necessity of self-ownership and properly appropriated private property as a solution to the problem of social order. One line of Hoppe's argument is based on the claim that a denial of self-ownership represents an internal (or *performative*) contradiction: an individual, by performing argumentation for a lack of self-ownership, presupposes his self-ownership. This type of *argumentation-based ethics* is associated with the likes of Jürgen Habermas (e.g. 1990) and has been defended in this context by Frank van Dun (2006).<sup>1</sup>

On the other hand, Robert P. Murphy and Gene Callahan (2006) attack Hoppe's argumentation ethic from various directions. However, many of their attacks ignore the fact that Hoppe's ethics is based on *two* lines of argument that arrive at the same conclusions and are complementary to one another. The second line of argument, which is a restatement of Murray N. Rothbard's (1998) analysis, involves examining scenarios of ownership that could potentially apply to individuals and then asking which scenarios are ethically viable both as *categorical imperatives* and as scenarios allowing for the human race to physically survive if taken seriously (i.e. the implied ethic is obeyed by everyone).<sup>2</sup>

Many of Murphy and Callahan's counterexamples to Hoppe's arguments are invalid as categorical imperatives or imply rules that are such. Categorical imperatives are ethical rules that can be justified, famously in the words of Emmanuel Kant (1997, p. 31) as "*maxim[s] through which you can . . . will that [they] become universal law.*" Since this line of Hoppe's argument is attributable to Rothbard, Murphy and Callahan may be excused for focusing on the other, novel line of Hoppe's argument. However, since the two lines of argument are complementary –

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<sup>1</sup> van Dun's defense is a response to Murphy and Callahan (2006), cited below.

<sup>2</sup> This paper's title refers to "Hoppean" ethics because his treatment unifies the two lines of argument and because Hoppe is the leading, active proponent of that unified ethics. However, this author recognizes the magnitude of Rothbard's contribution and the complete appropriateness of referring to, instead, "Rothbardian-Hoppean" ethics.

Hoppe (2004, p.4) refers to the argumentation line as “an alternative way of demonstrating the idea” – it seems desirable to treat them as a unified ethics.<sup>3</sup>

In this paper I examine Hoppe’s unified ethics and generalize it by arguing that self-ownership is *not* the only permissible ethic based on its presuppositions. Rather, I argue that *self-ownership is one specific and permissible ethic amongst a general class of permissible ethics*. As such, libertarianism becomes *a* permissible solution to the problem of social order but not *the* permissible solution.

In the course of my arguments I accept the presuppositions in Hoppe’s analysis: first, a permissible ethical rule must be a categorical imperative; second, such a rule must be consistent with mankind’s survival; and, third, a solution to the problem of social order must “be decided in the course of argumentation” (Hoppe, 2004, p. 4).<sup>4</sup> I begin by outlining the analysis of categorical imperatives and then, to demonstrate the desirability of viewing Hoppe’s two lines of argument as a unified ethics, indicating how many of Murphy and Callahan’s attacks in terms of an argumentation ethic are inconsistent with insisting on categorical imperatives. In the following section I elaborate on a general scenario of ownership of individuals that includes the specific case of self-ownership and is permissible as a categorical imperative. Then a section is devoted to demonstrating that arguing for the general scenario of ownership, previously described, does not involve a performative contradiction. This paper then concludes with some implications of my arguments in terms of political economy.

### CATEGORICAL IMPERATIVES

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<sup>3</sup> Van Dun’s (2006, p. 2) discussion of argumentation ethics implies the presupposition of the necessity of categorical imperatives when elaborating on the “scientific fallacy”: “What is good reason for me is also a good reason for you. . . . As far as our relation with [other men] is concerned, the vertical or hierarchical subject-object distinction is inappropriate but the horizontal, egalitarian I-You distinction is not.”

<sup>4</sup> Evaluating these premises in another matter left to another paper and even, perhaps, other authors.

Hoppe (and Rothbard) considers the question of who holds ownership over a man's self, i.e. his physical body.<sup>5</sup> He claims three possibilities: (A) each individual has full self-ownership; (B) all individuals are equal co-owners in one another (i.e. communism); and (C) some individuals are self-owners and some individuals are owned by (an)other individual(s) (i.e. free and slave classes). According to Hoppe (2004, p. 3), B and C are the "only two alternatives" to A, the libertarian imperative.

Why are B and C the only alternatives? Here let us turn to the original presentation of this analysis by Rothbard (1998, p. 45) where he states that C fails a universalization test:

[H]ere, one person or group of persons . . . are entitled to own not only themselves but also the remainder of society . . . . we *cannot* here have a universal or natural law ethic for the human race.

Rothbard claims that those ruled are "subhuman beings who do not have a right to participate as full humans in the rights of self-ownership [which] violates the initial assumption that we are [developing] an ethic for human beings as such" (pp. 45-46). C is inadmissible because one cannot, by C's definition, will that scenario to be a universal maxim; *C cannot be a categorical imperative*.

But what remains? Well, A and B obviously. Scenarios A and B can both be categorical imperatives, but B – communism – is problematic in a different sense:

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

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<sup>5</sup> Rothbard and, especially, Hoppe, apply their analyses to not only ownership of an individual but also ownership of "all places and nature-given goods that he occupies and puts to use by means of his body . . ." (Hoppe, 2004, p. 3). Here I focus on ownership of the individual because I feel that it is prior to the ownership of places and goods. In other words, if a defense of self-ownership is undermined, the private ownership of places and goods necessarily falls in turn.

man would be able to do anything, and the human race would quickly perish (Rothbard, 1998, p. 46).

In a hypothetical world of two, three, or even ten men, perhaps this observation would be of little import. Practically speaking, in terms of our actual world of billions, it is undeniable. In principle, *B* could be willed a universal maxim, but it would *never actually be willed* in a world paralyzed by inaction. As Hoppe (2004, p. 4) comments, “[s]ince every human ethic must permit the survival of mankind, this alternative must also be rejected.”

The above line of argument is neglected in Murphy and Callahan’s (2006) recent critique of Hoppe’s ethics. In fairness, these authors do not claim to accept the necessity of ethical rules being categorical imperatives; in fact, they explicitly only refer to the argumentation ethics.<sup>6</sup> In any case, they produce many attacks on the ethics that, *prima facie*, greatly limit the scope of what constitute performative contradictions for an individual participating in an ethical argument about the ownership of individuals. However, if the necessity of categorical imperatives is also accepted, then many of the Murphy and Callahan attacks are inadmissible.<sup>7</sup> Here I present just a few examples to demonstrate the desirability of considering both lines of Hoppe’s argument as a unified ethics.

Murphy and Callahan (2006, p. 56) claim that Hoppe’s “argument only establishes self-ownership of [an individual’s body] *during the course of the debate*.”<sup>8</sup> If this is true, then the following may be ethically valid: “suppose a collectivist argues . . . during national emergencies, it is moral to use force to compel certain individuals to act in the public interest.” Note that, in this argument, it is moral to use force on *certain individuals* as presumably determined by the

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<sup>6</sup> Indeed, if Murphy and Callahan claimed such, it would be Hoppe’s (or Kant’s?) obligation to defend that premise.

<sup>7</sup> Murphy and Callahan’s discussion on the implications of argumentation ethics and also be critiqued in terms of argumentation ethics itself. To do so is beyond my present purposes and I take no stand on the validity of those arguments along those lines. For such a critique see van Dun (2006).

<sup>8</sup> In quotes used throughout this paper, unless otherwise noted the emphases are those of quoted authors.

*collectivist*. This presumes priority in compulsion to some individual(s) (the collectivist(s)) relative to other (certain) individuals. For this argument to represent a categorical imperative, the collectivist must also accept the statement: during national emergencies it is moral to use force to compel *me* to act in the public interest. Since we are considering *compulsion*, it is implicit that acting “in the public interest” is not something that “certain” individuals will be willing to do in the absence of said compulsion. So if the argument, as stated, is to represent a categorical imperative, certain individuals can compel the collectivist to the extent that the collectivist can compel them. (Not to mention that certain individuals’ reckoning of the “public interest” is as valid as that of the collectivist!) This scenario is paralyzing – the likelihood of ethical action is slim-to-none – and is, therefore, inconsistent with the survival of mankind.

As another example (which, again, clearly is devised to work in terms of the argumentation ethics) Murphy and Callahan (2006, p. 58) state: “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.’*” If there are *victims* of *someone(s) else’s* preferred doctrine, then the rule expressing that doctrine cannot be a categorical imperative. Importantly in terms of what follows below, the inconsistency does not involve there being individuals subject to coercion but, rather, individuals being victims of the *doctrine* itself. Or, placed in analogy scenario *B* above, even though a given individual is not allowed to act without everyone else’s permission (which is a coercive situation) the doctrine itself remains a universal maxim.

As a final example, which I find of considerable interest, Murphy and Callahan (2006, pp. 60-61) consider that a “theist might believe that God has granted humans *temporary control* over His property [but may] prohibit such things as suicide and prostitution.” Murphy and Callahan, in this hypothetical, liken God to a landlord and individuals to tenants in His property.

In this case we have to first explicitly put the example in a context of argumentation before evaluating the implied rule as a categorical imperative. Van Dun (2006, p. 15) notes that Murphy and Callahan, “fail to note the difference between arguing about God and arguing with God” and that, in considering a solution to the problem of social order, “the question of God’s ownership would have to be decided in an argumentation with God[.]” Assuming that such a thing could actually occur, God would find Himself in the awkward situation of failing a universalization test by arguing that He owns all the other participants in the argumentation (a type of *C* scenario from above).<sup>9</sup>

#### A GENERAL MAXIM INCLUDING SELF-OWNERSHIP AS A SPECIFIC CASE

While many of Murphy and Callahan’s critiques are inadmissible given Hoppe’s insistence on categorical imperatives, I am now going to argue that Hoppe’s claim of self-ownership as the only ethical solution to the problem of social order is still too strong. Accepting his premises, self-ownership remains a specific case of a general continuum of permissible ethics.

Consider a scenario which I will label *D*: *Each man will be partially and equally owned by everyone else, while maintaining a controlling share of ownership in himself.* Here I will define *controlling share* as a share of ownership in something that is larger than any other individual man's share of ownership in that something. (If the share is smaller than or equal to any other man's share I will refer to it as a *non-controlling share*.) *D* is a valid categorical imperative; it also does not rule out action. A controlling share implies that a man's own will to

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<sup>9</sup> One may certainly doubt the necessity of God being constrained by categorical imperatives. Perhaps I can avoid a lightning bolt (for now) by stressing that I am merely accepting Hoppe’s presuppositions for the sake of evaluating the internal consistency of his ethics – the passing of a considerable buck.

act overrides any other individual's share taken alone. A man's own will could only be overridden by a coalition of two or more equal other-owners of non-controlling shares.

Clearly *D* does not necessarily imply a libertarian ethic generally. If each man owns not only a controlling share of himself but also a *majority* share – call this alternative *A'* – then this particular imperative is ethically equivalent to *A* (which, itself, is a specific case of *D* where the individual's share in himself is unity and all other individuals' share are equally zero:  $A \in A' \subset D$ .) Majority ownership implies that no coalition of other shareholders can override the majority shareholder's will; therefore it implies a libertarian ethic. But if each man owns a non-majority but controlling share of himself, then the imposition of other-ownership upon a man (i.e., coercion) is permissible when a coalition of non-controlling shareholders trumps the controlling shareholder. Table 1 summarizes various, potential categorical imperatives of ownership in terms of whether they permit the possibility of acting man and whether they necessarily imply a libertarian ethic.

TABLE 1.  
POTENTIAL OWNERSHIP CATEGORICAL IMPERATIVES AND IMPLICATIONS

	Description	Action Possible?	Libertarian Ethic Only?
<i>A</i>	100 percent self-ownership	Yes	Yes
<i>A'</i>	majority self-ownership; equal other-ownership of minority	Yes	Yes
<i>D</i>	controlling self-ownership; equal other-ownership of remainder	Yes	No
<i>B</i>	universal and equal other-ownership	No	No
	non-controlling self-ownership; equal ownership of remainder	No	No

no self-ownership;  
equal other-ownership of whole

No

No

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*D* (i) passes a universalization test, (ii) permits action and the survival of mankind, but (iii) does not necessarily imply a libertarian ethic. It includes libertarianism as a permissible ethic but that ethic is not uniquely permissible. This generalization robs Hoppe's and Rothbard's analyses of much of their power.

#### ARGUING *D* WITHOUT A PERFORMATIVE CONTRADICTION

Murphy and Callahan critique Hoppe's ethics in terms of argumentation ethics but, in doing so, often use scenarios and claims incompatible with Hoppe's insistence on categorical imperatives. I have above introduced general maxim that is a categorical imperative but does not necessitate a libertarian ethic. To deal with both of Hoppe's lines of argument as a unified ethical analysis I now, alternatively, must demonstrate that pursuing an argumentation for *D* does not entail a performative contradiction.

Hoppe would presumably claim that argumentation for *D* does indeed entail a performative contradiction. He makes the statement:

Anyone who claimed any proposition as valid vis-a-vis an opponent would already presuppose his and his opponent's *exclusive* control over their respective body and standing room in order to say "I claim such and such to be true, and I challenge you to prove me wrong" (my emphasis) (Hoppe, 2004, p. 5).

I believe this statement is too strong and confuses argumentation with winning the argument. If, in an argumentation, I challenge an opponent to prove me wrong, do I necessarily presume his

*exclusive* control over their body and space? Strictly speaking I only presume that they, “have the opportunity to justify [their] actions and statements rationally” (van Dun, 2006, p. 4). Can I argue for *D* while maintaining that presumption?

To restate, my argumentation for *D* would entail the following statement: *Each man is partially and equally owned by everyone else, while maintaining a controlling share of ownership in himself.* Exercising my share of ownership in myself constitutes my ability to argue the point; likewise I presume that any opponent can exercise their share of ownership in themselves. The analogy to ownership in a corporation should not be lost here because it effectively indicates that exclusive control is not presumed in justifying one’s actions and statements rationally. Moreover, one need not even presume a controlling share of ownership, as in *D*. Every shareholder in a corporation typically exercises an argument in the actions of the corporation with weight of  $1/n$  where  $n$  is the number of equal unit shares in ownership. Presuming the smallest, i.e.,  $1/n^{\text{th}}$ , weight to a given argument in the outcome of an argumentation does not in any way belie the fact that it is indeed an argument!

In the case where a controlling share of his ownership does exist for an individual, one can furthermore see that paralysis is not implied. (Recall the insistence on survival of mankind.) In considering a given action on the part of an individual, he can always pursue that action in the absence of a coalition of other individuals exercising, together, a greater share of ownership in him to the contrary. In the case of unanticipated actions, an individual always has “first-mover” status; a contrary coalition presumably is costly in terms of time, effort, and information gathering.<sup>10</sup> Of course, coalitions could form *in anticipation* of certain actions; they could

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<sup>10</sup> In the analogy to a corporation, executives (with or without a controlling share of ownership) effectively move the corporation to act, sometimes against majority shareholder preferences due to the coordination costs and asymmetric information problems falling under the penumbra of the principal-agent problem.

prohibit (outlaw) certain actions in anticipation of individuals pursuing them. (The individuals wishing to pursue prohibited actions could, in turn, argue for their legalization.)

I should point out that the above discussion of argumentation in terms of exercising shares of ownership avoids the, in my opinion, fruitless discussion of whether ownership (control) applies to an individual's brain, soul, vocal cords, hands, eyebrows; whether it applies to the exact space they are standing or the air around them; and whether argumentation can be pursued by deaf, dumb, blind, or physically paralyzed individuals. My presumption is that rational beings argue however – and as best – they can.<sup>11</sup>

There remains one other line of reasoning by Hoppe that, if accepted, may rule out *D* as paralyzing accept in the specific case of self-ownership. His argument actually concerns to appropriation of places and goods, but I will address it since it is contradictory to say that an individual has complete ownership of all his property except for himself:

[I]f a person were not permitted to acquire property [by] original appropriation, . . . and if instead such goods or spaces were granted to late-comers, then no one would ever be permitted to begin using any good unless he had previously secured such a late-comer's consent. Yet how can a late-comer consent to the actions of an early-comer? Moreover, every late-comer would in turn need the consent of other and later late-comers, and so on. That is, neither we, nor our forefathers, nor our progeny would have been able to survive[.] . . . [P]roperty rights must necessarily be conceived of as originating by means of action at definite points in time and space by definite individuals. Otherwise, it would be impossible for anyone to ever

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<sup>11</sup> Another debatable interpretation is that I am *avoiding* those questions, and I reply: fair enough. I claim that discussion of such questions is, or has been, in large part unfruitful. Unfruitful does not necessarily imply irrelevant.

say anything at a definite point in time and space and for someone else to reply (Hoppe, 2004, p. 6).

This is an interesting demonstration of how only original appropriation by self-owners allows for the survival of mankind. However, it is contradictory to a basic presupposition of argumentation ethics which Hoppe (2004, p. 5) explicitly, and correctly, acknowledges: “only if both parties to a conflict are capable of engaging in argumentation with one another, can one speak of a moral problem[.] . . . [Otherwise] the ‘other’ cannot but be regarded and treated as an animal or plant, i.e., as an extra-moral entity.” At a particular point in time and space, our “forefathers” (i.e., dead people) and our “progeny” (i.e., the unborn people) are not capable of engaging in argumentation, ergo they are extra-moral entities. They are not relevant in deriving a solution to the social problem.

#### IMPLICATIONS

So we are left with a continuum of ownership scenarios – i.e. *D*: controlling self-ownership; equal other-ownership of the remainder – with elements are (i) introducible as categorical imperatives, (ii) consistent with the survival of mankind, and (iii) can be argued for without entailing a performative contradiction. Furthermore, only a subset of this continuum necessarily implies a libertarian ethic. On the one hand, my analysis demonstrates that complete self-ownership, which implies a libertarian ethic, is not the only permissible ethic based on the presumptions of Hoppe’s ethics. On the other hand, it also demonstrates that there exists a continuum of ownership scenarios *besides complete self-ownership* – i.e. *A'*: majority self-ownership; equal other-ownership of minority – that implies a libertarian ethic.

However, if the controlling share of self-ownership is a minority share, then the implied ethic is consistent with coalition-based coercion. This opens the door for the possibility of ethical government. For example, assume that mankind consists of 101 individuals at some point in time, and that each man owns 20 percent of himself; the other 80 percent equally owned by the remaining 100 individuals, i.e. each other-owner share is  $\frac{4}{5}$  of a percent. Now suppose that 26 of the men agree that cocaine use should be outlawed; the remaining 75 individuals do not. Can the 26 individuals ethically aggress against a cocaine user? Yes. These 26 men represent a coalition of 20.8 percent ownership in any given man, which trumps any given man's (initially) controlling 20 percent self-ownership share. The coalition of 26 could impose an ethical law.<sup>12</sup>

Of course, the 20 percent self-ownership number, along with all the other numbers above, are entirely arbitrary except in the sense that (1) the self-ownership shares are controlling, (2) all self-ownership shares are equal, and (3) all other-owner shares are also equal. In general, however, *ceteris paribus* the larger self-ownership shares assumed (or assigned) the larger the coalition necessary to impose laws. From controlling self-ownership shares arbitrarily close to (but larger than) non-controlling other-owner shares, to self-ownership shares arbitrarily close to (but less than) majority shares, there is a continuous, infinite set of permissible ethics.

How does one choose which continuum is relevant to solving the problem of social order –  $A'$  or  $(D - A')$ ? Apparently the debate has to be extended, perhaps into consequentialist arguments. Which continuum presents a solution or solutions that appear more desirable by the world thus implied? Or perhaps matters of practicality become important. A libertarian ethic (implied by  $A'$ ) is straightforward; the ethics implied by  $(D - A')$  are operationally difficult to

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<sup>12</sup> Of course, if there were 26 or more cocaine users then they could retaliate if, say, the anti-cocaine coalition all smoked by outlawing cigarettes.

apply, e.g. a pure democracy is admissible but paralyzing in practice; what sorts of representative democracies are admissible is a more complex matter.

## References

- Habermas, Jürgen. “Discourse Ethics: Notes on a Program of Philosophical Justification” in *Moral Consciousness and Communicative Action*. Cambridge, MA: MIT Press, 1990.
- Hoppe, Hans-Hermann. *The Economics and Ethics of Private Property*. Boston: Kluwer Academic Publishers, 1993.
- Hoppe, Hans-Hermann. “The Economics and Ethics of Private Property,” in Enrico Colombatto (ed.) *Companion to the Economics of Private Property*. London: Edgar Elgar, 2004.
- Kant, Immanuel. *Groundwork of the Metaphysics of Morals*. Cambridge: Cambridge University Press, 1997.
- Murphy, Robert P. and Callahan, Gene. “Hans-Hermann Hoppe’s Argumentation Ethic: A Critique,” *Journal of Libertarian Studies*. 20 (2), 2006: 53-64.
- Rothbard, Murray N. *The Ethics of Liberty*. New York: New York University Press, 1998.
- van Dun, Frank. “Comment on R. P. Murphy’s and Gene Callahan’s Critique of Hans-Hermann Hoppe’s Argumentation Ethics,” unpublished manuscript available at <http://users.ugent.be/~frvandun/Texts/Articles/MurphyCallahan.pdf>, 2006.