

A REPLY TO THE CURRENT CRITIQUES FORMULATED AGAINST HOPPE'S ARGUMENTATION ETHICS

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Introduction

This aim of this article is to defend the usage that Hans-Hermann Hoppe (1989; 2006) makes of *performative contradiction* for justifying the *self-ownership axiom*. “Any person who would try to dispute the property right in his own body would become caught up in a contradiction, as arguing in this way and claiming his argument to be true, would already implicitly accept precisely this norm as being valid” (Hoppe 2006, 133). The stake of this argument is to show with the help of performative contradiction that only the libertarian ethics based on self-ownership axiom can be justified. Better explanations of this idea will be provided in the next section.

Hoppe (2006, 399–418) himself has done a lot of work in elaborating on his own argumentation ethics and in replying some of his critics. Other scholars accurately reassumed and retraced the history and the key moments of the debate (Kinsella 2002b; Meng 2002; Gordon 2006). Leaving aside the debates already closed (Friedman 1988; Lomasky 1989; Osterfeld 1988; Richman 1988; Rasmussen 1988; Steele 1988; Yeager 1988; Rothbard 1988; 1990), this paper concentrates on ignored and still unanswered critiques (Terrell 2000; Godefridi 2004; Callahan and Murphy 2006). For a clearer

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CITE THIS ARTICLE AS: Marian Eabrasu, “A Reply to the Current Critiques Formulated Against Hoppe’s Argumentation Ethics,” *Libertarian Papers* 1, 20 (2009). ONLINE AT: libertarianpapers.org. THIS ARTICLE IS subject to a Creative Commons Attribution 3.0 License (creativecommons.org/licenses).

exposition, we distinguish between two strategies of critique. On the one hand, there is a general type of critique which disputes the capacity of performative contradiction in justifying any ethical principle. On the other hand, there is a specific type of critique which contests the ability of performative contradiction in justifying the self-ownership axiom.

This article will first reiterate the argument by performative contradiction and its importance within the libertarian framework. Second, some of the general critiques and misunderstandings will be discussed. Third, focus will be given to very specific and challenging critiques of the use that Hoppe makes of performative contradiction. The critiques formulated by Callahan and Murphy (2006) will be reviewed before answering them. Finally, the perspectives for new research opened by this argumentation will be emphasized. The main advances of this paper consist in providing a broader and systematic discussion of the debate on libertarianism's justification, in preventing future misunderstanding of Hoppe's argumentation and in formulating an original and pertinent reply to Callahan and Murphy's critiques.

The Argument by Performative Contradiction and its Importance for Libertarianism

Avoiding repetition, the choice to revisit a debate binds us to briefly present its intellectual roots. The idea of "performative contradiction" denotes an inconsistency between acting and saying. To utter a performative sentence is to make explicit what act one is performing. Paradigmatic cases of performatives involve saying something which, by the very act of saying itself, constitutes an act of the mentioned type (Searle 1969). For example, saying "I promise I will meet you at the movie" is a promise in itself. A performative contradiction occurs when the agent denies the conditions without which her action would not take place. This type of contradiction becomes obvious in verbal discourse when someone denies what it is required for her own speech. For example, it is absurd to say "there are no statements." This statement contradicts its *conditio sine qua non*: a statement is required to say "there are no statements." *Mutatis mutandis*, it is absurd to say: "I am not alive." This statement contradicts another statement ("I am alive") which is a *conditio sine qua non* to formulate the former statement. Conversely, a person could not claim to be dead without contradicting the very fact that she has to be alive for saying "I am dead."

This argument was used for the very first time by Aristotle in the book Γ of *Metaphysics*. Aristotle uses this argument for justifying the necessity of the principle of non-contradiction.

But even this can be demonstrated to be impossible, in the manner of a refutation, if only the disputant says something. If he says nothing, it is ridiculous to look for a statement in response to one who has a statement of nothing, in so far as he has not; such a person, in so far as he is such, is similar to a vegetable. By 'demonstrating in the manner of a refutation' I mean something different from demonstrating, because in demonstrating one might be thought to beg the original [question], but if someone else is cause of such a thing it must be refutation and not demonstration. In response to every case of that kind the original [step] is not to ask him to state something either to be or not to be (for that might well be believed to beg what was originally at issue), but at least to signify something both to himself and to someone else; for that is necessary if he is to say anything. For if he does not, there would be no statement for such a person, either in response to himself or to anyone else. But if he does offer this, there will be demonstration, for there will already be something definite. But the cause is not he who demonstrates but he who submits; for eliminating statement he submits statement. Again, anyone who agrees to this has agreed that something is true independently of demonstration. First, then, it is plain that this at least is itself true, that the name signifies to be or not to be that everything was so-and-so and not so-and-so. [Aristotle *Metaphysics*, 1006a11–1006a28]

To put it briefly, Aristotle argues that it is self-contradictory to deny the principle of non-contradiction. This is so because any statement that we want to communicate presupposes the non-contradiction principle. The Aristotelian argument is shared by most of the Scholastic authors. In his commentary of Aristotle's *Metaphysics*, Thomas Aquinas ([1271–73] 1950, liber iv, lectiones 6–7) uses the concept of "retorsive argument" (*redargutio elenchica*) for revealing the logical fallacy of rejecting a thesis which is presupposed *in actu exercito* i.e. in the course of the refutation. Performative contradiction initially formulated by Aristotle is extremely fashionable in logic, metaphysics and ethics. The *retorsive argument* is widely used and discussed by contemporary philosophers (Finnis 1977, 250; Isaye 1952; 1954, 205). *Performative inconsistency* (Boyle 1972) and *pragmatic auto-contradiction* (Mackie 1964; Passmore 1961, Chapter 4) are different names for the same argumentative process. However, this procedure of argumentation by performative contradiction became famous with Jürgen Habermas (1979; 1993) and Karl-Otto Apel (2001) which use it for justifying normative statements.

The demonstration of performative contradictions in particular cases serves to refute skeptical counterarguments. Apel and I employ this method to discover universal pragmatic presuppositions of argumentation and to analyze their normative content. In this way

I attempt to justify a principle of universalization as a moral principle. The initial intention is simply to demonstrate that moral-practical questions can indeed be decided on the basis of reasons. [Habermas 1993, 163]

In the opinion of these authors,

ultimate foundation is not possible by deduction but by transcendental reflection on the presuppositions of actual thought that cannot be denied without committing a performative self-contradiction. [...] Such a foundation would require that we could show by transcendental reflection that together with our acts of thinking we also must indisputably presuppose a principle or some fundamental norms of morality. [Apel 2001, 45]

According to Habermas,

Karl-Otto Apel proposes the following formulation in regard to the general presuppositions of consensual speech actions: to identify such presuppositions we must, he thinks, [...] call to mind “what we must necessarily always already presuppose in regard to ourselves and others as normative conditions of the possibility of understanding; and in this sense, what we must necessarily always already have accepted.” Apel here uses the aprioristic perfect (*immer schon*: always already) and adds the mode of necessity to express the transcendental constraint to which we, as speakers, are subject as soon as we perform or understand or respond to a speech act. In or after the performance of this act, we can become aware that we have involuntarily made certain assumptions, which Apel calls “normative conditions of the possibility of understanding.” [Habermas 1979, 1–2]

Rasmussen (1992, 17) dismisses Habermas’s defence of the argument from performative contradiction and doubts about its success “in establishing a normative basis from which to assess conceptions of justice.” Among all its various applications, performative contradiction became the nub of important debates for the justification of libertarianism. Stephan Kinsella (1996a, 314) calls into view the fact that “in recent years, interest has been increasing in rationalist-oriented rights theories or related theories, some of which promise to provide fruitful and unassailable defenses of individual rights. These arguments typically examine the implicit claims that are necessarily presupposed by action or discourse. They then proceed deductively or conventionally from these core premises, or axioms, to establish certain apodictically true conclusions.” Kinsella (1996a) exposes several variants of the argument from performative contradiction (Madison 1986, 266; van Dun 1982; 1986; Shearmur 1988; 1990; Chevigny 1980; Pilon

1979a; 1979b; Gewirth 1978; Machan 1996) and pertinently discusses their contribution in justifying the property rights.

Although he does not explicitly mention the terms of performative contradiction, Murray N. Rothbard uses this argument for unveiling the existence of an irrefutable type of ethical statement: the axiom.

We may note, that a proposition rises to the status of an axiom when he who denies it may be shown to be using it in the very course of the supposed refutation. Now, any person participating in any sort of discussion, including one on values, is, by virtue of so participating, alive and affirming life. For if he were really opposed to life, he would have no business in such a discussion, indeed he would have no business continuing to be alive. Hence, the supposed opponent of life is really affirming it in the very process of his discussion, and hence the preservation and furtherance of one's life takes on the stature of an incontestable axiom. [Rothbard 1998, 32–3]

The ethical axiom that Rothbard (1998, 45) has in mind is self-ownership. “Each man should be permitted (i.e. have the right to) the full ownership of his own body.”

Hoppe reformulates this argument more accurately and gives it all the weight needed for formulating a strong defense of libertarianism. Hoppe (2006, 342) defines the performative contradiction in the following terms.

It must be considered the ultimate defeat for an ethical proposal if one can demonstrate that its content is logically incompatible with the proponent's claim that its validity be ascertainable by argumentative means. To demonstrate any such incompatibility would amount to an impossibility proof; and such proof would constitute the most deadly smash possible in the realm of intellectual inquiry.

Hoppe observes that “the right to self-ownership” is very similar with the statement “I am alive.” One has to be not only a living person but she has to be also a non-coerced self-owner in order to deny the right to self-ownership. Hence, Hoppe purports to show that denying the right to self-ownership is self-contradictory:

Such property right in one's own body must be said to be justified *a priori*. For anyone who would try to justify any norm whatsoever would already have to presuppose an exclusive right to control over his body as a valid norm simply in order to say “I propose such and such.” And anyone disputing such right, then, would become caught up in a practical contradiction, since arguing so would already

implicitly have to accept the very norm which he was disputing.
[Hoppe 2006, 342]

Were this argument valid, libertarianism would be the only theory of justice that can be justified. By libertarianism it is intended the normative set of propositions derived from the self-ownership axiom. “In effect, this argument supports the natural rights position of libertarianism as espoused by the other master thinker of the modern libertarian movement, Murray N. Rothbard—above all in his *Ethics of Liberty*” (Hoppe 2006, 340–41). Showing that only the self-ownership axiom can pass the test of performative contradiction, justifies the preference for it. Libertarianism should be preferred to any other theory of justice, because only libertarianism is non-contradictory. To be sure, this fact does not impede conflicts to arise or non-libertarian solutions to be provided. Hoppe’s argument shows only that it would be absurd (i.e., self-contradictory) to adopt a non-libertarian ethics:

I demonstrate that only the libertarian private property ethic can be justified argumentatively, because it is the praxeological presupposition of argumentation as such; and that any deviating, non-libertarian ethical proposal can be shown to be in violation of this demonstrated preference. Such a proposal can be made, of course, but its propositional content would contradict the ethic for which one demonstrated a preference by virtue of one’s own act of proposition-making, i.e., by the act of engaging in argumentation as such. [...] Likewise, non-libertarian ethical proposals are falsified by the reality of actually proposing them. [Hoppe 2006, 341]

If libertarianism is the correct ethical theory, the foremost political implication which follows from this idea is anarchy.

As simple as the solution to the problem of social order is and as much as people in their daily lives intuitively recognize and act according to the ethics of private property just explained, this simple and undemanding solution implies some surprisingly radical conclusions. Apart from ruling out as unjustified all activities such as murder, homicide, rape, trespass, robbery, burglary, theft, and fraud, the ethics of private property is also incompatible with the existence of a state defined as an agency that possesses a compulsory territorial monopoly of ultimate decision-making (jurisdiction) and/or the right to tax. [Hoppe 2006, 388]

To sum up, the major stake of the argument by performative contradiction is the justification of anarchy. If only the self-ownership axiom can pass the test of performative contradiction, then only libertarianism can represent a coherent ethical theory. Libertarianism encloses the anarchist claim that State is immoral because it violates the self-ownership axiom.

This strategy of basing the defense of libertarianism on the argument by performative contradiction attracted very quickly the attention and the admiration of numerous libertarian scholars (Rothbard 1988; 1990; Kinsella 1996a; Gordon 2006). Moreover, Hoppe's argument from performative contradiction has a major influence on the libertarian scholars (Kinsella 2002a). However, given the importance of libertarianism's political implications, the critiques of its justification are inflowing from many directions. This paper proposes to show that they are not successful in their aim. For reasons of clarity, the exposition of the current critiques will be divided in two types: very general (targeting the use of performative contradiction) and more specific critiques (targeting the justification of the self-ownership axiom). Since we estimate that the first type of critiques have a broader application, it is appropriate to address them before introducing, in the section after, some of the critiques explicitly formulated against the self-ownership axiom.

General Critiques

By discussing general problems with the argument by performative contradiction we expect to prevent some of the numerous misinterpretations gravitating around it. What can be proved when the argument by performative contradiction is used? The argument by performative contradiction is generally employed as a test for the identification of ethical axioms. Hoppe claims that among all possible candidates to an ethical axiom, only self-ownership can pass this test. Since all the other candidates are internally inconsistent, it appears that only libertarianism can be considered as a just ethics. In other words, the argument from performative contradiction provides us the reasons for preferring libertarianism to any other ethical system. To be sure, the performative contradiction does not prove more than this. Bearing this fact in mind, we can now see more easily why some critiques of Hoppe's justification by performative contradiction of self-ownership misinterpret it.

Terrell misinterprets the role of performative contradiction when he considers that this type argumentation is not a *trustworthy revelatory document*.

The self-ownership axiom is not intuitively obvious. It is a statement that is essentially arbitrary and must be accepted by faith. Questions of faith certainly bear on economics, but without an internally consistent, trustworthy revelatory document, these questions cannot be answered definitively. Neither Rothbard nor Hoppe present or even argue the existence of such a document. [...] The entire system derived from the faith-based assertion is therefore on shaky ground.

Those who do not share Rothbard's or Hoppe's faith will not necessarily accept this first axiom. [Terrell 2000, 3]

This critique wrongly assumes that performative contradiction is similar to a revelation. Based on this assumption, Terrell observes that performative contradiction fails to reveal the truth of self-ownership axiom and concludes that only faith can justify this axiom. To be sure, performative contradiction is not a *revelation* but *it reveals* which ethical axiom can be consistently defended. By testing the ethical axioms against the performative contradiction, we observe that only the self-ownership axiom is logically consistent. If performative contradiction is a valid argumentative strategy, then libertarianism appears to be the only ethical system which can be defended though argumentation. Those who do not accept the self-ownership axiom will endorse a logically inconsistent axiom. Obviously, this is not a question of faith but of logical soundness.

Another misinterpretation of performative contradiction regards the role of argumentation. Robert P. Murphy and Gene Callahan (2006, 58) take Hoppe's argument to mean that

bashing someone on the head is an illogical form of argumentation. [Hoppe] has not shown that the fact that one has ever argued demonstrates that one may never bash anyone on the head, nor has he demonstrated that one may not validly argue that it would be a good thing to bash so-and-so on the head.

At the outset, the argument by performative contradiction does not aim at demonstrating that bashing someone on the head is an illogical form of argumentation. If performative contradiction is a valid argument, then it shows that it is self-contradictory (and illogical) *to establish a norm* allowing people to bash someone else on the head. The purpose of performative contradiction is not to distinguish between logical and illogical form of argumentation. This job is usually done by the principles of logic.

However, from the common sense point of view, we may say that bashing someone on the head is not an argumentation at all and that surrender in front of a physical threat is not the equivalent of being convinced by argumentation. Deleting this common sense distinction between aggression and argumentation would hinder any theory of justice. Actually, were the barrier between argumentation and coercion to be removed, the theory of justice would have no more sense. Any action would be an aggression and any aggression would be an argumentation. Obviously, such a situation is absurd. By qualifying this observation as "obvious," I primarily refer to the common sense and secondly to the libertarian definition of aggression. In his defense of Hoppe's performative contradiction, Frank van Dun (2009) discusses extensively the meaning of argumentation.

However, besides the debate on the meaning of argumentation, the argument from performative contradiction shows that it would be self-contradictory to adopt a norm which denies the right to self-ownership. Furthermore, performative contradiction does not aim at effectively impeding one to bash someone else on the head. The argument by performative contradiction only indicates that from a libertarian point of view bashing someone else on the head is unjust. It is unjust because it violates the self-ownership axiom. Libertarianism is just because it is the only defensible ethical system. This is the case because only the ethical system based on the axiom of self-ownership can pass the test of performative contradiction.

Let us now explicate another misunderstanding concerning the argument by performative contradiction. In addition to performative contradiction, Hoppe (1989, 131) formulates an argument regarding the universalization of a normative statement. "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.'" In developing this idea, Hoppe (1989, 131) endorses the so called the *Kantian Golden Rule* and claims that every normative statement should be universally applicable. "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." Otherwise, i.e., if a statement is not universally applicable it could not be taken into account as a normative proposition.

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. [Hoppe 1989, 131]

The role of the *Kantian Golden Rule* is reiterated by Kinsella (2002b) during his defense of Hoppe's justification of libertarianism:

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.

The idea of universalizable ethics is the target of several critiques. Terrell (2000, 2) asserts that "Rothbard and Hoppe depend upon the rule of ethics that an ethical system must apply equally to all people. They do not present a reason why this rule of ethics must hold true." Callahan and Murphy (2006, 59–60) also believe that "to simply declare that ownership

rights must be ‘universalizable’ is no help, either. [...] The basic dispute between Aristotle, the animal rights activist, and Hoppe is precisely over which group of living beings ownership rights must be ‘universalizable.’” These scholars argue that the self-ownership axiom cannot be universalizable and it may be restricted to some humans. “Aristotle need only contend [...] about barbarians [that] they are not as rational as Greeks” (Callahan and Murphy 2006, 59). Since self-ownership is not universalizable, it can be extended to animals.

Suppose an animal rights activist reads Hoppe’s argument and announces to the world that she now has irrefutable proof that slaughtering chickens is immoral. [...] We urge the sceptical reader not to dismiss our suggestion as ridiculous. What is the actual error of our hypothetical animal rights activist? There are many possible responses a Hoppeian might advance; our point does not depend on the specific reply. But whatever the reply may be, if it is equally applicable to any human being, then Hoppe’s argument must not make the universal case for libertarian rights, after all. [Callahan and Murphy 2006, 59–60]

There are three remarks that show why this critique misinterprets the argument by performative contradiction. First, it can be noted that the problem pinpointed by Callahan and Murphy is not specific to libertarianism but is common to *every* normative theory. This observation is very important. The argument by performative contradiction shows that libertarianism is the only ethical system which is logically self-consistent. The only way of criticizing this idea is to show either that libertarianism is inconsistent or that the difficulties enclosed with libertarianism are overcome by another ethics. When Callahan and Murphy argue that the self-ownership axiom is not universal, they do not explain how this alleged difficulty of libertarianism is overcome by another ethics. In fact, this problem of defining the application field for a norm is an age-old philosophical problem. Second, the success of the argument by performative contradiction does not rely at all on the universality of self-ownership. Were this argument successful or not, it is irrelevant from this perspective to know which is the exact range of application of the norm that passed the test of performative contradiction. To put it differently, universality and performative contradiction are two different and completely separate features of ethics. While the latter provides the reasons for preferring an ethical system, the former establishes its range of application.

Third, universality as a necessary condition for normative statements is practically void of sense. Let us consider a partial (non-universal) formulation of self-ownership: “only dark-hair humans are self-owners.” One may claim that this proposition fails to pass the universality test because it can not be

applicable to every human being. Let us now consider it more carefully. The statement says that dark-hair humans are self-owners and it says also that the non-dark-hair humans are not self-owners. Formulated in this terms there is no doubt that this statement is universally applicable to every single human being. While this statement concerns every single human it discriminates between dark-hair and non-dark-hair humans. Hence, the trouble with this statement is not its partiality but its discriminatory character. Any ethics distinguishes those to whom the norms apply from those outside the normative realm. A non-discriminatory ethics is simply unconceivable.

Now we can see better that the trouble with the statement: “only dark-hair humans are self-owners” is neither that it is not universal, nor that it discriminates. This statement *is universal* and *it cannot not discriminate*. The “problem” enclosed with this statement concerns the criterion (dark-hair humans) used to identify the self-owners. Scholars with interests in ethical issues have different opinions about the proper criterion which delimitates the realm of ethics. The formulation of a criterion is an essential condition for building an ethical system. But this matter is very different from the debate stimulated by performative contradiction which concerns the justification of an ethical system. The question: “which criterion to use for defining the self-ownership?” is logically independent of the question: “can the self-ownership axiom be justified?” Whereas the former regards the content of an ethical system, the latter concerns its defence. Given the aim of this article, we will not develop further this idea notwithstanding numerous reflections that it inspires.

To sum up, there is no doubt that a norm must apply universally to every moral person. The critiques, apparently directed towards the *Kantian Golden Rule* are in fact targeting the criterion used for identifying those to whom the *Kantian Golden Rule* applies. Therefore, this type of critiques, formulated by Terrell but also by Callahan and Murphy is misguided. Some issues related with this type of critique and which are regarding more particularly the axiom of self-ownership will be expanded in the next section.

Before taking into account more specific critiques, let us now discuss the last general critique of the argument by performative contradiction: the *is-ought problem*. This problem is well known since David Hume ([1739] 1952, 177–78) observed that a common argumentation in ethics consists in making observations using descriptive sentences (using the verb *is*) and then deriving normative conclusions (using the verb *ought*). Poincaré (1913, 225) resume this idea very clearly:

The rationale is simple; there is a rationale, how could I put it? Purely grammatical. If the premises of a syllogism are both of them statements with the verb in indicative, the conclusion will also be a

statement with a verb in indicative. In order to obtain a conclusion with a verb in imperative, it is necessary that at least one of the premises has a verb in imperative.

This argument is often associated with the debate on naturalistic fallacy. Gewirth (1987) sees in the idea of performative contradiction the opportunity to overcome the naturalistic fallacy. Ross (1990) replies it by showing its limits. More recently, Godefridi (2004, 9) calls upon *is-ought problem* for criticizing Hoppe's defense of the self-ownership axiom:

Here it is an ingenious and fascinating attempt of using the argumentation ethics of Apel and Habermas for defending Rothbard's axiom. However it is not persuasive. One has still to demonstrate that the ethical thinking needs argumentation. [...] Furthermore, there is no doubt that the argumentation supposes the control over my body and the space where it stays. But this control should not be confounded with appropriation. The dichotomy control/appropriation and fact/value are of the same type.

According to Godefridi (2004, 7), performative contradiction does not suffice for solving the naturalistic fallacy. "Facts and values belong to different levels. From what it is we can not conclude what ought to be; the existence of a fact can say anything about its legitimacy."

Let us now show why this critique generally addressed against the performative contradiction is misguided when it is used against Hoppe's argumentative strategy. To be sure, naturalistic fallacy does not say that it is an error to deduce normative statements at all but only that there is an error to deduce them from descriptive statements. In the way that Hoppe formulates it, performative contradiction cannot be criticized on these grounds. Hoppe maintains that defending any non-libertarian theory of justice is self-contradictory. This statement is entirely descriptive. Let us explicate its premises. First, in order to solve conflicts, a solution is always required. Performative contradiction proposes to justify the set of solutions grounded on the ethical axiom of self-ownership. Second, when choosing a norm one cannot dismiss the principle of non-contradiction. At this point, Hoppe's argument by performative contradiction shows that when choosing this solution it is important to observe that only the self-ownership axiom is not self-contradictory. Clearly, this rationale does not deduce an *ought-statement* from an *is-statement*. It emphasizes the self-contradiction in denying an *ought-statement*, i.e. the self-ownership axiom. For refuting the self-ownership axiom, one has to be free from coercion. As Hoppe himself put it, "in making this assertion, one need not claim to have derived an 'ought' from an 'is.' In fact, one can readily subscribe to the almost generally accepted view that the gulf between 'ought' and 'is' is logically unbridgeable" (Hoppe 1989, 136).

After these preliminary discussions we will continue with the analysis of the critiques that are explicitly tackling the justification by performative contradiction of the self-ownership axiom.

Specific Critiques

In the following we will present three critiques formulated by Gene Callahan and Robert Murphy (2006). The critiques are targeting the fact that Hoppe's case in favor of the self-ownership axiom was made at best for some parts of the body and/or for those persons who are actually involved in a debate. Callahan and Murphy also maintain that Hoppe's argument is inconsistent because it conflates use with ownership. Let us now analyze each particular critique and show how it can be dismissed.

According to the first type of critique formulated by Callahan and Murphy, there are some parts of our body, like kidneys, legs and so on which are not essential for elaborating an argumentation. Hence, Hoppe's justification of the self-ownership axiom excludes these part parts of our body. "At best, Hoppe has proven that it would be contradictory to argue that someone does not rightfully own his mouth, ears, eyes, heart, brain, and any other bodily parts essential for engaging in debate. But that clearly would not include, say, a person's legs; after all, it is certainly possible for someone to engage in debate without having any legs at all" (Callahan and Murphy 2006, 56). Therefore, Hoppe's argument—even if valid—is not applicable to actions such as cutting the legs or taking a kidney of a person.

To illustrate how the above foils Hoppe's intention, imagine a collectivist arguing: People should not have full ownership of their bodies, as libertarian theorists believe. For example, if somebody is sick and needs a kidney, then it is moral to use force to compel a healthy person to give up one of his. Since it is not necessary to have two kidneys in order to argue, Hoppe has not succeeded in demonstrating the contradictory nature of such a collectivist claim. [Callahan and Murphy 2006, 56]

Before replying to this critique, let us remember that according to Hoppe, it is contradictory to deny the self-ownership axiom because one has to be self-owner for denying it. To put it briefly, the critique of Callahan and Murphy does not target the justification of the self-ownership axiom but the definition of self-ownership. These scholars claim that Hoppe provides a very restrictive definition of self-ownership. "[Hoppe's] argument only establishes ownership over *portions* of one's body" (Callahan and Murphy 2006, 56). This critique does not suffice to contest the defense by performative contradiction of the self-ownership axiom. Clearly, the capacity of argumentation does not change if the speaker loses a kidney. Therefore, we have to agree with

Callahan and Murphy that kidneys and legs are irrelevant for argumentation. Moreover, we may agree also that the definition of self-ownership becomes very restrictive if we are not taking into account the parts of our body which are unused in the course of argumentation. Indeed, if the definition of self-ownership should include only the organs that are actually used during an argumentation, then it could not be extended to kidneys and legs. However, it is not necessary for self-ownership to be defined according to the body parts used while arguing. Self-ownership can be also defined in terms of argumentation capability, corporal identity, intentionality, free-will, memory, etc. Each of these various ways of defining self-ownership includes all parts of the body.

Besides the debates on self-ownership definition, it is important to note that Callahan and Murphy's critique does not affect the success of the argument by performative contradiction in justifying the self-ownership axiom. Their critique deals only with the definition of self-ownership. For example, disputing the fact that the owner should use fences for delimiting her land does not specify who should own the respective land. There are two different matters: defining the self-ownership and justifying the self-ownership axiom. Even though they are both essential features of the libertarianism, they are entirely independent one from another. Now we can see better that the only way to assert non-contradictory that "it is moral to use force to compel a healthy person to give up one of his kidneys" (Callahan and Murphy 2006, 56) is to use a very restrictive definition of self-ownership (which excludes kidneys). But even in this case one may say that kidneys are homesteaded by the self-owner. If it is immoral to use force to compel a self-owner to give up a piece of land that belongs to her, *a fortiori* it is immoral to compel a self-owner to give up *her* kidney. However, using this restrictive definition of self-ownership does not suffice for criticizing the defense by performative contradiction of the self-ownership axiom.

Nonetheless, it is noteworthy that Hoppe (2006, 400) uses the criterion of "argumentation capability" for defining self-owners. "The question of what is just or unjust [...] only arises insofar as I am and others are capable of propositional exchanges—of argumentation. The question does not arise for a stone or fish because they are incapable of producing validity-claiming propositions." Based on this definition, Hoppe (2001, 201 fn17) distinguishes also ethical from technical problems. "Only if both parties to a conflict are capable of propositional exchange, i.e., of argumentation can one speak of an ethical problem." As it can clearly be observed, Hoppe's definition of self-ownership refers to the body as a whole without excluding specific parties of the body. Any leaving being capable of argumentation is treated as a single unit. Therefore, even if the kidneys or the legs are not required in

argumentation they are nonetheless included in Hoppe's definition of self-ownership.

This definition specifies the necessary and sufficient condition for being a self-owner: the capability of argumentation. This means, no more and no less, that the only self-owners are all beings capable of argumentation. If I am considered a self-owner, then I must be treated as such, i.e., as having legs, arms, eyes, kidneys, etc. Whether these parts of my body (unrelated with my capacity of arguing) are biologically linked to my self-ownership or they are homesteaded, it is nothing but a detail. In both cases they *belong to me*. The common sense language clearly supports this idea. Usually we do not say "the kidney situated on the left side of my body was kidnapped." But we say: "I was forced to give up *my* kidney." Having one or two kidneys is beside the point of the definition of self-ownership. A living being that loses a kidney will still be considered a self-owner, precisely because of the fact that having a kidney in less is irrelevant for her capacity to argue. The debate on the definition of self-ownership stops here. Beyond this debate on the definition of self-ownership there is the debate on the justification the self-ownership axiom. From an ethical point of view it is crucial to understand if the respective person loses her kidney voluntarily or under coercion. The argument from performative contradiction establishes that it is unjust to be forced to give up a kidney because it denies the axiom of self-ownership. Denying the self-ownership axiom is self-contradictory.

To sum up, this first critique falls short of its target inasmuch as it is directed towards the definition of self-ownership. To be sure, there is no logical bond between the definition of self-ownership and the justification of the axiom of self-ownership. On the one hand this type of critique has no effect at all on the justification of the self-ownership axiom using the argument from performative contradiction. On the other hand, Hoppe's definition of self-ownership includes all the body parts of a leaving being capable of argumentation.

Let us now discuss a second critique formulated by Callahan and Murphy. Starting from the previous idea, they express an analogous claim saying that one of the two members of the contradiction may sometimes be absent. Since the justification of self-ownership depends on the effective argumentation, the absence of argumentation would cancel the grounds on which the self-ownership axiom can be defended. "We will demonstrate that, at best, [performative contradiction] only establishes self-ownership of those body parts *during the course of the debate*" (Callahan and Murphy 2006, 56). In this case, one could claim that in certain conditions it would be appropriate to institute compulsory military service.

For example, suppose a collectivist argues: “Generally speaking, people have the right to use their bodies as they see fit. However, during national emergencies, it is moral to use force to compel certain individuals to act in the public interest. In particular, if the nation is being invaded, the government may draft people into military service. Therefore, the libertarian claim to absolute self-ownership is unfounded.” Has Hoppe shown that someone uttering the above (during a policy debate) is engaging in a performative contradiction? [Callahan and Murphy 2006, 56]

The answer to this question is “yes.” Hoppe’s argument by performative contradiction suffices to show that the person who pronounces the phrase, “self-owners should coercively be drafted into military service,” is engaging in a performative contradiction even if she is not debating with a candidate to military service. When people are drafted (even in an emergency case) the self-ownership axiom is violated. The argument applies even in the absence of the respective persons. The critique of Callahan and Murphy misinterprets the two members of the performative contradiction. These authors consider that the performative contradiction arises when two persons disagree. Indeed if this were the case, then the absence of one member would *ipso facto* cancel the performative contradiction since there is no more an ongoing debate. However this is not the case. While an argumentation or a debate requires two persons, the contradiction requires two contradictory statements. Furthermore, the performative contradiction arises between a claim and the conditions for expressing the respective claim. In this particular case, the self-owner who argues “self-owners should be drafted into military service” has to presuppose the self-ownership axiom in order to argue that. The contradiction arises between asserting and denying the self-ownership axiom. As Frank van Dun (2009) explains, the performative contradiction is not a contradiction in terms. Hence, it is irrelevant if the person concerned by the respective statement is involved in an ongoing debate as it is irrelevant who the partners of the debate are (provided that they are arguing).

Whenever the candidates for mandatory military service and the speaker who hails for this type of recruiting are self-owners the latter one will be caught in a performative contradiction. Again the only manner to overcome this contradiction is to maintain that the candidates for compulsory military service are not self-owners, i.e., living beings capable of argumentation. But as we previously explained, we have to observe that this critique does not target the success of the argumentation by performative contradiction in justifying the self-ownership axiom but rather the definition of self-ownership. What Callahan and Murphy would contest in this case is the distinction between self-owners and non-self-owners. Summing up, it appears that, in spite of its appearance, this critique also is not directed

against performative contradiction and that it points out a difficulty which is not specific to libertarianism. In addition it confounds the performative contradiction with the debate on the definition of self-ownership.

The third critique of Callahan and Murphy is probably the most complex and challenging. For providing it a satisfactory answer, it is crucial to follow attentively all its steps. In a nutshell, the critique maintains that Hoppe's argument "confuses temporary control with rightful ownership" (Callahan and Murphy 2006, 64). Indeed there is clear distinction that all philosophers agree upon between sitting on a chair and being its owner. "*One is not necessarily the rightful owner of a piece of property even if control of it is necessary in a debate over its ownership*" (Callahan and Murphy 2006, 60, original emphasis). Starting from the distinction "control" versus "ownership," Callahan and Murphy criticize Hoppe's argument on several aspects. They immediately deduce from this distinction that self-ownership does not overlap the effective control of a body. By reformulating a previous critique of David Friedman (1988, 44) these authors assert that there are individuals (like slaves and prisoners) who, in spite of the fact that they are not self-owners, can nonetheless make use of their own bodies.

If not, then it must *not* be true, after all, that one needs to own his body in order to debate. This is obvious; Thomas Paine wrote the first portion of *The Age of Reason* while imprisoned, the famous 'Birdman of Alcatraz' submitted scholarly articles to journals while serving time for murder, and the imprisoned Timothy McVeigh certainly tried to justify the bombing to which he had confessed, in correspondence with Gore Vidal. Indeed, Ludwig von Mises, Murray Rothbard, and Hans Hoppe were denied their rights to self-ownership (by the governments claiming authority over them), yet they managed to advance plenty of arguments. [Callahan and Murphy 2006, 62]

From this standpoint, even though their self-ownership is denied, slaves and prisoners continue to argue. Based on this idea, Callahan and Murphy assert that self-ownership is not a requirement for argumentation. To maintain that self-ownership is a necessary condition for argumentation Hoppe must intend by self-ownership the *use* of the body. Summing up this critique, Hoppe's argument seems to be caught between Scylla and Charybdis of ethics. Either the concepts *use* and *ownership* are conflated or it is admitted that self-ownership is not a necessary condition for argumentation. Each of these alternatives would defeat Hoppe's argument by performative contradiction.

In spite of the fact that this critique seems definitive, a closer look will reveal to us its flaws. Contrary to the claim of Callahan and Murphy, the

argument by performative contradiction does not conflate *use* with *ownership*. The illusion of this conflation comes from the fact that when they are applied to the body of an intentional agent, “use” and “ownership” simply overlap. However, “use” and “ownership” can be distinguished on logical grounds. Clearly, from the very fact that one sits on a chair it is impossible to infer that she is its owner. To determine the ownership, one has to find out who decides upon its use. This distinction between “use” and “ownership” is commonly illustrated by the difference in a firm between manager and owner. The function accomplished by a manager who takes all the current decisions concerning the use of resources in a firm is different from the function of an owner who decides as a last resort. The last resort decision is epitomized by the fact that the owner *can* decide to fire the manager. In fact, the owner decides who should make the current decisions in a firm. Besides this distinction, the crucial question in ethics is: “Who has the legitimate ownership?” A different formulation may be: “Who has the right to own a specific resource?” Of course, from an ethical point of view an owner, i.e., a person who effectively control as a last resort a specific good, is not necessarily its legitimate owner. Here it is an obvious question to ask: am I the legitimate owner of the chair on which I am sitting right now?

Let us now apply this idea to self-ownership. If one can loose the ultimate control of a firm by selling it, she can *never* lose control of her body. The difference consists on the fact that contrary to the ownership on land, the ownership on the body cannot be denied or abandoned. It is conceivable that a person does not own a piece of land. But it is inconceivable that a person does not own herself. By definition, self-ownership can be withdrawn only by canceling the agent’s intentionality (free-will and conscience), i.e., by transforming her into a zombie or robot. For most of the scholars, this is the common way to understand self-ownership. “Man can neither be inherited, nor sold, nor given; he can be no one’s property” (Fichte, [1793] 1996, 124). Now it appears clearly why the “use of the body” and the “self-ownership” (even though they are logically distinct) have the same extension. While it is possible to sit on a chair without being its owner, it is impossible to use a body and not being its owner. This is the case because, one cannot not use her own body and one cannot not decide as a last resort of the action of her own body.

While the ownership in her own body cannot be alienated, one can be nonetheless coerced to act otherwise than she would have wished. This is the case of slaves, prisoners, victims of occasional robberies, etc. The master does not own a slave as one may own a piece of land. An owner of slaves does not own bodies but can coerce the self-owners to use their own bodies according to her wishes. Since land can be acquired, sold or stalled, the

question to ask from an ethical standpoint is: am I the legitimate owner of the land? Obviously, the body cannot be acquired, sold or stalled but it can be aggressed. Therefore, the right to self-ownership means the right to be free from coercion. As we have seen since the beginning of this article, this is precisely the sense of the self-ownership axiom. From this point of view, slaves should be considered coerced self-owners. The slaves have as a last resort the ultimate choice to obey their master or to revolt against her.

Moreover, it is precisely because slaves own themselves that slavery can be ruled out as an unjust institution. Slavery, in the ordinary language sense, does not mean actual ownership of someone else's body, but it means systematic and physical threat or effective violence upon a person. As a matter of fact, we may say that slavery is permanent and explicit robbery and crime. While a robber threatens her victim only once (or from time to time), a master threatens everlastingly her slaves. However, robbery and slavery are inherently grounded on the distinction between aggressor and victim. In order to distinguish a free relationship from robbery and slavery, it is necessary to clearly identify not only the aggressor but also the victim. Obviously, only the owners are eligible as victims. The particularity of ownership in body is that these two terms (ownership and body) cannot be separated. It would be impossible to say that I do not own myself. Therefore, if any threat or violence is permanently and explicitly exercised against my body, then *ipso facto* (as an owner of my body) I can claim to be a victim. If valid, the argument from performative contradiction is designed precisely to prove that it is self-contradictory to maintain that self-owners must be physically threatened or aggressed.

The argument from performative contradiction asserts the unjustness of aggression and justifies by the same token the self-defense and the mutiny. Additional arguments are required for justifying the punishment of aggressors. Libertarian authors justify why and how the aggressors should be punished (Rothbard 1977; Kinsella 1996b; 1997; Withehead and Block 2003; Block 2009). It is noteworthy that Kinsella (1996b; 1997) uses the estoppel principle for justifying the punishment theory.

The estoppel principle shows that an aggressor contradicts himself if he objects to others' enforcement of their rights. Thus, unlike Hoppe's argumentation ethics approach, which focuses on presuppositions of discourse in general, and which shows that any participant in discourse contradicts himself if he denies these presuppositions, the estoppel theory focuses on the discourse between an aggressor and his victim about punishment of the aggressor, and seeks to show that the aggressor contradicts himself if he objects to his punishment. [Kinsella 1996a, 317]

However, as far as it concerns the argument from performative contradiction, it is important to remember that prisoners and slaves are self-owners. This is precisely the criterion that helps us to identify aggression as an ethical problem. Hence, the claim that “there are persons who are not self-owners but they can argue” falls short. The slave will be caught in a performative contradiction just like any free individual if she denies the self-ownership axiom.

Let us now advance a step further into this argumentation and try to understand the rationale of the idea on which Callahan and Murphy ground their critique: “slaves are not self-owners but they do argue.” The examples chosen by these authors define a particular category of slaves and prisoners. A closer look to these examples shows people that are no longer coerced or physically threatened by their masters. The slaves are allowed to write, speak and argue. The number of alternatives for each action of the slave depends on the master’s will: the liberty to have her hair cut, or two hours of liberty per day between 9 A.M. and 11 A.M., or the liberty to vote for her master, or the liberty of speech. Considering that slavery has degrees (Nozick 1974, 290–92), let us now imagine that a slave has two hours of freedom per day and that she slave spends her time making a very convincing speech on the non-violation of self-ownership.

Obviously, during this discourse the slave is no more a slave since the master *does not force* the slave to obey any more. Clearly, in this particular case there is no difference at all between slave and free person. When slaves argue freely they *act like* freemen. From this point of view, there is no categorical difference between a “slave” allowed to have two hours of freedom per day and a “freeman” threatened twenty-two hours per day. In both cases, the performative contradiction argument indicates that it is contradictory to deny the self-ownership axiom. The two-hours-per-day-free-person will be caught in a performative contradiction if, during these two hours of freedom, she denies the self-ownership axiom. To put it differently, the fact that slaves and prisoners can argue demonstrates that during their discourse they are acting like freemen. As a matter of fact, it was probably between 9 A.M and 11 A.M. that Epaphroditus (Epictetus’s master), allowed Epictetus to study philosophy and it is eventually receiving his freedom that Epictetus started lecturing on his own account. Furthermore, it is precisely for preserving his freedom of speech that Epictetus fled Rome after the edict of Domitian (Schenkl 1916, iii–xv).

Summing up, in the type of examples invoked by Callahan and Murphy, slaves are self-owners that are allowed to speak freely. The very fact that they argue, demonstrates that during the specific moment of their argumentation they are not coerced. Hence, even for Epictetus it is self-

contradictory to deny the self-ownership axiom. This is the case of Epictetus but also of the taxpayers in a democracy. They are coerced self-owners allowed to freely formulate their speech. Moreover, the argument from performative contradiction rules out occasional and systematic violence as unjust actions, precisely because the agents that are aggressed are self-owners like Epictetus and not merely random parts of nature.

But of course, the taxpayers of a democratic State are a privileged type of slaves especially when they are compared with the subjects of a totalitarian State. Let us now assume the worst position for a slave: no liberty and especially no free speech at all. Suppose that the slave is not allowed to speak as she would like to and if she does, she would be killed. What kind of argumentation could such a slave elaborate? As self-owner the last choice that she has is between obeying and rebelling against the rule that impedes her free expression. By the very action of rebelling against the rule, she demonstrates her self-ownership. Let us put into parenthesis the consequences and the risks that she incurs by choosing this course of action. If she manages to speak according to her free-will and not as a command of her master, then in this unique situation she *acts like* a free self-owner. In this case also, the premise advanced by Callahan and Murphy falls short. If rebel slaves can manage to argue by themselves it is because, originally, they are self-owners. Hence, for a rebel slave disobeying the interdiction to free-speech, it is self-contradictory to deny the self-ownership axiom. Also, it is fundamental to remember that by declining the self-ownership to a slave it would be impossible to maintain that slavery is unjust.

Let us now take into account the last example: the slave decides to obey any free-speech restriction. By demonstrating her preference for this outcome she remains her self-owner. However, in this case coercion plays an important role. By definition, coercion switches the order of the preference scale. As a consequence of this fact, it can be asserted that the slave does not argue as she would argue in the absence of the free-speech restriction. This issue refers to an everlasting debate concerning the responsibility under coercion. Usually, the debate encompasses numerous examples of involuntary obeisance. If a soldier kills someone else under the physical threat of her superior would she be a criminal? Most of the authors agree on the fact that if effective coercion is verified, then the soldier (slave, prisoner) is not responsible for her situation. The disagreement arises when it comes to the definition of aggression. Most of the authors who agree that persons under coercion are not responsible, disagree on what aggression means.

If we put into parenthesis the debate on the definition of aggression, then it is important to observe that if a slave decides to obey the free-speech interdiction and to repeat her master argumentation, then no one would

consider her the author of the argumentation. Imagine a slave who, under the physical threat of her master, writes an academic paper in the view to deny the self-ownership axiom. According to Callahan and Murphy, in this case there is no performative contradiction. We have a coerced self-owner who denies the self-ownership axiom. However, it is noteworthy that this conclusion considers that the slave under physical threat is the author of this argumentation. Such an intellectual maneuver would delete the most fundamental distinction of ethics: liberty versus coercion. If the fact of being under physical threat does not make any difference in assigning the responsibility, then there are no more grounds for distinguishing free and coercive relationships. Therefore, if we want to continue the debate in the realm of ethics, we must reject this maneuver and assume that coercion and freedom are two separate categories.

If the slave obeys the free-speech interdiction, she is not arguing anymore. To be sure the slave remains self-owner even if she decides to obey instead to rebel. Eventually she may argue this decision by pointing at the advantages of obeying instead of rebelling. While formulating these arguments she demonstrates her preference for not arguing any longer. Unfortunately, in this case, her first is also her last argumentation. Starting from this moment she stops arguing by herself and she only repeats the argumentation of her master. Of course, along with her intentionality, she maintains the possibility to rebel against her master and to overcome the previous choice to obey. Now it appears clearly that if a slave obeys (while remaining self-owner), she stops arguing anymore. Therefore, the proposition, "slaves are not self-owners but they argue," again falls short. In this case, the slave, although capable of argumentation, is not effectively arguing. By definition, coercion and argumentation are two incompatible actions. This explains why self-owners under the free-speech interdiction do not argue by themselves.

Before considering a new aspect of this critique let us sum up our reply to Callahan and Murphy's critique that slaves and prisoners argue in spite of the fact that they are not self-owners. An attentive analysis of slavery allows us to discern three states of affairs: slaves granted with the right to free-speech, slaves rebelling to the free-speech interdiction and slaves obeying the free-speech interdiction. If a slave can argue, it is either because she benefits from the freedom granted by her master or because she rebels. In both cases the slave self-contradicts by denying the self-ownership axiom. The third state of affairs is the case of the slave who obeys her master's interdiction to free-speech. As a consequence of this fact she does no longer argue by herself. The reader may observe that our reply is based on the assumption that coercion and argumentation are distinct. This distinction is indeed an

important presupposition of the present argumentation but also of ethics. One should try to picture the consequences for ethics of its rejection. How would look like a book on the history of ethics without this distinction? Besides the fact that even for rejecting this assumption one has to argue (Madison 1986, 267), such a maneuver would make worthless the debate on the self-ownership axiom i.e. its defense but also its critique. Hence, the argument from performative contradiction may be restated in the following terms: *in the realm of ethics*, it is self-contradictory to deny the axiom of self-ownership.

Let us now advance a step further and take into account another facet of this critique. Based on the fact that use and ownership do not overlap, Callahan and Murphy maintain something more. They claim that for arguing we need more than our own body. Whereas using a chair it is not an indispensable condition for argumentation, using a piece of land it is. During an argument one may sit on a chair, stand up, drive a car, etc., but a physical space is always required for her existence and *a fortiori* for her argumentation. Therefore, argue Callahan and Murphy, if we take the argument by performative contradiction seriously, then we should accept that the precise piece of land on which a person stands in the course of her argumentation represents her property.

Imagine that a Georgist were to argue that everyone should own a piece of landed property. The Georgist could go so far as to claim that his position is the only justifiable one. He could correctly observe that anyone debating him would necessarily grant him (the Georgist) some standing room, and then he might deduce from this true observation the conclusion that it would be a performative contradiction to deny that everyone is entitled to a piece of land. [Callahan and Murphy 2006, 61]

While in the case of a body, “use” and “ownership” overlap *de facto*, in the case of land they are not necessarily the same. In order to formulate an argumentation, one needs to *use* a piece of land but not necessarily to *own* it. The physical space which is required for formulating an argumentation can either be lend or owned. Hence, the argument by performative contradiction cannot be used by the “Georgist” for justifying her pretence on land property. The statement asserting that “the piece of land used for argumentation ought to be owned by the agent who uses it during his argumentation” can be refuted without committing any performative contradiction. Contrary to the self-ownership axiom, the “Georgist axiom” cannot simply pass the test of performative contradiction. This is so, because there it is a categorical difference between ownership in land and self-ownership. Whereas it is necessary to be a self-owner in order to argue, it is

contingent if one is the owner or the user of the land occupied in the course of her argumentation.

This categorical difference between ownership on land and on body has two main grounds: *intentionality* and *reflexivity*. The agent of action is *intentional* while the land is not. Derived from this fact there is a second feature: *reflexivity*. In the case of self-ownership, the “owner” and “the object of ownership” have the same extension. Summing up all our argumentation, we can now declare the insufficiency of the current critiques directed against Hoppe’s usage of performative contradiction for justifying the self-ownership axiom.

Conclusion

We conclude by emphasizing the theoretical perspectives opened by the argumentation discussed in this article. At the outset, it is important to observe that this article defends Hoppe’s argument by performative contradiction against its *current* critiques. This defense should not be confounded with the endorsement of Hoppe’s argument. To be sure, replying to the critics of an idea does not mean upholding it. The justification of self-ownership by performative contradiction is not necessarily free from critique and new arguments showing its insufficiencies may be formulated. However, in order to avoid misinterpretations, these new attempts to criticize should take into account the findings of the present argumentation. In a nutshell, the performative contradiction does not substitute the definition of self-ownership, the theory of aggression or the theory of punishment. Although they are important features the libertarian ethics, these theories must be constructed on separate grounds. Let us now briefly recall into attention the misinterpretations of performative contradiction.

One of the wrong directions from which to attack the argument by performative contradiction is to focus on the universal and the discriminative character of self-ownership. The range of application of the self-ownership axiom is irrelevant for its defense. Another wrong direction in criticizing the justification by performative contradiction of the self-ownership axiom is the definition of self-ownership. This definition contains obvious and age-old difficulties common to every theory of justice. In addition, the justification of the self-ownership axiom remains unaltered when the definition of self-ownership changes. The definition of self-ownership only establishes who are the subjects to whom the norms apply. The justification of the self-ownership axiom sets up the norms that should be applied. These two issues, even though they are essential features of any ethical theory, are logically distinct in the sense that criticizing one does not affect the other. However,

Hoppe provides a pertinent definition of self-ownership: the capability of argumentation. Finally, it would be pointless to use the naturalistic fallacy for criticizing Hoppe's argument. The statement: "the right to self-ownership is necessary for denying the self-ownership axiom" is descriptive. This statement has no normative grounds but only logical limits. Obviously, an absurd norm is not a pertinent candidate for the axiom of ethics.

Even though some types of critiques can be prevented in this way, new critiques may be formulated on different grounds. As we can observe from their exposition in this article, the critiques addressed to Hoppe's argument concentrate exclusively on the possibility of justifying self-ownership by performative contradiction. Hoppe's critics focus on what can be deduced from the performative contradiction. They seem to agree with Hoppe that there is a performative contradiction and to disagree on the capacity of this idea to justify the self-ownership axiom. Our systematic replies to these critiques indicate that this way of attack may be inefficient. There is a perfect symmetry between *self-ownership* and *self-contradiction*. As we pinpointed at the end of the last section, this symmetry is grounded on the reflexivity of an intentional agent. This is the reason why *it is always self-contradictory for an intentional agent to deny the axiom of self-ownership*.

While this way of criticizing the justification of the self-ownership axiom was shown to be unproductive, future research may focus on the very meaning of performative contradiction. From this point of view, we believe that a pertinent way of revisiting (and eventually efficient way of criticizing) the argumentative procedure by self-contradiction is to study thoroughly its logical structure. As far we can see in the light shed by this article, the concept of "reflexivity" helps to distinguish between *self-ownership* (reflexive) and *ownership on nature* (non-reflexive). Further inquiry on the reflexive character of self-contradiction should help us to better understand the relationship between ownership and the conditions for acceding to ownership. The reflexive dimension of ownership refers in fact altogether to the *ownership on our own body* and to the *condition for acquiring ownership on nature*. As to the latter, self-ownership is a necessary (but insufficient) condition for becoming an owner. For homesteading a piece of land, one must own herself in the first place. However, these two levels (self-ownership and the condition for owning parts of nature) represent the nub of the argument by performative contradiction. A comprehensive study of both levels (ownership and the condition for acceding to ownership) can stimulate important reflections for the foundation of ethics in general and for the justification of libertarianism in particular.

This analysis would go beyond the purpose of this article, which has been attained: the classification and the systematic reply to current critiques

formulated against Hoppe's justification by performative contradiction of the self-ownership axiom.

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