An Interpretative Model of the Evolution
of Hoppe's Argumentation Ethics

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Abstract:
This article intends to be a simple guide to understand how Hoppe built the Argumentation Ethics. In my early studies of libertarian ideas, and of Argumentation Ethics in particular, I could not find a unique text that would explain how Hoppe put the necessary bricks together to build the Ethics. As I was curious about this issue, I assumed others would also like to know it. To write this article, I reviewed the main literature on Argumentation Ethics, starting with Kinsella's *Concise Guide* [9]. Then, I interviewed Stephan Kinsella and Prof. Walter Block. Finally, I synthesized the main ideas from the literature and the interviews elaborating an interpretative model, presented in this article.
Keywords: Property rights, Argumentation Ethics, Libertarianism.

1. Introduction

One of the main philosophical questions over history was how humans should act with each other so that peaceful interactions could occur. This created the field of ethics that tries to find the universal applicable norm that all humans ought to follow so that conflicts are avoided, peaceful interactions are possible, and justice prevails. Finding such norm, with the use of reason, is necessary because if norms do not fulfill their essential purpose (avoid human conflict) they will produce exact the opposite.

Plato and Aristotle argued that the starting point for ethics was the human telos (purpose). In the Enlightenment, John Locke started the study of ethics from the unalienable rights that are common for all humans. Locke believed that all men were created equal by a Wise Creator that gave their children the rights of life, liberty, and property. Locke, then, concluded that all actions one ought to do should not violate the rights of another individual.

In the 1970s, Rothbard reformulated Locke's natural rights theory by deducing the norms without using the premise of the Wise Creator. Following an Austrian economics perspective, he found

out how conflicts emerge between two or more individuals, then used human nature to deduce the Non-Aggression Principle, which stated that no one should initiate aggression against another person or property. Rothbard reached a similar conclusion as Locke, but offered a different and more extreme formulation. This is the founding point of Libertarian Ethics.

However, both Locke's and Rothbard's justifications for property rights suffer from the "is-ought to" problem. This problem, articulated by David Hume, states that norms ("ought to" statements) cannot be derived from facts ("is" statements) because they exist in different logical realms. This makes both justifications invalid because they derived the property norm ("ought to" statement) from human nature ("is" statement).

Hans-Hermann Hoppe, Rothbard's student with a background in Austrian economy and philosophy, believed in the conclusion of the Libertarian Ethics and set off to give it a definitive foundation without the "is-ought to" problem. In this article, I will try to show how Hoppe eliminated the "is-ought to" problem by using different philosophical basis and tackling the problem from another perspective, following the path of Figure 1.
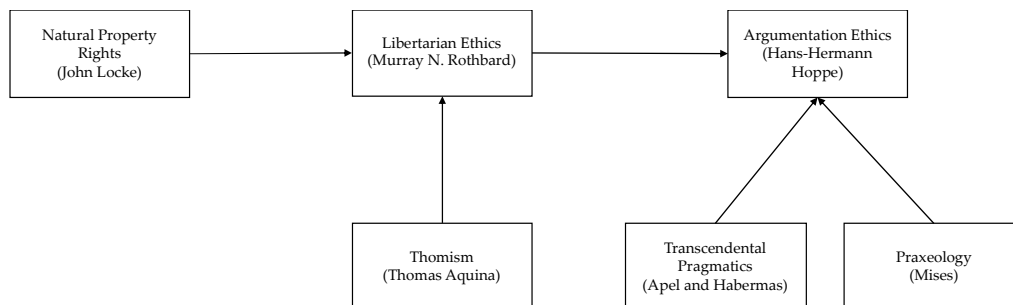

Figure 1: From Locke to Hoppe - A simple interpretative model.

I will start by briefly describing Locke's Natural Property Rights. I will then discuss why and how Rothbard revised Locke's work by removing the premise of the Wise Creator. Then, I will show how Hoppe combined his knowledge of Mises' Praxeology and Apel and Habermas' Discourse Ethics to build his Argumentation Ethics. Some readers could argue that Hoppe was influenced by Kantian ideas. According to Kinsella, this influence was punctual: "… the influence of Kant on Mises and Hoppe is very, slim… , what Hoppe took from Kant was simply the universalizability idea… the idea of justice" [8].

2. Locke's Natural Property Rights

Locke developed a natural property rights ethics with laws that are derived from the State of Nature. Locke was responsible for changing the focus of natural law from the nature of the State to the nature of the individual as the most fundamental component for an ethical theory [15, p. 21].

2.1 The State of Nature

In ancient philosophy, the nature of the State (polis) was the fundamental part of ethics and the individuals were supposed to adapted to this nature. Locke, and the libertarians who follow Rothbard's steps, believe that the nature of the individual is the fundamental part of ethics and the State needs to adapt to human nature.

However, Locke did not believe, like the Aristotelians and the Thomists, that the true nature of things (essence) could be comprehended. He did not believe that human reason was capable of knowing the nature of things, thus he did not have formal or ontological criteria for defining a human.

Classical philosophers did not have this problem because they believed that the nature of things could be known and, with that knowledge, they could deduce an ethical theory that was in accordance with human nature. Locke got around this problem by establishing reason as the ontological criteria for a human being. He also explained that reason could be known to be a fundamental part of the human (essence), because men were created to the image of God.

Locke [10] starts his second treatise with an argument against the divine rights of kings, because this was the main ethical doctrine at his time. Then, Locke develops his own ethical theory and justification for where political power is derived from. The starting point is his notion of *State of Nature,* from which he derives men's natural rights, the origin of political power, and the origin of government, "… a state all men are naturally in, and that is, a state of perfect freedom to order their actions, and dispose of their possessions and persons as they think fit, within the bounds of the Law of Nature, …" [10, p. 25].

He then adds that it is "a state also of equality, wherein all the power and jurisdiction is reciprocal, no one having more than another …" [10, p. 25]. At first, the State of Nature looks like a situation where laws are nonexistent and human action has no boundaries, but Locke shows that exists a law of natural preservation.

But though this be a state of liberty, yet it is not a state of license; though man in that state have an uncontrollable liberty …, yet he has not liberty to destroy himself, or so much as any creature in his possession, but where some nobler use than its bare preservation calls for it. [10, p. 26]

He justifies this law by arguing that men are created as the image of God and therefore they are granted the inalienable right to life, liberty, and property that needs to be preserved [10, p. 26]:

> The state of Nature has a law of Nature to govern it, which obliges every one, and reason, which is that law, teaches all mankind who will but consult it, that being all equal and independent, no one ought to harm another in his life, health, liberty or possessions…

With this line of argument, Locke established an ethical doctrine that states that no one has the right over another person, so any use of force against another's rights could not be justifiable. He also states that in order for maintaining these rights, every person has the right to punish those who do not follow the Law of Nature, giving the victim the right to violate the aggressor's rights.

2.2 State of War

The situation where one does not follow the laws established by the State of Nature, where one violates the rights of another individual, is defined by Locke as the *State of War* [10, p. 28]:

> … a state of enmity and destruction; … it being reasonable and just I should have a right to destroy that which threatens me with destruction; … because they are not under the ties of the common law of reason, … and so may be treated as a beast of prey, …

Any person who enters this state, by going against the law of nature and violating the unalienable rights of another person, has negated his own rights and would not be able to justify against another member of the community to judge her actions and punish her. Locke is, then, faced with a dilemma, because every person of the community could become a judge of a "state of war situation". Thus, how can a decision be made if the person that is in the trial could be judged by herself? Locke tackles this problem with his social contract theory for a representative government (Section 2.4).

2.3 Property and Homesteading

Now, Locke needs to establish how one can have the right to own things from nature because, in the State of Nature, all men live in a state of equality where the goods that nature provides is common to everyone. However, men not being able to have property over the goods that nature provides (because they are common to all mankind) would go against the law of preservation because no one would be able to use resources to stay alive. "And though all the fruits it naturally produces, and beasts it feeds, belong to mankind in common, … there must of necessity be a means to appropriate them some way or other before they can be of any use … to any particular men" [10, p. 30].

He argues that individuals own their own person (self-ownership) and therefore they own their labor. He, then, develops the homesteading principle, which states that someone can mix her/his labor to an object in the state of nature (has no owner) making it an extension of one's person. When labor is mixed with the object, the object leaves the state of nature (common to all men) and becomes the exclusive property of the person who originally appropriated it [10, p. 30]:

> Though the earth and all inferior creatures be common to all men, yet every man has a "property" in his own "person." … The "labour" of his body and the "work" of his hands, we may say, are properly his. Whatsoever, then, he removes out of the state that Nature hath provided and left it in, he hath mixed his labour with it, and joined to it something that is his own, and thereby makes it his property.

After establishing the natural law of human conservation, establishing that men are gifted with the unalienable rights to life, liberty, and property, and explaining, via the homesteading principle, how one can become the rightful owner of objects in the state of nature, Locke begins his theory about how humans left the state of nature and entered the civil society (origin of government).

2.4 Locke's Political Conclusion

Locke viewed the passage of a community from the state of nature to civil society as voluntary and contractual. The passage was necessary, in Locke's view, because it solves the problem of the aggressor of a crime having the right to judged himself, which was possible in the State of Nature. So, members of a community would make a (social) contract that would establish that only certain individuals would have the right to judge and punish, and from there establish a representative government whose only purpose was to follow the natural law of human conservation, i.e., to protect the citizen's inalienable rights. Because of these views concerning rights and government, Locke is considered one of the fathers of the Classical Liberalism.

3. Rothbard's Libertarian Ethics

Rothbard revisited Locke's natural property rights ethics because he was not satisfied with the direction it had taken, into a positivist type of ethics, and with the fact that Locke's justification was based on theological revelation, not on human reason [13], [15]. Rothbard was influenced by Thomas of Aquinas's philosophy (Thomism). The Thomists believe that all beings (including humans) have a nature and their nature has telos (end) that can be known by human reason. For the Thomists, a universal ethic needs to be compatible and derive from this human nature (why it is called natural law).

3.1 Natural Law

Rothbard's [15] begins by presenting and refuting the two main arguments against Natural Law: the ones who believe that only God or mystical elements can reveal man's nature (Augustinian position) and the others who believe that because the only way to know man's nature is by supernatural revelation, man's nature should not be regarded as a valid method for creating ethics (Skeptical position). Rothbard responds to the first group by saying that [15, p. 4]:

> … they are reflecting an extreme Augustinian position which held that faith rather than reason was the only legitimate tool for investigating man's nature and man' s proper ends … The statement that there is an order of natural law, in short, leaves open the problem of whether or not God has created that order... The assertion of an order of natural laws discoverable by reason is, by itself, neither pro- nor anti-religious.

Them Rothbard concludes his thoughts [15, p. 6]: "Thus, let there be no mistake: in the Thomistic tradition, natural law is ethical as well as physical law; and the instrument by which man apprehends such law is his reason-not faith, or intuition, or grace, revelation, or anything else."

Therefore, being a Thomist, contrary to Locke, Rothbard created an ethic that the justification of its premises was not dependent on God, because man with his reason alone is able to know what human nature is and from there derive a universal norm.

3.2 Teleological Ethics

The other main difference between Locke's and Rothbard's ethics is the purpose of the ethic. Since Rothbard and the Thomist believed that every being has an end that is in accordance with its nature, for them the purpose of ethics is to establish norms that say what actions are good for human nature so this end can be achieved. He explains that "True natural law ethics decrees that for all living things, 'goodness' is the fulfillment of what is best for that type of creature" [15, p. 11]. In the case of Humans "goodness or badness can be determined by what fulfills or thwarts what is best for man's nature" [15, p. 11].

Because of Rothbard's roots in economic science, he explains the difference between what is value in economics (fact-based science) and what is value in ethics (normative-based science) [15, p. 12]:

> The natural law, then, elucidates what is best for man-what ends man should pursue that are most harmonious with, and best tend to fulfill, his nature. In a significant sense, then, natural law provides man with a "science of happiness," with the paths which will lead to his real happiness. In contrast, praxeology … treats "happiness" in the purely formal sense as the fulfillment of those ends which people happen-for whatever reason-to place high on their scales of value.

Rothbard defends that "happiness" and value in economic science are purely subjective to each individual and "happiness" and value in ethics is objective because it is established by the nature of the being and, because the nature of things can be known by reason, objective normative science can be established as well.

This notion of analyzing human nature and finding the ends that are compatible with it, and from there creating norms that help humans to achieve those ends without conflict, is called *teleological ethics* (from telos).

3.3 The Non-aggression Axiom

Rothbard defines the non-aggression axiom as follows [13, p. 27]:

> … that no man or group of men may aggress against the person or property of anyone else. This may be called the "non-aggression axiom." "Aggression" is defined as the initiation of the use or threat of physical violence against the person or property of anyone else.

Then he gives some implication of defending this axiom [13, p. 27]: "If no man may aggress against another; if, in short, everyone has the absolute right to be "free" from aggression, then this at once implies that the libertarian stands foursquare for what are generally known as "civil liberties" ..."

This axiom is the center of Rothbard's ethical philosophy from which he derives a theory of contracts, interpersonal exchange, and punishment, and a unique view on what the State is (the conclusion that derives from this axiom is called the Libertarian Ethics). Rothbard, thus, argues for a natural rights justification for the non-aggression axiom,

Since men can think, feel, evaluate, and act only as individuals, it becomes vitally necessary for each man's survival and prosperity that he be free to learn, choose, develop his faculties, and act upon his knowledge and values. … Violent interference with a man's learning and choices is therefore profoundly "antihuman"; it violates the natural law of man's needs [13, p. 33].

In Rothbard's opinion, this is why the natural law ought to be followed. Then, he explains and justifies the rights to self-ownership [13, p. 33-34]:

> The right to self-ownership asserts the absolute right of each man, by virtue of his (or her) being a human being, to "own" his or her own body; that is, to control that body free of coercive interference. Since each individual must think, learn, value, and choose his or her ends and means in order to survive and flourish, the right to self-ownership gives man the right to perform these vital activities without being hampered and restricted by coercive molestation.

Rothbard's next challenge was to justify the ownership of external objects. He, then, justifies Locke's Homesteading principle by showing that its negation creates contradiction and therefore agrees with Locke that all individual own their person and therefore their labor, which they can mix with nature resources creating something that has a part of their personality in it, giving it ownership over that thing.

3.4 Rothbard's Political Conclusions

The other main difference between Locke's and Rothbard's social philosophy are their political conclusions. Rothbard concludes that no form of aggression against a non-aggressor is justifiable. Therefore, institutions that commit aggression against a pacific individual are not justifiable. One of the institutions that, contrary to Locke, Rothbard says it is not ethically justifiable is the State [13, p. 29-30]:

> The libertarian therefore considers one of his prime educational tasks is to spread the demystification and desanctification of the State among its hapless subjects. His task is to demonstrate repeatedly and in depth that not only the emperor but even the "democratic" State has no clothes; that all governments subsist by exploitive rule over the public...

He continues with an example [13, p. 30]: "If we analyze taxation, we find that, among all the persons and institutions in society, only the government acquires its revenues through coercive violence."

Rothbard was responsible for the transformation of classical liberalism (statism) into a more extreme and coherent form of political philosophy (anarchism). He does that by using the premises of the classical liberals (property rights) and applying it to the final logical consequences: for any given society to follow the natural law and respect the natural rights of every individual, the State (monopoly of aggression) cannot exist.

4. Hoppe's Argumentation Ethics

Rothbard's reformulation of Locke's natural property rights still fell into Hume's "is-ought to" problem. Hoppe constructed a new justification, without the "is-ought to" problem, by using *a priori* true is-statements as premise and concluding an *a priori* true *is-statement* (fact), not an *ought to* statement (norm).

Hans Hoppe has managed to establish the case for anarcho-capitalist Lockean rights in an unprecedentedly hardcore manner, one that makes my own natural law/natural rights position seem almost wimpy in comparison [12, p. 44].

Hoppe developed his argument by combining two conceptual bases: transcendental pragmatics from Jürgen Habermas (his German teacher) and Karl-Otto Apel, and Mises' Praxeology. These two bases are discussed below.

4.1 The Pragmatic Basis

The pragmatic basis will be explained first because is the one that is most often wrongly interpreted. Let us start with the concept of performative contradiction, which is an inconsistency between acting and saying [4] formalized as follows,

A performative contradiction occurs when a constative speech act k(p) rests on noncontingent presuppositions whose propositional content contradicts the asserted proposition p [5, p. 97].

This is not a logical contradiction in the strict sense of Aristotelian logic, thus many believe that this type of contradiction cannot say anything about the truth value of a given proposition. Apel responded to this critic by saying that this contradiction enables a true and solid foundation for philosophy because it reveals transcendental statements that cannot be proven false because the only way to claim that they are false is the claimer already presupposing that they are true [1, p. 42]. Aristotle used performative contradiction to justify his tree logical axioms by arguing that for someone to claim that the axioms are false the claimer needs to use the axioms as if they were true to propose the statement [2, p. 48]. Aristotle then concluded that the principle of noncontradiction from logic needs to be justified via a performative contradiction because it is a *sine qua non* condition of the act of arguing and truth-seeking.

According to Apel and Habermas, there are some norms implicit in the act of arguing that if negated would fall into a performative contradiction proving that they were true. These *sine qua non* condition of the act of arguing are called the *a priori* of argumentation. With them, Habermas developed an ethical justification called discourse ethics and because the norms were necessary truths for the act of argumentation, the justification does not fall in Hume's "is-ought to" problem. However, Hoppe did not agree with the norms that his teachers found in the *a priori* of argumentation (socialist policies). He found other norms that are implicit in the argumentation process, the self-ownership axiom and homesteading, as it will be explained below.

Another main idea that Hoppe inherited from Apel and Habermas was their notion of what argumentation is and, consequently, why norms cannot be justified in the course of a monologue. For them, argumentation is a conflict-free interpersonal exchange of propositions (a person cannot argue

alone) initiated by a disagreement between the parties involved concerning the truth value of a given proposition (Hoppe will add the insight that argumentation is a subtype of human action, explained below).

4.2 The Praxeological Basis

Although Hoppe was influenced by the transcendental pragmatic philosophy, his knowledge of Austrians economics and praxeology lead him to a different route from that of his teachers (socialist ethics). Kinsella mention two important differences between Hoppe and Apel and Habermas.

First, Hans' awareness of Mise's Praxeology. The Austrian economics understanding of the logic of Human action. … The idea of scarce means of action as key ingredient of human success and prosperity. Second, his understanding of the nature of the State, the nature of violence and aggression which he brought from Rothbard and Libertarian radicalism [8].

Praxeology is the science or study of human action. The name was first used by Mises [14], who defined human actions as [11, p. 11]: "… purposeful behavior. Or we may say: Action is will put into operation and transformed into an agency, is aiming at ends and goals, … is a person's conscious adjustment to the state of the universe that determines his life."

This science rest upon the Action Axiom that states that *humans act*. Any claim trying to contest this axiom falls into a performative contradiction because the claimer needs to act proving that the axiom is true. From this axiom, Mises deduced a whole field of economics. Hoppe believed that similar deduction could be done for ethics, as it studies the actions of individuals, conflicts between their actions, and the norms need to avoid those conflicts.

An important component of the praxeological basis is Hoppe's notion that conflicts are the praxeological impossibility of two or more individuals to use a scarce mean for excluding ends simultaneously, from which three conclusions can be made. First, an individual cannot enter a conflict alone. Second, conflict only happens because every means is scarce (cannot be allocated to different ends concurrently). Third, conflicts only happen between acting agents (individuals) because they can allocate scarce means to achieve ends [6, p. 333].

4.3 Building the Argumentation Ethics

Finally, let us try to understand what insight that Hoppe possibly had that enabled him to merge these two philosophical bases to create The Argumentation Ethics. In my (possibly not novel) opinion, the insight was the fact that argumentation is a type of human action and therefore is ruled by praxeology laws. Hoppe used the same definition of argumentation as Apel and Habermas, but this insight enabled him to know that argumentation presupposes the utilization of the person's body as the primary means of action. Let us, then, look at Hoppes argument [7]:

(1) That: All truth-claims – all claims that a given proposition is true, false, indeterminate or un-decidable or that an argument is valid and complete or not – are raised, justified and decided upon in the course of an argumentation.

(2) That: The truth of *this* proposition cannot be disputed without falling into contradiction, as any attempt to do so would itself have to come in the form of an argument. Hence, the *Apriori* of argumentation.

(3) That: Argumentation is not free-floating sounds but a human *action*, i.e., a purposeful human activity employing physical means – a person's body and various external things – in order to reach a specific end or goal: the attainment of agreement concerning the truth-value of a given proposition or argument.

(4) That: While motivated by some initial disagreement, dispute or conflict concerning the validity of some truth-claim, every argumentation between a proponent and an opponent is itself a conflict-free –

mutually agreed on, peaceful – form of interaction aimed at resolving the initial disagreement and reaching some mutually agreed-on answer as to the truth-value of a given proposition or argument.

(5) That: The truth or validity of the norms or rules of action that make argumentation between a proponent and an opponent at all possible – the praxeological presuppositions of argumentation – cannot be argumentatively disputed without falling into a pragmatic or performative contradiction.

(6) That: The praxeological presuppositions of argumentation, then, i.e., what makes argumentation as a specific form of truth-seeking activity possible, are twofold: a) each person must be entitled to exclusive control or ownership of his physical body (the very mean that he and only he can control directly, at will) so as to be able to act independently of one another and come to a conclusion on his own, i.e., *autonomously*; and b), for the same reason of mutually independent standing and autonomy, both proponent and opponent must be entitled to their respective prior possessions, i.e., the exclusive control of all other, external means of action appropriated indirectly by them prior to and independent of one another and prior to the on-set of their argumentation.

(7) And that: Any argument to the contrary: that either the proponent or the opponent is not entitled to the exclusive ownership of his body and all prior possessions cannot be defended without falling into a pragmatic or performative contradiction. For by engaging in argumentation, both proponent and opponent demonstrate that they seek a peaceful, conflict-free resolution to whatever disagreement gave rise to their arguments. Yet to deny one person the right to self-ownership and prior possessions is to deny his autonomy and his autonomous standing in a trial of arguments. It affirms instead dependency and conflict, i.e., *heteronomy*, rather than conflict-free and autonomously reached agreement and is thus contrary to the very purpose of argumentation.

Premises (1), (2) and (4) are rooted in Apel and Habermas's insight about argumentation and their *sine qua non* conditions (pragmatic basis). Premise (3) is rooted in the praxeology basis from which Hoppe had the insight that argumentation is a human action. Premise (5) is a combination of the two bases because Hoppe had another insight that the Appel and Habermas' presuppositions were praxeological presuppositions because an action is made when a proposition is being claimed. Premise (6) talks about the norms that Hoppe identified in the *a priori* of argumentation and is the most different conclusion from Apel and Habermas: a) how argumentation presupposes an individual control over his/her physical body (self-ownership) and b) how another presupposition of argumentation is the entitlement of the individual prior possessions (it is not explicitly mentioned, but the prior possessions need to be achieved in a peaceful manner either via Homesteading or trading). Finally, Hoppe concludes (7) that anyone who tries to defend a norm that is contrary to self-ownership and Homesteading (Libertarian ethics) will fall into a performative contradiction because the claimer already presupposes the truth of these norms because he/she is in argumentation and, because norms can only be justified in the course of argumentation, the Libertarian Ethics and all norms that derive from it will be logically defendable. As can be seen, the premises (1)-(6) are all is-statements and *a priori* truths that cannot be negated without falling into a performative contradiction. So is the conclusion (7). Therefore, the argument does not fall into Hume's "is-ought to" problem.

5. Conclusion

My goal was to present and interpretative model of the development of Hoppe's Argumentation Ethics. I briefly showed the evolution of Lockean property rights ethics starting with the Lockean original formulation. Then, I described Rothbard's Natural Rights formulation that gave rise to the Libertarian Ethics. Finally, I tried to show how Hoppe developed his Argumentation Ethics by combining Mises' praxeology and Apel and Habermas' transcendental pragmatics.

In his interview, Prof. Walter Block described his view of Libertarianism, the non-aggression principle and property rights using a Teepee analogy (Figure 2).
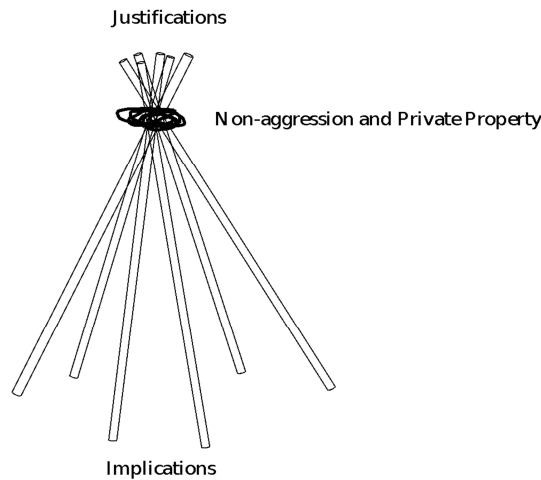
Figure 2: Non-Aggression Principle, Justifications and Consequences (source: [3]).

The place where the sticks cross is the non-aggression principle. Below, we have its implications, "…for example, what is the libertarian view on unions, what is the libertarian view on drugs, what is the libertarian view on whatever…" [3]. Above, we have the justifications for the non-aggression principle and private property rights.

There are many… Ayn Rand says that is due to "A is A". There is the religious one 'God says not aggress other people'. Another one is Natural Rights, which Murray, before he met Hans Hoppe, was an advocate of. Another one is utilitarianism or pragmatism 'we will have a better and happier life; it will increase the GDP…' [3].

What is then Argumentation Ethics? "… it is the best justification for the non-aggression principle and property rights" [3]. Nevertheless, it has also several critics. Some of them have been replied to by Hoppe himself and others [4], [9]. Other critics still need to be addressed, which seems to me a good direction for future work. Further, I would also like to work on understanding and promoting the consequences, to promote Libertarianism and libertarian ideas. I hope this article inspire others to do the same.

Acknowledgements

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