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**The Political
Philosophy of Hans-
Hermann Hoppe**
A Critical Study

Zielona Góra 2024

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Introduction

Hans-Hermann Hoppe is a German philosopher, economist, and interdisciplinary social theorist. He was born in 1949 in Peine, Lower Saxony, to a family of refugees from the Soviet ^{occupation} zone. According to Hoppe himself, his father was a master tailor who, after leaving a Soviet prisoner-of-war camp, decided to emigrate from the zone controlled by the Red Army. His mother came from a Junker family, but after being expropriated by the communists, she had to take a job as a primary school teacher. Hoppe also recalls that although his parents were not intellectuals, there were many books on German literature and history, as well as some popular science books, in his home, so that the future thinker quickly developed a habit of reading. Hoppe then became interested in history and biology, and finally, under the influence of discussions with Protestant religious teachers, he also became attracted to philosophical issues.

Hoppe studied at Saarland University in Saarbrücken (bachelor's degree) and Goethe University in Frankfurt am Main (master's and doctoral degrees), where he trained in philosophy, sociology, history, and ^{economics}. As a student, being, as he recalls, "a child of his time," i.e., the youth revolt of the 1960s, he devoured the texts of representatives of the Frankfurt School and professed the ideals of what he called "humanistic socialism."

"humanistic socialism." At the same time, he rejected Soviet-style socialism,

¹ *About*, biographical note on H.-H. Hoppe's website, <http://www.hanshoppe.com/about/> [accessed on June 1, 2023]. *Hoppe: The In-Depth Interview*, conducted by J. Deist, "The Austrian" March-April 2020, Vol. 6, No. 2, pp. 4-13.

² H.-H. Hoppe, *My Path to the Austrian School of Economics*, https://mises.org/wire/my-path-austrian-school-economics?bclid=IwAR0Wd5ffH1jlaImOdEh_s5TpMK6bQTp9XzPvkLTnRxlepf-fTBu6mq3NJ6qc [accessed on 1 June 2023].

³ *About...*

as visits to relatives remaining in the GDR effectively discouraged him from doing so. After several years, influenced by his fascination with the ideas of Karl Popper, he moved to the center, while developing an interest in theoretical philosophy—epistemology and the philosophy of science. In these fields, he was already drawing on the views of the Erlangen School, as well as those of Karl-Otto Apel and Jürgen Habermas which would remain unchanged in the future. The result was his doctoral dissertation, defended in 1974 at Goethe University under the supervision of Habermas, entitled *Handeln und Erkennen. Zur Kritik des Empirismus am Beispiel der Philosophie David Humes*, which was published two years later in book form. His research interests then evolved towards the epistemological foundations of the social sciences, with a particular focus on economics. In this way, around the age of thirty, Hoppe came across the writings of Ludwig von Mises and other economists of the Austrian school, including his future mentor and friend Murray Rothbard, one of von Mises' students. He came across them, he says, through footnotes in the works of Milton Friedman and Friedrich Hayek, whose political views—free-market liberalism—he sympathized with at the time. Although, in methodological terms, contact with the works of Mises and Rothbard only served, as Hoppe recalls, to confirm, develop, and systematize his original intuitions about the authoritative status of economic rights, it brought about a genuine breakthrough in Hoppe's political stance. Hoppe became a supporter of libertarianism in the anarcho-capitalist variant created by Rothbard. This period resulted in two important book publications. The first was his habilitation thesis entitled *Kritik der Kausalwissenschaftlichen Sozialforschung. Untersuchungen zur Grundlegung von Soziologie und Ökonomie* (1983)⁹, presented again at the Goethe University in Frankfurt. In it, Hoppe developed Mises' critique of methodological naturalism in the social sciences and the positive idea of praxeology as an a priori deductive science of human action, on which economics was to be based. Referring again to Mises' position, as well as to the views of the German tradition of *Geisteswissenschaften*, he also proposed a conceptualization of the sociological sciences as reconstructive,

⁴ Hoppe: *The In-Depth...*

⁵ H.-H. Hoppe, *My Path...*

⁶ *Idem*, *Handeln und Erkennen. Zur Kritik des Empirismus am Beispiel der Philosophie David Humes*, Frankfurt/M-Munich 1976.

⁷ *Ibid.*, *My Path...*

⁸ *Ibid.*

⁹ *Idem*, *Kritik der Kausalwissenschaftlichen Sozialforschung. Untersuchungen zur Grundlegung von Soziologie und Ökonomie*, Opladen 1983.

understanding the sciences of action. In his next book, tellingly titled *Eigentum, Anarchie und Staat* (1987), Hoppe presented for the first time, in the form of a systematic treatise, his libertarian position, which he has continued to present to this day with few modifications to its principles and their justification. This work already contains most of the key themes of his political philosophy: argumentative ethics, which is a combination of the ethics of discourse formulated by Habermas and, in particular, – Aple, with Rothbard's theory of absolute property rights; a decisive critique of the state as a morally evil and economically inefficient monopoly; an uncompromising refutation of democratic (dis)order; and the idea of a stateless society based on private law (anarcho-capitalism). In Hoppe's view, his adoption of libertarian views led to his isolation in predominantly left-wing academic circles and effectively blocked the development of his academic career in ^{Germany}. Indeed, during that period, he never held a permanent university position, lecturing only for a time as a *Privatdozent* at the Technical University of Brunswick and several other German universities. On the other hand, while working on his habilitation thesis, Hoppe received the prestigious Heisenberg Fellowship, funded by the Deutsche Forschungsgemeinschaft. From 1976 to 1978, he also completed a *postdoctoral fellowship* at the University of Michigan in Ann Arbor, where he came across Mises' *magnum opus Human Action* in the library, and in the first half of the 1980s, he lectured as a visiting professor at the Johns Hopkins University School of Advanced International Studies in Washington, D.C.

Hopkins in ^{Bologna}¹².

After establishing contact with Rothbard in 1985, Hoppe decided to move permanently to the US in 1986. From that moment until his death in 1995, Rothbard became his "dearest, fatherly friend" and ^{mentor}. Hoppe joined his mentor while he was still working at the New York Polytechnic, but later that year, they both moved to the University of Nevada, Las Vegas, where Rothbard took up a chair in economics, which Hoppe would take over after his death. He quickly became one of the central intellectual figures of American libertarianism. He was closely associated with the Ludwig von Mises Institute, founded by Rothbard and Lew Rockwell, where he was awarded the status of *distinguished fellow*. For some time, he was also editor-in-chief of the periodicals

"The Review of Austrian Economics" and "The Journal of Libertarian Studies"¹⁴.

¹⁰ *Idem, Eigentum, Anarchie und Staat. Studien zur Theorie des Kapitalismus*, Opladen 1987.

¹¹ *Hoppe: The In-Depth...*, p. 6.

¹² About...

¹³ "Dearest fatherly friend." H.-H. Hoppe, [in:] *Murray Rothbard: In Memoriam*, ed. L. Rockwell, Auburn 1995, p. 36.

¹⁴ About...

After moving to the US, Hoppe wrote his most famous English-language works. The first of these, *Theory of Social Order* (1989)¹⁵, was another systematic treatise on the borderline between philosophy, political science, and economics. In addition to the ethical and epistemological themes present in his earlier works, it contained an innovative conceptualization and typology of socialism, as well as an original critique of the economic theory of public goods. In 1993, a collection of essays entitled *Economics and the Ethics of Private Property*¹⁶ was published. Among the new issues previously unaddressed by the thinker were the libertarian theory of class struggle and analyses of the international order. The collection also includes *strictly* economic texts published by Hoppe at that time, concerning monetary theory and a critique of Keynesianism. Two years later, another English-language work was published – a collection of essays on epistemology and the methodology of social sciences: *Economic Science and the Austrian Method* (1995).

In 2001, Hoppe published his most popular work, entitled *Democracy: The God That Failed*. This work marks a conservative shift in Hoppe's political philosophy, which had been developing since the early 1990s. The main theme of the book is a radical critique of democracy, accompanied by a relatively positive assessment of monarchy. In addition, Hoppe gained notoriety for his ideas presented in *Democracy...* on the synthesis of libertarian theory of justice with cultural conservatism and libertarian secessionism – the so-called Europe of a Thousand Liechtensteins, i.e., the division of the Old Continent into hundreds of microstates in order to weaken the power of the state. It is also worth mentioning Hoppe's libertarian criticism of mass immigration, which has been a source of controversy among libertarians that continues to this day.

After *Democracy...* Hoppe published several more collections of essays and academic articles on philosophical, political, economic, and historical topics in the 21st century, in which he developed ideas familiar from his previous books: *The Myth of*

¹⁵ *Idem, A Theory of Socialism and Capitalism: Economics, Politics, and Ethics*, Auburn 2016, Polish edition: *Teoria socjalizmu i kapitalizmu. Ekonomia, polityka i etyka*, trans. P. Nowakowski, Wrocław 2015. Further in the main text, we use Polish titles, unless the work has been translated into Polish.

¹⁶ *Idem, The Economics and Ethics of Private Property. Studies in Political Economy and Philosophy*, Auburn 2006, Polish edition: *Ekonomia i etyka własności prywatnej. Studia z zakresu ekonomii politycznej i filozofii*, trans. K. Nowacki, Warsaw 2011.

¹⁷ *Idem, Economic Science and the Austrian Method*, Auburn 2007.

¹⁸ *Idem, Democracy – the God that Failed. The Economics and Politics of Monarchy, Democracy, and Natural Order*, New Brunswick-London 2007, Polish edition: *Demokracja – bóg, który zawiódł. Ekonomia i polityka monarchii, demokracji i ładu naturalnego*, translated by W. Falkowski, J. Jabłecki, Warsaw 2006.

National Defense. Essays on the Theory and History of Security Production (2003 – as editor and co-author)¹⁹, *The Great Fiction. Property, Economy, Society, and the Politics of Decline* (2012, expanded edition 2021)²⁰, *Der Wettbewerb der Gauner. Über das Unwesen der Demokratie und den Ausweg in die Privatrechtsgesellschaft* (2012)²¹, *A Short History of Man. Progress and Decline: An Austro-Libertarian Re-construction* (2015)²², and *Getting Libertarianism Right* (2018)²³. His latest work is a collection of lectures delivered in 2004 at the Mises Institute, simply titled *Economy, Society, and History* (2021)²⁴.

Hoppe is also the author of dozens of essays and journalistic articles that have not been published in book form. He is an active speaker and promoter of libertarianism and the Austrian school: he gives guest lectures in many countries around the world (he has also appeared several times in Poland) and is sometimes a guest on television programs. Dozens, if not hundreds, of his speeches are available online and are very popular with viewers. The most viewed of these lectures, delivered on October 6, 2019, in Moscow, has been viewed over 83,000 times, and the lecture itself was attended by over 1,500^{listeners}. Hoppe's books have been translated into over thirty languages. Since his emergence in the United States in the mid-1980s, he has remained one of the most important libertarian scholars, considered the direct successor to Murray Rothbard.

¹⁹ *The Myth of National Defense. Essays on the Theory and History of Security Production*, ed. *idem*, Auburn 2003.

²⁰ *Idem*, *The Great Fiction. Property, Economy, Society, and the Politics of Decline*, Auburn 2021, Polish edition: *Wielka fikcja. Państwo w epoce schyłku*, trans. K. Nowacki, Warsaw 2014. For reasons unknown to us, the Polish edition of the book was published with approximately one third of the texts omitted. Some of them were later included in the Polish edition of *A Brief History of Humankind*, while the rest have not yet been published in Polish. In addition, the second (2021) edition of *The Great Fiction* includes several texts published in recent years. Therefore, when citing this work, we are not always able to provide a reference to the Polish edition. It also happens that a footnote to the original refers to *The Great Fiction*, while *Krótką historia...* is given as the Polish translation. For the same reasons, we quote both *The Great Fiction* and *Short History of Man* in the original above. In this way, we emphasize that the originals and their Polish equivalents are actually different books.

²¹ *Idem*, *Der Wettbewerb der Gauner. Über das Unwesen der Demokratie und den Ausweg in die Privatrechtsgesellschaft*, Berlin 2012.

²² *Idem*, *A Short History of Man. Progress and Decline: An Austro-Libertarian Reconstruction*, Auburn 2015, Polish edition: *Krótką historia człowieka. Libertarianńska rekonstrukcja postępu i upadku*, trans. Ł. Dominiak, Warsaw 2014.

²³ *Idem*, *Getting Libertarianism Right*, Auburn 2018.

²⁴ *Idem*, *Economy, Society, and History*, Auburn 2021.

²⁵ *Hans-Hermann Hoppe in Moscow. Featuring Mikhail Svetov*, <https://www.youtube.com/watch?v=FGlm0xYdaSc> [accessed on 1 June 2023].

Hoppe is currently a retired professor at the University of Nevada. He lives in Istanbul with his wife Gulcin Imre Hoppe. In 2006, he founded the Property and Freedom Society, of which he is ^{president}.

*

The subject of this book is Hoppe's political philosophy, and its main research goal is to critically analyze it. So, this work has both a reporting purpose—which is typical for the history of philosophy and political thought, where you analyze and trace the origins of the ideas you're looking at—and a critical one. We are therefore interested not only in the content and sources of Hoppe's philosophy, but also in its logical value. The epistemological component of his thought—apriorism (methodological rationalism)—forms the axis of our reading, which we define, following Stanisław Judycki, as a position claiming that there are "judgments justified by means other than reference to experience in the ordinary sense," where "experience in the ordinary sense" is understood as "sensory experience and internal experience."²⁷ According to this position, the extra-experiential justification of judgments is achieved through the use of reason, thanks to which judgments acquire universal validity for all ^{rational} beings.²⁸

From this position of rationalism, Hoppe develops his entire political philosophy. As we will show, this applies to all of its fundamental elements: ethics, the concept of the state, the philosophy of history, the proposed vision of economic, political, and cultural order, as well as, in part, recommendations regarding the methods of implementing this vision. What is a posteriori in Hoppe's philosophy is clarified by a *priori* knowledge and is subject to the necessary limitations imposed by it. We see the significance of research into Hoppe's thought in the key position he occupies in the spectrum of libertarian philosophy. Although Hoppe constantly emphasizes the intellectual debt he owes to Mises and Rothbard, he is by no means merely an epigone of these two authors. On the contrary, he creatively develops the achievements of his predecessors in many respects. First, he connects it in an original way with the achievements of German philosophy, more specifically with those branches of German philosophy that affirm the existence of a *priori* knowledge, advocate the cognitive and moral autonomy of man as an acting subject, or defend the absolute status of ethical norms. Hoppe's libertarianism—unlike that of the self-proclaimed libertarians—is based on a thorough critique of the moral claims of the state and other social institutions.

²⁶ About...

²⁷ S. Judycki, *A Priori Knowledge*, [in:] *Guide to Epistemology*, ed. R. Ziemińska, Krakow 2013, p. 349.

²⁸ K. Ajdukiewicz, *Issues and Directions in Philosophy. Theory of Knowledge and Metaphysics*, Warsaw 1983, pp. 45-47.

Rothbard's classical philosophy draws inspiration mainly from Kantianism, Paul Lorenzen's constructivism and his school, and above all from the communication philosophy of Habermas and Apel. Secondly, the use of these sources allowed Hoppe to propose a completely new foundation for libertarian theory of justice, namely argumentative ethics – one of the leading variants of libertarian justification and a subject of lively debate among libertarian theorists for over thirty years. Its authorship alone attests to Hoppe's originality and the significance of his contribution to the development of this philosophical and political theory. However, this is not the only important intra-libertarian debate he has initiated. In fact, a large part of the disputes between representatives of libertarianism can be considered disputes about Hoppe's views. In addition to argumentative ethics and the question of ethical justification as such, these include debates on the cultural implications and conditions of possibility of a libertarian society, libertarian immigration policy, and questions of political strategy (secessionism and calls for an alliance with the right). In all of the above cases, Hoppe can be considered the initiator or one of the initiators of the dispute. In addition, he is one of the leading participants in debates on libertarian class struggle theory, the relationship between libertarianism and democracy, classical liberalism, and the possibility of anarcho-capitalism. Consequently, studies of Hoppe's ideas provide insight into libertarianism as a whole.

At this point, it is necessary to clarify how we conceptualize the term “libertarianism” in this work. It is, after all, an ambiguous term. Since the end of the 18th century, it has come a long way. Initially, it referred to a metaphysical position recognizing the existence of free will, which remains the second meaning^{of the term} to this day. In a political context, the name “libertarianism” only appeared in the second half of the 19th century to describe someone who opposed excessive state power in the name of individual freedom.^{of} At the same time, in the following decades, the term was mainly used to refer to anarchists – both individualists and syndicalists, communists and collectivists. In the context of 19th-century anarchist ideas, it was used by, among others, Peter Kropotkin and Max Nettlau,^{Nettlau} to name the most famous names. In relation to free market concepts, it was first used by Leonard E. Reed, founder (in 1946) of the *think tank* Foundation for Economic Education, whereby

²⁹ D. Sepczyńska, *Libertarianism: The Little-Known History of a Concept, Concluding with an Attempt at Definition*, Olsztyn 2013, p. 24.

³⁰ *Ibid.*, p. 26.

³¹ J. Bartyzel, *The origins and attempt at systematization of the main currents of libertarianism*, [in:] *Libertarianism. Theory, practice, interpretations*, ed. W. Bulira, W. Gogłóza, Lublin 2010, p. 16.

The reason for resorting to it was that the term “liberalism” had acquired statist and egalitarian connotations in the American context. The aim was therefore to find a new label for the old ideas of classical liberalism, based on the approval of individual freedom, a free market economy, and a state³² with limited powers. To this day, disputes over the monopoly on calling oneself a libertarian are being waged by anarcho-capitalists, supporters of a minimal state, and sympathizers of personal freedom combined with extensive redistribution^{of resources}.

In this book, we rely on the definition of libertarianism formulated by Stephen Kinsella. It refers to the position developed by Murray Rothbard and further elaborated by Hoppe. Kinsella sees the core of libertarianism in the theory of justice, more specifically in the concept of absolute property rights. In libertarianism, this right is understood in two ways: as the right^{to self-ownership} and the right to own external objects that have been acquired legitimately, i.e. (a) through the original appropriation of goods on the basis of priority, or (b) through the voluntary transfer of goods whose title can in turn be traced back to acts^{of original appropriation}. At the political level, this entails anarchism understood as the rejection of the institution of the state, because this institution, as a coercive monopoly of jurisdiction and taxation, cannot exist without violating^{property} rights understood in this way. From our point of view, this definition is purely stipulative. By applying it, we do not deny authors with other views the right to use the label of libertarianism. For the purposes of this book, we simply narrow the field of research to

³² *Ibid.*, p. 17.

³³ The latest and most authoritative, albeit somewhat American-centric, account of these disputes can be found in: M. Zwolinski, J. Tomasi, *The Individualists. Radicals, Reactionaries, and the Struggle for the Soul of Libertarianism*, Princeton-Oxford 2023.

³⁴ An unquestionable advance in Polish literature on the subject, both from a translational and analytical point of view, is Dariusz Juruś's proposal to translate the English expression *self-ownership* not, as was done previously, as “samoposiadanie” (“self-possession”), but as “autowłasność.” Ownership is not the same as possession; the former is a normative concept, while the latter is descriptive. Possession is control over a given object to the exclusion of others, while ownership is the right to such control. Without this distinction, it would be difficult to write, for example, about the theory of original appropriation, which is important for libertarian theory of possessive justice, i.e., the theory that sees the source of title to property in first possession. D. Juruś, In *Search of the Foundations of Libertarianism. From the Perspective of Rothbard's Theory of Property*, Krakow 2012, p. 78.

³⁵ S. Kinsella, *What Libertarianism Is*, [in:] *Property, Freedom, and Society. Essays in Honor of Hans-Hermann Hoppe*, ed. J.G. Hülsmann, S. Kinsella, Auburn AL 2009, pp. 184-193. In addition to the methods mentioned by Kinsella, production and restitution/compensation should also be mentioned. See chapter II on this subject.

³⁶ *Ibid.*, p. 196.

theories of Rothbard and his ³⁷followers. An exception to this libertarianism will be the dispute between anarcho-capitalists and minarchists (proponents of a minimal state). With regard to this dispute, we will attempt to show that it is in fact a dispute between libertarians in the sense used here and supporters of libertarianism *in the broad sense*. We will argue that the existence of any state, even the most limited, is incompatible with the aforementioned theory of justice.

The main thesis of the book is that Hans-Hermann Hoppe is a systems philosopher, and his philosophy provides libertarianism with a foundation of this kind, i.e., one that creates a comprehensive edifice of thought composed of conceptually interrelated elements. Hoppe's work thus contradicts Thomas Nagel's well-known statement that libertarianism lacks a philosophical ³⁸foundation. On the contrary, at least in Hoppe's work, it has a philosophical foundation that goes far beyond the minimalism characteristic of contemporary liberal thought as represented by authors such as John Rawls. Starting from the first propositions (axioms) of the system, Hoppe's thought develops to encompass the fields of epistemology, ethics, the theory of the state and stateless order, the philosophy of history, social philosophy, and the philosophy of culture, and finally ³⁹political doctrine (strategy). The glue that holds this system together is apriorism. Although it cannot be maintained that all of Hoppe's ideas are simply logical derivatives of his original assertions, each of them is related to them in the sense that it takes them into account, is limited in content by them, or has a relationship to them.

³⁷ Juruś proposes a definition similar to Kinsella's, listing three components of libertarianism – natural law, the Austrian school of economics, and individualistic anarchism – united by the recognition of the absolute nature of property rights. While we share this author's intention to separate Rothbard's approach from other positions referred to as libertarianism, we refrain from accepting his concept for one reason. In the case of such a strongly moralized theory (focused on the issue of justice), it seems risky to include a specific school of economics in its definition, even if both Rothbard and Hoppe are Austrian economists. D. Juruś, *op. cit.*, p. 10. On other definitions of libertarianism, see D. Boaz, *Libertarianism*, trans. D. Juruś, Poznań 2005, pp. 13, 30-35; M. Modrzejewska, *Libertarian Concepts of the Individual and the State in Contemporary American Political Thought*, Kraków 2010, p. 21; D. Sepczyńska, *op. cit.*, p. 141; M. Zwolinski, J. Tomasi, *op. cit.*, chapter 1.

³⁸ See T. Nagel, *Libertarianism Without Foundations*, Yale Law Journal 1975, 1 (85), pp. 136–149.

³⁹ The term “system philosophy” was coined by Nicolai Hartmann as an antonym for “problem philosophy.” Hartmann advocated the latter, associating the former with dogmatism, ignoring problems or simplifying them so that solutions could be forced into the framework of the system. Although this tendency does sometimes come to the fore in Hoppe's work, it is not our intention to repeat the negative associations associated with Hartmann's systemic philosophy. We merely wish to point out that Hoppe's thought does not address philosophical and political problems in isolation from a holistic view of the world. N. Hartmann, *Mysł filozoficzna i jej historia* [Philosophical Thought and Its History], in: *idem*, *Mysł filozoficzna i jej historia. Systematyczna autoprezentacja* [Philosophical Thought and Its History. A Systematic Self-Presentation], trans. J. Garewicz, Toruń 1994, pp. 14–15.

serve. We therefore see the task of this monograph in the (critical) presentation of Hoppe's political philosophy as a system.

The main thesis of the book is, as can be seen, historical in nature. It should not necessarily be treated as the most important thesis; it simply ties the entire argument together, providing an interpretative framework for the subsequent chapters. In addition to this thesis, each chapter puts forward a number of theses, most of which are not historical in nature, but critical. By criticism, we do not mean the rejection of the theory under study, but rather an interest in its truth value, or, in less technical terms, whether it is true or false. This makes the theses of the subsequent chapters—at least in our opinion—even more important than the main thesis.

The book consists of seven chapters. In the first chapter, we discuss in detail the epistemological foundations of Hoppe's political philosophy. We point to two complementary *a priori* axioms—*a priori* action and *a priori* argumentation and communication—as the pillars of Hoppe's philosophy. Furthermore, we characterize his epistemology, taking into account its central elements, which, apart from apriorism, include transcendentalism, epistemological fundamentalism, criticism, emphasis on the role of language in cognition, pragmatism, realism, antinaturalism, and anti-positivism. At the same time, we highlight the multidimensional connections between Hoppe's philosophy and the views of Immanuel Kant, Jürgen Habermas, Karl-Otto Appel, Ludwig von Mises, Paul Lorenzen, and other representatives of the Erlangen school. We argue (and continue to justify in the second chapter) that without taking into account this epistemological background, especially the themes borrowed from Appel that have been overlooked in the existing literature, it is impossible to understand Hoppe's practical philosophy, in particular his ethics. Finally, pointing to certain difficulties in the epistemology under discussion, we also formulate suggestions for overcoming them.

In the second chapter, we deal with Hoppe's ethical position. Our considerations focus on his proposed justification of libertarian justice theory – argumentative ethics. We start from Hoppe's metaethics to then show in detail how he grounds libertarian justice theory. In doing so, we argue against critics of his approach, pointing out that the vast majority of them have failed to grasp the meaning of Hoppe's concept, partly because they have ignored its philosophical roots. We identify a second source of misguided objections in their failure to recognize the imperative we call the principle of freedom from conflict. Our defense of Hoppe's theory is conditional: we argue that argumentative ethics is formally correct because it follows logically from its epistemological justification; it is also correct

materially, *if* (a) the validity of this justification is accepted, (b) it is assumed, following Hoppe, that libertarian theory of justice defines the *only* set of individual rights that allows for the avoidance of all conflicts over scarce resources. Furthermore, in this chapter we identify ethical intellectualism as a post-libertarian component of Hoppe's ethics. Another very important theme of the chapter is the reconstruction of the fundamental categories of libertarianism: the principles of non-aggression and freedom. These are reformulated on the basis of the principle of freedom from conflict as ethical metanorms that are primary to property rights.

In the third chapter, we address issues of Hoppe's theory of the state as an "expropriating defender of property," whose existence is incompatible with standards of morality and economic efficiency. We place particular emphasis on problematizing Hoppe's libertarian theory of class struggle, which seeks to explain the nature of the relationship between the state and its allies and the productive part of society. We devote considerable attention to other supporters and critics of this theory, defending it against the latter's objections. We argue that class theory is logically compatible with libertarianism and the methodology of the Austrian school of economics.

Chapter four is devoted to the debate between anarcho-capitalists and minarchists (advocates of a minimal state) and Hoppe's contribution to it. We analyze his critique of the theory of public goods and his vision of a society in which all socially necessary functions of the state are privatized, and then defend it against attacks by minarchists. The question we ask is: does anarchism follow logically from libertarian theory of justice? Our answer to this question is affirmative. Referring to Hoppe's concept of decree property and the theory of will known from legal philosophy, we formulate a new argument against the state, which we call analytical. As we try to show, it follows from the very concept of the state that, regardless of the proclamations of this or that constitution or law, it deprives its citizens of all rights.

Chapter five takes us back to the realm of political philosophy, but also to the theory of the state. Hoppe's writings paint a pessimistic picture of political decline, beginning with the emergence of statehood and culminating in the modern democratic state. In the critical aspect of this chapter, we focus on Hoppe's partial rehabilitation of monarchy, pointing out the methodological and factual limitations of his analysis. We also examine Hoppe's attitude towards classical liberalism and those elements of it that are present in the political systems of contemporary democratic states. We show that, contrary to views sometimes expressed in the literature, libertarianism is a strand of liberal thought.

In chapter six, we present Hoppe's synthesis of libertarianism and conservatism. This chapter can therefore be treated as an analysis of the cultural implications of argumentative ethics as understood by Hoppe. We show in detail why, in his opinion, a libertarian-conservative synthesis is necessary—why a free-market society needs a conservative culture, and a conservative culture needs a free market. We also point out the simplifications present in Hoppe's theory and present the polemical context—the dispute with the libertarian left—in which this theory was developed. Furthermore, we argue that from a philosophical point of view, the synthesis of libertarianism and conservatism is impossible, and their connections can only be superficial—tactical, ad hoc, possibly concerning certain selected elements of the cultural order, but never its philosophical foundations. Instead, developing the theme from the previous chapter and referring to earlier considerations on argumentative ethics, we propose a concept of what we simply call liberal libertarianism. Finally, an important part of this chapter is the presentation of Hoppe's theory of limited immigration and the debate it has provoked. In assessing the dispute, we agree with Hoppe's critics that his original attempt to reconcile libertarianism with state immigration restrictions ultimately failed.

Finally, in chapter seven, we turn to the problems of Hoppe's libertarianism as a political doctrine, i.e., a concept that includes not only a vision of an optimal social order, but also proposals on how this order should be implemented. In other words, we deal with how, according to Hoppe, to make an a priori ideal an empirical reality. The doctrinal foundations of libertarianism proposed by Hoppe are an alliance with the radical right and secessionism. Regarding the former, we argue that while it may have short-term benefits and be based on reasonable motives related to the diagnosis of the current political situation in Western countries, it also carries the risk of losing the ideological identity of libertarians. Examples of this can be found in Hoppe's proposals for a right-wing libertarian agenda, including his concept of immigration policy. On the issue of secessionism, we argue that it offers an inspiring vision of a path to fulfilling libertarian demands. However, this concept is not without its flaws and dangers. As in Chapter 6, Hoppe's ideas are presented against the backdrop of competing concepts that reject the positioning of libertarianism on the right and its alliance with nationalism.

The main research tool we use is the method of rational reconstruction. This method is inspired by a similar program of rational

reconstruction of scientific theories, already proposed by Karl Popper and developed by Imre ^{Lakatos}. This reconstruction would abstract from the socio-psychological conditions of scientific development. Instead, Lakatos proposed relying on a normative methodology, Popper's "logic of scientific discovery," which provides standards against which the historian of science can examine the "development of objective knowledge." In other words, the essence of this method is to study "theories in themselves," as they exist in Popper's third world, rather than laboriously reconstructing the details of the actual development of scientists' beliefs. In the history of philosophical and political ideas, rational reconstructions consist in extracting those contents of the concepts under study that have the value of logical consistency or result from a given idea or are presupposed by it. As Alexander Linsbichler writes: "While every form of interpretation introduces certain assumptions about rationality into the original sources, rational reconstructions more often than other hermeneutic techniques correct or *explicitly* highlight contradictions or ^{gaps}." Thus, rational reconstruction often turns out to be reconstruction in the completely literal sense, leading to a reformulation of the original concept that was the subject of the study, i.e., to an interpretation contrary to the author's own formulations and intentions. Using this method in our analysis of Hoppe's thought, we sometimes openly point out his inconsistencies and logical missteps, and we often propose additions and transformations to his concepts in order to make them more convincing. Whenever we do so, however, we clearly indicate this, noting what Hoppe himself has written on the subject.

As is clearly evident from reading the book, the foundation of libertarianism is the theory of justice understood as a set of individual rights, and the key method of our rational-reconstructive undertaking is contemporary legal logic based on the groundbreaking works of Wesley N. Hohfeld. With its help, we attempt to penetrate the logical space of the theory of rights proposed by Hoppe and other libertarians. This allows us to defend it against unjustified accusations and to recognize its weaknesses and inconsistencies. At the same time, we avoid the explicit use of formal logic tools—symbolization, laws of logical calculus, etc.—in the book. We do this to avoid a situation in which issues that can be addressed purely verbally

⁴⁰ K.R. Popper, *The Logic of Scientific Discovery*, trans. U. Niklas, Warsaw 2002, pp. 32-33; I. Lakatos, *The History of Science and Its Rational Reconstructions*, [in:] *idem*, *Writings in the Philosophy of Empirical Sciences*, trans.

W. Sady, Warsaw 1995, pp. 170-234.

⁴¹ I. Lakatos, *op. cit.*, pp. 170-172.

⁴² A. Linsbichler, *Was Ludwig von Mises a Conventionalist? A New Analysis of the Epistemology of the Austrian School of Economics*, Palgrave Macmillan 2017, p. 3.

The concepts are presented in the sterile and hermetic language of logic textbooks. Such methodological *overkill*, to use Stephen Walt's apt term, adds little or nothing to the substantive value of the arguments, while making the reading tedious and unpleasant. The negative consequence of this is an unnecessary reduction in the number of readers capable of understanding the text and, consequently, of providing valuable criticism. Following the example of most contemporary analytical philosophers, we therefore strive to maintain the logical clarity of our argument by resorting instead to elements of informal logic and argumentation theory that do not hinder reading, such as the standardization of arguments through the numerical identification of premises and conclusions.

In addition to critical reflections, the book contains numerous historical inquiries, which are often very useful in critical analysis. In the first two chapters, we argue that the meaning of Hoppe's epistemology and ethics cannot be grasped without knowledge of their philosophical roots. Moreover, in all cases where Hoppe's attitude towards a particular issue has evolved over time, we try to emphasize the change. However, the emphasis is placed on—to use Wilhelm Windelband's phraseology—the history of the problem and the problem itself, rather than on the history of the philosopher's development. Thus, the considerations contained in this work lie somewhere between what Bogusław Wolniewicz described as antiquarian (historical) philosophy and substantive philosophy (examining philosophical concepts in terms of their logical value). On the one hand, we present Hoppe's views (albeit without a pedantic analysis of various minor discrepancies and inaccuracies scattered, as with any thinker, throughout his written work) as they appear on the basis of his works. On the other hand, to paraphrase Wolniewicz, if we ask what Hoppe thinks, it is usually to

⁴³ S. Walt, *Rigor or Rigor Mortis? Rational Choice and Security Studies*, International Security, 1999, Vol. 23, No. 4, pp. 5–48.

⁴⁴ On the history of philosophy as the history of philosophical problems, see N. Hartmann, *op. cit.*, 14 et seq. Hartmann contrasts the history of problems with the history of systems, stating: “Every thinker was asked: ‘What did he teach, what did he actually believe, what was his overall view?’ they did not ask: ‘What did he perceive, learn, understand, what achievements did he leave behind?’ (*ibid.*, p. 18). While agreeing with Hartmann that the proper goal of the history of philosophy—including the history of political philosophy—is to provide answers to questions of the second kind, we believe that this distinction is too sharp; it clearly bears the mark of Hartmann's own anti-systemic philosophical position. After all, the system as a whole can also be subject to substantive problematization, and the study of individual problems may be incomplete outside the context of the entire system. In Hoppe's case, without taking into account his theory of cognition, it would be difficult to properly understand some of his most famous philosophical and political theses: the proclamation of the ultimate validity of libertarianism within argumentative ethics or his specific defense of monarchical rule.

⁴⁵ Source: J. Stanisławek, *Filozofowanie Bogusława Wolniewicza* [The Philosophizing of Bogusław Wolniewicz], Przegląd Filozoficzny. Nowa Seria [Philosophical Review. New Series] 2018, 3 (107), p. 232.

consider whether he is right⁴⁶. We therefore attach central importance to the substantive approach. This approach is supported by Hoppe's intellectual biography – his views were essentially crystallized in his second book and have since been modified only in certain aspects. His prose is also generally quite clear, sometimes leaving room for interpretative disputes. However, since purely historical analyses play a certain role here, we also use typical methods of the history of philosophy and the history of political thought: genetic analysis (revealing inspirations and historical antecedents) and comparative analysis (by comparing Hoppe with other thinkers, we obtain a clearer picture of his position).

clearer picture of his position).

The sources used in the book and its place in the existing literature on the subject should also be discussed. The primary literature consists of writings by Hoppe and other libertarians—his predecessors, supporters, and critics. The use of source texts in their original language is an indispensable standard in doxographic research, so it is difficult to consider this a merit. Nevertheless, it should be noted that this book is the first to refer extensively to Hoppe's early German-language works. In our opinion, knowledge of these works, as we discuss in various places in this book, often sheds new light on his ideas.

It should also be noted that although most of Hoppe's major works have already been translated into Polish, the quality of the translations often leaves much to be desired, to the extent that Hoppe's ideas are sometimes completely distorted by the translation. Therefore, in this book, we use double footnotes for these works, referring both to the translation and to the original. We usually quote from the Polish translation, but we do occasionally correct the existing translation, always indicating this in a footnote.

Finally, an additional primary source is an interview that Hans-Hermann Hoppe gave us by email, in which we asked him primarily about the epistemological and ethical components of his philosophy. Quotes from his answers can be found in chapters one and two.

Secondary literature consists of classic works as well as Polish and English-language studies on libertarianism and the Austrian school. The limitation to English and Polish-language literature results from the practical absence of libertarian ideas in the academic discourse of German-speaking countries. The United States of America is the cradle and center of development of libertarian ideas, which is why authors from outside the Anglo-Saxon countries

⁴⁶ "We do not ask what Leibniz thought, but whether he was right." B. Wolniewicz, *Leibniz's Meliorism*, "Przegląd Filozoficzny. Nowa Seria" 2016, 4 (100), p. 293.

publish their thoughts in their own language, which also applies to Hoppe himself.

This book supplements the existing literature with a systematic presentation and evaluation of Hoppe's thought as a systemic whole. It is also the first comprehensive monograph on this thinker's views in Polish literature, although there are many texts in the national literature that fragmentarily address various themes of his work (especially those of a right-wing conservative nature), and interest in his views, as well as in libertarianism as such, is noticeably growing in Poland. Such a monograph is also lacking in English-language literature.

The text is based on the doctoral dissertation "*A priori freedom, a priori order*. The social and political philosophy of Hans-Hermann Hoppe and the disputes over the foundations of libertarianism," defended in 2020 at the University of Silesia. However, the book contains a lot of new research. Its protagonist is still alive and active, so his publications from 2020-2023 (as well as other literature published during this period) have been included. What is more, during this period I have revised some of my views and developed new ones. I have removed about a quarter of the overly extensive text. In their place, key new elements have been added: an outline of Hoppe's defense of epistemology, new approaches to the categories of freedom and non-aggression, an analytical argument against the state, and a defense of the liberal character of libertarianism. Among other things, the standardization of argumentative ethics and the discussion of the problem of migration have undergone significant changes.

Finally, I would like to thank the individuals and institutions that contributed to the creation of this book. I would like to thank my supervisors, Dr. Jacek Surzyn and Dr. Tomasz Słupik, for their guidance during my doctoral studies, and the director of the Institute of Political Science and Administration at the University of Zielona Góra, Prof. Stefan Dudra, for encouraging me to publish this book. I am grateful to Dr. Łukasz Dominiak and Dr. Dariusz Jurusi not only for their insightful reviews of earlier versions of the text, but also for the inspiration their work provides me. In this respect, I also owe a lot to my friends from the KASE Katowice seminar, with whom I had the pleasure of discussing a number of topics covered in this book. Among them, Karol Zdybel deserves special thanks. He read the entire text and provided valuable comments. Needless to say, I am deeply indebted to Prof. Hoppe, whom I would like to thank for enriching the book with his comprehensive answers to my questions. Finally, I would like to thank the Mises Institute in Auburn, where I prepared part of the text during a research internship in the summer of 2019.

Chapter I

Knowledge

As already indicated in the introduction, Hans-Hermann Hoppe's political philosophy cannot be properly understood without knowledge of its epistemological foundations. The important role played by gnoseology in the philosopher's entire thought can be seen at a glance from his writings – Hoppe's first two books (*Handeln und Erkennen* and *Kritik der kausalwissenschaftlichen Sozialforschung*) and the later *Economic Science and the Austrian Method* are entirely devoted to epistemological issues, while his other works usually contain chapters on these topics. In these texts, Hoppe systematically addresses key problems of epistemology: the sources and limits of knowledge and the theory of truth, as well as the philosophy (methodology) of science¹: both the philosophy of formal and natural sciences, as well as social sciences, especially economics. A substantive review of the theories developed by Hoppe also shows that his philosophy is systemic in nature, with epistemological theses forming its starting point.

Below we present the fundamental components of Hoppe's epistemological position, which we consider to be: apriorism, transcendentalism, epistemological fundamentalism, a theory of communicative action that takes into account the achievements of the linguistic revolution in philosophy, a specifically understood pragmatism, and antinaturalism (understood as the methodological dualism of the natural sciences

¹ When writing about issues of philosophy of science as “crucial problems of epistemology,” we do not wish to suggest that it is merely a subdiscipline of the theory of knowledge. In fact, however, the central issues of contemporary philosophy of science (such as the problem of demarcation, the question of the nature of progress in science, or the dispute between naturalism and antinaturalism) can be treated as largely gnoseological, even if arguments from other areas of philosophy and the humanities are often raised in relation to them (as, for example, in Thomas Kuhn's historical-sociological analysis of paradigm shifts in science).

and social, but also having anthropological implications) and anti-positivism. The latter is distinguished here because of the importance of the polemics with positivist philosophy – especially in the variant of logical positivism – in the process of justifying Hoppe's own concepts.

Among the elements listed above, apriori-ism, around which Hoppe's entire philosophy, both theoretical and practical, is woven, occupies a primary position. It is a special kind of apriori-ism, interpreted on the one hand in a pragmatic spirit and on the other in a communicative spirit. According to Hoppe, knowledge is organized by two types of constitutive *a priori*: the *a priori* of action and the *a priori* of argumentation. These lead the philosopher to two complementary concepts of truth: pragmatic and consensual. In the course of further discussion, we will explain both of these fundamental *a priori*, and then show how they are applied by Hoppe in the methodology of science.

Hoppe's epistemology draws on various intellectual traditions, among which two stand out: Ludwig von Mises' praxeology and the philosophy of communication of Jürgen Habermas and, to an even greater extent, Karl-Otto Apel. Hoppe also borrowed certain themes from the philosophy of science from Paul Lorenzen and the so-called Erlangen school. However, the way in which Hoppe refers to his predecessors is inconsistent. While Mises is constantly praised and honored by Hoppe, and some texts are openly written as commentaries on the Austrian economist's works, intended to develop and deepen their content, Hoppe usually acknowledges his borrowings from Habermas and Apel with a bibliographical reference. Meanwhile, we argue that an analysis of Hoppe's theory of cognition could be successfully begun with a paraphrase of the first sentence of the introduction to Leszek Kołakowski's *Main Currents of Marxism*: Hans-Hermann Hoppe is a German philosopher. The philosopher's thought is strongly rooted in the views of his Frankfurt mentors and, partly through Apel, in those of Immanuel Kant. It is also largely through Apel that Hoppe refers to Charles Sanders Peirce, the late Ludwig Wittgenstein, and the Oxford philosophers of ordinary language, John L. Austin and John Searle. The meaning of some of Hoppe's theses is virtually impossible to grasp without familiarity with Apel's transcendental pragmatics of language. This is because Hoppe very concisely – and mainly in German-language writings, usually unknown to the English-speaking libertarian audience – pre-

² This refers, of course, to the sentence "Karl Marx was a German philosopher." L. Kołakowski, *Main Currents of Marxism: Origins, Development, and Decline*, London 1988, p. 9.

presents some of the premises of his arguments, which can be found in full in Apla's works.

In this chapter, we address the research problem posed by Hoppe's epistemology in two aspects. The first is theoretical in nature – it concerns the extraction of the necessary epistemological presuppositions that logically precede the theses of Hoppe's practical philosophy. As Łukasz Dominiak rightly points out, research into deductive normative theory, such as libertarianism, must include an examination of related background theories, i.e., the theories that provide its first premises. The background theories of Hoppe's political thought identified here are precisely apriorism (transcendentalism) in its complementary pragmatic and communicative variants, as well as the partial positions that comprise it. The second aspect belongs to the field of historical considerations – we will attempt to show Hoppe's connections with the philosophical traditions indicated above. Since his relationship with Mises is well known, logically transparent, and *explicitly* highlighted by Hoppe himself, we will place particular emphasis in this context on Appel's transcendental pragmatism and the doctrines that inspired it.

It should be emphasized that Hoppe's epistemology has been overlooked in both respects in the existing literature. Only Ilja Schmelzer has pointed out the dependence of Hoppe's argumentative ethics on Habermas's and Apla's communication theory, but his article, published on a private blog, went unnoticed. Furthermore, Schmelzer focused primarily on criticizing Hoppe's concept from the perspective of Popperian critical rationalism, without comprehensively demonstrating the existence of logical connections between Hoppe's thought and Habermas-Aplow's theory of communication. He perceived the influence of both thinkers on Hoppe as roughly equal. Gerard Radnitzky, on the other hand, pointed out the strict compatibility of Hoppe's *a priori* argumentation with Apple's philosophy, but limited himself to merely mentioning this fact.

As we will see in the next chapter, the omission of background theories assumed in Hoppe's ethics has had a disastrous effect on the ongoing debate surrounding it, leading both critics and defenders to misinterpretations and flawed arguments.

³ Ł. Dominiak, *How to study libertarian theory of justice? Methodological remarks on the structure, problems, and methods of studying deductive theory*, *Dialogi Polityczne/Political Dialogues* 2018, 24, pp. 90-92.

⁴ I. Schmelzer, *Against Absolute Certainty* [unavailable], ilja-schmelzer.de/papers/againstCertainty.pdf, pp. 4-32 [last accessed on 26 September 2022].

⁵ G. Radnitzky, *Reply to Hoppe – on Apriorism in Austrian Economics*, [in:] *Values and the Social Order*, Vol. 1: *Values and Society*, ed. G. Radnitzky, H. Bouillon, Avebury 1995, pp. 189-194.

1. *A priori* actions

1.1. "Action and cognition." Hoppe's early epistemology

A number of key findings for Hoppe's theory of cognition can already be found in his early work, written in 1974 as a doctoral dissertation and published two years later under the telling title *Handeln und Erkennen*. Never translated and unavailable in the English-speaking world, it has gone completely unnoticed by Hoppe's commentators and polemicists. However, it contains many theses and arguments that reappear in a similar or even unchanged form in his later English-language writings, as well as others that significantly deepen the arguments known from his later works. Nevertheless, in presenting its contents, we have decided to depart from the order of problems adopted in this dissertation in favor of a chronological arrangement, separating the analysis of Hoppe's early work into a separate subsection. We do so for the following reasons. When writing *Handeln und Erkennen*, Hoppe was not yet familiar with Ludwig von Mises and the Austrian school, nor with Murray Rothbard and libertarianism. Therefore, while his works written after he became acquainted with their achievements and adopted the essential part of their views represent a fundamentally consistent worldview, albeit subject to certain changes outside its philosophical core, *Handeln und Erkennen* belongs to a different, early, pre-Austrian and pre-libertarian stage in the intellectual development of the thinker. On the other hand, many of the concepts presented in this book were upheld by Hoppe in his mature, Austro-libertarian period, and some of them were set out there with greater precision or more openly than in his later, better-known texts. However, as we shall see, Mises' epistemological and methodological thinking brought about a significant transformation of the systemic framework in which Hoppe's more detailed and recurring theses operate. The early Hoppe was a proponent of a "pragmatically oriented trans-cendental philosophy"⁶, leading to "mediation between empiricism and apriorism at a higher level"⁷ through the identification of "naturalistically conceived practical-life needs"⁸ described by developmental psychology and evolutionary biology as the root from which human cognition grows. Mature and familiar with the works of Mises, Hoppe turns instead to Kant's original transcendentalism, albeit still activist and drawing on

⁶ H.-H. Hoppe, *Handeln und Erkennen. Zur Kritik des Empirismus am Beispiel der Philosophie David Humes*, Frankfurt/M-Munich 1976, p. 10.

⁷ *Ibid.*, p. 8.

⁸ *Ibid.*, p. 65.

from the pragmatism of interpreting the *a priori* as irreducible to any intramundane, natural factors. For this reason, in this subchapter we discuss primarily the general epistemological claims contained in *Handeln und Erkennen*: these go beyond the content of Hoppe's later works, either in terms of the depth of their approach or, on the other hand, in terms of a different understanding of apriority. On the other hand, in order to avoid repetition, we will discuss the themes belonging to the field of philosophy of science, including the discussion with contemporary positions within it, in a problem-oriented manner, together with the issues of Hoppe's mature thought, bearing in mind the almost complete convergence of the theses and arguments raised by the thinker on these issues at different periods.

The starting point for the epistemology of *Handeln und Erkennen* is a critique of the empiricist view of cognition, which Hoppe considers to be exemplified by David Hume's philosophy. In the most general terms, this criticism is directed at the empiricist model of the passive subject. The position from which this model is criticized is, however, the model of the active subject, which is characteristic of transcendentalism. Cognitive activity is understood here as one of the activities of life. In other words, cognition is a subcategory of action, and what is *a priori* extracted by transcendental philosophy is a "functional *a priori*" (*ein funktionales Apriori*).

Hoppe takes Hume's theory of universals as his first target. Hume, as we know, took a nominalist position: impressions and ideas that reach the knowing subject are always individual; it is the subject, through mental acts of association, that connects them on the basis of similarities into general concepts. According to Hoppe, this solution is untenable. It assumes that ideas are compared as similar. However, this would be impossible without the prior assumption that the data present in experience are instances of general concepts. It is general concepts that constitute the condition of possibility of comparisons, not the other way around. Standing on the ground of Hume's psychological method and his nominalism, according to Hoppe, it is impossible to separate simple ideas from the time and place in which they occur. Without recognizing the quality of the elements of experience as general, the subject would not be able to produce any structured image of reality, and thus would be incapable of action; it would remain forever within the amorphous flow of sensory data that cannot be expressed in concepts.

⁹ In private correspondence, Hoppe confirms this view of his philosophical development. *Ibid.*, Private Correspondence, 2020.

¹⁰ *Ibid.*, *Handeln und Erkennen*, p. 9.

¹¹ D. Hume, *A Treatise of Human Nature*, trans. C. Znamierowski, Warsaw 2005, part I, chapter 1.

¹² H.-H. Hoppe, *Handeln und Erkennen*, pp. 33-34.

¹³ *Ibid.*, p. 45.

It must therefore be acknowledged that all concepts are initially perceived as general, and only their "scope of application" (*Anwendungsbereich*) changes with further experience, i.e., with the occurrence of new, previously unknown individual objects. Individual elements of experience always contain general concepts. In this way, Hoppe derives the first of the transcendental conditions of the possibility of experience: the category of generality (*Allgemeinheit*)¹⁵.

In Hoppe's view, the failure of Hume's empiricism in explaining the constitution of experience is clearly demonstrated by the results of his attempt to address the problem of causality. Hume's conclusion was skeptical: knowledge of the existence of causal relations in the world cannot be derived either from relations of *ideas* or from knowledge of *facts*. The former contain no objective knowledge whatsoever, while the latter merely inform us about the coexistence (correlation) of individual facts in time. The logical basis for the skepticism into which empiricism falls here—Hume, according to Hoppe, merely led empiricist gnoseology to its ultimate consequences—is the passive conception of cognition. However, the problem can be easily removed when cognition is understood as a kind of action and its categories – including causality – are recognized as instruments of practical orientation in the world, "action schemata" (*Handlungsschemata*). Such orientation would be impossible if we assumed that there is no permanence in the world. Hoppe writes: "We are, in a sense, compelled to repeat our actions. This compulsion is also manifested in the fact that perceptions constitute information about possible actions and must be treated from the outset as general, abstract, transferable, and repeatedly applicable." In other words, action is essentially purposeful (more precisely: purposefully rational, *zweckrational*) and therefore inherently future-oriented, which presupposes the repeatability of past experiences in the future as a prerequisite. The category of generality is thus joined by a second *a priori* category: causality (*Kausalität*).

Hoppe similarly derives substance (*Substanz*) as another transcendental category. The difficulties this poses for the doctrine of empiricism were already recognized by Locke, but he did not draw any definitive conclusions from his position, maintaining the concept of substance within his

¹⁴ *Ibid.*, p. 34.

¹⁵ *Ibid.*, p. 73.

¹⁶ D. Hume, *op. cit.*, part III, chapter 3.

¹⁷ H.-H. Hoppe, *Handeln und Erkennen*, p. 37.

¹⁸ *Ibid.*

¹⁹ *Ibid.*, p. 74.

system²⁰. Hume, once again sharpening his predecessor's theses by purging them of inconsistencies, rejected the concept of substance in a manner analogous to his refutation of the idea of causality²¹. Hoppe's argument against Hume also proceeds analogously to his argument against causality. Without the assumption that accidental qualities are based on permanent substrates ensuring the unity of the object of experience, practical orientation in the world would be unthinkable.

According to Hoppe, Hume partly recognized this, treating thinking in terms of causality and substance as a manifestation of man's natural instinct, rooted in the practice of his life. However, he failed to understand that experience must always be understood as providing knowledge about possible, not just actual, practice. Hence the need to interpret experience in terms of generality, causality, and substance—for it is only through these categories that success or failure can be recognized as confirmation or disruption of the accepted pattern of action. Otherwise, both success and failure would remain inexplicable, constituting only isolated, unique events. As Hoppe states,

Generality and causality are therefore among the conditions for practical and useful experiences. Without first making a generalizing interpretation of what is experienced in individual cases, an interpretation that expresses the compulsion to stabilize expectations regarding behavior, it would be impossible to distinguish objective causal relationships from the subjective consequences of perception.

From the position outlined above, Hoppe takes up the issue of the logic of scientific discovery. Here, too, his starting point is a critique of empiricism, or more precisely, of the empiricist approach to the problem of induction. This problem can be summarized as follows: how is it possible to make universal statements, i.e., statements whose scope is unlimited, based always on limited empirical material? In particular: how is it possible to derive scientific laws from experience? The inability of empiricism to resolve this issue positively, which must, as in Hume, lead to skeptical results, is a measure of the failure of empiricism: a philosophy that saw the sources of scientific progress in thinking according to experience.

²⁰ *Ibid.*, pp. 56–57. Cf. J. Locke, *An Essay Concerning Human Understanding*, trans. C. Znamierowski, Warsaw 1955, vol. 1, book II.

²¹ D. Hume, *op. cit.*, part I, chapter 1.

²² H.-H. Hoppe, *Handeln und Erkennen*, p. 56 et seq.

²³ *Ibid.*, pp. 58–59.

²⁴ *Ibid.*, pp. 74–75.

²⁵ D. Hume, *op. cit.*, part I, chapter 3.

is ultimately unable to explain this progress. However, according to Hoppe, the very posing of the problem of induction stems solely from the limitations of empiricism; it is therefore essentially a "seemingly real problem" (*Scheinproblem*). It arises only when "individual experiences" are taken as the basis of knowledge. (*Einzelerfahrungen*) as the basis of knowledge. If, on the other hand, all general statements are assigned universal validity from the outset as schemata of possible action, no problem arises:

The problem of induction owes its emergence to the empiricist dogma, the dogma of passive cognition. For us, however, there is no problem of induction; or, to put it another way, we demonstrate through our very survival that this problem has always been solved for us. This is not because we do not care about logic, but because for us—otherwise we could not exist—there are no individual experiences, no experiences of the particular that are not generally captured, and there never have been. With them, the problem of building the general on the particular disappears.

This does not mean, however, that every general statement that brings practical success acquires *eo ipso* the value of apodictic truth. All empirical judgments are fallible in the sense that it is always possible for a previously effective claim to fail. However, this does not so much falsify the claim as indicate the limitations of its scope of applicability and suggest the search for a new, more widely applicable scheme.

Hoppe also defines the concept of truth in this practical spirit. Although he will by no means abandon the concept articulated in *Handeln und Erkennen* in the future, this is the only work in which he deals with this crucial epistemological issue in a relatively systematic way, directly presenting his own theory. It is a pragmatic theory. He writes: "Objectivity is defined by the possibility of effectively repeating a pattern of action in practice."³¹ In turn, the classical, correspondence concept of truth is criticized by Hoppe.³² According to him, theory

²⁶ H.-H. Hoppe, *Handeln und Erkennen*, p. 75.

²⁷ "Scheinproblem." *Ibid.*, p. 72.

²⁸ *Ibid.*, pp. 72–73.

²⁹ *Ibid.*, p. 75.

³⁰ *Ibid.*, p. 91.

³¹ *Ibid.*, p. 83.

³² For the purposes of this paper, we will not distinguish between the classical and correspondence concepts, which are often highlighted by historians of this problem. Hoppe also treats these concepts as equivalent. More precisely, he uses the term "traditional, adequate concept of truth" (*traditionelle Adäquationsbegriff der Wahrheit*). *Ibid.*, p. 106. Cf. J. Woleński, *Historia pojęcia prawdy* [The History of the Concept of Truth], in *Przewodnik po epistemologii* [A Guide to Epistemology], ed. R. Ziemińska, Kraków 2013, pp. 55–63.

correspondence theory was accepted by Hume in his empiricism for a reason – it reflects the vision of a passive subject of cognition, turned towards ^{the object} in a seemingly disinterested manner. Moreover, according to Hoppe, the correspondence theory is burdened with an insurmountable logical difficulty. Quoting Jean Piaget in this context, the thinker argues that this theory, being a theory of the representation of reality in thought, is based on the distinction between the model inherent in reality and its representation, with truth defined as "the conformity of the model with the representation" (*Übereinstimmung von Vorbild und Abbild*)³⁴. However, since, within the same theory, the model can only be given to the subject through its representation, a comparison between the two is impossible, and therefore the concept of correspondence between them also proves to be ^{empty}³⁵.

In the dispute between idealism and realism, Hoppe takes a position that can be described as intermediate. The philosopher opposes extreme idealistic continuations of Kantianism, recognizing Kant's concept of things in themselves as tenable. At the same time, only an activist reinterpretation of transcendentalism allows for an adequate grasp of the concept of things in themselves. The possibility of error, i.e., the unsuccessful application of patterns of action, informs us that reality is not immanent in subjectivity. The concept of the thing-in-itself obtained in this way is, however, a negative concept: failure does provide information that the scheme used did not fully correspond to reality, but it does not provide an adequate view of it. Nor does success guarantee such a view. Effective action patterns can, after all, always be improved or replaced by other, more effective ^{patterns}. Hoppe summarizes his position as follows: "This fundamental possibility [the possibility of failure – N.S.] confirms the concept of things **i n** themselves that can only be understood negatively: Kant's view of subjectivity that is only possible 'for us,' which of course does not contradict 'true' objectivity, but also does not coincide with ^{it}." Hoppe therefore opts for the concept of the thing-in-itself as a boundary concept. For him, it constitutes – to use the formula of the Marburg school of neo-Kantianism, to which Hoppe does not refer directly, instead referring to Charles Sanders Peirce – the whole and the task of cognition.

³³ H.-H. Hoppe, *op. cit.*, pp. 106–107.

³⁴ *Ibid.*, p. 107.

³⁵ *Ibid.*, p. 107, footnote 189.

³⁶ *Ibid.*, pp. 109–111.

³⁷ *Ibid.*, p. 111.

scientific³⁸. In Hoppe's pragmatic epistemology, this would mean a state in which error and failure are completely eliminated. Such a fully adequate grasp of reality in cognition must also be understood negatively—as a regulative idea or horizon toward which cognition is directed but which it will never reach³⁹.

As mentioned above, in his early publication Hoppe also makes a kind of *a priori* naturalization. The forms of *a priori* cognition that organize experience are ultimately an evolutionary product of the “history of the species” (*Gattungsgeschichte*) and serve its “cognitive interests” (*Erkenntnisinteressen der Gattung*)⁴⁰. There are therefore possible worlds in which our human interpretative schemata fail⁴¹. In an attempt to reconstruct their development, Hoppe refers to the theories of Jean Piaget and Konrad Lorenz, mentioned above. According to Hoppe, this necessary limitation of transcendentalism allows us to overcome its idealistic implications. This also leads to a partial reconciliation between apriorism and empiricism: what is *a priori* is recognized as the result of natural, empirically graspable processes.

1.2. The praxeological foundations of 's epistemology

The significant changes in Hoppe's epistemological doctrine brought about by his encounter with the views of Mises and the Austrian school concern, in part, shifts in the problems he focuses on. While in *Handeln und Erkennen* Hoppe's interests focused on general issues of epistemology and problems of the philosophy of natural sciences, after adopting Mises' methodological and economic positions, the center of gravity in the philosopher's work shifted to the philosophy of social sciences, with particular emphasis on economics, as well as economics proper. The philosopher's 1983 habilitation thesis, *Kritik der Kausalwissenschaftlichen Sozialforschung*, is entirely devoted to methodological issues. His 1995 book *Economic Science and the Austrian Method*, as well as a number of smaller writings, also contain reflections in this field. However, what

³⁸ H. Cohen, *Kantowska teoria doświadczenia* [Kant's Theory of Experience], trans. A.J. Noras, Kęty 2012, pp. 472–473. Cf.

A.J. Noras, *Kant and Baden and Marburg Neo-Kantianism*, Katowice 2005, p. 202.

³⁹ H.-H. Hoppe, *Handeln und Erkennen*, p. 109, footnote 193.

⁴⁰ *Ibid.*, p. 100.

⁴¹ *Ibid.*, p. 105.

⁴² *Ibid.*, pp. 22–30, *passim*. Similar, naturalized versions of transcendentalism were, of course, known much earlier, primarily thanks to the so-called physiological trend of neo-Kantianism, represented in the second half of the 19th century especially by Hermann von Helmholtz, Friedrich Albert Lange, and Hans Vaihinger. Hoppe does not refer to these sources, however. Cf. A.J. No-ras, *Historia neokantyzmu* [History of Neo-Kantianism], Katowice 2012, pp. 222–257.

⁴³ H.-H. Hoppe, *Handeln und Erkennen*, pp. 102–105.

More importantly, one of the key points of Hoppe's mature philosophy is borrowed from Mises: the axiom of action. According to Mises, the distinctive feature of human beings is that they act, that is, they behave in a purposeful and conscious manner. As

Mises says, "man [...] is not only *homo sapiens*, but also, and no less, *homo agens*."⁴⁴

Action is "the conscious behavior of a human being. Conceptually, it can be clearly and distinctly distinguished from unconscious activity [...]"⁴⁵. It consists in striving to replace a less satisfactory state of affairs with a more satisfactory one. Thus, action necessarily involves the removal of perceived discomfort and choice (the subject chooses at least between the existing state of affairs and its change). For the Austrian economist, this axiom is the primary proposition of praxeology, i.e., the general science of human action. According to him, such a science should have several fundamental attributes. First, it should be an *a priori* and deductive discipline: the indisputable truth of the original proposition should be transferred to its conclusions, which should apply to every acting subject regardless of time and place.

In the language of Kant, to whom Mises constantly referred, its laws were to be characterized by "necessity and strict generality."⁴⁶ Secondly, praxeology is, in Mises' view, a formal science in the sense that it examines the logical consequences of the fact that man acts purposefully, abstracting from the matter of his actions, i.e., the goals he actually pursues. As Mises writes: "Its subject is not the content of human choices, but what follows from them: action. It is not concerned with *what* man chooses, but with the fact *that* he chooses and acts in accordance with his choice."⁴⁷ Praxeology is therefore, for Mises, a kind of logic of human action. The most developed branch of praxeology was to be economics, practiced by Mises himself, but he did not rule out

the application of general theory of action in other areas of knowledge.

The picture of Misesian praxeology is completed by two cardinal methodological directives, to which Hoppe and other Austro-libertarian authors constantly refer: the principle of methodological individualism and the principle of methodological subjectivism. The first starts from the premise of ontological individualism: "All actions are actions of individuals. [...] There is no such thing as a collective social entity

⁴⁴ L. von Mises, *Human Action: A Treatise on Economics*, trans. W. Falkowski, Warsaw 2011, p. 11.

⁴⁵ *Idem*, *Epistemological Problems of Economics*, trans. G. Reisman, Auburn 2003, p. 24.

⁴⁶ *Ibid.*, *Human Action*, p. 11.

⁴⁷ *Ibid.*, p. 34.

⁴⁸ I. Kant, *Critique of Pure Reason*, trans. R. Ingarden, Kęty 2001, B4.

⁴⁹ L. von Mises, *Theory and History: An Interpretation of the Process of Social and Economic Evolution*, trans. G. Łucz-kiewicz, Warsaw 2011, pp. 175–176.

⁵⁰ *Ibid.*, *Epistemological Problems...*, p. 13.

⁵¹ *Idem*, *Human Action*, p. 56.

realistically beyond the actions of the units belonging to it,” wrote Mises. Mises and his followers draw a methodological conclusion from this: social analysis must start from the actions of individuals and, based on their understanding, build a picture of society as a whole. Closely related to individualism, subjectivism asserts that since only individuals are agents of action, the researcher must focus his attention on the individual actor and his acts of valuation. These evaluations are always individual and not comparable between individuals. Jakub Bożydar Wiśniewski accurately captures this problem when he writes that preferences are intensive quantities, not extensive ones—they cannot therefore be quantified, expressed in cardinal values, or compared between individuals. Hoppe creatively developed Mises's idea in at least three respects. First, he provided a new foundation for the axiom of action. Second, he synthesized Mises's achievements with his own views, developed independently of the author of *Human Action*, creating a theory of knowledge based on praxeology. Mises, although interested in philosophy and whose works are full of philosophical remarks that go beyond the field of economic philosophy, left behind only an unsystematized sketch of a concept which, like Hoppe's philosophy, can be described as an activist version of transcendental philosophy, combining Kantian inspirations with elements of pragmatism. Kantian aspirations with elements of pragmatism.⁵⁵ Thirdly, within the framework of praxeological epistemology, Hoppe proposed a new form of proof the impossibility of justifying the dualism of social and natural sciences.

Like Mises, Hoppe argues that the axiom of action is by no means merely a convention consisting in the arbitrary assignment of meaning to the term "action." On the contrary, it is an example of a synthetic *a priori* judgment—being independent of experience, i.e., it cannot be confirmed or refuted by experience, it also has objective validity. The axiom of action owes this status to the fact that it cannot be denied without falling into contradiction, because any attempt to reject it confirms its validity.⁵⁶ It is therefore an axiom in the Aristotelian sense: a statement

⁵² *Ibid.*, p. 37.

⁵³ *Ibid.*, p. 78.

⁵⁴ J.B. Wiśniewski, *Methodology of the Austrian School of Economics. Current state of knowledge*, <https://mises.pl/blog/2012/12/17/wisniewski-metodologia-austriackiej-szkoly-ekonomii-obecny-stan-wiedzy/> [accessed on June 1, 2023].

⁵⁵ See D. Gordon, *The Philosophical Contributions of Ludwig von Mises*, *The Review of Austrian Economics* 1994, 1 (7), pp. 95-106; N. Slenzok, *Ludwig von Mises as a philosopher of science. Towards the epistemological foundations of praxeology*, *Konteksty Społeczne* 2014, 1 (3), pp. 18-28.

⁵⁶ H.-H. Hoppe, *The Economics and Ethics of Private Property, Studies in Political Economy and Philosophy*, Auburn 2006, p. 275, Polish edition: *Ekonomia i etyka własności prywatnej. Studia z zakresu ekonomii politycznej i filozofii*, trans. K. Nowacki, Warsaw 2011, p. 287.

necessarily true, which cannot be proven without falling into a vicious circle, nor refuted, since both proof and refutation would presuppose⁵⁷. Hoppe, however, refers here not to Aristotle, but to Kant. As he writes, synthetic *a priori* judgments “are based on reflective cognition, on our understanding of ourselves as subjects of knowledge.”

The axiom of action is based on such reflective cognition. It does not derive from external observation—one can only observe the movements of bodies or behaviors, never intentional acts such as actions. The contradiction in which a critic of Mises's axiom would find themselves is that the truth of the latter “cannot be denied, because denial itself would have to be categorized as an action.” Any attempt to refute the axiom of action would itself have to be conscious and deliberate, and would also aim to replace a less satisfactory state of affairs with a more satisfactory one. Hoppe is undoubtedly an innovator here. Mises also claimed that knowledge about action is necessary or *self-evident*, and that it would be unthinkable to believe otherwise, but he never provided any proof⁵⁸ for this position.

Although the axiom of action seems trivial at first glance, its implications are far-reaching for both economics and epistemology. When it comes to the latter, the following thesis by Hoppe, already partially present in his doctoral thesis, is of key importance: “Knowledge is a category of action; [...] The structure of knowledge must be limited by the specific function that knowledge fulfills among the categories of action [...] The existence of such structural limitations can never be denied by any knowledge.” We write “partially present” because there is one important difference from the theses in *Handeln und Erkennen*: the activist nature of knowledge is not derived from the evolutionarily formed biological nature of the species. The knowledge that knowledge is action is obtained in a reflective procedure in which the subject turns to its own act of considering the nature of action. We are thus dealing here with a purely transcendental grounding.

⁵⁷ See Aristotle's establishment of the principle of non-contradiction: Aristotle, *Metaphysics*, trans. K. Leśniak, Warsaw 2013, 106A-109A.

⁵⁸ H.-H. Hoppe, *The Economics and Ethics...*, p. 275, Polish edition: p. 287. See also: *idem*, *Economic Science and the Austrian Method*, Auburn 2007, p. 19.

⁵⁹ *Idem*, *The Economics and Ethics...*, pp. 275-276, Polish edition: p. 287.

⁶⁰ L. von Mises, *The Ultimate Foundation of Economic Science. An Essay on Method*, Indianapolis 2006, pp. 2-3. Cf. a convincing critique of Mises' attempts to establish the axiom of action as an element of necessary knowledge: A. Linsbichler, *Was Ludwig von Mises a Conventionalist? A New Analysis of the Epistemology of the Austrian School of Economics*, London 2017, pp. 43-50.

⁶¹ H.-H. Hoppe, *The Economics and Ethics...*, p. 276, Polish edition: p. 287.

⁶² *Ibid.*, p. 281, Polish edition: p. 293.

what Mises, in one of his philosophical excursions, called "*the activist basis of knowledge*." Interestingly, Mises, like the young Hoppe, was also inclined to naturalize *a priori* knowledge. He suggested that the categories of the intellect could be a product of evolution—thanks to their relative compatibility with objective reality, they could provide the species equipped with them with adaptive advantages. Hoppe thus once again goes beyond ^{Mises} on this point

As in his early treatise, Hoppe also takes the position that an activist-transcendental theory of knowledge makes it possible to overcome the "reflection trap" typical of modern philosophy of consciousness, i.e., the impossibility of justifying the transcendent existence of an object when the knowing subject is taken as the starting point for philosophizing. "The problem lies in the self-reflective mind becoming immersed in its own immanence," wrote Wojciech ^{Chudy}. According to Hoppe, if Kant's transcendental philosophy, based, in Hoppe's terminology, on the model of the "active mind," is interpreted as a theory of cognitive *action*, its alleged idealistic consequences disappear:

The seemingly unbridgeable gap between the mental world on the one hand and the real, external, physical world on the other is filled. Such limited *a priori* knowledge must be both a product of the mind and a reflection of the structure of reality, because it is only through action that the mind comes into contact with reality, so to speak. Action is a cognitively guided adaptation of the physical body to physical reality. There can therefore be no doubt that a *a priori* knowledge, understood as insight into the structural limitations of the knowledge of acting individuals, must indeed correspond to the nature ^{of things}.

This bold thesis about the existence of an *a priori* (necessary) and at the same time realistic (objectively important, whereby the object is clearly recognized as existing independently of the subject) is developed by Hoppe, returning to Kant's project of justifying arithmetic, geometry, and pure natural science, as well as logic, as fields containing synthetic *a priori* judgments. He does so by incorporating into his activist-transcendental gnoseology the theses of the leading representatives of the so-called Erlangen school—Paul Lorenzen, Friedrich Kambartel, and Peter Janich—and their project of constructivist validation ^{of knowledge}.

⁶³ L. von Mises, *The Ultimate Foundation*..., p. 30.

⁶⁴ *Ibid.*, pp. 12–14.

⁶⁵ W. Chudy, *Rozwój filozofowania a „pułapka refleksji”* [The Development of Philosophy and the "Reflection Trap"], Lublin 1993, p. 18.

⁶⁶ H.-H. Hoppe, *The Economics and Ethics*..., pp. 282–283, Polish edition: p. 295.

⁶⁷ See P. Lorenzen, *Normative Logic and Ethics*, Mannheim 1969; *idem*, *Methodical Thinking*, trans. S. Blandzi, Warsaw 1997.

Contrary to the formalistic trends prevailing in contemporary philosophy, the laws of logic are not arbitrary conventions. They are rooted in human action.

In every action, the acting individual identifies a specific situation and categorizes it in a particular way in order to be able to make a choice. This ultimately explains the structure of even the most elementary sentences (such as "Socrates is a human being") as consisting of a proper name or some identifying expression for naming or identifying something, and a predicate for affirming or denying a particular property of the named or identified object. This explains the cornerstones of logic: the laws of identity and contradiction. This universal feature of action and choice also explains our understanding of the categories "exists," "all,"

"some," "and," "or," "if, then," and "not."

According to Hoppe, arithmetic has a similarly realistic yet *a priori* character. From a formalistic standpoint, it is impossible to explain the impressive successes of physics and the technologies based on it. On the other hand, Hoppe accepts Lorenzen's view that part of modern arithmetic—that which cannot be "constructively" derived from the constant operations of an acting subject—is essentially nothing more than empty ^{symbolic} games. Proper, constructivist-praxeologically grounded arithmetic, meanwhile, is that which has its source in the repetition of actions. It includes all mathematical theorems that are actually used in natural science. Its laws "apply to everything that consists of one or more distinct units, as long as these units are constructed or identified as units by the procedure 'do it again, construct or identify another unit by repeating ^{the} previous operation.'"

Finally, Euclidean geometry also contains the necessary knowledge. Referring again to Lorenzen and his school, Hoppe argues against the view, popularized by the invention of non-Euclidean geometries and Einstein's theory of relativity, that the axioms of geometry are purely conventional. If this were indeed the case, it would be impossible to explain how Euclidean geometry could form the basis of engineering and construction. However, the successes of these fields are not the result of chance. Action takes place in space, and therefore its success depends on orientation within that space. Orientation requires measurements, which in turn would not be possible without standards of measurement. Euclidean geometry provides a reconstruction of the ideal norms on which all adequate measurements and their standards must be based. As Hoppe writes:

⁶⁸ H.-H. Hoppe, *The Economics and Ethics...*, p. 284, Polish edition: p. 296. For some reason, the Polish translation omits the word "some."

⁶⁹ See P. Lorenzen, *Methodical Thinking*, pp. 106-116.

⁷⁰ H.-H. Hoppe, *The Economics and Ethics...*, p. 286, Polish edition: p. 298.

Euclidean geometry, as Paul Lorenzen in particular explained, is nothing more than a reconstruction of the ideal norms on which our construction of such homogeneous basic forms as points, lines, planes, and distances, in a more or less perfect but always improvable way, which are taken into account or even realized in our most primitive measuring tools, such as a ^{measuring} stick

These standards cannot be refuted by any measurement, because they constitute the conditions for the possibility of any measurement. They are not contradicted by Einstein's theory, since its verification, like the verification of all non-Euclidean geometries, uses measuring instruments constructed according to Euclidean geometry. What is more, the latter, together with chronometry and hylo-metry (i.e., "classical mechanics without gravity or rational mechanics"), constitutes the body of necessary knowledge which Hoppe, following the theorists of the Erlangen school, calls "proto-physics."

As can be easily seen, Hoppe stands in opposition to the prevailing trends in contemporary philosophy of science. The main target of his attacks in all his writings after his conversion to Austro-libertarianism is positivism, or more precisely, neopositivism or logical positivism. According to Hoppe, the core of this doctrine is a negative verdict on the existence of synthetic *a priori*. The essence of logical positivism is the view that knowledge can be exhaustively and separately divided into two types: empirical knowledge, which is obtained through verification or falsification, and analytical knowledge, which concerns the content of concepts, which in turn are defined by arbitrarily accepted ^{conventions}. In Hoppe's view, this is a self-defeating position. For what happens if we turn *the* positivist *credo* against itself? What epistemological status does positivist philosophy have in light of its own division of knowledge? It can be either empirical or analytical. In the first case, it would have to be acknowledged that, since there is no empirical method of verifying the theses of positivism, it is impossible to decide whether it is correct or whether opposing positions are correct. In the second case, positivism would be a set of arbitrary postulates, and there would be no substantive reason to accept it.

⁷¹ *Ibid.*, pp. 287–288, Polish edition: pp. 299–300. Cf. P. Lorenzen, *Methodical Thinking*, pp. 96–105.

⁷² H.-H. Hoppe, *The Economics and Ethics...*, p. 289, footnote 23, Polish edition: pp. 300–301, footnote 24.

⁷³ *Idem*, *A Theory of Socialism and Capitalism, Economics, Politics, and Ethics*, Auburn 2016, p. 116, Polish edition: *Teoria socjalizmu i kapitalizmu. Ekonomia, etyka i polityka* [The Theory of Socialism and Capitalism: Economics, Ethics, and Politics], trans. P. Nowakowski, Wrocław 2015, p. 100. Hoppe's conceptualization of positivism thus corresponds to what Quine described as the first dogma of empiricism, with the difference that the author of *Two Types of Empiricism* wrote not about the division of knowledge, but about the division of judgments into analytical and synthetic. W.O. Quine, *Two Dogmas of Empiricism*, [in:] *From the Point of View of Logic: Nine Essays in Logic and Philosophy*, trans. B. Stanosz, Warsaw 2000, pp. 49–75.

the validity of his theses. There is still a third possibility: positivism, contrary to its own statements, does indeed claim to have a priori truth that is independent of experience and human conventions. If so, it turns out to be internally contradictory. If not, it is simply unsuitable as ^{epistemology}. Its task should be understood as "consisting in formulating what can be known *a priori* and what can be known *a priori* to be not subject to a priori knowledge"

The internal contradiction of positivism and all empiricism lies in Hoppe's assessment on yet another point. Namely, the methodological program of empiricism assumes the existence of knowledge that does not originate from experience but refers to reality. Empirical testing of hypotheses requires recognition of the principle of *causality* or, in other words, the principle of *constancy*⁷⁶ In both the verificationist and falsificationist models of science, testing consists of repeating observations to see whether the accepted hypothesis allows them to be predicted and explained. If the test is successful, we have confirmation (in Popper's terms: corroboration); if not, we have falsification. However, the possibility of drawing such general conclusions from observation is by no means obvious. Experience shows only that events can be neutrally classified as repetitive or non-repetitive. "Neutral repetition becomes 'positive' confirmation or 'negative' falsification only when [...] we assume that there are constant causes that act in an unchanging way over time."⁷⁷ Contrary to this assumption, that things can interact in a variable way, the alleged con-

⁷⁴ H.-H. Hoppe, *A Theory of Socialism and Capitalism...*, pp. 122–124, Polish edition: pp. 105–107; *idem*, *The Economics and Ethics...*, p. 272, Polish edition: p. 284. This objection was also raised, albeit in a less elaborate form than Hoppe, by L. von Mises: *The Ultimate Foundation...*, p. 4.

⁷⁵ H.-H. Hoppe, *The Economics and Ethics...*, p. 280, Polish edition: p. 292. Hoppe's idea resonates with the view expressed by Wojciech Żelaniec, according to whom all central claims of philosophical systems are proposals of synthetic *a priori* judgments. As Wojciech Żelaniec aptly writes, "To see this, it suffices to recall a few 'first' principles of various philosophical theories and systems, such as 'all things of this kind exist as much as they can: beauty and goodness' [Plato – N.S.]; 'all art [...] seems to aim at some good' [Aristotle – N.S.]; 'happiness, being the goal of our actions, is something ultimate and self-sufficient' [Aristotle – N.S.]; 'cogito, ergo sum' [Descartes – N.S.] or 'The world is everything that is the case' [Wittgenstein – N.S.]. Thus, the question of the possibility of synthetic *a priori* judgments must be regarded as a question of the very existence of philosophy. W. Żelaniec, *Uporczywie powracające syntetyczne a priori* [The Persistent Return of Synthetic *A Priori*], *Kwartalnik Filozoficzny* 1997, 3 (XXV), pp. 60–61. Referring to Hoppe's theses discussed here, one could extend the set of examples of candidates for synthetic *a priori* quoted by Żelaniec to include the view, proclaimed by neopositivists, among others, that such judgments do not exist. Neopositivism itself is, after all, a philosophy.

⁷⁶ H.-H. Hoppe, *A Theory of Socialism and Capitalism...*, p. 129, Polish edition: p. 108.

⁷⁷ *Ibid.*, pp. 128–129, Polish edition: p. 108.

confirmation or falsification will only constitute a neutral record of events. With this assumption, "one experience appears, followed by another. One can only determine whether they are the same or different, but nothing more can be concluded from this."⁷⁸ The principle of constancy cannot be derived from experience. Any experience that would confirm or refute it would also rely on obtaining repeatable results in tests, and thus presuppose its validity. It must therefore be assumed that, if general empirical knowledge is to be maintained at all, this principle is a transcendental condition for the possibility of empirical research.

What is more, causality does not apply only conditionally, that is, only to the extent that someone wishes to pursue empirical science. According to Hoppe, as he already pointed out in *Handeln und Erkennen*, it is an a priori category of action. The actor influences the external environment by interfering with it. He can either try to change the state of affairs or adapt to it if he considers it irreversible. In both cases, they must assume the possibility of predicting the further course of events, which they could not do without assuming that causes act invariably over time. Causality is therefore "a feature of reality that must be considered as produced [by the cognizing and acting subject – N.S.], not given."

According to Hoppe, the above conclusions on causality allow us to immediately formulate another anti-positivist argument, this time directed against methodological monism, according to which only the natural sciences can be considered scientific paradigms. As Hoppe notes, the concept of causality as a category of action implies that

[...] its scope of application must be distinguished *a priori* from the category of teleology. In fact, the two categories are strictly complementary and mutually exclusive. Action presupposes an observed reality, but the reality of action, which we can understand as requiring such a structure, does not itself have a causal structure. Instead, its reality must be categorized teleologically, as goal-directed, meaningful behavior.

⁷⁸ *Ibid.*

⁷⁹ *Ibid.*, pp. 129–130, Polish edition: p. 109.

⁸⁰ *Ibid.*, *Kritik der Kausalwissenschaftlichen Sozialforschung. Untersuchungen zur Grundlegung von Soziologie und Ökonomie*, Opladen 1983, p. 23. This argument can be found in almost all of Hoppe's methodological works. It already appears in the philosopher's doctoral dissertation: *Handeln und Erkennen*, pp. 88–89.

⁸¹ *Ibid.*, *A Theory of Socialism and Capitalism...*, pp. 136–137, Polish edition: pp. 115–116.

⁸² *Ibid.*, p. 136, Polish edition: p. 115.

⁸³ *Idem*, *The Economics and Ethics...*, p. 267, Polish edition: p. 279.

⁸⁴ *Ibid.*, p. 291, Polish edition: pp. 302–303.

More precisely, the existence of the domain of causality, understood as a category of action, presupposes as its logical complement the existence of the domain of non-causality, or—to use Aristotle's terminology, which is absent in Hoppe's ^{work—}teleological causality.

Hoppe's argument against naturalism is one of impossibility and can be described as an "argument from learning." According to Hoppe, Mises, who wrote extensively against naturalistic monism, failed to propose an argument of such power, as he never proved that his claims were a *priori* untenable. Hoppe develops Popper's well-known claim, directed against Marxism and other historicist approaches that proclaim the existence of immutable laws of historical development, that such long-term predictions are impossible in the social sciences. As Popper pointed out, an important factor in historical development is changes in knowledge and technology, and these ^{cannot be} predicted. In Hoppe's view, however, Popper, as an advocate of the unity of the scientific method, stopped halfway, failing to draw the ^{ultimate} conclusions from his brilliant argument. The proof is as follows: 1. I and other people, as potential participants in a discussion, are capable of learning. In particular, those who practice natural sciences—research into causes—are capable of learning. Formulating hypotheses, testing them, and drawing conclusions from tests is nothing more than learning. Moreover, the judgment that humans have the capacity to learn is true *a priori*. Arguing against it would be equivalent to claiming that people can learn that they cannot learn. 2. If learning is possible, then no one can know in advance what they will know in the future or what actions they will take based on their future knowledge. 3. The claim that it is possible to predict one's own or others' states of knowledge is a contradiction. If the causes of these future states of knowledge were known in advance, ^{learning} would be impossible. Starting from epistemological considerations, Hoppe therefore argues in favor of free will. He writes: "As long as the laws of nature exist for us, the idea of freedom in human affairs remains unshakeable for us—this is what our ^{reason} demands."⁹⁰ Naturalistic monism, on the other hand, must be rejected. For there is an irreducible gap between nature and the reality of human actions.

⁸⁵ *Ibid.*, *Critique of Causal Science...*, p. 26.

⁸⁶ *Ibid.*, p. 42.

⁸⁷ K.R. Popper, *The Poverty of Historicism*, trans. S. Amsterdamski, Warsaw 1999, p. 10, *passim*.

⁸⁸ H.-H. Hoppe, *The Economics and Ethics...*, p. 301, footnote 6, Polish edition: p. 313, footnote 7.

⁸⁹ *Idem*, *Kritik der Kausalwissenschaftlichen...*, pp. 17-18. Cf. *idem*, *The Economics and Ethics...*, pp. 303-304, Polish edition: p. 315.

⁹⁰ *Idem*, *Kritik der Kausalwissenschaftlichen...*, p. 38.

ontological difference – the former is structured causally, while the latter is structured teleologically. Researchers should take this difference into account by applying different methods to both spheres of reality.

However, Hoppe's *a priori* view of action would not be complete without presenting the reasons why he considers both logical positivism and Popper's falsificationism to be flawed philosophies also in relation to the ^{natural} sciences. We are already familiar with one of Hoppe's arguments: it is the recognition of the principle of causality as a transcendental, and therefore non-empirical, condition for the possibility of empirical research. Furthermore, Hoppe argues that positivism and empiricism inevitably lead to relativism. This follows, first of all, from the denial of the role played by *a priori* knowledge in natural science. Without first recognizing that the principle of constancy precedes and constitutes experience and that

⁹¹ Contrary to the divisions accepted in the literature on the subject, Hoppe often refers to Popper as a representative of positivist philosophy. He writes, for example: "In fact, it can even be said that Popper contributed more than anyone else to convincing the scientific community of the modernist, empirical-positivist worldview" (the adjective "modernist" appears here in the context of a polemic with Donald McCloskey, which will be discussed in the next section). H.-H. Hoppe, *The Great Fiction. Property, Economy, Society, and the Politics of Decline*, Auburn 2021, p. 315, footnote 30, Polish edition: *W obronę skrajnego racjonalizmu [In Defense of Extreme Rationalism]*, [in:] *Wielka fikcja. Państwo w epoce schyłku*, trans. K. Nowacki, Warsaw 2014, p. 279, footnote 31. Ilia Schmelzer, who takes a Popperian critical rationalist stance, considers this to be proof of Hoppe's complete ignorance of Popper's thought. However, we find this judgment unjustified. Associating Popperism with positivism is not unusual—it was already characteristic of the work of Adorno, Habermas, Aple, and other authors referring to critical theory who participated in the so-called positivism dispute that dominated German philosophy in the 1960s. Furthermore, although the differences between Popper and the neopositivism of the Vienna Circle are undoubtedly significant, classifying Popper as part of the broader camp of positivism is not without foundation. If we accept Leszek Kołakowski's definition of positivist philosophy, Hoppe's statements can be successfully defended. According to this definition, positivism comprises four fundamental rules: (1) the rule of phenomenalism, which rejects the existence of a difference between essence and phenomenon and reduces knowledge to the study of the latter; (2) the rule of nominalism; (3) the rule denying logical value to normative judgments; (4) the rule of the unity of the scientific method. Popper's philosophy easily satisfies rules 1, 2, and 4. A more complex issue, however, is the compatibility of Popperism with the third rule. Unlike logical positivists, Popper clearly distinguished between the problem of meaning and the problem of demarcation, recognizing metaphysical and ethical judgments as unscientific but nevertheless meaningful. In order to classify Popper as a positivist, one would therefore have to weaken Kołakowski's third rule. It would have to link positivism with the dualism of facts and norms or with the recognition of the status of ethics as a non-science. From this perspective, one could insist on identifying Popper with positivism. Cf. I. Schmelzer, *Against Absolute Certainty*, p. 33. L. Kołakowski, *Positivist Philosophy: From Hume to the Vienna Circle*, Warsaw 1996, pp. 11-17; K.R. Popper, *The Logic of Scientific Discovery*, chapter IV, paragraph 19; F. Eidlin, *Poppers Etyśischer und Metaphysischer Kognitivismus*, [in:] *Karl R. Popper und die Philosophie der kritischen Rationalismus*, ed. K. Salamun, Amsterdam-Atlanta 1989, pp. 157-176. On the dispute over positivism, see

H. Lenk, *The Philosophy of Pragmatic Interpretation. Philosophy between Science and Practice*, trans. Z. Zwoliński, Warsaw 1995, pp. 116-119; G. Raulet, *German Philosophy after 1945*, trans. A. Dziadek, Warsaw 2013, pp. 175-185.

logic, arithmetic, geometry, and proto-physics also provide the necessary knowledge, it must be acknowledged that the development of technology borders on a miracle, and all forecasting is a game of chance (*Glücksspiel*)⁹². Secondly, although verificationism and falsificationism proclaim that knowledge is based on empirical testing, in light of their assumptions, no test can be considered conclusive. Ultimately, any falsified hypothesis or theory can be subjected to various immunisation procedures, described by Popper himself. Falsification is never final. Regardless of the evidence, one can endlessly search for previously uncontrolled variables that influenced the results of the study, so that in order to achieve definitive falsification, one would need to have knowledge of the entire universe. Popper faced this problem and solved it in an unsatisfactory way, as it was arbitrary: he recommended adherence to a convention according to which immunization strategies, including conventionalist maneuvers, should simply not be used. This decisionist component of Popperism was further sharpened by Imre Lakatos' methodology of scientific research programs with its division into the "hard core" of theory and the "protective belt" of hypotheses. The final, relativistic conclusions were reached by Paul Feyerabend, whose methodological anarchism Hoppe calls "nihilism,"⁹⁷ who brought the entire contemporary positivist-empiricist philosophy of science to its conclusion:

How can we protect ourselves from this nihilism? From *Handeln und Erkennen* to his own

In his most recent writings, Hoppe consistently responds from the standpoint of his activist conception of knowledge. Scientific theories are tools of the acting subject—they serve to interact effectively with the external environment by adapting to it or transforming it. Rejecting any theory that is contradicted by even a single fact would be irrational from the point of view of the acting subject if the same theory could be successfully applied in other situations and no better theory, i.e., one with a wider range of applicability, was proposed to replace it. Hoppe writes:

⁹² H.-H. Hoppe, *The Economics and Ethics...*, pp. 352–353, Polish edition: pp. 366–367; *idem*, *Handeln und Erkennen*, p. 89.

⁹³ Cf. K.R. Popper, *The Logic of Scientific Discovery*, trans. U. Niklas, Warsaw 2002, chap. IV, par. 20.

⁹⁴ H.-H. Hoppe, *The Economics and Ethics...*, pp. 357–358, Polish edition: pp. 371–372.

⁹⁵ *Ibid.*, *The Great Fiction*, p. 319, footnote 39, Polish edition: p. 284, footnote 40.

⁹⁶ *Idem*, *A Theory of Socialism and Capitalism...*, pp. 120–121, Polish edition: p. 104. Cf. I. Lakatos, *Falsification and the Methodology of Scientific Research Programs*, [in:] *Writings in the Philosophy of Empirical Sciences*, trans. W. Sady, Warsaw 1995, pp. 3–169.

⁹⁷ H.-H. Hoppe, *The Economics and Ethics...*, p. 349, Polish edition: 363. Cf. P. Feyerabend, *Against Method*, trans. S. Wiertlewski, Wrocław 2001.

⁹⁸ H.-H. Hoppe, *Handeln und Erkennen*, pp. 93–94. See also *idem*, *The Great Fiction*, pp. 475–477.

Only if [theory] A can be applied as effectively as B in every case in which B is applicable, but still has more diverse applications than B, can the rejection of B be rational. To reject it even slightly earlier because of applications in which it is not effective, or because A can be applied more successfully in some or even most situations from the point of view of an informed actor, would not be progress, but a step ^{backward}.

According to Hoppe, the same answer can be given to Thomas Kuhn's thesis on the incompatibility of paradigms in science, whose consequences are explained not by substantive factors, but ^{by historical and sociological ones}. One can speak of the incompatibility of theories and paradigms only when knowledge is detached from action. If, on the other hand, they are viewed from the perspective of action, the criterion for comparing theories immediately suggests itself: it is the criterion of instrumental success. Hoppe states:

By systematically ignoring the fact that theories and theoretically interpreted observations are the result of individual actions, created to act effectively, Kuhn and Feyerabend have deprived themselves of the very criterion by which all knowledge about nature is constantly tested and reduced to a common measure: the criterion of the effective achievement of a set goal through the application of knowledge in a given situation, or the failure to do so. Without the criterion of instrumental success, relativism would ^{be inevitable}.

1.3. nd sociological praxeology

Above, we presented Hoppe's proof of the impossibility of naturalistic monism in science, and thus an argument in favor of methodological dualism. We will now take a closer look at Hoppe's concept of action sciences.

As in the case of general epistemological theses concerning the axiom of action and its implications, Hoppe's starting point here is Mises's views. According to the latter author, the sciences of human action have a dual structure: in addition to praxeology (theory), which we have already discussed, Mises also includes history. He gives the term "history" a much broader scope than is generally accepted. In his understanding, it encompasses all sciences concerned with "the collection and ordering of all data derived from experience concerning human action," i.e., cultural facts in the sense of the opposition between nature and culture. The family of historical sciences includes

⁹⁹ *Idem*, *The Great Fiction*, p. 322, Polish edition: pp. 287-288.

¹⁰⁰ T. Kuhn, *The Structure of Scientific Revolutions*, trans. J. Nowotniak, Warsaw 2009.

¹⁰¹ H.-H. Hoppe, *The Economics and Ethics...*, p. 351, Polish edition: p. 365.

In this context, various disciplines: political history, literary studies, linguistics, non-physiological branches of psychology, non-biological anthropology, and others. Their role is not to establish general laws, but to record, interpret, and systematize individual, unique facts. In the well-known terminology of the neo-Kantian Baden school, they therefore have the status of idiographic (Wilhelm Windelband) or individualizing (Heinrich Rickert) sciences.

Referring to the Baden school and other pioneers of humanities methodology at the turn of the 19th and 20th centuries, especially Wilhelm Dilthey, Mises uses the term "understanding" (*Verstehen*) to describe a specific research method used in historical disciplines. He defines understanding as insight into "the individual, unique properties of each event." Mises then clarifies: "Understanding concerns value judgments, the choice of goals and the means necessary to achieve them, and finally, the evaluation of the results obtained."¹⁰⁵ In short, in opposition to the formal nature of praxeology, the domain of history is the content of human action—values, means, motives, and ideas.

Although conceptually praxeology (theory) and history can be precisely distinguished from each other, in research practice they are constantly intertwined. On the one hand, in order to be able to refer to a reality external to the actor, praxeology must adopt general empirical assumptions about its nature, such as the unpleasantness of work or the incomplete specificity and non-specificity of factors of production. It also needs historical data so that its theorems can be applied to research on the actual economy. In this way, they do not lose their value as apodictic necessities, but, as Wiśniewski puts it,

"establish their relationship with the world."¹⁰⁷ On the other hand, understanding historical events is always theoretical. The work of a historian is not simply a laborious collection of data. In order to correctly reconstruct the relationships between events, a historian must refer to praxeological theory.

From a methodological point of view, how do praxeology and empirical sciences of human action present themselves in Hoppe's view?

Praxeology, as we already know, starts from the analysis of the unquestionable axiom of action. Its implications are in the sphere of social sciences, especially economics.

¹⁰² L. von Mises, *Theory and History*, p. 26.

¹⁰³ A. Grobler, *Methodology of Science*, Krakow 2006, p. 250.

¹⁰⁴ L. von Mises, *Human Action*, p. 42.

¹⁰⁵ *Ibid.*, *The Ultimate Foundation...*, p. 48.

¹⁰⁶ M.N. Rothbard, *Man, Economy, and State with Power and Market*, Auburn 2009, p. 43, footnote 43.

¹⁰⁷ J.B. Wiśniewski, *op. cit.*

¹⁰⁸ L. von Mises, *Human Action*, pp. 43–45.

just as significant as in epistemology. In this context, Hoppe accomplishes something that could be characterized, in Kantian terms, as a continuation of the transcendental de-duction of the categories of action. The first of these categories, as we already know, are the goals to which the subject assigns value. Values are not objectively given in the world as properties of things in themselves. It is the subject who brings them into the world through his actions, which are necessarily *value-laden*. Directly related to goals and values is the category of means, which are valued according to how the actor assesses their ability to achieve the goal he has set himself. Means are characterized by *scarcity*, which means that they cannot be used simultaneously in all their potential applications. This applies at least to the actor's body, the space it occupies, and the time consumed by ^{the action}. Action necessarily i n v o l v e s a distinction between the time before the action, during the action, and after the action. This is, so to speak, praxeological time, which, like causality and purpose, is also a subjective category. As a mental category, it can already be grasped in the analysis of causality: the concept of a causal relationship presupposes a temporal succession of cause and ^{effect}.

The scarcity of time and other resources implies the existence of another category – choice. Since action takes place in conditions marked by scarcity, the agent is forced to make choices between his goals, ranking them on a scale of values. Choice, in turn, entails costs: these are the goals valued by the individual and abandoned for other goals recognized as more urgent. Finally, the future orientation of action, combined with the impossibility of making perfect predictions, implies the categories of profit and loss. After taking action, the subject determines whether it has actually satisfied his goals as he had predicted, and depending on this retrospective assessment, he either makes a profit or incurs a ^{loss}. “All these categories—values, goals, means, choice, preference, cost, gain, and loss—are contained in the axiom of action,” writes ^{Hoppe}. Knowledge of them owes its necessary status to the same procedure by which the axiom itself is derived. For who would deny the validity of these categories without first acting against them, thereby attempting to achieve a goal to which they have assigned value (the refutation of the axiom of action), using means to this end, making choices, and incurring costs (in the form of

¹⁰⁹ H.-H. Hoppe, *A Theory of Socialism and Capitalism...*, p. 136, Polish edition: pp. 118–119.

¹¹⁰ *Ibid.*, *Economic Science and the Austrian Method*, pp. 22–23.

¹¹¹ *Idem*, *A Theory of Socialism and Capitalism...*, pp. 135–136, Polish edition: p. 118.

¹¹² *Ibid.*, *Economic Science and the Austrian Method*, pp. 23–24.

¹¹³ *Ibid.*, p. 34.

all other activities that he could perform instead of dealing with the axiom of action), and thus make a profit or incur ^{a loss}. Since this dissertation is not devoted to problems of general economic theory, we will omit here the presentation of further implications attributed to the axiom of action by Hoppe and other Austrian economists belonging to the ^{Misesian} tradition. Suffice it to say that, according to Hoppe, the entire body of economic knowledge can be deduced from general categories of action, supported by auxiliary empirical assumptions such as the unpleasantness of work and applied to specific historical situations: the law of marginal utility, the law of revenue, Ricardo's law of association, the law of minimum wages (which states that it leads to a reduction in the demand for labor), the quantitative theory of money, and even the so-called Austrian theory of ^{the business cycle}. Their truth, provided that no error has been made in the reasoning, is guaranteed by the truth of the first premise of the system – the axiom of action, which also gives them apodictic necessity. In short, for analysis

According to Hoppe, economic change consists of the following three steps:

1) understanding the categories of action and the significance of changes in values, preferences, knowledge, resources, costs, etc.; 2) describing the world in which the categories of action acquire specific meaning, where specific people are identified as acting through specific objects that are the means of their action, and certain specific goals are identified as values, while others are identified as costs [...]; 3) logically deducing the consequences that follow from performing a certain action in such a world, or the consequences that will follow for a given actor if the situation changes in ^{a certain way}.

To avoid any confusion, let us emphasize once again that supplementing the logical implications of the axiom of action with auxiliary empirical judgments does not make the former accidental truths. These implications remain valid in every possible world, and the world described in the light of auxiliary assumptions is only one of them, conceived to correspond to ours. The validity of praxeological statements does not therefore depend on whether such correspondence actually exists.

¹¹⁴ *Idem, The Economics and Ethics...*, p. 277, Polish edition: p. 289.

¹¹⁵ Within the Austrian school, there is also the Hayekian line, one of the features of which is the rejection of Misesian apriorism. See J. Salerno, *Mises and Hayek Dehomogenized*, *The Review of Austrian Economics* 1993, 2 (6), pp. 113-146.

¹¹⁶ H.-H. Hoppe, *Economic Science and the Austrian Method*, pp. 14-15. Let us add that Hoppe presents such detailed (albeit informal) reasoning only for a few of the theorems mentioned: the law of utility, from which he derives the law of demand, the law of revenue, and the theory of the business cycle. *Ibid.*, *Kritik der Kausalwissenschaftlichen...*, pp. 55-78.

¹¹⁷ *Idem, Economic Science and the Austrian Method*, pp. 25-26.

occurs. Only their predictive power depends on this, although their apodictic necessity is also manifested in the fact that they are true regardless of the success of the predictions formulated on their basis.

In this context, the basic tool of economic analysis used by Hoppe and other economists of the Austrian school, namely the *ceteris paribus* clause, is important. Its use serves to exclude from the analysis the influence of unknown variables on the relationships between phenomena under consideration. Even the most rudimentary laws of economics, such as the law of marginal utility or the law of demand, are subject to them. After all, it cannot be ruled out that in certain circumstances demand will increase despite a price increase. This may be determined by changes in the demand for money or an increase in the utility of a good resulting from the discovery of some previously unknown ^{uses}¹¹⁹. In the specific case of the law of demand, which Hoppe defines as the law of minimum wages, it may be the case that an increase in minimum wages coincides with an increase in labor productivity that is large enough to outweigh the effect of the increase in minimum ^{wages}. However, this does not make the laws of demand and minimum wage merely hypothetical. The praxeologically understood law of demand does not express itself in the prediction that an increased price will always be accompanied by a decrease in demand. Rather, it states—and this is apodictically necessary—that this is necessarily the case under otherwise unchanged conditions, i.e., unless the above-mentioned changes occur. As Hoppe emphasizes, this methodological position cannot in any way be seen as an immunization strategy. On the contrary, the use of *ceteris paribus* clauses in economics is based on the nature of things. Since it is impossible to predict future states of knowledge on which changes in the demand for money or the utility of goods depend, it would be ^{unreasonable} to require an economic theorist to take these changes into account.

As can be seen, the predictive capabilities of economic theory are limited. According to Hoppe, this also means that knowledge of economics is of little use in business practice. However, this does not mean that economic knowledge is completely useless. It plays a negative role in forecasting:

[...] it acts as a logical limitation on predictions insofar as, of all the forecasters who correctly predict that no such change will occur, only those who recognize the law of demand will actually make correct predictions, while

¹¹⁸ *Idem*, *Kritik der Kausalwissenschaftlichen...*, p. 53.

¹¹⁹ *Idem*, *The Great Fiction*, pp. 341–344, Polish edition: pp. 313–316.

¹²⁰ *Ibid.*, *Kritik der Kausalwissenschaftlichen...*, p. 81.

¹²¹ *Ibid.*, pp. 77–81; *idem*, *The Great Fiction*, p. 343, footnote 77, Polish edition: pp. 316–317, footnote 78.

when those whose beliefs are incompatible with it are mistaken. Such is the logic of economic predictions and the function of ^fpraxeological reasoning.

The limitations of our ability to predict actions also mean that non-praxeological fields of human sciences must be treated as non-nomothetic *a posteriori* sciences. Contrary to positivism, Hoppe also rejects the concept of social sciences as empirical and quantitative. For him, they are empirical sciences, but at the same time historical in the sense that they deal with past states of affairs, and the criterion of truth for judgments formulated in their field cannot be the effectiveness ^{of prediction}. Instead, they rely on

"necessarily reconstructive research based on understanding"¹²⁴.

What exactly does their methodology look like? Hoppe characterizes it rather succinctly: we find discussions on this topic in two of his works—*Kritik...* and *Economic Science...* – but in both cases they only take up a few pages, even though the first of these books is subtitled *Studies on the Foundations of Sociology and* ^{Economics}. Nevertheless, the key assumptions of the *a posteriori* methodology of the action sciences can be gleaned from most of the thinker's statements.

Firstly, although reconstructive historical sciences do not formulate laws and their function is not to predict, they do provide specific knowledge. It is not the case that every historical explanation (more precisely: act of understanding) can be considered equally valid. Referring to an example from his own biography, Hoppe points out that it would be absurd to explain his decision to emigrate to the US by the expectation of corn growth in Michigan. No one who knows him well would be inclined to offer such an explanation. This is what understanding is all about: the most accurate possible reconstruction of the motives, interests, normative beliefs, or views of a given situation that guided the actor. In order to capture them, says Hoppe, one must enter into a kind of "*pseudo-communication*" with the actor being studied, which consists of studying their statements and beliefs and comparing them with their

¹²² *Ibid.*, *The Great Fiction*, p. 344, Polish edition: pp. 317–318. Cf. *ibid.*, *Economic Science and the Austrian Method*, p. 46.

¹²³ *Ibid.*, *Economic Science and the Austrian Method*, pp. 38–39.

¹²⁴ *Ibid.*, p. 43.

¹²⁵ Although nominally the second of the three chapters of this dissertation, entitled "Die Unmöglichkeit kausalwissenschaftlicher Sozialforschung. Eine Untersuchung zur Begründung der Soziologie als rekonstruierender Handlungswissenschaft (»Handlungsgrammatik«)" ("On the impossibility of causal research in the social sciences. An investigation into the foundation of sociology as a reconstructive science of action ['grammar of action']"), in reality the emphasis there is on the critique of empiricism, which occupies most of the chapter.

actual actions or placing it in its proper historical context.

Secondly, a posteriori sciences of action are not exact sciences. Although it is possible to evaluate knowledge in terms of truth and falsehood, the understanding they provide is never uncontroversial. Researchers can argue—and they do so constantly—about what factors influenced the actions of an individual or group and about the relative importance to be assigned to those factors on which there is agreement. These disputes can never be conclusively resolved. And yet, there is a certain, albeit vague, criterion of truth in these sciences. This criterion does not settle disputes definitively, but it does exclude certain explanations. It consists in the fact that “any historical explanation must be such that the actor whose actions are to be explained must, in principle, be able to verify the explanation and the explanatory factors as those that contributed to his acting as he did.”¹²⁷

Hoppe illustrates this idea by pointing to the research practices of linguists as a model for humanistic knowledge. It is impossible to question everyone, including those who have long since passed away, about the accuracy of the proposed understanding of their actions. Nor is it true that everyone is the best expert on themselves—a historian may understand the object of their research better than they understood themselves. The same is true of linguistics: knowledge-generating procedures in this field do not rely on inductively deriving general conclusions from laboriously collected records of individuals' linguistic actions, nor on inquiring each individual about the rules of the language they use. Rather, the linguist must try to extract the general rules (norms) that ^{speakers} use, often unconsciously. For Hoppe, a paradigmatic example of this approach is Noam Chomsky's concept of generative grammar. Unlike Chomsky, however, Hoppe takes an anti-naturalistic view of linguistics, adopting the basic themes of ^{Apl's} critique of Chomsky's philosophical position. According to Apl, Chomsky was mistaken in identifying his theory as describing empirical laws. The rules of language, however, are norms – they differ from empirical laws in that they can ^{be broken by} an acting agent.

¹²⁶ *Ibid.*, *Economic Science and the Austrian Method*, p. 40.

¹²⁷ *Ibid.*, p. 41.

¹²⁸ *Ibid.*, pp. 42–43.

¹²⁹ *Ibid.*, *Kritik der Kausalwissenschaftlichen...*, p. 92, footnote 43.

¹³⁰ K.O. Apel, *Towards a Transformation of Philosophy*, trans. G. Adey, D. Fisby, Milwaukee 1998, pp. 180–224.

Using the analogy outlined above, Hoppe therefore postulates that sociology should be treated as a “grammar of action” (*Handlungsgrammatik*). It deals with “identifying general normative orientations” that guide people, even when they are not ^{aware of} them. The philosopher does not explain anywhere how he perceives the conceptual relationship between sociology (to which he refers in *Kritik...*) and history (on which he focuses in *Economic Science...*). It seems that they should be understood as follows—taking into account, of course, the vagueness of the suggested distinction—that while sociology would be a more general discipline, formulating theses with a broader scope of validity, history would deal with what is limited to a given place and time. This interpretation stems both from linguistic usage and the origins of sociology as Comte’s “social physics,” as well as from Hoppe’s statements, who in *Kritik...* focuses on universal or at least relatively general theories such as Chomsky’s, while in *Economic Science...* he cites examples of research on individual figures and events.

In all these respects, Hoppe agrees with Mises’ methodological stance, while deepening it through a broader use of newer concepts of *understanding methodology*. His own approach, however, differs from that of his master in one important respect, related to the point discussed above. Mises, as we recall, treated what he called the historical sciences as clearly individualizing fields. Hoppe, on the other hand, emphasizes that although we encounter laws exclusively in praxeology, in the field of sociology (history) the greatest value is also accorded to general theories, i.e., those which, like Chomsky’s theory, “re-construct universal or quasi-universal structures of action,” even if they cannot, by their very nature, claim to be authoritative, “reconstruct universal or quasi-universal structures of action,” even if they cannot, by their very nature, claim ^{to be} authoritative. In other words, sociology ranks higher than history in the hierarchy of sciences. For Mises, sociology was essentially nothing more than a branch ^{of history}. As we shall see, this divergence between Hoppe and Mises is not insignificant for the practical philosophy of ^{the former}.

¹³¹ H.-H. Hoppe, *Kritik der Kausalwissenschaftlichen...*, p. 35.

¹³² *Ibid.*, p. 36.

¹³³ On the place of sociology in Mises’s systematization of the social sciences, see Ch. Robi-taille, *Ludwig von Mises, Sociology, and Metatheory*. *Quarterly Journal of Austrian Economics* 2019, 22 (2), pp. 242–270. For the sake of accuracy, it should be noted that before Mises proposed the name “praxeology” for the discipline he was developing, he referred to the general science of human action as sociology. Hoppe’s terminology therefore partly resembles the distinctions initially used by Mises. L. von Mises, *Epistemological Problems of Economics*, p. 71 et seq.

¹³⁴ See the discussion of Hoppe’s theory of monarchy in Chapter V.

2. *A priori* argumentation

2.1. What does *a priori* argumentation actually say?

The second pillar of Hoppe's epistemology, alongside *a priori* action, is *a priori* argumentation, or, in other words, *a priori* communication and ^{argumentation}. It is less clearly and less extensively explained in Hoppe's writings than a *priori* action, so grasping its meaning will require comparing Hoppe's often very brief arguments with the views of Habermas and Apl, especially the latter. It is from him that the idea of argumentative-communicative *a priori* was taken.

The a priori of argumentation in Hoppe's view is as follows:

The second axiom is the so-called *a priori* argument, which states that people are capable of reasoning and therefore know the meaning of truth and justice. As with the axiom of action, this knowledge does not come from observation: only verbal behavior can be observed, and prior reflective knowledge is necessary to interpret such behavior as meaningful arguments. The validity of the axiom, like that of the axiom of action, is indisputable. It cannot be denied that one can argue, because denial itself would constitute ^{an argument}.

More precisely, as in the case of the action axiom, this is not a semantic contradiction, but a performative one, i.e., one that occurs between the content of a judgment and the act of formulating it. Elsewhere, Hoppe formulates his claim more strongly:

Every claim to truth—any assertion that an assertion is true, objective, or valid (all these terms being used here as synonyms)—is presented and judged by argumentation. The fact that this cannot be challenged (it cannot be communicated or argued that it cannot be communicated or argued) and that it must be assumed that everyone knows what is meant by a claim that something is true (this claim cannot be denied without claiming that its denial is true) has been aptly described as

“*a priori* argumentation and ^{communication}”¹³⁷.

We consider the second of these formulations to be stronger because, while the first merely states that it is possible to argue, the second asserts that it is necessary to argue. But where does this necessity come from, and what is its nature? As Paweł Nowakowski rightly points out, it comes from the fact that

¹³⁵ Hoppe uses these two expressions interchangeably. “*The a priori of argumentation*,” “*the a priori of communication and argumentation*.” Cf. *idem*, *The Economics and Ethics...*, p. 279; *idem*, *A Theory of Socialism and Capitalism...*, p. 149.

¹³⁶ *Idem*, *The Economics and Ethics...*, p. 279.

¹³⁷ *Idem*, *A Theory of Socialism and Capitalism...*, pp. 148–149, Polish edition: p. 132.

It cannot be denied that it can be argued, but it does not follow that it must be argued, that "every claim to truth [...] is presented and judged by ^{argumentation}." In other words, one could try to refute Hoppe's reasoning by simply saying: "I deny that every truth claim must be presented and judged by argumentation. The fact that I formulate my position and defend it in this way does not in any way prove that I am wrong. In fact, there are judgments that do not need to be defended by argumentation. My judgment is simply not one of ^{them}."¹³⁹ Such a reply would ultimately be nothing more than the application of a well-known logical rule, according to which no general assertive judgments can be derived from any specific assertive judgments.

Fortunately, there is no reason to believe that the argument collapses *a priori* as a result of such a trivial formal error. The direction of inference is the opposite of what Hoppe's original wording would suggest: since "every claim to truth [...] is presented and judged by argumentation," or, to put it another way, one must argue, whether one wants to or not, insofar as one belongs to rational beings, which is why "one cannot communicate and argue that one cannot communicate or argue," or, more precisely, one cannot even say or think that one cannot communicate or argue. For, as Hoppe says, "no one can even say to himself quietly "I cannot argue" without contradicting ^{myself}. In his latest lecture on argumentative ethics from 2016, Hoppe presents his reasoning in a way that corresponds to the above approach: "All truth claims [...] are raised, defended, **a n d** judged by means of argumentation. [...] The truth of this judgment cannot be denied without falling into contradiction, because any attempt to do so would itself have to be an argument. Therefore, a *priori* ^{argumentation}."

However, the above still requires clarification: why exactly *would* every attempt to reject an argument *a priori* have to take the form of an argument? We can see here that, according to Hoppe, the argumentative situation is not accidental but necessary. On the other hand, it is not the case that the knowing subject necessarily argues independently of his will. Needless to say, many people rarely engage in argumentative activities. Therefore,

¹³⁸ P. Nowakowski, *Kapitalizm bez etosu. Antropologia i etyka w libertarianizmie* [Capitalism without ethos. Anthropology and ethics in libertarianism] (doctoral thesis, typescript made available courtesy of the author), Wrocław 2014, p. 124.

¹³⁹ We owe this formulation to Łukasz Dominiak.

¹⁴⁰ H.-H. Hoppe, *The Economics and Ethics...*, p. 279, Polish edition: p. 291.

¹⁴¹ *Ibid.*, *On the Ethics of Argumentation*, <http://propertyandfreedom.org/2016/10/hans-hermann-hoppe-on-the-ethics-of-argumentation-pfs-2016/> [accessed on June 1, 2021].

rather, there must be some kind of obligation incumbent on every subject of cognition to justify their judgments by means of argumentation; in short, there must be *an obligation to argue*. More technically, when Hoppe says that every truth claim must be judged in the course of argumentation, the word "must" is deontic, not modal. Consequently, the performative contradiction associated with the *a priori* rejection of argumentation should be understood as *a negation of the obligation from which the arguer acts in the very act of rejection*. Note also that Hoppe consistently uses the terms "argumentation" and "communication" go hand in hand, as if they were two sides of the same coin. There is another implicit assumption here, namely that argumentation is an inter-subjective act, i.e. one that presupposes the presence of an arguing partner. Again, this is not an assumption that is obvious at first glance: from the perspective of classical modern philosophy of consciousness, one could argue that the very existence of a world external to the knowing subject or of other minds present in it is an arbitrary assumption or can be subjected to Husserl's "bracketing." From this perspective, argumentation would be nothing more than a kind of internal quasi-dialogue. Hoppe, however, clearly assumes that argumentation is inter-subjective communication, which, as we shall see, is a fundamental issue, since without this assumption it is impossible to establish Hoppe's most important thesis as a political philosopher: that argumentation between persons presupposes social ethics, and specifically *libertarian* ethics. Where do all these theses come from? Although Hoppe never again systematically dealt with the theory of truth after *Handeln und Erkennen*, he is a supporter of the concept of consensus in the form given to it by Habermas and, above all, Apel. In Habermas's view, it reads as follows: "A judgment is true if and only if it would be finally accepted as a result of an exchange of arguments in an ideal *communicative* situation." An ideal communicative situation is one in which certain specific norms are observed: the status of the interlocutors is equal, there is no use of violence, and the speaker are competent and genuinely interested in reaching consensus.

2.2. Hoppe, as a transcendental pragmatist

In *Handeln...*, as we remember, Hoppe rejected the classical theory of truth, pointing out that it is based on a model of a passive subject and, in addition, is circular in nature (the measure of the truth of a thought is the thing itself, but this is known only through

¹⁴² See chapter II of this book.

¹⁴³ Quoted from: A. Grobler, *Prawda, jej namiastki i paradoksy z nią związane* [Truth, its substitutes and related paradoxes], in: *Przewodnik po epi-stemologii* [Guide to epistemology], p. 25.

thought)¹⁴⁴. In *Eigentum, Anarchie und Staat*, the philosopher repeats these objections and raises another objection known from the history of philosophy: classical theory does not provide a criterion of truth. In his opinion, truth cannot be defined as the conformity of a judgment with reality, because "the statement that 'the assertion and reality agree with each other' is merely another subjective assertion. Even people who see flying saucers obviously maintain that their assertion agrees with reality [...]"¹⁴⁵. Therefore, "instead, it is necessary – and there is far-reaching agreement on this in epistemology – to define objectivity as intersubjectivity; objective statements are intersubjectively verifiable statements." Hoppe goes on to write even more clearly: "Objectively justified claims are therefore those claims with which every autonomous (i.e., not threatened by violence) subject could agree." In *Handeln...*, on the other hand, in the context of his main discussion of the "operative" (*operativ*) dimension of truth, the philosopher admits that the consensus theory (*Konsensustheorie der Wahrheit*) is a "necessary complement" to the description of the process of the constitution of experience in action. Thus, "alongside "a priori experience," there must also be "a priori argumentation" as a condition for the possibility of true statements."¹⁴⁶ Moreover, in the only passage from Hoppe's English-language works that explicitly addresses this issue, which is very important yet constantly ignored by his commentators and opponents, Hoppe also states *expressis verbis*: "That which is valid or true must be defined as that to which everyone could agree on the basis of this principle [the libertarian principle of non-aggression – N.S.]"

What are the reasons behind the consensual theory of truth? As we have mentioned, Hoppe reveals them rather sparingly. In the philosopher's most important texts devoted to

¹⁴⁴ This objection has been known at least since the time of Franz Brentano. Cf. F. Brentano, *On the Concept of Truth*, trans. J. Sidorek, Principia. Writings on Philosophy and Theoretical Sociology, 1997, vol. 18-19, p. 29.

¹⁴⁵ H.-H. Hoppe, *Eigentum, Anarchie und Staat, Studien zur Theorie des Kapitalismus*, Opladen 1987, p. 12.

¹⁴⁶ *Ibid.*

¹⁴⁷ "Objectively justified statements are therefore statements that everyone can agree to as an autonomous (i.e., not under threat of violence) subject [...]" *Ibid.*

¹⁴⁸ *Idem, Handeln und Erkennen*, p. 106, footnote 187. In an interview with us, Hoppe confirmed that the theory of truth he advocates is a synthesis of the consensual and pragmatic approaches. *Idem*, Private correspondence, 2017.

¹⁴⁹ "What is valid or true is to be defined as that upon which everyone according to this principle can possibly agree." In the Polish translation, this passage has been distorted. Perhaps this is why it escaped the attention of at least some Polish commentators. The Polish translation reads: "Validity or truth must be defined in such a way that everyone who acts in accordance with this principle can agree with it." It is clear how the translation distorts the meaning of the original. *Idem, A Theory of Socialism and Capitalism...*, p. 158, Polish edition: p. 140.

epistemological and ethical issues, they never directly precede *a priori* formulations of argumentation and communication, so that it is not easy to discern the whole reasoning. This is evidenced by the absence of the theme of truth in all the literature on the subject known to us, with the exception of the polemical article by Schmelzer already mentioned. In addition, some of the necessary premises of Hoppe's theory are not articulated *explicitly* by him at all, *but* are hidden in abundant footnotes to the works of his precursors, especially Habermas and Apl. Consequently, in order to extract the essence of the argumentative-communicative *a priori*, we are now forced to resort to a comparative method, presenting alternately the thoughts of Hoppe and those on whose work he built this part of his philosophy. Apel plays the most important role here. Admittedly, due to Hoppe's personal ties with Habermas, as well as the latter's prominent position in contemporary philosophy, it is Habermas who is usually credited with having the greatest influence on Hoppe. Upon closer examination, however, it turns out that Hoppe's epistemology reveals more similarities with Apel's philosophy, which he calls "transcendental pragmatics." Most importantly, unlike Habermas, who distances himself from transcendentalism, Apel consistently maintained his attachment to Kant's idea of transcendental-critical validation of knowledge, i.e., placing reason before its own tribunal, judging on the basis of—in Kant's words—"cognition, which is concerned not so much with objects as with our mode of cognition, insofar as this mode is to be *a priori* possible." Moreover, it is Apel, not Habermas, who uses arguments from performative (non)contradiction in order to obtain "ultimate justification" (*Letzbegründung*). Finally, it is from Apel that the concept of a *a priori* argumentation and communication, expressing the ideas of transcendental philosophy, originates.

¹⁵⁰ Hoppe himself points to the validity of this interpretative strategy when he writes: "I developed my central argument [i.e., argumentative ethics – N.S.] in the mid-1980s, when I was about thirty-five years old. Not from scratch, of course. I took up ideas and arguments developed earlier by others, in particular by my main philosophy teacher and supervisor Jürgen Habermas and, even more so, by his long-time friend and partner Karl-Otto Apel, as well as by philosophers and economists Ludwig von Mises and Murray Rothbard." *Idem, On the Ethics of Argumentation*.

¹⁵¹ See, for example, D. Rasmussen, *Arguing and Y-ing*, Liberty 1988, 2, p. 50.

¹⁵² I. Kant, *op. cit.*, B25.

¹⁵³ Although Apel is not one of the most famous contemporary philosophers, his thought has already been well described in Polish literature thanks to the synthetic studies by Beata Sierocka and Magda-Lena Filipiak: B. Sierocka, *Krytyka i dyskurs. O transcendentalno-pragmatycznym uprawomocnieniu krytyki filozoficznej* [Critique and Discourse: On the Transcendental-Pragmatic Validation of Philosophical Critique], Kraków 2003; M. Filipiak, *The communicative turn from a transcendental-pragmatic perspective* [pragmatic perspective], Poznań 2016.

¹⁵⁴ K.O. Apel, *Transformation der Philosophie*, Vol. 2: *Das Apriori der Kommunikationsgemeinschaft*, Frankfurt am Main 1976, pp. 358-435.

As we noted at the beginning of our discussion—and as stated explicitly in the above-quoted formulations of the consensus theory of truth—the *a priori* element of argumentation and communication is the view that cognition is, by its very nature, a public activity. Support for this position is provided by Wittgenstein's famous thesis on the impossibility of private language, which Apla considers groundbreaking because it makes it possible to refute solipsism and link rationality with intersubjectivity. Hoppe refers to it several times in his works, including in his 2016 lecture *On the Ethics of Argumentation*, in which he points to Wittgenstein's thesis for the first time as the premise of his ethics. He states laconically: "Argumentation is an act of speech, involving the use of public language as a means of communicating with other speakers (Wittgenstein)."

We learn a little more about this from Hoppe's 1989 review of Donald McCloskey's *Rhetoric of Economics*. Hoppe refers to Wittgenstein to distance himself from the hermeneutic concept of communication and postmodernism, which he condemns as relativistic, and to which McCloskey referred in his methodological ideas. Hoppe writes:

Language, therefore, [...] is a form of action. It is the result of practical cooperation and, as such, through action, it is inextricably linked to the objective world. An utterance, whether about facts or fiction, must inevitably be a form of cooperation and thus requires a common basis of objectively defined and applied terms. [...] As long as it is claimed that something meaningful is being expressed at all, the existence of some common standards must be assumed, if only to be able to agree on whether and to what extent what has been said has actually been understood. [...] To say that there is no common basis is therefore a contradiction. The very fact that one can claim that such a thesis has meaning means that there is such a common basis. This implies that terms can be used objectively and grounded in the universal reality of action as a practical prerequisite for language.

Despite Hoppe's emphasis on the existence of an objective, extra-linguistic reality, the above statement should not be read in the spirit of classical realist philosophy, nor should the refutation of the relativist position contained therein be understood as a simple repetition of the self-referential argument characteristic of relativism. Note that objective reality is achieved here, as it were,

¹⁵⁵ *Idem*, *Transformation der Philosophie*, Bd. 1: *Sprachanalytik, Semiotik, Hermeneutik*, Frankfurt am Main 1976, pp. 335-377; L. Wittgenstein, *Philosophical Investigations*, trans. B. Wolniewicz, Warsaw 2012, § 243-315.

¹⁵⁶ H.-H. Hoppe, *On the Ethics of Argumentation*.

¹⁵⁷ *Idem*, *The Great Fiction*, p. 309, Polish edition: p. 269.

indirectly: the starting point is subjective action, in particular its linguistic aspect, which, according to Wittgenstein, is perceived as inalienably embedded in the community of speakers.

What is extremely important in this context is that Hoppe's philosophical vocabulary is strongly imbued with the theory of validity claims developed by Habermas and Apl. When writing about assertions, Hoppe rarely uses terms such as "sentence" or "judgment." Instead, he writes about claims to truth. This also applies to the above-quoted formulation of *a priori* argumentation, according to which claims to truth are adjudicated in the course of argumentation.

-claims). The theory of validity claims derives from the theory of speech acts proposed by John L. Austin and John Searle¹⁵⁸. The so-called Oxford philosophers highlighted the dual, performative-propositional structure of language, in which the content conveyed by language is always accompanied by a certain action – locutionary, illocutionary, and perlocutionary¹⁵⁹.

-propositional structure of language, in which, alongside the content conveyed by language, there is always a certain action – locutionary, illocutionary, and perlocutionary¹⁵⁹. This concept was further developed by Habermas and Apel, who identified four possible universal validity claims in language, each of which refers to a different sphere of reality, a module of communication, and a function of speech. These are claims to truth, normative validity, sincerity, and comprehensibility.

For the purposes of our argument, claims to truth and validity are particularly important. In short, they consist in the fact that whenever statements are made about what is or should be, the propositional aspect—the description of the state of affairs or norms—does not exhaust the content of the speech act. Since what is true is true not only for one subject but for everyone, regardless of place and time, the performative aspect of an utterance includes a claim to validity addressed to everyone who is capable of understanding it, to, as the Appeal says, “all rational beings.” Similarly, judging the rightness of an action is an appeal to all beings capable of judging that action. For this very reason, every claim to truth or rightness must be expressed in language and mediated by argumentation that makes it an intersubjectively valid assertion. This is where the sources of obligation lie.

¹⁵⁸ Hoppe also uses this term in his writings, as exemplified by the statement quoted above on argumentation as an act of speech. Hoppe refers directly to Austin and Searle's theory only once, pointing to its importance for understanding the essence of language. *Ibid.*, *Handeln und Erkennen*, p. 36, note 71.

¹⁵⁹ J.L. Austin, *Mówienie i poznawanie*, trans. B. Chwedeńczuk, Warsaw 1993, pp. 640-653, *passim*. See also B. Sierocka, *op. cit.*, pp. 41-62.

¹⁶⁰ J. Habermas, *What is Universal Pragmatics?*, [in:] *idem*, *Communication and the Evolution of Society*, trans. T. McCarthy, Boston 1979, p. 68.

¹⁶¹ K.O. Apel, *Transformation der Philosophie*, Bd. 2, pp. 424-425.

argumentation: whoever asserts a claim to validity tacitly accepts this obligation.

Hopp's connection with the theory of validity claims is therefore not, as can be seen, merely verbal. This theory allows us to explain the meaning of a *priori* arguments insofar as it makes it necessary to resolve disputes through argumentation, and it also allows us to conceptualize the performative contradiction that would arise if someone tried to undermine them, as occurring between the speech act of rejection and the claim to truth communicated in the same act and the obligation to argue recognized in that act.

It is precisely in the context of argumentation as an interpersonal exchange of claims and reasons relating to a reality that is independent of the speakers and extralinguistic that Hoppe's quasi-realistic statements should also be understood. As Apel puts it, although knowledge is always anchored in linguistic *a priori*, and therefore the subject cannot have direct access to objective reality (Kant's thing-in-itself), doubt about the existence of such a reality would violate the principles of the "transcendental language game, whose paradigm is the existence of the real world."¹⁶² For the very concept of meaningful argumentation presupposes not only the existence of other argumenters, but also a distinction between the real and the unreal. Whoever raises Cartesian suspicions that the world is merely a dream or a representation presented to us by some malicious demon contradicts himself pragmatically in exactly the same way as when questioning the possibility of argumentation itself Hoppe writes similarly: "The concept of truth, objective truth, truth grounded in some kind of reality outside language itself, is indispensable for any statement [...]. Rationality is a prerequisite for language, and therefore it is impossible to get rid of the concept of objective truth as long as one is capable of participating in any ^{language} game" What

¹⁶² *Ibid.*, p. 394.

¹⁶³ *Idem*, *The Question of Grounding: Philosophy and Transcendental Pragmatics of Language*, [in:] *Selected Essays*, Vol. 2, New Jersey 1996, pp. 90-94. According to Habermas, argumentation presupposes the existence of objective reality as its point of reference. He explains the difference between the classical realistic approach and his own model of communicative rationality as follows: "The first position, which for simplicity I will call 'realistic,' starts from an ontological premise that assumes the world as the totality of what occurs, in order to clarify the conditions of rational behavior on this basis. The second position [...] performs a transcendental transformation of this issue and directs our attention to the fact that those who behave rationally must themselves assume an objective world." J. Habermas, *The Theory of Communicative Action*, vol. 1: *Rationality of Action and Social Rationality*, trans. A.M. Kaniowski, Warsaw 2015, p. 35. See further discussion: pp. 35-42.

¹⁶⁴ In the Polish translation, Wittgenstein's term "language game" ("*Sprachspiel*") has, for some reason, been incorrectly rendered as "word game." We have corrected this mistake above. H.-H. Hoppe, *The Great Fiction...*, p. 308, Polish edition: p. 268-269.

Thus, says Hoppe, "it cannot be claimed that it is possible to argue with someone that solipsism can be defended, because in order to argue in its defense, one has already ^{rejected} it."

The argumentative situation is, in turn, insurmountable, as it constitutes an a priori (transcendental) condition for the possibility of all knowledge in general. Apel attempts to demonstrate this in his polemic with Hans Albert, a leading representative of Popper's critical rationalism, and his famous "Münchhausen trilemma." This trilemma refers to the arguments of ancient skeptics: it says that no judgment can be ultimately justified because every sequence of premises leads to one of three possible solutions: dogmatic cessation of justification at some stage, infinite regress, or ^{circular reasoning}. According to Apl, Albert and the skeptics wrongly assume that judgments (statements) can only be justified by referring to other judgments (statements). However, none of the members of the trilemma occur if justification takes place by referring to certain actions. Argumentation is precisely such an action. Anyone who doubts the possibility of ultimate ^{justification} makes this claim by asserting a truth claim in public language and consequently committing themselves to argumentation. Thus, such a person must admit that at least the possibility of argumentation is ^{an} unquestionable ^{certainty}. If they wanted to deny this, they would fall into a performative contradiction. This is precisely what Hoppe means when he writes about the a priori axiomatic nature of argumentation and, consequently, the ultimate validation of the libertarian theory of justice founded on it, as we shall see.

At the same time, the appeal distances itself from the mentalist tradition, pointing to the indispensability of the distinction between the subjective and the intersubjective. In its view, mentalist philosophers from Descartes to Husserl disregarded "the mediating function of language understood as a transcendental condition for intersubjectively valid interpretation ^{of the world.}"¹⁶⁹ Even when thinking to oneself, one must at least imitate a dialogue mediated by language

¹⁶⁵ *Idem, The Economics and Ethics...*, p. 303, footnote 7, Polish edition: p. 315, footnote 8.

¹⁶⁶ H. Albert, *Treatise on Critical Reason*, Princeton 1985.

¹⁶⁷ Translating Aplow's expression *Letzbegründung* (the ultimate grounding), we write – following Beata Sierocka – about "legitimation" instead of "justification." We do so because the term "justification" suggests putting forward premises understood precisely as linguistic expressions (depending on the position taken on what constitutes the vehicle of truth—judgments or sentences), whereas Apl's concept is that certain statements are established by reference to actions as axioms and therefore cannot be "justified." See B. Sierocka, *op. cit.*, p. 7 et seq.

¹⁶⁸ K.O. Apel, *The Question of Grounding...*, p. 81.

¹⁶⁹ *Ibid.*, p. 84.

with others, as long as the distinction between intersubjectively valid claims and subjective beliefs of the subject is to be maintained. As Apel writes: "Cognition based on observation at the level of subject-object relations

-subject matter presupposes cognition as understanding meaning at the level of ^{inter-subjective} relations."¹⁷⁰ Hoppe, as we recall, shares this view—objectivity, he says, means for him the same as intersubjectivity. Moreover, we can now see more clearly why both the existence of other minds and the external world are not only common-sense assumptions that cannot be proven, but, on the contrary, are seen by Hoppe as necessary conditions for the possibility of cognition.

In connection with the above, the appeal introduces another key idea – the concept of an unlimited community of communication. It is a transformation of Charles Sanders Peirce's concept of an unlimited community of investigators. The difference here is that while the American pragmatist limited himself to considerations concerning the nature of scientific progress and, based on the fallibility of all scientific judgments, derived the concept of truth as a limit concept (Kant's regulative idea), the content of which is the ultimate agreement of all competent researchers,¹⁷¹ Apel extends the idea of the communicative community to all rational beings. It is precisely this unlimited community of communication that is the ultimate addressee of all claims to truth. In accordance with Apel's idea of the linguistic-pragmatic transformation of Kant's philosophy, the transcendental unity of apperception is thus replaced, in the spirit of Peirce's semiotics and the twentieth-century linguistic turn, by

"intersubjective unity of interpretation." At the same time, by linking truth to an unlimited communicative community, Apel—and Hoppe following him—recognizes ethics as a condition for the possibility of cognitive activities.

Hoppe does not *explicitly* introduce the concept of a communicative community in any of his published texts, while the concept of truth as a Kantian regulative idea, with reference to Peirce, appears in his

¹⁷⁰ *Idem*, *Transformation der Philosophie*, Bd. 2, p. 234.

¹⁷¹ Ch.S. Peirce, *Some Consequences of the Lack of Four Abilities*, [in:] *On the Infinite Community of Investigators*, trans. A. Hensholdt, Opole 2009, p. 71; cf. A. Hensholdt, *Charles Sanders Peirce on the infinite community of researchers*, [in:] *On the infinite community...*, pp. 9-38.

¹⁷² K.O. Apel, *Transformation der Philosophie*, Vol. 2, p. 411. In addition to the consensual theory of truth, Apel also adopts the foundations of Peirce's pragmatic semiotics, in particular two theses: a) that cognition is essentially rooted in language, and b) that language as a system of signs requires an active interpreter. Hence the name of Apel's theoretical project: transcendental pragmatics. *Idem*, *Transcendental-Pragmatic Reflection. The Main Perspective of the Current Transformation of Kant's Philosophy*, trans. Z. Zwoliński, [in:] *Two Hundred Years with Kant's Philosophy*, ed. M. Potępa, Z. Zwoliński, Warsaw 2006, pp. 509-530.

openly only once, and that in passing, in one of the footnotes to *Handeln und Erkennen*¹⁷³. However, in his correspondence with us, he points to this concept as one of the elements of his epistemology borrowed from Apel. In his reply to us, Hoppe also provides a systematic summary of his relationship with Apel. This summary is worth quoting *in extenso*, as it brings together most of the threads discussed in this subsection and confirms the complete compatibility of that part of Hoppe's epistemology which is connected with a *priori* argumentation (and to some extent also those aspects of it which concern a *priori* action) with the fundamental theses of Apel's philosophy:

I agree with Apel on four fundamental points: (a) that speaking, communicating, and arguing are intentional actions (subclasses of action) expressing the same general categories characteristic of all actions; (b) his transformation of Kant's transcendental philosophy, which consists in replacing the "solipsistic" starting point of the solitary subject with an intersubjective or "public" point of departure; (c) that all disputed claims of truth, i.e., claims attributing truth to some court, can only be resolved by argumentation, and that this cannot be denied without falling into contradiction; (d) that argumentation, by demonstrating a commitment to truth, presupposes the recognition of a certain ethics.

Hoppe then adds:

However, any actual agreement does not guarantee truth. Both (or all) debaters who agree with each other may still be wrong. Therefore, and here I agree with Apple (and Peirce), the claim to truth is in fact made against an unlimited community of argumen-ters, so that any actual agreement always remains open to challenge in ^{the future}.

To summarize this subsection, it is worth quoting the four basic components of Apel's philosophy identified by Beata Sierocka, which

¹⁷³ H.-H. Hoppe, *Handeln und Erkennen*, p. 109, footnote 193.

¹⁷⁴ "I agree with Apel on four fundamental insights. (A) that speaking, communicating, arguing are purposeful actions (subclasses of action exhibiting the same general categories characteristic of all action); (B) his transformation of Kantian transcendental philosophy from a 'solipsistic' starting point of a lone subject to an intersubjective, if you will 'public,' starting point, in recognizing that all philosophizing is, undeniably and inescapably so, done in and with a public language; (C) that all contentious truth claims, i.e. claims that some proposition in question or in dispute is true (or not), can be settled only in the course of an argumentation and that this cannot be denied on pain of contradiction; and (D) that argumentation, demonstrating a commitment to the truth, presupposes and involves the acceptance of an ethic. [...] But any actual agreement is no guarantee of truth. Both (or all) agreeing disputants may still be wrong. So, and in this I agree with Apel (and Peirce), a truth-claim is indeed made vis-à-vis an indefinite community of arguers and hence any actual agreement always remains open to future challenges". *Idem*, Private correspondence, 2017.

can also be successfully attributed to Hoppe, explaining the *a priori* meaning of *argumentation* as expressing the intersubjective nature of cognition: "(1) the linguistic constitution of knowledge; (2) the communicative nature of linguistic actions; (3) the dual, performative-propositional structure of the linguistic act; (4) the inalienable argumentative value of knowledge."¹⁷⁵

3. The essence and evaluation of Hoppe's *a priori* ()

3.1. Two *a priori*, one theory of truth

Having presented in detail the various threads of Hoppe's epistemology, let us now summarize them, attempting to place them within the existing literature on the theory of cognition, positions, and divisions, while at the same time bringing out the essence of Hoppe's epistemological position.

As we have seen, the philosopher's gnoseological concept is defined by two axioms: *the a priori* of action and *the a priori* of argumentation. Hoppe characterizes the logical relations between them as follows:

It is not difficult to discover that both *a priori* axioms – action and argumentation – are closely related. On the one hand, actions are more fundamental than argumentation, from which the idea of rightness arises, because argumentation is only a subclass of action. On the other hand, recognizing these characteristics of action and argumentation and their mutual relations requires argumentation. Thus, in this sense, argumentation must be regarded as more fundamental than action, because without argumentation, nothing can be said to be known about action. Argumentation itself, however, reveals the possibility that argumentation presupposes action, because the validity of theses can only be openly discussed in the course of argumentation if the individuals doing so already know what it means to act and possess the knowledge contained in action. Therefore, the significance of action in general, and of argumentation in particular, must be thought of as logically intertwined strands of *a priori* knowledge.

In other words, drawing on Aristotle's classic distinction, it can be said that both axioms are directly related to each other, with argumentation taking precedence in the order of cognition, and action taking precedence in the order of being. The ability to argue is a prerequisite for knowing action, while the ability to act is a prerequisite for the ability to argue. However, the relationship between these two theorems requires further clarification. As we have seen, each of them separately leads Hoppe to two—on

¹⁷⁵ B. Sierocka, *op. cit.*, p. 60.

¹⁷⁶ H.-H. Hoppe, *The Economics and Ethics...*, p. 280, Polish edition: p. 292.

at first glance, different concepts of truth; *a priori* argumentation expresses a consensual theory, while *a priori* action expresses a pragmatic theory.

However, we are only dealing with two different concepts of truth on the surface. It is by no means a purely historical fact that the creator of the consensual concept, Peirce, is also one of the most important creators of pragmatic theory. In fact, according to Bohdan Chwedeńczuk, there is only one statement in Peirce's work that could be considered a definition of truth.¹⁷⁷ As it happens, it is a consensual definition: "A view whose ultimate destiny is to be accepted by all investigators is what we mean by truth, and the object which is represented by that view is *real*." This is also, as Chwedeńczuk rightly points out, a pragmatic theory: "it literally withdraws the concept of truth into the process of arriving at beliefs (statements, judgments), and having done so, it links them—as befits pragmatic thinking—to a certain action (namely, the conduct of researchers) and its expected results (namely, beliefs unanimously recognized by researchers)."¹⁷⁹ Apel puts it just as accurately:

I believe [...], that Peirce's *consensual* [emphasis in the original – N.S.] theory of truth can be considered an application of the "principle of pragmatism" in explaining the meanings of the idea of truth. It indicates procedures that allow us to explain the process of arriving at the truth [...]. It does not attempt to reduce the pragmatic meaning of truth to the satisfactory or *useful* effects that belief in certain views might have on the lives of some people or groups of people. Peirce attributed this application of the "principle of pragmatism" to the concept of truth to the "usurpers" of the idea of "pragmatism." In our times, such a person is Richard Rorty, who, following in the footsteps of William James, defines the predicate "true" as "what is convenient for us to believe."

Chwedeńczuk and Apl's arguments resonate with Hoppe's belief in the objectivity of truth and his oft-repeated assertion that argumentation *itself*—the tool for reaching consensus—is an action. Ultimately, when Hoppe says that truth is revealed in argumentation, he also claims that it is revealed in action. It can therefore be concluded that, even in a consensual approach, truth is for Hoppe what – according to the thesis of pragmatism – works in action, obviously in a non-verificationist sense.

¹⁷⁷ B. Chwedeńczuk, *Spór o naturę prawdy* [The Dispute over the Nature of Truth], Warsaw 1984, p. 138.

¹⁷⁸ Ch.S. Peirce, *How to Make Our Ideas Clear*, [in:] *Writings of Charles S. Peirce: A Chronological Edition*, Vol. 3: 1872-1878, Bloomington 1986, p. 273.

¹⁷⁹ B. Chwedeńczuk, *op. cit.*, p. 171.

¹⁸⁰ K.O. Apel, *Transcendental Semiotics and Truth. The Significance of Peirce's Consensual Theory of Truth in the Contemporary Discussion on Truth*, "Principia. Writings on Philosophy and Theoretical Sociology" 1991, vol. 4, p. 21.

in a non-falsificationist and generally non-empirical sense of the word "verify." In this sense, the theory also refers to transcendental knowledge: the very axioms of action and argumentation and their implications. The categories of action—goals, means, gains, costs, etc.—can therefore be said to be true, that is, they are verified in action, but not because they pass the test of instrumental application, which they could just as well fail *a priori*, but because and in the sense that they are always present in every possible action, graspable (verifiable) in a reflective procedure, making it possible to verify what only happens by chance. When Hoppe points to instrumental success as a criterion of truth, we are dealing exclusively with a specific criterion of the natural sciences, a pragmatic concept of truth in a narrower sense, somewhat closer to the empiricist approach to this theory, typical of James' philosophy for example: Transcendental philosophy, logic, arithmetic, geometry, and proto-physics, to which Hoppe attributes necessary truth, are obviously not dependent in this perspective on whether they enable effective prediction and cannot be replaced by any better theory that would derive its superiority from the fact that it would enable them to a greater extent. Moreover, given the limitations of the predictive power of praxeology described by Hoppe, applying the criterion of instrumental success to its judgments would amount to a categorical error. Nevertheless, referring to the conditions of possibility of action as such, they remain pragmatically true.

3.2. 's objections and outline of his defense

Although the two main themes of Hoppe's epistemology can be easily reconciled and integrated into a coherent theory, this does not mean that the theory is free from ambiguities and understatements. Hoppe, as we will see repeatedly, typically for his writing style, expresses himself, especially in his later writings, in an authoritative tone, presenting his position as irrefutable and paying little attention to discussing the objections that are actually or potentially raised or could be raised against his concepts. At the same time, his arguments are often concise and require further elaboration. Sometimes such elaboration can be found in other authors who inspired Hoppe, while his own texts contain only a summary of his predecessors' theses. This is actually the case with the entire theory behind a *priori* argumentation (taken from Habermas and, above all, Apla) and the constructivist theory of

¹⁸¹ See, for example, W. James, *Pragmatism*, trans. W.N. Kozłowski, Kraków 2016; H. Buczyńska-Garewicz, *James*, Warsaw 1973.

logic, arithmetic, geometry, and proto-physics (taken from Lorenzen, Kambartel, and other thinkers of the Erlangen school, and then integrated with Misesian praxeology). As a result, Hoppe ignores the objections that have been discussed in the literature to date with regard to the concepts he endorses. Let us briefly discuss the most important of these.

A criticism raised against Apłowski's transcendental pragmatics is that, contrary to its programmatic declarations, it must accept the existence of some kind of Cartesian-Husserlian, intersubjectively unverifiable obviousness. As Hans-Michael Baumgartner points out, the core of Apl's philosophy consists of three propositions: the principle of fallibilism (taken from Peirce and concerning all empirical knowledge), the consensual theory of truth, and the idea of ultimate validation. The latter postulate refers to *a priori* arguments which, being infallible themselves, constitute a condition for the possibility of all fallible knowledge – i.e., knowledge that is subject to revision by the communicative community. According to Baumgartner, what is ultimately established, i.e., not subject to revision by the communicative community, clearly does not require argumentation for its establishment. If it did, it would only be provisionally justified. In order to save a *a priori* argumentation, Apel would have to assume that everything he writes about it—that the validation of knowledge requires a distinction between subjective opinion and intersubjective truth, that the utterance of statements is the assertion of truth claims, etc.—is in some way unmediated by argumentation, which would in turn invalidate or at least seriously limit a *a priori* argumentation along with the consensual theory of truth. is in some way obvious without argumentation, which in turn would invalidate or at least seriously limit a *a priori* argumentation itself, along with the consensual theory of truth.¹⁸²

In turn, writing from a Popperian position, Radnitzky argues against Apłowi and Hoppemu that the refutation of Münchhausen's trilemma through recursion is not to propositions (judgments), but to actions that ground cognition, because in order to obtain cognitive validity, knowledge about these actions must also be described in language, i.e., in propositions (judgments), in accordance with the position of Apl and Hoppemu. which again entangles the transcendental-pragmatic final validation in one of the three parts of the trilemma. This objection corresponds to Baumgartner's criticism in that, like it, it points to the flaw in the procedure of final validation proposed by Apl and Hoppe. It imposes itself

¹⁸² H.M. Baumgartner, *Finite Reason: Towards an Understanding of Philosophy by Itself*, trans. A.M. Kaniowski, Warsaw 1996, pp. 224–246. See also *idem*, *Geltung durch Antizipation? Eine kritische Anfrage zur Möglichkeit einer hermeneutisch orientierten und pragmatisch unterlegten Transformation der Kantischen Transzendentalphilosophie*, [in:] *Kommunikation du Reflexion. Zur Diskussion der Transzendentalpragmatik Antworten auf Karl-Otto Apel*, ed. W. Kuhlmann, D. Böhler, Frankfurt am Main 1982, pp. 46–53.

¹⁸³ G. Radnitzky, *op. cit.*, pp. 191–192.

even more so if one takes into account the entire theoretical baggage accompanying the *a priori* argumentation that we have presented in this chapter, i.e., the fact that it encompasses such diverse philosophical theories as Wittgenstein's concept of the public nature of language, Austin and Searle's theory of speech acts, and Habermas's theory of validity claims. One may ask: how can a theorem burdened with such a long and complex chain of philosophical justifications claim to be ultimately, unassumptively justified?

In contrast, at least some of the objections traditionally raised against pragmatic theories of truth can be raised against Hoppe's philosophy of natural science. As Chwedeńczuk writes, one of the characteristics of this theory is variability: what is practically applicable at a given point in time may not be so at another. Consequently, it would not be possible to determine the truth of judgments once¹⁸⁴ and for all.¹⁸⁵ This relativistic consequence of pragmatism would be all the more troublesome for Hoppe, who, after all, takes the position of scientific realism (according to him, instrumental success signals the conformity of a theory with reality). How can we reconcile the belief that the effective application of a theory tells us about its conformity with the world with the observation that theories with a narrower scope of application are superseded by theories with a broader scope? And how is it possible—as Hoppe himself mentions—that two theories with equal scope of application can coexist, even though they consist of mutually contradictory or opposing judgments? This highlights the second well-known problem of pragmatic truth theory: it may conflict with basic¹⁸⁶ metalogical principles.

In raising the above objections, we do not prejudge their validity. On the contrary, we believe that they can be refuted. Although an exhaustive examination of these objections is beyond the scope of this study, we will at least attempt to indicate the directions in which responses to the objections raised might go. Those objections that are directed at Hoppe's scientific pragmatism could be answered by referring to the idea of truth as a boundary concept, understood pragmatically as eliminating all error (practical failure) from scientific knowledge as a whole, and consensually as a set of statements deserving the approval of the entire communicative community. From this position, it should be concluded that the adjudication of truth about competing scientific theories is merely provisional, and therefore both variabilism and the attribution of truth to two mutually exclusive theories are only temporary, because ultimately the truth of empirical scientific judgments can only be determined in the always

¹⁸⁴ B. Chwedeńczuk, *op. cit.*, pp. 206–207.

¹⁸⁵ *Ibid.*, pp. 213–230.

anticipated, but never actualized in the recognition of universal consent and complete instrumental success.

An interesting response to the objection that recourse to pragmatic (non-)contradiction does not allow us to overcome Münchhausen's trilemma was formulated by Wolfgang Kuhlmann. He points out, among other things, that the skeptical trilemma, in its very construction, already assumes the truth of the premise that every statement must be justified, and this is what needs to be demonstrated. This assumption underlies each of the members of the trilemma: infinite regress, vicious circle, and dogmatic conclusion. Albert's argument thus entangles itself in a vicious circle.¹⁸⁶ However, Kuhlmann's positive proposals regarding the understanding of the idea of ultimate justification in transcendental pragmatics are particularly noteworthy. They help both to grasp the very idea of presuppositionlessness on the basis of this philosophy and to respond to the objections of critics such as Baumgartner and Radnitzky. As Kuhlmann writes, it would be a mistake to view transcendental pragmatics as a deductive theory in which a sequence of premises ultimately ends in a conclusion in the form of a *priori* argumentation. Instead, the philosophising subject must adopt a reflective attitude, i.e., try to extract the rules that guide them in a pre-theoretical way whenever they seek to validate their own cognitive acts. He will then notice that even before he became familiar with any philosophical position, including transcendental pragmatics, he formulated validity claims, the questioning of which by himself or others prompted him to put forward arguments in public language. He will also see that his actions in this regard were not random facts, but actions according to a rule, even if unconscious and un verbalized; they are the subject of "how" knowledge, not "that" knowledge. Just as a pianist or athlete does not need to be able to describe their actions precisely (professionally, physically, etc.) (knowledge of "that") in order to practice their craft efficiently (knowledge of "how"), so too does the arguer not need to be familiar with the intricacies of sophistry discourse in order to know how to argue.¹⁸⁷ The author of this book and its reader may notice, for example, that what they are doing, i.e., putting forward arguments and judging them in the light of other arguments, is not simply following the formula of writing and reading a philosophical text, established by convention.

¹⁸⁶ W. Kuhlmann, *Refleksyjne ostateczne uzasadnienie. Przyczynek do tezy o nieprzekraczalności sytuacji argumentacyjnej* [Reflective final justification. A contribution to the thesis on the insurmountability of argumentative situations], trans. B. Sierocka, [in:] *Wspólnota komunikacyjna w teorii i praktyce* [The communicative community in theory and practice], ed. B. Sierocka, Wrocław 2007, pp. 237-239.

¹⁸⁷ *Ibid.*, p. 243 et seq.

¹⁸⁸ On the distinction between "that" knowledge (verbalized, propositional, and theoretical) and "how" knowledge (nonverbalized, nonpropositional, and practical), see G. Ryle, *The Concept of Mind*, London-New York 2009, pp. 16-20.

based on centuries of academic tradition. If the presentation of the theses of discourse philosophy took place in some other circumstances, for example over a pint of beer, there would still be no other way of finding out whether the contents of this book are true than by arguing. Similarly, it is no coincidence that philosophers who deny the existence of intersubjectively communicable knowledge do exactly the same thing: in order to ensure the intersubjective validity of their position, they put forward arguments (in favor of the thesis that it is impossible to put forward intersubjectively valid arguments) and fill their books with them (which they do not hide in a drawer, but submit for evaluation to other users of public language). The idea of communicative apriorism consists precisely in taking the rule that guides them seriously, by reconstructing it in the form of a theory and thus elevating the knowledge relating to it to the level of "that" knowledge.

However, the above answer brings us back to Baumgartner's objection: it would seem that *a priori* argumentation does indeed require the recognition of certain cognitions as directly given – obvious. This would apply to the pre-theoretical knowledge that the arguer obtains by reflecting on their own acts of argumentation before they are described in terms of Wittgenstein's, Habermas's or Apl's theory. However, the matter is more complex. On the one hand, it cannot be denied that, as has been known at least since the time of Plato and Aristotle, every rationalist epistemology needs to have at its foundation an element of nonverbal, ^{non-deductive} knowledge. How, however, can this be reconciled with a philosophy that proclaims the necessity of arguing for all claims to truth? A distinction must be made between subjective, Cartesian-Husserlian direct obviousness experienced by *the solitary ego-cogito* and practical "how" knowledge. The latter, although *non-verbalized*, remains *intersubjective*. First, it refers to potentially repeatable (also by other subjects) practices. Moreover, in the specific case of knowledge about argumentation, it is a practice with an interpersonal nature. Secondly, "how" knowledge can be expressed in language and, as such, is subject to a process of understanding by other subjects. We can understand (in the sense of *Verstehen*) what a pianist is doing when he plays, because his intentions are expressed in the language of music; similarly, we can understand what argumenters are doing, i.e., both our interlocutors and ourselves, because our argumentative intentions are communicated within the community through a specific choice of words ("I believe that...", "because...", "since...") and gestures (refraining from violence!¹⁹⁰).

¹⁸⁹ S. Judycki, *Epistemologia*, vol. 1, Poznań-Warsaw 2020, p. 613 et seq.

¹⁹⁰ See chapter II.

That said, we still face a problem: even if pre-theoretical knowledge about argumentation requires argumentation (because it is captured in the course of performing argumentative acts), it clearly does not require argumentation to be brought to a successful conclusion, i.e., to consensus. The truth of a judgment concerning the conditions of possibility of argumentation cannot depend on its result. At this point, we are aided by a useful distinction discussed by Baumgartner himself. The intersubjective and argumentative nature of knowledge can be understood in two ways: as *the need* to be the subject of consensus (*Konsensbedürftigkeit*) or as *the ability* to become such a subject (*Konsensfähigkeit*). These are also the two requirements that a consensual theory of truth can impose on judgments. The first is stronger, the second weaker. According to Apl, truth always encompasses both conditions. This view needs to be corrected. The stronger condition of necessity to become the subject of consensus would then apply only to empirical judgments—it is the logical value of these judgments, due to their fallible nature, which, as we have written, can ultimately be established only in a hypothetical, never actualized, ideal community of communication that eliminates all practical error. On the other hand, the claims concerning the conditions of possibility of all knowledge put forward by transcendental philosophy would be characterized only by susceptibility to consensus, but would not require it either at the level of "how" knowledge or as theorized "that" knowledge. Knowledge that is a condition for the possibility of consensus cannot be dependent on it. It can only—as it is put in the philosophy of *Apla*—*anticipate* it, i.e., assume that an idealized, unlimited communication community would ^{recognize} it.

3.3. 's components of apriorism

Finally, let us present a concise summary of the characteristics of Hoppe's transcendentalism. In our opinion, it consists of the following elements:

A. *Apriorism*. Hoppe takes the position that there is such a thing as necessary knowledge, i.e., knowledge that is not the subject of convention and does not derive its validity from experience. For him, *the loci* of such knowledge are philosophy, arithmetic, geometry, logic, and praxeology.

Furthermore, Hoppe, like Kant and Hermann Cohen before him, clearly distinguishes between the problem of the a priori and the problem of innate ideas, or, in other words, between the problem of the existence of knowledge and the problem of the content of knowledge.

¹⁹¹ H.M. Baumgartner, *Finite Reason*..., pp. 229-232.

¹⁹² *Idem*, *Geltung durch Antizipation*..., *passim*.

– *questio iuris* and *questio facti* of cognition.¹⁹³ Moreover, contrary to the well-known suggestions in the works of Saul Kripke, for example, Hoppe identifies *a priori* knowledge with necessary knowledge. He writes:

The question of whether innate or intuitive knowledge exists is dealt with by the psychology of knowledge. Epistemology, on the other hand, deals exclusively with the question of the validity of knowledge and how to determine this validity – the problem of *a priori* knowledge is, of course, exclusively an epistemological problem. [...] It is possible that [...] acquiring *a priori* knowledge requires prior experience of some kind. However, it should be reiterated that when it comes to the problem of determining the validity of knowledge—and it is only in this respect that *a priori* and empirical knowledge differ categorically—none of this matters.

B. *Transcendentalism*. Hoppemu, at least in the mature phase of his development, is not concerned with any kind of a *priori* innate – understood idealistically, spiritualistically or naturalistically – but, to use Stanisław Judycki's term, with a *priori* "constitutive," which consists of the necessary conditions of all knowledge.¹⁹⁴ This is therefore a reference to the classical program of Kantian transcendentalism, with the difference that Kant's concept of possible experience is replaced here by the concept of possible action. Just as Kant claimed that a *priori* knowledge is acquired incidentally (but not from) experience,¹⁹⁵ Hoppe assumes that it is obtained incidentally through action, of which experience is only one aspect. Hoppe expressly positions himself in the Kantian tradition, repeatedly referring to Kant and even paraphrasing Otto Liebmann's famous statement from *Kant und die Epigonen*: "We must therefore turn to Kant."

It should be noted that this description is adequate in relation to Hoppe's mature thinking, in which we no longer encounter attempts to derive the *a priori* from biology and evolutionary processes. In the case of Hoppe's early views, we can speak of a kind of a *priori* naturalization, which ultimately means its abolition. As Judycki rightly points out, what is biologically produced is only "one of the events in the world," while trans-

¹⁹³ P. Łaciak, *Structure and Types of A Priori Knowledge in Kant and Husserl*, Katowice 2003, pp. 25-42; H. Cohen, *op. cit.*, p. 254.

¹⁹⁴ In the Polish translation, we read that *a priori* and empirical knowledge differ "categorically." In accordance with Polish philosophical terminology, according to which "referring to a category" is "categorical," not "categorical," we replace the second of these adjectives with the first in the quoted passage. H.-H. Hoppe, *A Theory of Socialism and Capitalism...*, p. 127.

¹⁹⁵ S. Judycki, *Wiedza a priori* [Apriori Knowledge], in *Przewodnik po epistemologii* [Guide to Epistemology], p. 359 et seq.

¹⁹⁶ P. Łaciak, *op. cit.*, p. 35.

¹⁹⁷ H.-H. Hoppe, *Economic Science and the Austrian Method*, p. 17. On Liebmann and his work, see A. Noras, *History of Neokantianism*, pp. 200–207.

transcendental, containing *a priori* knowledge, has as its object "synthetic activity, irreducible to any categorical elements in the world," in other words, that which precedes all detailed knowledge, including ^{biological knowledge}. Thus, as his philosophical development progressed, Hoppe moved towards a more consistent transcendentalism, abandoning his original idea of a middle way between transcendentalism and empiricism.

C. *Epistemological fundamentalism*. At the same time, in his English-language writings, Hoppe rarely uses the word "transcendentalism" and its derivatives. Instead, he prefers to speak more generally about "rationalism," thus defining ^{his} own ^{position}. This is, of course, classical rationalism, not critical rationalism in the sense of Popper and his followers. Rationalism of this type recognizes the existence of rational certainties—unshakable foundations of knowledge—and assigns a key role in cognition to deduction, which allows one to move from these certainties to secondary propositions of the system. In light of the above, it is clear that for Hoppe, rationalism is synonymous with epistemological fundamentalism or, in other words, absolutism, foundationalism, or the philosophy of the ultimate starting point. This finds expression in an axiomatic understanding of the foundations of knowledge and in the conception of axioms themselves as irrefutable and ultimately ^{valid}.

D. *Criticism*. The presence of this aspect in Hoppe's work may raise some doubts. Etymologically, the term "criticism" refers to the Greek word *krenein* – to distinguish, to differentiate, to judge. This is also how Kant understood criticism – as separating valid from invalid knowledge, particularly in relation to ^{reason}. As Kant wrote,

[...] it is a call to reason to take up again the most difficult of all its tasks, namely, to know itself, and to establish a tribunal that would strengthen it in its just demands, and to reject all unfounded claims, not by arbitrary decisions, but on the basis of eternal and unchanging laws; and the only such tribunal is pure ^{reason} itself

¹⁹⁸ S. Judycki, *Is transcendental philosophy a philosophy of the mind?*, [in:] *Philosophizing today. From research on contemporary philosophy*, ed. A. Bronk, Lublin 1995, p. 243.

¹⁹⁹ See, for example, H.-H. Hoppe, *The Great Fiction...*, *passim*; *idem*, *The Economics and Ethics...*, *passim*.

²⁰⁰ W. Kuhlmann, *Die Kommunikationsgemeinschaft als Bedingung der Möglichkeit sinnvoller Argumentation*, [in:] *Kommunikation und Reflexion...*, pp. 160-161; A.J. Noras, *Kant i Hegel w sporach filozoficznych XVIII i XIX wieku*, Katowice 2007, pp. 57-58.

²⁰¹ O. Höffe, *Immanuel Kant*, trans. A.M. Kaniowski, Warsaw 2003, pp. 45-46.

²⁰² I. Kant, *op. cit.*, A XII.

Such criticism was, as we know, for Kant a criticism of metaphysics in terms of its “sources, scope, and limits.”²⁰³ The component of criticism of reason seems, at least at first glance, to be absent in Hoppe. What is more, the philosopher explicitly places himself in the position of “rationalism in the tradition of Leibniz and Kant”²⁰⁴ ignoring Kant’s own recognition of transcendental/critical philosophy as a middle way between rationalism and empiricism, dogmatism and skepticism.²⁰⁵ In addition, opinions can be found in the literature that criticism in general is

“contrary to the tendency to build a philosophical system”²⁰⁶, and this is precisely what Hoppe does, basing the entire edifice of knowledge on a priori axioms. This is the view of Andrzej Noras, who emphasizes the rejection of criticism by Kant’s followers, who sought to transform the critique of reason into a system – post-Kantian creators of *Grundsatzphilosophie* (“philosophy of the first principle”), especially Karl Leonard Reinhold and Salomon Meimon, followed by Fichte and, in his wake, the whole of German idealism and, to a large extent, neo-Kantianism. A similar approach can also be found in transcendental pragmatics, due to the view that the essence of transcendental argumentation lies in revealing, by means of performative (non-)contradiction, the unquestionable foundation of cognition, i.e., a *priori* argumentation. Nevertheless, a critical moment can be found in Hoppe’s thought, although, due to the distribution of the philosopher’s intellectual interests, it is relatively underestimated. Noras’ thesis about the existence of a contradiction between criticism and systemic thinking, including the idea of ultimate justification, seems too strong to us – for the fact that rational knowledge has limits inherent in the very nature of reason does not mean that these limits cannot be determined by some absolute starting point. Hoppe’s placement of his views within the spectrum of “rationalism in the Leibniz-Kanta”, although historically inaccurate, can be defended insofar as Kant was indeed inspired by Leibniz, especially his distinction between the problem of *a priori* knowledge and the question of innate ideas, while the negative point of reference was not so much Leibniz’s concepts as the so-called scholastic metaphysics practiced by Christian Wolff and his followers, which attempted to derive the truths of reason from the principle of non-contradiction alone, without any contribution from experience.

²⁰³ *Ibid.*

²⁰⁴ H.-H. Hoppe, *The Economics and Ethics...*, p. 282, Polish edition: p. 294.

²⁰⁵ I. Kant, *op. cit.*, A10.

²⁰⁶ A.J. Noras, *Kant and Baden and Marburg Neo-Kantianism*, p. 165.

²⁰⁷ *Idem*, *Kant and Hegel...*, pp. 44-45.

²⁰⁸ W. Kuhlmann, *Die Kommunikationsgemeinschaft als Bedingung...*, pp. 160-161.

²⁰⁹ P. Łaciak, *op. cit.*, pp. 35-37. Significantly, Hoppe refers to the laws of praxeology as Leibnizian “truths of reason” (*Verstandeswahrheit*): H.-H. Hoppe, *Kritik der Kausalwissenschaftlichen...*, p. 59.

In Hoppe's philosophy, criticism understood as a break with the dogmatic Wolffian tradition manifests itself on two levels – general and specific. On the general level, Hoppe's thought fits in with Kant's *dictum* that "although all our knowledge begins [...] with experience, not all knowledge flows from experience"²¹⁰. In Hoppe, as we have pointed out above, the concept of experience is inscribed in the concept of action; cognition must remain within the limits of action, i.e., it must agree with practice or the transcendental conditions of the possibility of all practice (a *priori* action) and the transcendental, discursive conditions of cognition of that practice (a *priori* argumentation).

At a detailed level, Hoppe criticizes reason with regard to three issues, of which only the first appears explicitly in his works, while the second is mentioned in response to our question, and the third is only implied in the philosopher's writings.

First, as we have seen, Hoppe—echoing the theses of the Erlangen school—rejects certain branches of modern mathematics as meaningless because they are not grounded in symbolic games.

Secondly, when asked about the relationship between his philosophy and religion, Hoppe, referring to Mises, speaks of the incompatibility of theism with the a priori categories of praxeology: the attributes of omniscience and omnipotence are mutually exclusive, because the choice made by an omniscient being is determined by its prior knowledge. However, this does not mean that it makes no sense to talk about God at all – one cannot talk about him only in an anthropomorphic way, i.e., by attributing actions to him. God can nevertheless remain an object of faith as an impersonal being. This clearly echoes Kant: "I had to suspend knowledge in order to make room for faith."

Thirdly, finally, standing on Apłowski's position of "linguistic a priori," Hoppe rejects the entire modern philosophy of consciousness and its "solipsistic point of view."

²¹⁰ I. Kant, *op. cit.*, B1.

²¹¹ H.-H. Hoppe, Private correspondence, 2017. More precisely, the contribution of praxeology to the problem of omniscience and omnipotence lies in the fact that action necessarily presupposes a temporal component, and therefore the above criticism cannot be answered, as Boethius did, for example, that God exists outside of time, so it makes no sense to say that his prior knowledge determines his subsequent action. According to Mises, if he is a person, he acts, and if he acts, he does so in time. Moreover, as an absolute, God cannot act—be a person—since action presupposes an element of need-lack. See L. von Mises, *The Ultimate Foundation...*, p. 4; *idem*, *Human Action...*, pp. 59–60.

²¹² I. Kant, *op. cit.*, B XXX.

²¹³ P. Vandervele, *The a priori of language in Apel's Transcendental Philosophy*, [in:] K.O. Apel, *Towards a Transformation of Philosophy*, pp. XII–XXXVIII.

“exits” as violating the transcendental requirement of the argumentative use of public language.

Thus, another component of Hoppe's epistemology can be distinguished:

E. *Linguisticism* (emphasizing the role of language in cognition), i.e., Apel's recognition of the decisive character of the linguistic turn in twentieth-century philosophy. Referring to Herbert Schnädelbach's well-known tripartite division of the main paradigms of philosophizing into the ontological paradigm (classical philosophy), mentalistic (modern, post-Cartesian philosophy of consciousness) and linguistic (analytical philosophy, hermeneutics), it must be said that Hoppe's thought clearly belongs to the third paradigm.

Due to the fact that Hoppe's philosophy includes *a priori* arguments alongside *a priori* actions, it is also necessary – which does not require additional justification – to mention

F. *the pragmatism (activism)* of this philosopher. Part of this position is an endorsement of the criterion of instrumental success in the philosophy of natural sciences. Let us note, however, that we are referring here to a general tendency of thought, not a logical connection – from the premise that action is cognition, it does not logically follow that one should accept theories that allow for effective control of the environment, even if there are empirical counterexamples (falsifiers) for them. This would be an example of a naturalistic fallacy.

Hoppe is not, however, an instrumentalist in scientific matters. He clearly advocates

G. *Realism*. This realism consists, first of all, in recognizing instrumental success as a signal of conformity with reality (scientific realism²¹⁷). Scientific realism plays an important role in the methodology of the Austrian school, whose approach is described by its supporters as causal-realist²¹⁸. It should also be noted that the realist position is the assumption underlying a whole series of claims made by both

²¹⁴ The appeal defines this violation as *an abstractive fallacy*, i.e., an error consisting in abstracting from language and the communicative community as media of cognition. K.O. Apel, *Transcendental Semiotics as First Philosophy*, [in:] *Selected essays*, Vol. 1, trans. E. Mendieta, New Jersey 1994, pp. 112-131. See

B. Sierocka, *op. cit.*, pp. 27-40.

²¹⁵ H. Schnädelbach, *Podstawowe problemy filozoficzne* [Basic Philosophical Problems], in: *Filozofia. Podstawowe pytania* [Philosophy: Basic Questions], ed.

H. Schnädelbach, E. Martens, trans. K. Krzemieniowa, Warsaw 1995, pp. 57-97.

²¹⁶ B. Chwedeńczuk, *op. cit.*, p. 147.

²¹⁷ On the concept of scientific realism, see, for example, A. Chalmers, *What Is This Thing Called Science?*, trans.

A. Chmielewski, Warsaw 1993, pp. 186-201.

²¹⁸ J. Salerno, *Menger's Causal-Realist Approach in Modern Economics*, *The Review of Austrian Economics* 2010, 23 (1), pp. 1-16.

Hoppego, as well as other Austrians. The acceptance of realism, or more precisely its normative thesis that the goal of science is truth rather than predictive and practical success, requires, ^{among other things}, deriving methodological individualism ("Only individuals act") from ontological individualism ("The actions of individuals should be studied as the ultimate data of social analysis"): The same applies to Austrian arguments in favor of methodological dualism: if the goal of scientific knowledge is not truth but effective action, then the ontological differences between humans and nature lose their significance. There is therefore no reason not to study human action using the same methods used to study nature, as long as these methods allow us to effectively predict and control events. In addition, Hoppe recognizes the existence of Kant's thing-in-itself, understood as a regulative idea: the totality of scientific knowledge (eliminating the possibility of failure in action), a necessary presupposition of all discourse, and a possible object of ultimate, universal agreement. Hoppe is therefore also

(moderate) advocate of *metaphysical* realism.

Finally, the other side of the coin, so to speak, which is pragmatism, is for Hoppe

H. *Anti-naturalism*. Since, according to Hoppe, the concept of causally determined reality presupposes the concept of causally undetermined reality as its complement, we find the idea of free will in this thinker's work. Also, language, which contains claims to validity, and culture as a whole, in which people are guided by rules of action rather than by the laws of nature, elevate man above ^{the natural} world. As Hoppe states, three attributes distinguish humans from the animal kingdom: language (equipped with functions unknown to animals—descriptive and argumentative), ownership, and ^{production}. As we will see in the following chapters, the first—language—is, according to the philosopher, a condition for the possibility of the others. It is on this basis that Hoppe's *ontological*, but also *anthropological*, antinaturalism is founded. From this he derives a *methodological* conclusion: the autonomy of the social sciences from the natural sciences. This is methodological *antinaturalism*, which, following Mises, we can also call "methodological dualism." Because of this, and also bearing in mind the frequency and intensity of Hoppe's attacks on this positivist idea, we can

²¹⁹ On the various theses of scientific realism and the logical connections between them, see U. Mäki, *Aspects of Realism about Economics*, *Theoria: An International Journal for Theory, History, and Foundations of Science* 1998, Segunda Epoca, Vol. 13, No. 2 (32), pp. 301–319.

²²⁰ H.-H. Hoppe, *The Great Fiction...*, pp. 133–146; *idem*, *Economy, Society, and History*, Auburn 2021, pp. 1–16. See also the lecture: H.-H. Hoppe, *The Failure of Ontological Naturalism*, <https://www.youtube.com/watch?v=sgQ6fq5Pjcs> [accessed on June 1, 2023].

²²¹ *Idem*, *Economy, Society, and History*, p. 2 et seq.

mention i) *anti-positivism* as the last of the fundamental features of Hoppe's epistemological thought.

Summary

In this chapter, we have dealt with the epistemological foundations of Hoppe's libertarianism in order to be able to define more precisely what he understands by the *a priori*, and at the same time to point to the methodological patterns within which this philosopher's thought operates. We identified a *priori* reasoning and a *priori* action as the two central pillars on which the following main components of Hoppe's gnoseology rest: apriorism, transcendentalism, fundamentalism, criticism, linguistics, pragmatism, realism, antinaturalism, and anti-positivism. Using both the tools of rational reconstruction and comparative analysis, we have also placed Hoppe in the broader panorama of contemporary philosophy, especially German philosophy. We have shown him to be a follower of Kant (and partly also Leibniz), Karl-Otto Apel, Jürgen Habermas, Paul Lorenzen, the Erlangen school, and other contemporary German philosophers with a rationalist and anti-positivist orientation. On the other hand, Ludwig von Mises obviously had an enormous influence on Hoppe. In addition, we pointed out the superficiality of Hoppe's treatment of certain aspects of his own philosophy, drawing attention to the need to study the thought of his precursors in order to fully grasp the theses he puts forward.

In saying this, we do not suggest that Hoppe is merely an epigone of his precursors. Although certain elements of his system are indeed simply a repetition of their achievements (Apel's *a priori* argumentation and the concept of language and knowledge behind it, borrowed from Lorenzen and his school, the establishment of the *a priori* status of logic, arithmetic, logic, and proto-physics), while others introduce only minor corrections and additions to the legacy of the masters (Mises's axiom of action), the whole system, due to the choice of its components and the way they are linked together, and sometimes also the context of its justification (Hoppe's argument for the impossibility of naturalism), is nevertheless original.

Above all, however, Hoppe's epistemology presented here is the starting point for his practical philosophy, as we will show repeatedly.

Ethics

In this chapter, we address what is perhaps the most fundamental issue for libertarianism: the question of libertarian ethics and its justification. Libertarianism can be characterized as a form of political moralism: its core consists of normative content belonging to the field of justice theory. This does not mean, of course, that the descriptive component of political philosophy—the characterization of the optimal social order and the critique of alternative solutions from the point of view of what is empirically possible—plays no role in libertarian thought. As the content of this book shows, the opposite is true. The point is that issues of justice play a primary role in the process of justifying libertarian political demands. As Rothbard emphatically wrote:

"A love of justice. This must be the main driving force behind our aspirations, the armor that will protect us from all the storms that are coming. [...] In order to have a love of justice, we need *a theory* [emphasis in the original – N.S.] of what justice and injustice are [...]"²

It is therefore not surprising that Hoppe, in various statements, points to his contribution to libertarian theory ^{of justice} as his most important intellectual achievement. This contribution consists primarily of

¹ Some excerpts from this chapter have previously appeared in English in N. Slen-zok, *The Libertarian Argumentation Ethics, the Transcendental Pragmatics of Language, and the Conflict-Freedom Principle*, Analiza i Egzystencja 2022, 58, pp. 33–64.

² M.N. Rothbard, *Why Be a Libertarian?*, [in:] *Egalitarianism as a Revolt Against Nature and Other Essays*, Auburn 2000, p. 241. On the theory of justice as the foundation of libertarianism, see also H.-H. Hoppe, *The Economics and Ethics of Private Property. Studies in Political Economy and Philosophy*, Auburn 2006, pp. 311–312, Polish edition: *Ekonomia i etyka własności prywatnej. Studia z zakresu ekonomii politycznej i filozofii*, trans. K. Nowacki, Warsaw 2011, pp. 324–325; R. Nozick, *Anarchy, State, and Utopia*, trans. P. Maciejko, M. Sczubialka, Warsaw 2010, p. 5 et seq.

³ H.-H. Hoppe, *On the Ethics of Argumentation*, <http://propertyandfreedom.org/2016/10/hans-hermann-hoppe-on-the-ethics-of-argumentation-pfs-2016/> [accessed on 1 June 2023].

providing it with a completely new justification, but also introducing certain important corrections and clarifications to the theory itself. The justification proposed by Hoppe—called “argumentative ethics” or “ethics of argumentation”—sparked a lively debate among libertarian theorists that continues to this day. As we will show—and part of this task has already been accomplished in the previous chapter—this debate, due to its participants’ poor knowledge of the latest German philosophy, missed the point. This led to a failure to recognize the connection between Hoppe’s theses and the broader philosophical background behind them, and consequently to a misunderstanding of them.

This is also one of the main theses of this chapter: Hoppe’s ethics cannot be understood without taking this background into account. Furthermore, we will try to show that the objections raised against Hoppe so far are misguided. In other words, we present here a defense of Hoppe’s ethics. It is also a conditional defense: we do not undertake an exhaustive analysis of the validity of all the premises of the theory in question (some of which, as will be seen, would require further study). In other words, we defend mainly the formal and only partially the material correctness of argumentative ethics. We leave the completion of the latter task to another, future study, which we hope to write.

We will proceed as follows. First, we will present the metaethical and general ethical foundations of Hoppe’s concept, highlighting its deontological, transcendental-communicative, and praxeological character. Next, we will discuss argumentative ethics in detail in terms of the principles of justice theory and its justification. Our thesis here will be that the central category of Hoppe’s theory is freedom from conflict, and it is in this light that argumentative ethics should be understood. Based on this, we will also reformulate the libertarian principle of non-aggression, which we argue is either misleading or redundant in its current form derived from Rothbard. On the same basis, we will also reformulate the definition of freedom present in Rothbard and Hoppe’s writings. Next, we will focus on the objections to argumentative ethics, Hoppe’s responses, and the refutation of these objections. Finally, we will (informally) standardize Hoppe’s theory, clearly distinguishing the individual premises of his reasoning and showing the justificatory connections between them.

1. 's metaethics and general ethics

Hoppe’s theory is supposed to constitute “the ultimate justification of private property ethics.”⁴ This means that, according to Hoppe, libertarianism is not only true, but also

⁴ H.-H. Hoppe, *The Economics and Ethics...*, p. 339, Polish edition: p. 353.

moreover, irrefutably true. All non-libertarian theories of justice are not only false, but also necessarily false. The principles of libertarianism, understood in this way, embedded in the transcendental pragmatics of language, constitute axioms whose negation must lead to performative contradiction, because by denying them, one has already assumed their validity.

As Hoppe writes,

[...] argumentation is not a set of claims suspended in a vacuum that lay claim to truth. Argumentation is always an activity. Since claims to truth are presented and judged through argumentation, and argumentation, regardless of the issue it raises, is always a practical matter, it follows that there must be norms of intersubjective significance—making a given action argumentation—which have a special epistemic status in the sense that they are a practical precondition of objectivity and truth.

Elsewhere, Hoppe emphatically states: “justice is a prerequisite for ^{truth}.” In his view, this is where another falsehood of positivism lies: when a scientist embarks on research—which is, after all, also argumentative and communicative activity—he has already recognized the validity of certain norms, the choice of which is supposedly a matter of free decision.

communicative activities – has already recognized the validity of certain norms, the choice of which is supposedly a matter of free ^{decision}. Similarly self-defeating is the thesis of ethical relativism of any kind: in order to defend it, one must first recognize – at least *implicitly* – the normative conditions of the actions that constitute such ^{a defense}.

On this basis, Hoppe's metaethics overcomes the dualism of facts and norms. Hoppe agrees that the latter can never be logically derived from the former: “We do not need to derive ‘ought’ judgments from ‘is’ judgments. One must immediately agree with the generally accepted view that the gap between these two types of judgments cannot be bridged,” he writes. Further clarifications on this issue suggested by Hoppe are, however, highly misleading. He states that his theory “offers a completely value-free justification of private property. It remains exclusively in the realm of ‘is’ statements and never attempts to derive ‘ought’

⁵ *Idem, A Theory of Socialism and Capitalism*, Auburn 2016, p. 149, Polish edition: *Teoria socjalizmu i kapitalizmu. Ekonomia, polityka i etyka*, trans. P. Nowakowski, Wrocław 2015, p. 133.

⁶ “Gerechtigkeit ist die Voraussetzung von Wahrheit” [Justice is the prerequisite of truth]. *Ibid.*, *Eigentum, Anarchie und Staat. Studien zur Theorie des Kapitalismus* [Property, Anarchy, and the State: Studies in the Theory of Capitalism], Opladen 1987, p. 61.

⁷ *Ibid.*, p. 99.

⁸ *Ibid.*, p. 47.

⁹ *Idem, A Theory of Socialism and Capitalism*, p. 157, Polish edition: p. 139.

from "is"¹⁰. However, this is a trivial mistake, consisting in confusing the linguistic structure of a sentence with its content. Every normative judgment can be expressed in the form of a descriptive sentence, i.e., containing the word "is" instead of "should"¹¹, but this has nothing to do with the dichotomy of facts and norms. "Value-free validation of private property" or "value-free ethical system" is a *contradiction in terms*, a *contradictio in adiecto*. As Kinsella, otherwise a supporter of Hoppe's argumentative ethics, notes: "Private property means private property rights; and 'rights' are indeed a normative, *value-laden* concept."

Nevertheless, a moment later Hoppe presents his guiding idea much more accurately:

This proof also offers a key to understanding the nature of the fact-value dichotomy: statements of "ought" cannot be derived from statements of "is." They belong to different areas of logic. However, it is also clear that one cannot even claim that facts and values exist if there is no exchange of opinions, and this practice of exchanging opinions presupposes the acceptance of private property ethics as legitimate. In other words, the cognition and search for truth as such have a normative foundation [...] ¹³.

In short, although norms can never be derived from facts, certain facts, namely cognitive activities whose nature is recognized as inalienably argumentative, presuppose the validity of certain norms.

The presence of a consensual theory of truth is easily discernible in the above statements. As Ilja Schmelzer rightly points out, on the basis of classical theory—but also, we might add, coherent, evidential or semantic theory, to limit ourselves to the main theories – arguing with others about the truth of judgments is not necessary at all, and therefore there is no need to formulate an intersubjectively valid ethics that would bind all argueeers. Of course, confronting one's position with the views of others can be – and often is – extremely helpful, as is civilized behavior towards those who can contribute to the solution of the problem at hand. However, agreeing to take such actions is by no means a transcendental condition for the possibility of knowledge. What is true is true regardless of anyone's actual or anticipated ^{opinion}.

¹⁰ *Idem*, *The Economics and Ethics...*, p. 345, Polish edition: p. 359.

¹¹ As, for example, in the sentence "The homeland is the highest value."

¹² S. Kinsella, *The Undeniable Morality of Capitalism*, St. Mary's Law Journal 1994, 25, p. 1432.

¹³ H.-H. Hoppe, *Economics and Ethics...*, p. 345, Polish edition: p. 360.

¹⁴ I. Schmelzer, *Against Absolute Certainty*, [unavailable] ilja-schmelzer.de/papers/againstCertainty.pdf, pp. 8-9 [last accessed on 26 September 2022].

Consulting others about one's beliefs belongs, to use Popper's well-known distinction, to the realm of discovery, not justification.

The conceptual apparatus of Hoppean metaethics is also strongly influenced by Kant. According to Hoppe, thanks to a *priori* reasoning, the principle of universalization—articulated, among others, in the so-called Golden Rule and Kant's categorical imperative—which states that ethical judgments must, by their very nature, apply equally to all moral subjects, can be placed on a proper foundation. Hoppe writes: "Since it is inherent in argumentation that anyone who is capable of understanding an argument can, in principle, be convinced by that argument by virtue of its argumentative force, we can now understand and explain why the ethical principle of universalization finds its grounding in the broader concept of 'a *priori* communication and ^{argumentation}.'" ¹⁵

The above excerpt comes from the English-language *Theory of Socialism and Capitalism*. In an earlier, lesser-known book, *Eigentum, Anarchie und Staat*, Hoppe develops his concept of the universalization principle more broadly. First of all, in the spirit of Habermas and Aple, he clarifies that universalizable norms are those to which "in principle" (*im Prinzip*) every ^{subject} could agree: The qualification implied by the phrase "in principle" indicates that agreement may not actually be reached due to several possible circumstances: (a) time is a scarce commodity; some people are therefore too busy with other things to participate in judging the proposed ethical norms; (b) some are not intellectually competent enough to participate in this task; (c) some are simply dishonest. Most importantly, however, the condition for the validity of consent is that (d) the entities granting it enjoy autonomy, i.e., they do not act under ^{duress}. ¹⁶

This approach to the principle of universalization, including the restriction mentioned above, points to two fundamental issues: one metaethical and the other ethical. As for the first, it should be noted that, according to Hoppe's consensual theory of truth, there is no difference between normative judgments on the one hand and descriptive judgments on the other in terms of the fundamental procedure of justification—truth is understood in both cases as the possible agreement of all knowing subjects. The starting point of non-cognitivist metaethics, which is the assumption of the complete epistemological difference between these two types of judgments, is thus invalidated. This does not, however, mean that the difference between the operation of reason in establishing empirical judgments and its role in establishing moral judgments is blurred. The former, despite an *a priori* admixture in the form of

¹⁵ H.-H. Hoppe, *A Theory of Socialism and Capitalism*, p. 151, Polish edition: p. 135.

¹⁶ *Ibid.*, *Eigentum, Anarchie und Staat*, p. 58.

¹⁷ *Ibid.*

transcendental categories of action, is formulated by reason based on experience. The latter, on the other hand, are "internally generated mental constructs that in no way have an existence independent of the intellect."¹⁸

From a *strictly* ethical point of view, it is easy to see that this principle of universalization already contains – through the concept of autonomy *or* freedom from coercion – libertarian ethics, since, as we will soon show, these concepts can, according to Hoppe, be understood properly only in the sense given to them by libertarian theory of justice. This is important because in his later English-language texts, Hoppe takes, so to speak, a roundabout route to legitimizing libertarian ethics. He argues that the principle of universalization is purely formal in nature, and therefore no specific norms can be derived from it directly. It plays only a negative role in the justification of rules of conduct—certain norms must be rejected in advance as non-universalizable. Hoppe argues that most ethical proposals alternative to libertarianism:

[...] as it is practiced and preached, it must rely on imposing rules such as "some people have a duty to pay taxes, while others have the right to consume them," or "Some people know what is good for you, and they are allowed to obtain such supposed benefits for you, even if you do not want them, but you are not allowed to know what is good for them and help them accordingly," or "some people have the right to determine who has too much and who has too little, while others have a duty to accept this," or even more bluntly, "the computer industry must finance subsidies for farmers, workers for the unemployed, and childless people for those with children," or *vice versa*.

Nevertheless, if formulated with sufficient precision, even norms such as "anyone who consumes alcohol should be punished" or "anyone who does not get drunk on Saturdays should be punished" could pass this test. In *Eigentum...*, Hoppe writes *expressis verbis* that any ethics contrary to libertarianism could not meet the criterion of universalization simply because they could not obtain universal consent, whereby "could not" should not, of course, be understood here as an empirical prediction, but as a recognition of the conditions of possibility of any binding consent, which include *autonomy*. This is also an approach more consistent with Hoppe's overall metaethics, the framework of which is determined *a priori* by his argumentation. Moreover, it can be said that, according to this conception, norms are embedded in the very theory of cognition as transcendental

¹⁸ *Ibid.*, p. 60.

¹⁹ *Ibid.*, *The Economics and Ethics...*, p. 324, Polish edition: p. 336.

²⁰ *Ibid.*, *A Theory of Socialism and Capitalism*, pp. 151–152.

²¹ *Ibid.*, *Eigentum, Anarchie und Staat*, p. 48.

the conditions of possibility of knowledge, they are also built into the meta-ethical theory itself, so that the conventional distinction between meta-ethics and ethics is actually transcended here.

In *Eigentum...* Hoppe strongly emphasizes the Kantian—deontological—moment of his ethics. It is an ethics of duty with a strong rationalist and fundamentalist flavor. All rules of conduct worthy of selection must be universalizable either directly or indirectly, as resulting from other directly universalizable rules. In order to avoid possible conflicts between rules, all of them must ultimately be reducible to a single supreme norm, a "fundamental principle" (*Grundprinzip*)²². Such a norm, and its logical derivatives, has (Hoppe does not use this term in this context) the status of Kant's categorical imperative and must be obeyed unconditionally, regardless of the consequences²³.

Hoppe thus clearly opposes all teleological ethics, including eudaemonistic and consequentialist ethics. In a society that fully respects universal principles of justice, discomfort and unhappiness still exist. However, it is not the function of norms to eliminate them. Hoppe introduces a distinction between "filtering" rules (*Filter-Regeln*), which allow us to separate ("filter out") morally right actions from wrong ones *a priori*, and "state-oriented" rules (*zustandsorientierte Regeln*). Only the former constitute the proper subject matter of ethics, because only they, by abstracting from diverse human preferences and changing external conditions, can be universalized, constituting a system of universally binding ethics.

Although Hoppe also verbally distances himself from deontological ethics (although he does not develop this thread, referring only in passing, in a footnote, to Henry Veatch's criticism of it),²⁶ we believe that it is justified to treat him as a representative of duty ethics. His affiliation with the Kantian tradition in ethics and metaethics is already evident in the methodological sphere. Hoppe's characterization of the differences between the role of reason in establishing the laws of nature and its role in establishing moral norms is nothing more than a development of Kant's concept of the fact of reason, based on the Apollos-Habermas philosophy of communication. As Otfried Höffe writes: "The fact of reason

²² *Ibid.*, p. 44.

²³ Cf. I. Kant, *Critique of Practical Reason*, trans. B. Bornstein, Kęty 2002; *idem*, *Groundwork of the Metaphysics of Morals*, trans. M. Wartenberg, Kęty 2013.

²⁴ H.-H. Hoppe, *Eigentum, Anarchie und Staat*, pp. 37-38.

²⁵ *Ibid.*, p. 36 et seq.

²⁶ *Idem*, *A Theory of Socialism and Capitalism*, p. 151, footnote 7, Polish edition: p. 134, footnote 118.

Kant encounters this only in the realm of the practical, but not in the realm of the theoretical. While theoretical reason is always connected with possible experience, *pure* reason occurs in the realm of action (and only there). This description would fit

Hoppe's theses just as well, with the difference that Kant's expression "possible experience" should be replaced with Hoppe's "possible action" in relation to the causally ordered world. Like Kant, Hoppe therefore takes the position of moral autonomy of the subject, who finds the source of norms not in the world, but reflexively in himself (as an arguing agent). Hoppe also shares with Kant and deontology his absolutism (rigorism), recognizing the obligation to respect property rights as absolute. From

this position, Hoppe criticizes all forms of consequentialism, including utilitarianism. Just as consequentialism is generally incapable of formulating universally binding norms of conduct, so too are the utilitarian arguments of economists unable to provide an adequate justification for the ethics of property rights. Hoppe, like Rothbard, rejects Mises' views in this context. As a non-cognitivist, Mises denied the possibility of an objective, rational ethics. According to him, in order to justify the market, it is sufficient to refer to a value-free economic justification and show that only market institutions promote the long-term realization of the universally accepted goal of increasing material prosperity. However, as Hoppe writes, there is no reason to believe that this is the ultimate goal for all people. There is nothing unacceptable about practicing poverty. Some people may also value their own wealth but not be interested in the standard of living of others, or be short-sighted and only care about short-term prosperity (which may make it reasonable to become a beneficiary of statism).

At the same time, Hoppe calls his ethics "praxeological," once again satisfying Mises's postulate of extending the general theory of action beyond the realm of economics. In this way, he demonstrates, first, that only libertarian argumentative ethics provides the correct answer to moral questions facing an agent acting under conditions of scarcity (more on this in the next subsection). Furthermore, the praxeological nature of ethics—its applicability to the reality of action—is linked to the requirement of

²⁷ O. Höffe, *Immanuel Kant*, trans. A.M. Kaniowski, Warsaw 2003, p. 189; I. Kant, *Critique of Practical Reason*, p. 47.

²⁸ L. von Mises, *Human Action: A Treatise on Economics*, trans. W. Falkowski, Warsaw 2011, pp. 132–133; *idem*, *Liberalism in the Classical Tradition*, trans. S. Czarnik, Krakow 2015, pp. 16–18.

²⁹ H.-H. Hoppe, *The Economics and Ethics...*, p. 312, Polish edition: p. 324. See also M.N. Rothbard, *The Ethics of Liberty*, trans. J. Wozinski, J.M. Fijor, Warsaw 2010, pp. 315–333.

³⁰ H.-H. Hoppe, *The Economics and Ethics...*, p. 341, Polish edition: p. 355.

operativity, which Hoppe understands as the ability of ethical theory to provide an unambiguous answer to Kant's question "What am I allowed to do?"

Consequentialist ethics does not meet this condition. The norms of argumentative ethics, as conditions for the possibility of argumentation, must be known before any argumentation takes place. Therefore, "the assignment of exclusive control rights [ownership – N.S.] cannot depend on particular results," as these can only be recognized through argumentation.³¹ Moreover, if one were to follow "absurd ethics of waiting for results," no one could ever do anything—and therefore participate in argumentation—since the effects of actions reveal themselves in an infinite time perspective.

Hoppe's attitude towards the philosophical tradition of natural law, represented in turn by Rothbard, seems, at least at first glance, ambiguous. On the one hand, Hoppe clearly distances himself from this tradition, while attributing to it a positive historical role in instilling in Western civilization a belief in the existence of rational ethics. Although the above statements from *Eigentum...* refer to teleological ethics in general, in his English-language texts he refers critically to natural law theory in several places. Hoppe opposes natural law with the following rather standard objections: first, as he writes, "the concept of human nature is far too vague to allow for the derivation of a precise set of rules of conduct." Second, natural law theorists have never managed to overcome the dichotomy between facts and values, which is only possible on the basis of argumentative ethics. Thirdly, according to Hoppe, unlike in argumentative ethics and transcendental philosophy in general, "the description of rationality presented by the natural law tradition is also unclear, as it fails to recognize the different roles of reason in establishing empirical laws of nature and normative laws governing human conduct."

On the other hand, Hoppe repeatedly classifies his own approach as natural law. However, it is difficult to speak of a contradiction here. Hoppe writes, for example: "It should be noted that the proposed solution [...] is of a 'natural law' character – private property and its acquisition through

³¹ *Ibid.*, p. 344, Polish edition: p. 358.

³² *Ibid.*, p. 407, Polish edition: p. 421.

³³ See chapter VI.

³⁴ H.-H. Hoppe, *The Economics and Ethics...*, p. 345, Polish edition: p. 359.

³⁵ *Ibid.*

³⁶ *Idem*, *A Theory of Socialism and Capitalism*, p. 156, footnote 118, Polish edition: p. 134, footnote 118. In the Polish translation, the word "conduct" has been rendered as "behavior." Considering the behavioral associations carried by this term, as well as Hoppe's distinction between action and behavior, we have decided to intervene in the translation here.

acts of original appropriation are not merely conventions, but necessary institutions (in accordance with human nature as rational animals). A convention serves a purpose, but there is an alternative to it.”³⁷ In other words, when Hoppe positions himself in the tradition of natural law, he uses this term in a broader sense: one that refers to any concept of law and rights that is universal and rational, pre-positive and pre-conventional. The essence of natural law (rights) in this view was aptly expressed by Herbert Hart, who wrote: “1. A right is of such a kind that all people have it insofar as they are capable of choosing [Hoppe would say “capable of reasoning” – N.S.]: they have it as human beings and regardless of whether they are members of a society or in a particular relationship with one another. 2. The right is not created or conferred by the volitional action of human beings [...]”³⁸.

In this way, Hoppe departs from Rothbard's concept, which could be characterized as natural law theory in the narrow sense. Although Rothbard presented a theory of justice whose principles Hoppe adopted almost without reservation, he justified it from a completely different philosophical perspective than his teacher. Rothbard relied on the classical theory of natural law, which, despite the thinker's agnosticism, was based on Aristotelian-Thomistic teleological metaphysics. Ethics was for him an objective science of happiness, founded on an accurate recognition of the requirements of human nature: “I have come to the conclusion that there can be a scientific, rational ethics based on human nature and what is good for it,” he wrote. Rothbard emphasized that freedom is one of the objective requirements of happiness. He argued:

³⁷ See, for example, *idem*, *The Economics and Ethics...*, p. 401, Polish edition: p. 415; *idem*, *The Great Fiction, Property, Economy, Society, and the Politics of Decline*, Auburn 2021, p. 15, footnote 4, Polish edition: *idem*, *Etyka i ekonomia własności prywatnej* [Ethics and the Economics of Private Property], [in:] *idem*, *Wielka fikcja. Państwo w epoce schyłku* [The Great Fiction: The State in Decline], trans. K. Nowacki, Warsaw 2014, p. 27, footnote 5.

³⁸ H. Hart, *Are There Natural Rights?*, [in:] *Contemporary Political Philosophy. A Selection of Source Texts*, ed. D. Pietrzyk-Reeves, B. Szlachta, Krakow 2003, p. 209.

³⁹ M.N. Rothbard, *The Ethics of Liberty*, pp. 73-104.

⁴⁰ Note for the Volker Fund: Progress Report, January 1–October 1, 1952, quoted in: J.R. Stromberg, *Introduction*, [in:] M.N. Rothbard, *The Free Market Economy* (Polish edition of *Man, Economy, and State*), vol. 1, trans.

R. Rudowski, Warsaw 2007, p. 30.

⁴¹ Rothbard also proposed a well-known indirect proof in favor of property rights: “If no human being has the right to full and complete self-ownership, then we are faced with one of two models: (1) The “communist” model of universal and equal ownership by all, or (2) partial ownership by one group of another, and thus a system of rule by one class over another. These are the only logical alternatives to 100% self-ownership by all people.” M.N. Rothbard, *The Ethics of Liberty*, p. 127. Rothbard goes on to argue that the second alternative would imply treating the slave class as subhuman, and would therefore be contrary to the very idea of natural law, which requires that equal rights be assigned to all.

The behavior of plants and at least lower animals is determined by their biological nature or by their "instincts," whereas human nature dictates that in order to act, humans must set goals for themselves and choose the methods to achieve them. Without automatic instincts, everyone must get to know themselves and the world around them, consciously choose values, and understand the relationship between cause and effect in order to

representatives of the human species. The first would be praxeologically impossible, because no one could do anything (and a subject cannot not act) without the consent of all others, who in turn could not even express their consent, because they themselves would need the consent of others to do so. Rothbard then applies the same reasoning to external resources subject to original appropriation. Although there have been suggestions in the literature—e.g., by Edward Feser—that Rothbard's list of variants is not exhaustive, one can agree with Gerald Casey and David Gordon that other possibilities would also fall under either Rothbard's first or second objection. Nevertheless, we argue that Rothbard's a *contrario* argument fails on the basis of natural law theory. First, Feser is right in pointing out that Rothbard's criticism of the "slave" variant is flawed by a *non sequitur*. The premise that some people are considered inferior to others and subordinate to them does not imply that the latter are treated as non-humans. Let us add to this that natural law theory does not require that all people be granted identical rights—from an anti-egalitarian position, which is close to Rothbard's, one could argue that natural human inequality rather justifies inequality of rights. This was the view of Aquinas, who was highly regarded by Rothbard and who did not see – and rightly so – any contradiction between the idea of natural law and the existence of feudal society. Moreover, the very idea of natural law does not imply the need to grant people property rights – it is sufficient to grant everyone Hobbesian freedom to do what they want without regard for (non-existent) others (on the logical-deontic distinction between rights and freedoms, see pp. 99-100 of this chapter, in particular footnotes 69 and 72, and the literature cited therein). In such a situation, everyone could consult their actions with all others without property rights, and thus the "communist" alternative would not be a praxeological impossibility. George Mavrodes, quoted by Rothbard himself, is therefore right in accusing Rothbard of failing to see that there is nothing to prevent anyone from owning anything. On the basis of traditional natural law theory, more work would therefore need to be done to show why human nature actually requires the establishment of property rights. Rothbard, we admit, does this in various places (e.g., *The Case for Liberty*, pp. 107-126). Either way, the defense of libertarian principles cannot be as simple as his a *contrario* argument would suggest. Despite the above comments, we believe that Rothbard's argument can be reformulated by transposing it to the ground of argumentative ethics. Hoppe himself is a proponent of this argument, repeating it after Rothbard in several places. Although he does not suggest anywhere that Rothbard's a *contrario* can only be defended on the basis of argumentative ethics, we will attempt to show below that this is indeed the case (see p. 125 of this chapter, footnote 175). On Feser's critique of Rothbard, see E. Feser, *Rothbard as a Philosopher*, <http://edwardfeser.blogspot.com/2009/08/rothbard-as-philosopher.html> [accessed on June 1, 2023]; *idem*, *Rothbard Revisited*, <http://edwardfeser.blogspot.com/2009/08/rothbard-revisited.html> [accessed on 1 June 2023]. See also our extensive critique: N. Slenzok, *Two Arguments for Libertarianism in Murray Rothbard's Theory of Natural Law*, *Dialogi Polityczne – Political Dialogues* 2017, 22, pp. 31–37. On the defense by Casey and Gordon, see G. Casey, *Feser on Rothbard as a Philosopher*, *Libertarian Papers* 2009, 1 (34), pp. 1–13; D. Gordon, *The Essential Rothbard*, Auburn 2007, p. 90. See also Hopp's repetition of Rothbard's argument: H.-H. Hoppe, *The Great Fiction...*, pp. 11–12; Polish edition: pp. 22–23; *idem*, *The Economics and Ethics...*, pp. 383–384; Polish edition: pp. 397–398; *idem*, *Introduction*, [in:] M.N. Rothbard, *The Ethics of Liberty*, Auburn 2016, pp. xvi-xvii, Polish edition: *Introduction to the American edition*, [in:] M.N. Rothbard, *Etyka wolności*, pp. 16-17. In the latter passage, Hoppe even calls Rothbard's argument "the ultimate proof."

In order to survive and develop, it must act with a goal in mind. Since people can only think, feel, and judge as individuals, everyone must be guaranteed the freedom to learn, choose, develop their abilities, and act according to their knowledge and values.

As Dariusz Juruś rightly points out: “By repeatedly emphasizing the objectivity and individualism of this ethics, Rothbard combines the classical natural law tradition with the modern one,” in other words, the concept of objective natural law with the idea of inherent subjective rights.

There is not enough space here to present Rothbard's metaethical and ethical views in detail. There is already a considerable body of literature on the subject, including in Polish. Nevertheless, a comparison between Rothbard and Hoppe is necessary here in order to properly emphasize the originality of the latter in relation to his mentor's position. Namely, although Rothbard spoke enthusiastically about Hoppe's ethics, he was mistaken in thinking that his successor's approach could be easily integrated into natural law philosophy and that there was no contradiction between the two theories. This is not the case, even though Hoppe never engaged in a polemic with Rothbard on this issue and even explicitly stated that their approaches were convergent.⁴⁶ Philosophies

⁴² M.N. Rothbard, *For a Liberty We Can All Stand For: A Libertarian Manifesto*, trans. W. Falkowski, Warsaw 2007, p. 51.

⁴³ D. Juruś, *In Search of the Foundations of Libertarianism. From the Perspective of Rothbard's Concept of Property*, Krakow 2012, p. 109. On the difference between the classical and modern concepts of law/natural rights, see L. Strauss, *Natural Law in the Light of History*, trans. T. Górski, Warsaw 1969, pp. 227–228.

⁴⁴ See, for example, D. Gordon, *The Essential Rothbard*, pp. 87–94; D. Juruś, *In Search of the Foundations of Libertarianism*, pp. 101–110; R. Wojtyśzyn, *Anty-Lewiatan: doktryna polityczna i prawna Murraya Newtona Rothbarda [Anti-Leviathan: Murray Newton Rothbard's political and legal doctrine]*, Wrocław 2017, pp. 77–82; see also our critical study: N. Slenzok, *Dwa argumenty na rzecz libertarianizmu [Two arguments in favor of libertarianism...]*, pp. 23–40.

⁴⁵ M.N. Rothbard, *Beyond Is and Ought*, Liberty, 1988, 2, p. 44.

⁴⁶ Hoppe refers in this regard to Rothbard's argument on the objective value of life. Rothbard maintained that this is difficult to deny, because the very act of arguing against it would constitute an affirmation of life—only the living can argue. Man, writes Rothbard, “should be in favor of life (in terms of its length and quality).” Leaving aside the logical value of this argument, it should be noted that Hoppe reads it superficially (perhaps to emphasize his intellectual affinity with his teacher). Neither the use of the term “argumentation” (it is not easy to write a philosophical work without using this word even once) nor arguing on the basis of performative (non)contradiction determines that the views of a given author are compatible with Hoppe's communicative philosophy or anticipate it in any way. Arguments of this kind appear in philosophy from time to time within various paradigms—for example, John Finnis, by no means an advocate of argumentative ethics, argues that it is impossible to deny the value of reason, because to argue against it would require the use of reason, thereby affirming it. However, the similarities to Hoppe's theory are, let us repeat, superficial. Neither Rothbard nor Finnis attributed to argumentation the status of a transcendental, insurmountable cognitive situation, nor did they claim that all knowledge is essentially argumentative (communicative) mediated, nor did they ever take the position that what is true or right is

These two authors belong to different paradigms of philosophy as systemic wholes – the first to the ontological paradigm, the second to the linguistic paradigm. Within the ontological approach, argumentation aimed at consensus, understood as peaceful, interpersonal interaction, is not a necessary condition for truth and justice. In turn, in the classical theory of natural law belonging to this paradigm, ethics is derived from standards of perfection attributed to human beings, rather than from standards of peaceful exchange of valid claims. One must therefore agree with Jurus on this point, who argues that it is impossible to speak of a single libertarian ethics advocated by Rothbard and Hoppe. Rather, these thinkers profess different ethical (and metaethical) concepts that are linked by libertarian ^{social} conclusions:

2. Libertarian theory of justice and the principle of non-

2.1. Argumentation and the scarcity principle

In order to derive the principles of libertarian ethics from *a priori* reasoning, Hoppe introduces the following three premises:

Firstly, argumentation is not only cognitive in nature, but also practical. Secondly, as a form of action, argumentation involves the use of a scarce resource, namely the body. Third, argumentation is a conflict-free mode of interaction—but not in the sense that the parties agree on what they are talking about, but in the sense that, as long as the argumentation process continues, the parties can always agree at least on the fact that there is a difference of opinion between them regarding the importance of what ^{they are} talking about.

Before we move on to Hoppe's libertarian theory of rights, we need to clarify a few things about the concepts of argumentation and scarcity. First, it should be noted that the first of the above premises, and to some extent the second, are not added to *a priori* argumentation from outside. On the contrary, they are inherent in the very concept of argumentation as found in the philosophy of communication of Apel and Habermas. According to this philosophy, argumentation cannot be reduced to internal reasoning.

which everyone can agree on, provided they are not acting dishonestly, under duress, or in ignorance. In their arguments, the word "argumentation" could therefore be replaced by "reasoning" without any problem. On Hoppe's interpretation of Rothbard's argument, see H.-H. Hoppe, *The Economics and Ethics...*, p. 321; Polish edition: pp. 333-334; on the argument itself, see M.N. Rothbard, *The Ethics of Liberty*, p. 111; on Finnis' argument, see J. Finnis, *Natural Law and Natural Rights*, trans. K. Lossman, Warsaw 2001, pp. 74-79.

⁴⁷ D. Jurus, *Czy istnieje etyka libertariańska?* [Is there such a thing as libertarian ethics?], *Filo-Sofija* 2015, 29, pp. 167–176.

⁴⁸ H.-H. Hoppe, *A Theory of Socialism and Capitalism*, p. 152, Polish edition: pp. 135–136.

conducted for one's own use by, for example, *the Cartesian ego-cogito*. It is a practical action performed by a community of arguing subjects in an objective, physical world. Hopp's statement is suggestive in this regard. After presenting the libertarian conclusion of argumentative ethics, he writes: "with this step, I lose once and for all the company of philosophers such as Habermas and Apel."⁴⁹ This means that the paths of Hoppe and his German masters diverge only at this point, not earlier. The decisive divergence, however, appears when it comes to the second premise, namely the consideration of the fundamental fact of scarcity: "The fact that Habermas and Apel are incapable of taking this step stems, I believe, from the fact that they, like many other philosophers, are completely ignorant of economics and therefore blind to the fact of scarcity." At this point, it is necessary to clarify more extensively what Hoppes means by the scarcity of goods—including the human body—and, logically related to it, freedom from conflict. These are key categories in Hoppes' practical philosophy.

The concept of scarcity is well illustrated by the following hypothetical scenario of an encounter between Robinson Crusoe and Friday on a paradise island, quoted by Hoppe many times in his works:

In paradise, there are only two rare goods: the physical body of a human being and the space it occupies. Crusoe and Piętaszek have only one body each, and each of them can only stand

⁴⁹ *Idem, The Economics and Ethics...*, p. 335, Polish edition: p. 347.

⁵⁰ *Ibid.* In the Polish translation, the term "scarcity" has been rendered as "niedostatek" (shortage). Since this is a technical term in Hoppe's philosophy, we translate it uniformly as "rzadkość" (rarity), in accordance with the translation of other passages from Hoppe's works and economic terminology.

⁵¹ When it comes to the practical views of Apel and Habermas, Habermas' egalitarian and social democratic stance is well known. The same is true of Apel. According to him, argumentative ethics entails a duty of rationality as well as equality of speakers. The ideal of equality is to be achieved through some form of socialism, not excluding its Marxist variant. Additionally, in the era of globalization, argumentative ethics is to transform into a universal macroethics of shared responsibility, requiring commitment to environmental protection. See K.O. Apel, *A Planetary Macroethics for Humanity*, [in:] *Selected Essays*, vol. 2, New Jersey 1996, pp. 275-292; *idem, Transformation der Philosophie*, Bd. 2: *Das Apriori der Kommunikationsgemeinschaft*, Frankfurt am Main 1976, p. 432; *idem, Uniwersalistyczna etyka współodpowiedzialności*, trans. Z. Zwoliński, [in:] *Idea etyczności globalnej*, ed. J. Sekuła, Siedlce 1999, p. 173 et seq. Here, according to Hoppe, we can see a misunderstanding of the fundamental significance of scarcity by both ethicists of discourse. While Apel maintains that "as potential claims that can be communicated between individuals, human needs are ethically relevant," Hoppe would rather emphasize the latter part of the same statement: "these needs must be recognized if they can be legitimized between individuals through argumentation" (K.O. Apel, *Transformation...*, Vol. 2, p. 425). For Hoppe, the existence of human needs can only be the starting point of ethics, never the end point. The fulfillment of a whole range of human needs cannot be rationally justified because, as we shall see, under conditions of scarcity this would lead to inevitable conflict, thereby undermining the very purpose of social norms. Furthermore, Hoppe rejects both Apel's and Habermas' egalitarianism.

in one place at a time. So even in paradise, disputes may arise between Crusoe and Piętaszko: they cannot occupy the same place at the same time without coming into physical conflict. Therefore, even in paradise, there must be rules governing social order—rules concerning the proper location and movement of bodies. Outside paradise, in the land of scarcity, there must be rules governing not only the use of bodies, but also everything that is scarce, in order to exclude all possible conflicts. This is the problem of social order.

Let us recapitulate what Hoppe writes about the concept of scarcity in the quoted passage. Firstly, we can talk about scarcity in the sense in which the term is used in economics – it is simply a relationship between goals and economic goods that are the means to achieve them, in which the latter are insufficient in relation to the former in such a way that the same good (means) can be used to achieve more than one goal. This gives rise to the need to economize goods—to choose between more and less urgent goals for which goods can be used as means. This aspect can be described as fundamental and at the same time individual, as it is revealed even in the economic actions of a single person. Robinson Crusoe, even before he meets Friday, also faces the necessity of economizing ^{resources}.

The second, more relevant in ethical terms – although related to the first – aspect of scarcity is called "rivalrousness." . This phenomenon means that a given good cannot be used simultaneously by two entities if they wish to use it to achieve incompatible ^{goals}. This dimension of scarcity can be described as interpersonal. In addition to scarcity, i.e., the lack of unlimited abundance of goods (*superabundance of goods*), the condition for the possibility of conflict is therefore also the absence of *perfect harmony of all interests*. Bearing these two conditions in mind, Hoppe argues that although the subject areas of economics and ethics differ from each other, they share a common starting point—the fact of scarcity.

The recognition of scarcity is not only the starting point of political economy; it is also the starting point of political philosophy. Of course, if there were an unlimited abundance of goods, there would be no economic problems at all. With unlimited

⁵² H.-H. Hoppe, *The Great Fiction*..., pp. 9–10, Polish edition: p. 20.

⁵³ See the classic discussion of the problem of scarcity in: L. Robbins, *An Essay on the Nature and Significance of Economic Science*, London 1932, pp. 12–22.

⁵⁴ H.-H. Hoppe, *Getting Libertarianism Right*, Auburn 2018, p. 57. See also R. Barnett, *The Structure of Liberty. Justice and the Rule of Law*, Oxford 2014, pp. 37–39; S. Kinsella, *How We Come to Own Ourselves*, <https://mises.org/library/how-we-come-own-ourselves> [accessed on 1 June 2023].

⁵⁵ H.-H. Hoppe, *The Economics and Ethics*..., p. 333; *idem*, *Getting Libertarianism Right*, p. 24.

the abundance of goods, my current use of them would neither reduce my own future supply nor their current or future supply to any other person, and ethical problems of right and wrong, fair and unfair would not arise because there could be no conflict over the use of such goods. Economics and ethics are necessary only as long as goods remain scarce.

Both economic and ethical claims must therefore be formulated
"in terms of property rights."

The third and final condition for disputes over the fair distribution of goods to arise is the ability of actors to argue, which, according to Hoppe, is the foundation of moral agency. The issue of justice arises only from the perspective of such agents and only in relation to them. As Hoppe says, if it turned out that in the above scenario of Robinson's encounter with Piętaszek, "Piętaszek" was the name of a gorilla, a conflict over scarce resources – at least the bodies of a human and an animal – could still arise, but this would not be a relevant situation from an ethical perspective. The gorilla could crush or devour Robinson, while Robinson could kill or subdue the gorilla; the problem of a just resolution would not arise in the relationship between the two.

The demand to formulate ethics in terms of property rights does not, of course, mean that any normative system is equally good as long as it is expressed in the conceptual structure of property rights. On the contrary, a rational ethical system must establish norms of conduct that constitute a universal, time- and place-independent panacea for all possible conflicts over scarce resources. "What is the goal of norms? To avoid conflict over the use of scarce physical resources. Norms that lead to conflict are contrary to the very purpose of norms," writes Hoppe. Here we are dealing with a distinction in essence—norms and conflict are disjunctive opposites.

Freedom from conflict should not, we should add, be understood in an empirical sense—sociological or psychological. We are not talking about norms whose implementation in the legal system can be assumed to mitigate

⁵⁶ Idem, *The Economics and Ethics...*, p. 333, Polish edition: p. 345. Above, we correct the Polish translation, changing "just and unjust" to "fair and unfair." In turn, we translate the expression "in terms of property rights" as "w kategoriach praw własności" (in terms of property rights). In the Polish translation, it was translated in a misleading way as "in the language of property rights." In addition, the Polish translator incorrectly renders the term "superabundance" as "nadmiar" (excess). We introduce the correct equivalent: "nieograniczona obfitość" (unlimited abundance).

⁵⁷ *Ibid.*

⁵⁸ *Ibid.*, p. 385, Polish edition: p. 399. The concept of moral agency on which Hoppe bases his argument clearly excludes the existence of animal rights. Rothbard took a similar position: M.N. Rothbard, *The Ethics of Liberty*, pp. 261–264.

⁵⁹ H.-H. Hoppe, *The Great Fiction...*, p. 15, footnote 4, Polish edition: p. 27, footnote 5.

social tensions or reduce the likelihood of conflict. These are norms which, if acted upon, logically exclude all conflicts.

"since the dawn of humanity." Where such norms are lacking—or, more precisely, where there is no single overarching norm from which particular decisions derive their binding force—disputes can only be resolved by resorting to arbitrary rules. If the parties do not agree to them—that is, if there is no accidental harmony of interests between them—the decision can ultimately only be made through the use of force. In short, where there are no rules sanctioned by reason, there is only "inevitable domination" (*unvermeidbare Herrschaft*).

At this point, we can present our conceptualization of the per-formative contradiction in which, according to Hoppe, the opponent of libertarian ethics is entangled, as well as the special status of its norms as conditions of possibility of cognition. In our view, this contradiction manifests itself in two ways.

1. Let us recall that Hoppe considers the preliminary assumption of argumentation to be that participants are free from coercion (and therefore free in the negative sense). He says that argumentation requires that the arguer "be capable of acting *independently* of one another and arriving at conclusions on their own, i.e., autonomously." Given the non-empirical and transcendental nature of argumentative ethics, the autonomy referred to by Hoppe should be understood as being protected by a reasonable, and therefore universally binding and independent of anyone's discretionary decision, norm. Anyone who would attempt to undermine the validity of such a principle would fall into a performative contradiction, because in doing so, they would argue and thus recognize themselves and their opponents as autonomous entities. As Hoppe writes: "To deny a person the right to self-ownership and to his originally acquired goods is to deny him autonomy and an autonomous position in judging arguments. This affirms dependence and conflict, i.e., *heteronomy*, rather than conflict-free and autonomously achieved agreement [...]"⁶³.

2. The norm guaranteeing autonomy derives its universal binding force from the fact that it allows all conflicts over scarce resources to be avoided. The latter is a moral obligation because, as we remember, "argumentation is a conflict-free mode of interaction." But Hoppe says something else. Not only is argumentation itself conflict-free, but its *goal* is also to remove conflicts. More precisely, as Hoppe explains in his latest presentation of ethics

⁶⁰ "From the very beginning of mankind." *Ibid.*

⁶¹ *Idem, Eigentum, Anarchie und Staat*, p. 42.

⁶² *Ibid.*

⁶³ *Ibid.*

argumentative – the removal of conflicts is the goal of normative (practical) argumentation. Alongside it, as the second component of the logical division of the concept of argumentation, there is argumentation about facts. Hoppe writes: "Argumentation can concern facts or norms. The source of argumentation about facts is what I call *disagreement*; its goal is to resolve this disagreement [...]. The source of argumentation about norms, on the other hand, is *conflict*; its goal is to resolve this conflict [...]"⁶⁴.

In our opinion, from the idea of practical argumentation as a form of interaction aimed at resolving conflict, we can derive a second premise that leads Hopp to the final validation of libertarian justice theory. Argumentation presupposes ethics—this is the central claim of Hopp's metaethics. When we ask what kind of ethics this is, the answer must be: ethics that allows conflicts to be avoided. Again, anyone who would want to undermine an ethics that includes such norms or propose a different one would be entangled in a pragmatic contradiction, because in doing so, they would be acting against the goal to which they committed themselves by the very fact of participating in normative argumentation. As Hoppe states: "If you want to live in peace with other people—and you demonstrate that you want this by engaging in argument with them—then there is only one solution: private (exclusive) property."⁶⁵ In short, the goal of practical argumentation is to avoid conflict.

2.2. 's property rights

According to Hoppe, there is really only one set of norms that fulfills the ideal of conflict avoidance, namely, libertarian property rights ethics. In order to avoid conflicts, the rules governing the distribution of property titles must allow for the assignment of exclusive control over scarce resources to individual owners—the "ultimate decision-makers" or, to use Herbert Hart's term, "small-scale sovereigns" with respect to any good that may be the subject of dispute. Then, and only then, does the specter of physical

⁶⁴ *Ibid.*

⁶⁵ *Idem*, *Getting Libertarianism Right*, p. 59.

⁶⁶ From the point of view of the history of ideas, it is worth adding that while Hoppe's general philosophical orientation shows the strongest links with Apl's thought, the concept of ethics as a discipline arising from interpersonal conflicts and concerned with formulating rules for resolving them is clearly proclaimed not by Apl, but by Lorenzen and the Erlangen school. See P. Lorenzen, *Normative Logic and Ethics*, Mannheim 1969, pp. 73-89; J. Herbut, *Konstruktywistyczna etyka Paula Lorenzena i Otto Schwemmera* [The Constructivist Ethics of Paul Lorenzen and Otto Schwemmer], in: P. Lorenzen, *Myslenie metodyczne* [Methodical Thinking], trans. S. Blandzi, Warsaw 1997, pp. 117-123.

⁶⁷ H.-H. Hoppe, *The Economics and Ethics...*, p. 389, Polish edition: p. 397; H. Hart, *Essays on Bentham. Jurisprudence and Political Theory*, Oxford 2001, p. 183.

The conflict can be resolved. "Two people cannot be the sole owners of the same thing at the same time," says ^{Hoppe}.

To understand why such an allocation of exclusive decision-making rights is necessary, let us supplement our characterization of Hoppe's postulate of freedom from conflict with an important observation from legal logic. Although Hoppe does not use the conceptual apparatus of this branch of knowledge, it has been successfully implemented in libertarian property rights theory by authors such as Hillel Steiner, Randy Barnett, and Łukasz Dominiak.

As Wesley N. Hohfeld noted, legal norms constitute deontic judgments that can be members of various logical relations with each other, with Hohfeld dividing the main deontic categories into pairs connected by a relation of contradiction or equivalence. Rights in the narrow sense (*claim rights*) are defined in Hohfeld's analysis as logical correlates of *duties*: A has a right to X if and only if B has a duty to respect A's right to ^X. Rights in this sense include the main incident of property rights, which is the right of possession – A has the right of ownership to object X if and only if B has the duty not to interfere with A's exclusive control over ^X. The same duty applies to other persons – C, D, and so on. This is because, as Steiner points out, property rights are held against the whole world. In other words, in the language of legal logic, the property rights of subject A are equivalent to the obligation of all other subjects not to interfere with A's sovereign control over ^a given ^{resource}. As Dominiak notes, since legal norms are deontic judgments, a necessary condition for a given set of rights to satisfy the postulate of freedom from conflict is that it be non-contradictory—a set of contradictory rights will simultaneously be a set that generates ^{conflicts}.

⁶⁸ H.-H. Hoppe, *The Economics and Ethics...*, p. 197, Polish edition: p. 208.

⁶⁹ W.N. Hohfeld, *Some Fundamental Legal Conceptions as Applied in Judicial Reasoning*, [in:] *idem*, *Fundamental Legal Conceptions as Applied in Judicial Reasoning and Other Legal Essays*, New Haven-London 1919, p. 35 et seq. See also M.H. Kramer, *Rights Without Trimmings*, [in:] M.H. Kramer, N.E. Simmonds, H. Steiner, *A Debate Over Rights. Philosophical Inquiries*, New York 1998, pp. 7-59.

⁷⁰ A.M. Honoré, *Ownership*, [in:] *The Nature and Process of Law*, ed. P. Smith, New York 1993, pp. 370-375.

⁷¹ H. Steiner, *An Essay on Rights*, Oxford 1994, p. 95.

⁷² Ł. Dominiak, *Libertarianism and Original Appropriation*, *Historia i Polityka* 2017, 22 (29), p. 53.

Let us clarify that although consistency is a necessary condition for a set of rights to be free from conflict, it is obviously not a sufficient condition. Consistent laws can still generate conflicts (physical clashes) if they do not take the form of Hofeldian *rights* in the narrow sense, i.e., logical correlates of duties, but rather *liberties*. According to Hofeld's table, A has the liberty to do X if and only if A has no duty to do X.

Steiner points out that rights must therefore be characterized by mutual compatibility (*compossibility*), in other words, the joint enforceability of equivalent obligations. Rights, he argues, refer to actions, and actions, as Hoppe also strongly emphasizes, have two dimensions: intentional and ^{physical}. In the latter aspect, actions are always spatio-temporal in nature, i.e., they are performed through the body in a specific place and time. We will therefore call mutually inconsistent (*impossible*) those actions which could not be performed at the same time and place or which, in other words, have at least one physical component in common. Mutually inconsistent laws are those whose logical equivalence consists in obligations dictating mutually inconsistent ^{actions}. Hence, Steiner concludes, sets of positive rights must be considered immanently inconsistent; if, for example, a given theory of rights includes the right to medical care, then, given the scarcity of goods, it may happen that the claims of different persons to care cannot be satisfied at the same time; as claims to the same physical resources that are impossible to reconcile, they will generate ^{obligations} that are impossible to reconcile. Steiner concludes: "A set of categorically coherent domains, constituted by a set of property rights, is one in which the rights of each person are defined in such a way that they are exclusive in relation to the rights of all other persons. [...] Two persons cannot simultaneously have rights to one and the same physical ^{thing}."

As we can see, both Hoppe and Steiner emphasize that property rights should apply to physical objects or, as Stephan Kinsella puts it, "*tangible*" ^{objects}. This is because only these are truly scarce. Ideas – or, to use a more philosophically precise term, intentional entities – can, as Kinsella points out, be reproduced indefinitely without depleting the original stock. A and B cannot simultaneously possess the same physical object, but they can simultaneously enjoy the same rule or

non-action X. The correlate of freedom in Hohfeld's sense is therefore the absence of an obligation, not an obligation on the part of non-A. Consequently, a system that does not grant anyone any rights in the narrow sense given here, but instead distributes equally among entities the freedom to do whatever they want, including attacking each other, will not be a contradictory system, because it will not generate incompatible obligations. Nevertheless, it will remain a system that generates conflicts.

W.N. Hohfeld, *op. cit.*, p. 35 et seq.

⁷³ H. Steiner, *An Essay on Rights*, pp. 86-101; cf. H.-H. Hoppe, *The Great Fiction...*, pp. 358-359, Polish edition: *Własność, sprawstwo i odpowiedzialność*, [in:] *idem*, *Wielka fikcja*, p. 338.

⁷⁴ H. Steiner, *An Essay on Rights*, pp. 90-91.

⁷⁵ *Ibid.*, pp. 92-93.

⁷⁶ *Ibid.*, p. 91.

⁷⁷ S. Kinsella, *Against Intellectual Property*, Auburn 2008, pp. 28-29.

sing the same song. Consequently, intentional entities are not the subject of possible conflict. As Kinsella demonstrates, based on Hoppe's ontology of property—and Hoppe *expressly* agrees with him—intellectual property rights are artificial monopolistic privileges, creating scarcity where there is none by nature. They are therefore a distortion of authentic property rights, which by their very nature refer only to ^{physical} objects. Based on the same reasoning, whenever Hoppe speaks of self-ownership, he means ownership not of the person as a whole (a psychophysical entity), but of the body. In this respect, he corrects Rothbard's views, who, although he also stipulated that property rights refer only to scarce goods, always wrote about the right of self-ownership in relation to ^{the whole person}.

Hoppe further clarifies that attacks on property rights must be defined as actions directed against *the physical integrity* of things that are the subject of property titles, not as violations of their *value* or *the psychological integrity* ^{of the owner}. The practical nature of ethics requires that the results of actions to which norms refer be under the control of the actor. While the actor generally has control over whether his actions lead to damage to the physical integrity of objects belonging to others, changes in the value and psychic integrity of their property do not depend solely on him: they depend on the subjective states and valuations ^{of other people}. Moreover, due to the subjective nature of valuations, the acting subject cannot know *ex ante* what the impact of his actions will be on the mental states and value of other people's property. The idea of protecting value and psychological integrity therefore undermines the very purpose of ethics, which is to provide the actor in a specific place and time with an answer to Kant's question: "What can I do?" In this regard, the boundaries between the private domains assigned to individual entities "are physical boundaries (intersubjectively recognizable)." Meanwhile, the opposite solution "defines the boundaries of property in a subjective, value-based ^{manner}."⁸³ This subjectivism makes it impossible to resolve disputes rationally.

⁷⁸ *Ibid.*, pp. 29–36; H.-H. Hoppe, *The Great Fiction...*, pp. 509–510.

⁷⁹ See, for example, M.N. Rothbard, *Man, Economy, and State with Power and Market*, Auburn 2009, pp. 92–93.

⁸⁰ H.-H. Hoppe, *The Economics and Ethics...*, p. 325, Polish edition: p. 337.

⁸¹ Kinsella points out that behind the concept of intellectual property lies the erroneous postulate of value protection – the reproduction of a model, e.g., an artistic work, does not diminish the stock of its physical carriers, but may lead to a decrease in their market value. S. Kinsella, *Against Intellectual Property*, p. 42.

⁸² H.-H. Hoppe, *The Economics and Ethics...*, pp. 325–326, Polish edition: pp. 338–339.

⁸³ *Ibid.*, p. 327, Polish edition: p. 339.

which makes the norms it implies pseudo-norms, causing conflicts instead of resolving them.

For the same reason, Hoppe writes, the distribution of ownership titles to scarce physical resources cannot be made on an arbitrary basis. For a distribution to meet with universal consent (in the non-empirical sense of the term as used in argumentative ethics), property claims must derive their validity from compliance with intersubjectively verifiable criteria. A general, uniform rule of ownership for all scarce goods, both of the body of the individual and of external objects, holds that such claims must be supported "by establishing some objective and intersubjectively verifiable connection between a given person and a given scarce resource [...]"

When it comes to the first principle of libertarianism—the right to self-ownership—the requirement of an “objective connection” is fulfilled by the direct link between a person’s will and their body. What makes subject X the rightful owner of a body *given* to them by nature is the fact that it is under their direct control, while others can exercise control over it only by making use of their own bodies. Ownership of one's own body therefore logically and temporally precedes any indirect ^{control}. The right to self-ownership can also be grounded in the concept of argumentation in a more direct way. Argumentation, as a peaceful form of interaction, requires the parties to refrain from invasive actions directed at the opponent's body. As Hoppe writes, “as long as argumentation continues, the parties must mutually recognize that each of them has exclusive control over their ^{own} bodies.”⁸⁶ Anyone who would want to challenge this conclusion would commit a performative contradiction, because they would have to do so by means of argumentation, thereby *implicitly* recognizing its validity. In this way, the first principle of libertarian justice theory is established—the right to self-ownership or, more precisely,

the right of ownership over one's own body.

How, then, is the second libertarian principle—absolute ownership of external objects—established? How are we allowed to take ownership of them? Hoppe lists three possibilities: (a) original appropriation, i.e., acquiring title to a resource that belongs to no one, in a model situation—natural resources; (b) production of a new good; (c) voluntary ^{transfer}.

⁸⁴ *Idem*, *A Theory of Socialism and Capitalism*, p. 155, Polish edition: p. 138.

⁸⁵ *Ibid.*, *On the Ethics of Argumentation*; *idem*, *Eigentum, Anarchie und Staat*, pp. 74-75.

⁸⁶ *Ibid.*, Polish edition: p. 136.

⁸⁷ *Idem*, *The Great Fiction...*, section II, Polish edition: p. 188; *idem*, *A Brief History of Man. A Libertarian Reconstruction of Progress and Decline*, trans. Ł. Dominiak, Warsaw 2014, p. 99.

To these should be added a fourth, retributive method: restitution or compensation for ^{damages} suffered. It is easy to see that the first of these methods plays a leading role in the theory of justice. In physical terms, goods are not produced *ex nihilo* – they are produced through the use or transformation of previously existing factors of production. In order to be the rightful owner of a product, the producer must therefore be the rightful owner of the factors or acquire them from such an owner. The principle of voluntary transfer also presupposes the legitimate nature of the property titles of the exchanging parties. Finally, compensation or restitution is due to the extent that a previously acquired title has been violated. Ultimately, therefore, by going back step by step in the chain of acts of production, voluntary exchanges, and restrictions and compensation, we must arrive at a point where the goods were in their natural state, belonging to no one. To explain how actors extract them from their natural state and make them their property, a theory of original appropriation is needed.

Issues of original appropriation are governed by the principle that "the first to use a thing becomes its first owner" (*first-use-first-own*)⁸⁹. Among libertarian theorists, there is an ongoing debate about what exactly should serve as the test of legitimate original appropriation. In most of his works, Hoppe refers directly to Locke's labor theory—whoever first mixes their labor with a given resource gains ^a legitimate title to it. In his most recent texts, Hoppe no longer refers—at least openly—to the labor criterion, writing more generally about the principle ^{of priority}. He writes, for example, about "exclusive control over all other [except the body – N.S.] external means of action appropriated by oneself indirectly [through the body – N.S.]) before one another and independently of one another [...]"

In any case, acts of initial appropriation must constitute objectively ascertainable, visible states of affairs indicating that a specific person has title to a given thing. If others were entitled to effectively challenge the title of the first user to a resource that they themselves had never used (did not possess), such a right would have to be based exclusively

⁸⁸ See footnote 112 in this chapter for more details.

⁸⁹ H.-H. Hoppe, *A Theory of Socialism and Capitalism*, p. 145, Polish edition: p. 129.

⁹⁰ See especially the most comprehensive explanation in: H.-H. Hoppe, *Eigentum, Anarchie und Staat*, pp. 76–80. Cf. the classical concept: J. Locke, *Two Treatises of Government*, trans. Z. Rau, Warsaw 2015, pp. 269–284.

⁹¹ See, for example, H.-H. Hoppe, *On the Ethics of Argumentation*.

⁹² *Ibid.*

on a verbal declaration – a decree. However, this would clearly conflict with the very purpose of norms – the avoidance of conflict. If goods were appropriated by decree, it would not be possible to rationally resolve disputes arising from the issuance of mutually contradictory decrees by the parties concerned. Moreover, the right to appropriate things by decree would also allow one to claim ownership of other people's bodies, which would violate the principle⁹³ of self-ownership.

The idea of priority is of key importance in the theory of original appropriation. This stems from two premises. The first refers to the ideal of freedom from conflict, the second to the praxeological requirement to provide unambiguous guidelines for action. First, “only the first appropriator of a given resource [...] can gain control over it without conflict, i.e., peacefully.”⁹⁴ If, on the other hand, property rights were granted to *latecomers*, such a solution would inevitably generate conflicts—there would be no single exclusive owner, and everyone could make claims that would be impossible to settle rationally. Second, granting property rights to latecomers would make it impossible for anyone to do anything—before performing any action, it would be necessary to obtain the consent not only of all living people, but also of future generations, whose representatives would also need such consent, and so *on ad infinitum*. However, doing nothing is a praxeological impossibility, since refraining from action is itself an action.⁹⁵ Moreover, the very proposal of such a solution must be argumentative in nature and thus constitute an action. In putting it forward, one therefore falls into a performative contradiction, doing something that would not be allowed on its own terms.

Before concluding our discussion of original appropriation, let us once again, by way of rational reconstruction, openly interfere with Hoppe's own arguments by positing that the aforementioned abandonment of the labor criterion for the acquisition of appropriation is in fact a valid theoretical move.

The dispute over the criterion of original appropriation is ongoing in libertarian literature between two main camps. On one side are the proponents of labor theory, who, in addition to Hoppe in most of his works, include

⁹³ *Idem*, *A Theory of Socialism and Capitalism*, pp. 155–156, Polish edition: pp. 138–139.

⁹⁴ *Idem*, *Getting Libertarianism Right*, p. 25.

⁹⁵ *Ibid.*, *The Economics and Ethics...*, pp. 328–329, Polish edition: pp. 340–341.

⁹⁶ *Ibid.*, pp. 329–330, Polish edition: pp. 341–342.

These include Murray N. Rothbard and Walter Block.⁹⁷ A competing approach is the possessive theory, which sees the source of title to property in first *possession*. Its proponents include authors such as Richard Epstein, Kinsella, and Dominiak.⁹⁸

Possession differs from ownership in that it is not a normative concept, but a descriptive one—it refers to the fact that a person exercises control over a thing. This control—which is a tautology, but nevertheless has significant analytical importance—is exercised to the exclusion of other people. As Steiner writes: “Most dictionary definitions of ‘possession’ refer either to ‘control’ or to ‘exclusion of others’ or to both criteria at once. However, it is clear that when the first of these terms is used, the second is meant as its synonym. [...] A person controls (in the sense of *possessing*) a given thing to the extent that no one else determines what happens to that thing [...]”⁹⁹ The possessory theory of original appropriation states that the legitimate owner of a resource is the person who first gained control over it.

There is no space here for an exhaustive discussion of the objections raised in the literature against the labor theory. At this point, we would like to mention only two arguments which, in our opinion, determine that it is the possessive theory, not the labor theory, which is compatible with libertarian argumentative ethics.

The first argument relates to the concept of freedom from conflict. Dominiak rightly points out that while two people can successfully combine their work with the same resource at the same time, by definition it is not possible for two people to control the same resource at the same time to the exclusion of others. Consequently, this possessory criterion allows for the construction of a set of mutually coherent rights and, as a result, the avoidance of interpersonal conflicts.¹⁰⁰ The second argument refers to Hoppe's ethical monism, i.e., the logical reduction of all ethical norms to a single guiding principle. As Hoppe writes, his ethics proposes “a general theory of property (whose goal is to formulate *uniform* rules that allow for the avoidance of *all*

⁹⁷ M.N. Rothbard, *The Ethics of Liberty*, pp. 113–114; W. Block, *Homesteading, Ad Coelum, Owning Views and Forestalling*, The Social Sciences, 2008, 2 (3), pp. 96–103.

⁹⁸ Ł. Dominiak, *Libertarianism and Original Appropriation*; R. Epstein, *Possession as the Root of Title*, Georgia Law Review 1979, 13, pp. 1221–1244; S. Kinsella, *Against Intellectual Property*, pp. 36–42; *idem*, *What Libertarianism Is*, [in:] *Property, Freedom, and Society. Essays in Honor of Hans-Hermann Hoppe*, ed. S. Kinsella, J.G. Hülsmann, Auburn 2009, pp. 187–193.

⁹⁹ H. Steiner, *An Essay on Rights*, p. 39, footnote 44.

¹⁰⁰ In addition to the above texts, see an interesting discussion of Kant's critique of Locke's theory in: A. Ripstein, *Force and Freedom. Kant's Legal and Political Philosophy*, Cambridge-London 2009, pp. 97–105.

¹⁰¹ Ł. Dominiak, *Libertarianism and Original Appropriation*, pp. 54–55.

possible conflicts) a set of rules that apply to *all* goods”¹⁰². However, it seems that if the labor theory of original appropriation is included in this set of rules, it loses its uniformity. On this point, we must agree with Epstein, who argues that the labor theory essentially presupposes a possessory theory, which, we might add, is particularly evident in Hoppe. Epstein argues:

Why does labor itself create rights to things? Labor theory is based, at the very least, on the belief that every person is the owner ^{of themselves}. However, this claim [...] must be justified in some way [...]. The obvious line of justification is that each person is in possession of themselves—not by choice or conscious act, but by a kind of natural necessity. But if possession is sufficient to establish ownership of oneself, why is it not sufficient to possess external things to which others have no title? The irony inherent in this position is obvious. Labor theory is supposed to supplement the theory that possession is the source of title; yet it depends on the truth of the judgment that possession of oneself is the source of title to ^{oneself}.

If, on the other hand, we accept the possessory theory, the dualism of ownership criteria disappears—instead of two theories, we have one. It can be assumed that Hoppe's concept of the direct relationship that each person has with their body is a special case of the possessory criterion. As Hoppe points out, the agent can, at will, dispose of his body, thereby demonstrating his direct and chronologically – relative to others – primary connection with it, which can be expressed in other words as his natural control over it to the exclusion ^{of others}.¹⁰⁵ Consequently, the principle recommended by Hoppe

¹⁰² H.-H. Hoppe, *A Theory of Socialism and Capitalism*, p. 154, Polish edition: p. 137.

¹⁰³ The reasoning on which the labor theory is based can be presented as follows: since a person is the owner of himself (or his body), he is also the owner of his work. Therefore, if he mixes his work with an object, that object also becomes his property. The material difficulty with this argument is that it must take as its major premise the general claim that combining object X, to which A has title, with object Y, to which A has no title, results in A acquiring title to Y. This is a dubious premise. As Nozick points out, it is not clear why the opposite effect should not occur—the loss of title to X as a result of mixing it with Y. Nozick writes: "If I own a can of tomato juice and pour it into the sea so that the molecules of juice [...] mix evenly with all the water, have I become the owner of the sea, or have I foolishly wasted the tomato juice?" R. Nozick, *Anarchy, State, and Utopia*, p. 209.

¹⁰⁴ R. Epstein, *op. cit.*, p. 1227.

¹⁰⁵ This solution is opposed by Kinsella, who argues that applying the possessory criterion to human bodies would in fact imply not a right of self-ownership, but the enslavement of every human being to their parents, who exercise exclusive control over their bodies before they even become self-aware. This objection does not hold up

first-use-first-own should be incorporated into a more fundamental *first-possess-first-own*. At this point, however, the following objection may arise: does the introduction of the criterion of possession not render the criterion of use superfluous? Let us note, following Dominiak, that in possessory terms, the original appropriation does not require *prima facie* not only an outlay of labor, but any physical contact with the thing—what matters here is only the fact of access to a given good to the exclusion of others. This is true, but in libertarian theory, this property of possessory theory disappears. With regard to the right of self-ownership, possession and use are inseparable: it is impossible to control one's own body without being in physical contact with it (if being separated from one's own body is even conceptually possible, as in Platonic-Cartesian theories of the soul/self). When it comes to the ownership of external resources, the existence of a self-ownership right that is prior to it is crucial. To understand why this is so, let us imagine a world of original appropriation without self-ownership. In such a world, the question of priority in control over resources is fraught with two interrelated problems. First, because the ability to control things to the exclusion of others is, trivially, the ability to exclude others, and the ability to exclude others consists in being able to physically push them away from a given resource, ownership ultimately becomes a matter of force. Kant put it poetically: "It is as if the earth were saying: if you cannot protect me, you cannot command me either." Secondly (and even worse), the assessment of the potential of the parties needed to answer the question of which of them is capable of excluding the other from the use of a good is not always feasible. This is well known not only to generals who have lost wars that, in the unanimous or at least dominant opinion of experts, they should have won, but also to combat sports enthusiasts who engage in endless disputes on internet forums endless debates about whether, for example, Muhammad Ali would have subdued Mike Tyson with his footwork, or whether the latter's offensive style would have prevailed. This means that in the world we are describing, only a direct confrontation would provide an indisputable resolution to disputed claims to resources.

However, there is criticism. As soon as an entity gains self-awareness or, more precisely, the ability to use language argumentatively (which is, after all, a condition of moral agency in Hoppe's libertarianism), we are dealing with the emergence of a being with a moral status different from that of things. Thus, the moral status of the body itself also changes. Such a being is the first owner of its body, which, according to possessive theory, endows it with the right of self-ownership; the body cannot therefore be the object of ownership by others. S. Kinsella, *How We Come to Own Ourselves*.

¹⁰⁶ Ł. Dominiak, *Libertarianism and Original Appropriation*, p. 48.

¹⁰⁷ I. Kant, *Metaphysical Foundations of Natural Law*, trans. J. Golewicz, Kęty 2006, p. 75.

However, the world designed by libertarian justice theory is, fortunately, a different world. The distribution of goods based on the ability to effectively use force is excluded by the right of self-ownership: for example, a man who wants to appropriate a forest by threatening the other interested parties that he will beat them up if they enter it would violate their right to their own bodies. In libertarian theory, it must instead be assumed that the concept of first possession refers exclusively to direct, physical control over a good exercised through the body—holding, standing, sitting, etc. In other words, the element of possession would be use itself. In such a situation, taking away a resource from the first user who occupies it would in any case involve a violation of their self-ownership rights. In this way, the exclusivity of control becomes not only physical but also normative: the appropriator excludes others not by force of his fist but, strictly speaking, by virtue of his right of self-ownership.

This leads us to another highly satisfying conclusion. Without complicating the theory with a Locke-style clause, certain restrictions are imposed on the scope of appropriation: no one can acquire more than they were able to physically use, even for a moment. This eliminates a problem that has troubled liberal and libertarian theorists of property rights for generations: the possibility of one person appropriating such vast resources of land—ultimately even the entire world—that the freedom of all others ^{would become} purely formal and devoid of practical significance

2.3. Non-aggression and " " freedom

Before we conclude our presentation of Hoppe's ethics, we should mention a principle commonly regarded as the cornerstone of libertarian political philosophy: the principle (or axiom) of non-aggression. If we have not discussed it so far, it is because Hoppe focuses much more strongly on property rights in his works, in some texts not mentioning the principle of non-aggression at all (not without good reason, as we will see in a moment). At the same time, the question of the logical relationship between this principle and property rights can be considered unsatisfactorily resolved.

Various formulations of the principle of non-aggression can be found in the literature. In *Eigen-tum, Anarchie und Staat*, Hoppe writes, for example: "No person has the right to use physical violence or threaten it against another person [...]. I call

¹⁰⁸ See the classic discussion in: H. Spencer, *Social Statics: or, the Conditions Essential to Human Happiness Specified and the First of Them Developed*, London 1851, chapter IX.

the first norm [...] the principle of non-aggression”¹⁰⁹. Ayn Rand expressed a similar view: “The fundamental principle of Objectivist ethics is that no man may *initiate* [emphasis in the original – N.S.] the use of physical force against another man”¹¹⁰. Libertarians – including Hoppe – are therefore not opposed to the use of force as such, but only, as they claim, to the *initiation* of force. Force can be legitimately used by mutual agreement, as in the case of a boxing match, euthanasia, or consensual sadomasochistic sexual relations. Moreover, the use of force for self-defense, to recover stolen property, or to punish wrongdoers is not only consistent with libertarian philosophy, but is in fact part of it. According to the principle of *ubi ius, ibi remedium*, the concept of rights includes the possibility of enforcing them when they are violated. As Hoppe writes about Rothbard:

This fundamental realism (anti-utopian attitude) of private property anarchism is reflected in Rothbard's recognition of the central role of punishment, which distinguishes him from most of his contemporary political philosophers. For him, private property and the right to physical defense were inseparable. No one can be called the owner of something if they are not allowed to defend their property with physical force against potential attackers and infringements.

¹⁰⁹ H.-H. Hoppe, *Eigentum, Anarchie und Staat*, p. 13.

¹¹⁰ A. Rand, *The Objectivist Ethics*, <https://courses.aynrand.org/works/the-objectivist-ethics/> [accessed on 1 June 2023].

¹¹¹ H.-H. Hoppe, *Eigentum, Anarchie und Staat*, p. 110.

¹¹² *Idem*, *Introduction*, [in:] M.N. Rothbard, *The Ethics of Liberty*, 2010, pp. xix-xx, Polish edition: *Introduction to the American edition*, [in:] M.N. Rothbard, *Etyka wolności*, pp. 20-21. We have decided not to address the issue of restorative justice in detail, not because of its minor significance for libertarian theory of justice – as Hoppe rightly points out, it is fundamental – but because of Hoppe's limited original contribution in this area. For the same reason, we refrain here from a more extensive discussion of the philosopher's views on various detailed issues concerning the application of the non-aggression principle, such as the problem of voluntary slavery, environmental pollution, or the rights of children, embryos, and fetuses. Hoppe writes either extensively on these issues, while essentially repeating Rothbard's theses (the theory of punishment), or very little, while also sharing his master's position completely or almost completely. Thus, he considers contracts establishing voluntary slave relations to be invalid because they contradict the basis of the validity of all contracts, which is the self-ownership of the contracting parties; the right to emit pollutants, except for contracts, should be governed by the principle of priority—whoever began emitting before other people arrived at the locations where the pollutants end up established an easement, i.e., acquired the right to continue emitting; We discuss Hoppe's views on the rights of children and embryos in more detail in Chapter VII of this thesis. Hoppe's views on tort and punishment deserve a slightly broader mention, as he has partially criticized Rothbard's position in this area. Rothbard and Hoppe agree on the following points: the right to punish arises from the very nature of rights. To have a right is to be able to defend that right. For this to be possible, it must be recognized that the aggressor forfeits his rights to the extent that he has violated them, which allows him to be punished. Punishment is not, however, obligatory: aggression is exclusively a matter between the perpetrator and the victim, so that the latter may refrain from punishing or mitigate the punishment. In turn, the upper limit

Following Matt Zwolinski, the above approach to the principle of non-aggression can be called

the "first punch theory of aggression"¹¹³. However, this version of the principle does not stand up to criticism. First, it does not prohibit fraud, which, although undoubtedly a violation of property rights, is not based on physical violence. Second, it does not cover violations of property rights other than self-ownership. Moreover, it is even contrary to these rights: if person A trespasses on person B's property and is expelled from there by B, it is B who strikes first, not ^A. Consequently, the principle of non-aggression understood in this way would exclude punishment for trespass and other crimes against property rights to external resources. Strictly speaking, these rights would simply not exist. For if B had an obligation, contained in the principle of non-aggression, not to expel A and not to punish him for trespassing, then B could not at the same time be the subject of the right of ownership—i.e., the right of possession and exclusive control—to the plot of land.

Penalties are determined by the principle of proportionality. The Rothbardian-Hoppean concept of punishment is a restitutive-retributive concept. Where possible (as in the case of theft), the property of which the victim has been deprived must be returned to them. Furthermore, since the perpetrator has waived his property rights to the extent that he has violated them, he may additionally be punished in proportion to the offense, including the death penalty for murder. However, the exact determination of a proportionate punishment requires some degree of convention, as the precise application of a priori principles is not always possible. Hoppe opposes Rothbard in the field of tort theory. Rothbard, following Epstein, adopted the so-called *strict liability* theory, which links liability for property violations to a causal link between the perpetrator's actions and events affecting his property and the damage, without taking into account issues of intent or negligence. Hoppe, referring to Adolf Reinach's theory of causation, rejects the theory of strict liability as overly objectivist. In his view, it is incompatible with more fundamental theories of action and original appropriation. Both actions and appropriation involve not only a physical component, but also an intentional one. Just as effective original appropriations do not occur as a result of accidental events, so too, according to Hoppe, no one is responsible for accidents involving their property. On the problem of voluntary slavery as understood by Rothbard and Hoppe, see

M.N. Rothbard, *The Ethics of Liberty*, pp. 122–123; H.-H. Hoppe, *Eigentum, Anarchie und Staat...*, pp. 110–111.

See criticism of Rothbard and Hoppe's position: Ł. Dominiak, *The problem of voluntary slavery in libertarian political philosophy*, Atheneum. Polish Political Studies 2017, 54, pp. 61–84. On the issue of pollution, see primarily: M.N. Rothbard, *Law, Property Rights, and Air Pollution*, [in:] *The Logic of Action Two*, Cheltenham 1997, pp. 148–169. Compare Hoppe's comments, which are in line with Rothbard's position: H.-H. Hoppe, *Eigentum, Anarchie und Staat...*, pp. 91–94. On Rothbard and Hoppe's theory of punishment, see M.N. Rothbard, *Etyka wolności [The Ethics of Liberty]*, pp. 173–188; H.-H. Hoppe, *Eigentum, Anarchie und Staat...*, pp. 112–118. On the theory of strict liability and Hoppe's criticism of it, see M.N. Rothbard, *Law, Property Rights, and Air Pollution*, pp. 131–145; H.-H. Hoppe, *The Great Fiction...*, pp. 357–368, Polish edition: pp. 335–348.

¹¹³ M. Zwolinski, *The Libertarian Nonaggression Principle*, Social Philosophy and Policy, 2016, Vol. 32, No. 2, p. 69.

¹¹⁴ *Ibid.*, pp. 69–70.

Only superficially similar to the first strike theory, we find Rothbard's take on the nonaggression principle. He wrote:

The libertarian creed rests on one central tenet: no man, no group of men, has the right to aggression against the person or property of another man. This proposition can be called the "axiom of nonaggression." "Aggression" is defined as the initiation of the use or threat of physical violence against the person or property of another human being. *Aggression is therefore synonymous with the violation of rights* [emphasis added – N.S.]¹¹⁵.

This different understanding of the principle of non-aggression can be described, again following Zwolinski, as *moralized*.¹¹⁶ According to this understanding, aggression is not the arbitrary initiation of violence: rather, it is the uninvited interference with an object to which another person has a title of ownership: a body or an external resource. However, as Kinsella and Zwolinski independently note, in this moralized interpretation, the principle of non-aggression, however accurately it reflects the libertarian position, does not add anything to the theory of justice: it merely states that the rights postulated by this theory cannot be *violated*.¹¹⁷ Since rights are logically equivalent to duties, the principle of non-aggression in its Rothbardian form is a mere tautology. Furthermore, any attempt to argue for a libertarian conception of property rights *on the basis* of the non-aggression principle would inevitably lead to a vicious circle within a moralized approach—the question of what constitutes aggression would depend, at the definitional level, on what constitutes a just property right.

Hoppe sees the scope of the non-aggression principle more narrowly than Rothbard, but at the same time falls into the same tautology that his master could not avoid. In *The Theory of Socialism and Capitalism*, Hoppe already adopts Rothbard's moralized interpretation: "For there to be any argument, there must at least be an implicit recognition *of the right* of each person to his own body [emphasis added]." He then continues: "No one has the right to commit unprovoked aggression against another person's body, thereby limiting their control over *it*." At the same time, the principle of non-aggression is applied exclusively to violations of a person's property rights over their body, while the right to original appropriation is said to follow *logically* from this principle. Once again, however, we see the familiar tautology: if the principle of non-aggression means a prohibition on violating property rights, then it is redundant, since the very concept of

¹¹⁵ M.N. Rothbard, *For a New Liberty*, p. 45.

¹¹⁶ M. Zwolinski, *op. cit.*, p. 64.

¹¹⁷ S. Kinsella, *What Libertarianism Is*, p. 180; M. Zwolinski, *op. cit.*, pp. 66–68.

¹¹⁸ H.-H. Hoppe, *A Theory of Socialism and Capitalism*, pp. 152–153, Polish edition: p. 136.

¹¹⁹ *Ibid.*, pp. 155–156, Polish edition: pp. 136–137.

rights already include the obligation not to violate them. In other words, by writing in the above passage that "no one has the right to commit aggression," Hoppe is saying that no one is allowed to do what they are not allowed to do.

Does this mean that the principle of non-aggression should be abandoned, recognizing that libertarianism is based not on it, but solely on property rights? No. Our reluctance to abandon the principle of non-aggression is motivated by its captivating simplicity (as opposed to the complicated and pedantic theory of property rights). It is difficult not to see that the intuitive moral appeal of libertarianism—and, at the same time, the popularity of the non-aggression principle among libertarian thinkers, particularly in the form of the first strike theory—stems precisely from the power of the idea that violence against innocent people is evil. It would certainly be a desirable outcome for a libertarian if this simple intuition could be logically extended to private property anarchism. Zwolinski accurately characterizes this line of reasoning: "Accept the idea that it is wrong to punch your neighbor in the nose, and voilà! You have thereby accepted the legalization of kidney trading and the abolition of the welfare state."

Fortunately, in Hoppe's philosophy, a new place can be found for the principle of non-aggression: not in the content of rights, but at the level of their justification. As we have shown in this chapter, the foundation of Hoppean ethics is the principle of freedom from conflict. Libertarian norms of justice must be recognized because they are the only ones that allow for the resolution of all conflicts over scarce resources, which is a transcendently grounded obligation of every rational agent. As can be seen, the principle of freedom from conflict is strikingly similar to the principle of non-aggression in its simplest, non-moralized formulation: avoiding conflict over scarce resources is nothing more than a situation in which no one initiates violence against other people. In other words, as long as everyone adheres to norms that allow for peaceful conflict resolution, violence is not initiated. In turn, violence must be initiated if it is considered justifiable.

¹²⁰ As we have noted, the essence of Hoppe's concept manifests itself in the postulate that all possible conflicts should be resolved by means of property rights based on uniform, intersubjectively ascertainable criteria. Therefore, despite some of Hoppe's statements that might suggest otherwise, it seems inaccurate to say that the right of original appropriation is derived from the right of self-ownership. In fact, both of these rights are components of a general theory of property, which formulates a set of subjective rights tested against the criterion of the ability to unambiguously resolve all conflicts. Characteristically, the understanding of "from self-ownership to ownership of external things" characterizes those works of Hoppe in which he refers to the labor theory of original appropriation. This theory essentially provides that ownership is transferred from the body (or person) of a human being to the products of his labor. In contrast, in the possessory theory preferred by us, both types of property rights are established in a single movement, as it were.

¹²¹ M. Zwolinski, *op. cit.*, p. 64.

conflict-generating norms will be adopted: for example, socialist and social-liberal theories of positive rights. Where more than one person has a legitimate claim to a given good – arising, say, from Rawls's principle of difference or from social rights present in the contemporary international human rights system – there, the dispute can only be resolved by a political decision, the ultimate sanction of which is precisely the use ^{of force}. In our view, the principle of non-aggression – identical to the principle of conflict avoidance – would therefore read as follows: “Act according to a maxim which, if it became universal law, would exclude all initiation of violence.” By treating this principle as a metanorm justifying the libertarian distribution of property rights, rather than a right *in the strict sense* (an enforceable claim), we avoid both the simplifications and contradictions of the first-strike theory and the redundancy and circularity of the moralized approach.

Finally, based on what we have said so far, we can explain what freedom means in Hoppe's libertarianism. On the one hand, this concept is embedded in the very etymology of the word “libertarianism,” but on the other hand, we have so far *explicitly* referred to it only as a component of the expression “freedom from conflict.” We did so for a reason. In fact, the central category of Hoppe's philosophy—as well as of libertarianism in the narrow sense—is property. In this regard, Frank van Dun speaks of the reduction of freedom to property in Hoppe's thought—a concept he summarizes in the phrase “*freedom as property*.” It therefore seems that, as Dominik Dominiak notes, we are dealing with a somewhat paradoxical situation: a philosophical direction whose name derives from the word “freedom” actually treats freedom as a secondary concept, placing ^{property} at the center of its reflection. One could therefore suggest that “libertarianism” is not an adequate term for the position it refers to and should perhaps be replaced by “propertarianism.”

We believe that this approach is only partially correct. It is correct insofar as, strictly speaking, the concept of freedom does not have an independent place in the libertarian catalog of rights. In this theory, there is only one right: the right to property. To be free is to be able to enjoy one's legitimate property. At least, this is how Rothbard defined freedom:

¹²² See the critique of contemporary human rights from a libertarian perspective: F. Van Dun, *Human Dignity: Reason or Desire? Natural Rights versus Human Rights*, *Journal of Libertarian Studies* 2001, Vol. 15, No. 4, pp. 1-28.

¹²³ *Idem*, *Freedom and Property: Where They Conflict*, [in:] *Property, Freedom, and Society*, p. 223.

¹²⁴ Ł. Dominiak, *Must Right-Libertarians Embrace Easements by Necessity?*, *Diametros* 2009, 16 (60), p. 37, footnote 12.

“Freedom is a state in which the rights of individuals to their bodies and to their honestly acquired material property are not violated or interfered with by aggression.”¹²⁵ Hoppe states in the same vein:

Society is free if each person is recognized as the sole owner of their (rare) physical body, if everyone is allowed to appropriate previously unappropriated things as private property, if everyone is allowed to use their body and their appropriated goods to produce whatever they want (as long as they do not thereby violate the physical integrity of other people's property) and if everyone is allowed to enter into contracts with others regarding the property of each of them in any way they deem mutually beneficial.¹²⁶

These definitions would suggest that freedom in libertarianism suffers from a similar problem to that encountered in the moralized concept of non-aggression. As a description of a situation in which property rights are not violated, it would be redundant: it would not contribute anything to normative theory that is not already introduced by the category of property. Furthermore, libertarianism would also be threatened by a circular argument in this respect. As Gerald A. Cohen has pointed out, this error would be inevitable if one wanted to argue in favor of libertarian principles of justice by proving that they protect freedom, as is often the case. For freedom would already have been defined on the basis of the same principles.

There are therefore good reasons to reconsider the position of freedom within libertarian philosophy. In addition to the problems mentioned above, there is also a hermeneutic motivation. This motivation stems from the tradition of thinking about freedom that has been developed over the last three hundred years by liberal thought. In this tradition, freedom is considered in a way that can be characterized as symmetrical. Freedom is seen here as universal, distributed identically among individuals with full moral agency. The fundamental question for liberals is therefore not what arbitrary freedom is—for example, Stirner's unlimited freedom of the egoist or the collective freedom of the nation—but what the freedom of the individual is that can be reconciled with the same freedom of all other individuals. Such

¹²⁵ M.N. Rothbard, *For a New Liberty*, p. 67. Here, we have slightly modified the Polish translation. The translation reads “the rights of the individual to own his own body,” while the original reads “a person's ownership rights in his own body.” In accordance with the principle adopted in this work, following Jurus, we translate “ownership” as “własność” [property], not “posiadanie” [possession]. Cf. M.N. Rothbard, *For a New Liberty. The Libertarian Manifesto*, Auburn 2006, p. 50.

¹²⁶ H.-H. Hoppe, *The Great Fiction...*, p. 509.

¹²⁷ G.A. Cohen, *Self-Ownership, Freedom, and Equality*, New York 1995, p. 61. Cf. Ł. Dominiak, *Libertarianism, Freedom, and the Problem of Circularity*, “Athenaeum. Polish Political Science Studies” 2018, 59, pp. 7-17; I. Wysocki, *An Austro-Libertarian Theory of Voluntariness: a Critique*, Toruń 2021, pp. 41-62.

We find the ideal of freedom in Mill's (admittedly rather vague) principle of harm, but also in Spencer and Kant, who were closer to Hopp. Spencer spoke of the principle of "equal freedom," Kant advocated a negative definition of freedom as "independence from the coercive will of another," adding that it is an inherent human right, "insofar as it can [...] coexist with the freedom of everyone ^{else} in accordance with a universal norm." This was accompanied by an equally famous definition of law: "Law is therefore the totality of conditions under which the will of one man can be brought into accord with the will of another in accordance with a general norm ^{of liberty}." Hopp's philosophy undoubtedly fits into the search for such a rational, universal, and law-based freedom. Its guiding principle is the assertion that freedom (understood in the spirit of the liberal tradition) manifests itself in society as a state of respect for property rights, which set mutually compatible limits on individual sovereignty, and that the law that guarantees it must be private law. However, in order to be able to assert the above in a non-tautological way, i.e., to be able to say that a social order based on libertarian principles fulfills the liberal ideal of freedom, we need a definition of this ideal that is independent of the libertarian concept of property. Since we do not have space here to present an exhaustive theory of freedom, we will offer below a suggestion indicating the direction in which further research on the libertarian concept of freedom should proceed.

We will begin our suggestion by saying that the fact that freedom *manifests itself* in the way Hoppe sees it (i.e., that such a state of social relations can be described as respecting freedom) is not the same as providing *a definition* of freedom. Going beyond the letter of Rothbard's or Hoppe's texts, libertarians can still

(a) propose a definition of freedom in which *the definiens* does not include just (i.e., libertarian) property rights. A separate step would be to show that (b) the libertarian private law order is the only one that meets this definition.

When it comes to step (a), there are essentially two variants available. The first is the one presented by Hillel Steiner, following both Kant and Hobbes. This author refers to Hobbes's so-called pure (i.e., physical and non-moralized) negative definition ^{of freedom}. Hobbes himself characterized it as follows: "Freedom, strictly speaking, means the absence of opposition

¹²⁸ J.S. Mill, *On Liberty*, [in:] *Writings on Liberty and Happiness*, trans. J. Starkel, Warsaw 2017, p. 84 et seq.

¹²⁹ H. Spencer, *op. cit.*, p. 90 et seq.

¹³⁰ I. Kant, *Metaphysical Foundations of Science...*, p. 50.

¹³¹ *Ibid.*, p. 42.

¹³² H. Steiner, *An Essay on Rights*, pp. 10–54. On this negative version of the concept of freedom, see also J. Gray, *On Negative and Positive Liberty*, *Political Studies*, 1980, 28 (4), p. 515.

(by obstacles I mean external obstacles to movement).¹³³ Steiner then argues that his (left-libertarian) theory of justice is the only one that allows for the fair distribution of rights to freedom, as understood above, in a material world marked by scarcity. A similar argument could be made from the Hoppean position: since only libertarian theory provides a principled solution to all conflicts over scarce resources (and thus fulfills the principle of non-aggression in the above sense), it alone guarantees, based on rational necessary principles, the freedom of every member of the argumentative community. Therefore, only it distributes the right to freedom fairly, realizing Kant's ideal of "independence from the coercive will of another," which can be reconciled with the same freedom of others. The disadvantage of such a solution, however, would be the necessity of recognizing something that Steiner aptly calls "the law of freedom" (by analogy with the law of conservation of mass in physics). Since the size of the space of action—i.e., the surface of the earth and the objects on it—is given, the sum of the physically understood freedom of movement of all entities always remains the same. If I am standing at point X, I have the freedom to stand there, and you do not. If you manage to move me, then you now have that freedom, and I have lost it. In other words, we are dealing here with a cake that cannot be enlarged, but only divided in one way or another. If, as Steiner wants, my freedom to stand at X is protected by property rights, so that you are not allowed to move me, then this right assigns this freedom to me and not to you. Consequently, it is impossible to speak of more or less free societies: for example, the Soviet Union during the Stalinist period was as free as the United States at that time; the right to all freedom simply belonged to Stalin. By the same token, a libertarian society will not be any more (or less) free than ours. Operating with a purely negative concept of freedom, libertarians would also have to withdraw from their professed view that absolute freedom is possible. On the basis of this definition, the freedom of one is always the slavery (restriction of movement) of another. This, in turn, would entail a partial modification of our condition (b): the definition of freedom would be fulfilled not only by a libertarian society, but in general.

¹³³ T. Hobbes, *Leviathan, or the Matter, Form, and Power of a Commonwealth, Ecclesiastical and Civil*, trans.

C. Znamierowski, Warsaw 2009, p. 295.

¹³⁴ H. Steiner, *op. cit.*, *passim*. As a left-wing libertarian, Steiner accepts the right to self-ownership present in Rotbard and Hoppe, but does not recognize the unlimited freedom of original appropriation. In his view, natural resources are originally the common property of all people, which strictly speaking means that every person has an equal share in them. This is therefore a largely different theory of justice than Hoppe's or libertarianism in general as we understand it in this book. See H. Steiner, *op. cit.*, pp. 229–265.

¹³⁵ *Ibid.*, pp. 42–54.

every society. The libertarian order, on the other hand, would be the only order that distributes freedom fairly.

An alternative to the purely negative concept of freedom could be a certain form of moralized theory, which would not presuppose the validity of the libertarian theory of justice. We can call it *an open moralized concept*. Such a concept would define freedom as—to use Randy Barnett's modified term—*individual jurisdiction, inherent to every rational being (i.e., every argumenter) on the basis of rational law*.¹³⁶ The conditions of belonging to every rational being and rationality would be fulfilled here through compliance with (meta-)principles of justice, namely universalizability and non-conflictuality (non-aggression). Kant's ideal of freedom would therefore still be realized: the individual would be free from the coercive will of another in such a way that this could be reconciled with the freedom of another on the basis of a general norm. Thus, while a purely negative conception of libertarianism would be concerned not so much with freedom as such as with justly distributed freedom, in an open conception of moralized justice, justice would be integrated into the very concept of freedom. However, the fact that this concerns libertarian solutions would not be decided at the level of definition, as is the case with Rothbard and Hoppe. Since justice would be identical to the principle of non-aggression (in our understanding), it would be a synthetic—rather than an analytical—truth that only libertarianism is consistent with it. The acceptance of the latter judgment would depend on demonstrating that, in accordance with Hoppe's view, only libertarianism resolves all conflicts over scarce resources in a principled and universalizable manner. In contrast to a purely negative conception, an open moralized approach would allow us to remain with the ideal of absolute (unlimited). Norms limiting the arbitrary freedom of action of individuals would not restrict their freedom, but would be inherent in the very definition of freedom (they would constitute, again in Kantian terms, limitations on limitations of freedom). Unlike the purely negative theory, this approach also allows us to speak of freedom as an ideal subject to maximization, in accordance with linguistic intuition. For all these reasons, the openly moralized concept can be considered preferable from the point of view of Hoppe's libertarianism.

In any case, both solutions proposed—pure negative freedom and openly moralized freedom—would be analogous to the previously proposed principle of non-aggression. Just like non-aggression, freedom would be shifted from the level of rights to the level of metanorms justifying the theory of rights. As we saw in the previous subsection,

¹³⁶ Barnett writes about “decentralized” jurisdiction. R. Barnett, *The Structure of Liberty*, pp. 51–53.

In Hoppe's view, the unalternative validity of libertarian ethics stems precisely from the fact that it is the only theory whose application allows – thanks to its exclusive compatibility with the principle of non-aggression as we understand it – the granting of autonomous (and therefore free) status to every arguer.

3. Criticisms and defense of Hoppe's ethics

Hoppe's attempt to validate libertarian justice theory on the basis of argumentative ethics has been met with mixed reactions among libertarian theorists. Rothbard responded with great enthusiasm:

In a brilliant breakthrough in political philosophy in general and libertarianism in particular, Hans Hoppe has resolved the famous dichotomy between [...] facts and values—which has plagued philosophers since the scholastics and left contemporary libertarians in an unfortunate impasse. Moreover, Hoppe has successfully presented radical arguments for anarcho-capitalist rights [...] in an unprecedented way. Compared to him, my natural law position looks ^{meager}.

Among the more important libertarian thinkers, ^{Block}, ^{Kinsella}, and ^{Dominiak} also supported Hoppe's theory. Another defender of argumentative ethics was Marian Eabrasu, who later revised his view, however, becoming its ^{critic}. Finally, we should mention Frank Van Dune, who rejected the concept of "freedom as property" but remaining within the spectrum of libertarianism in a broader sense, Frank Van Dine. Independently of Hoppe, he presented a related version of argumentative ethics in ^{Dutch} in 1983. Similarly,

¹³⁷ M.N. Rothbard, *Beyond Is and Ought*, p. 44.

¹³⁸ W. Block, *Rejoinder to Murphy and Callahan on Hoppe's Argumentation Ethics*, *Journal of Libertarian Studies* 2011, 1 (22), pp. 631-639.

¹³⁹ S. Kinsella, *The Undeniable Morality of Capitalism*, pp. 1420-1447; *idem*, *Defending Argumentation Ethics*, <http://www.stephankinsella.com/publications/defending-argumentation-ethics/> [accessed on 1 June 2023].

¹⁴⁰ Ł. Dominiak, *The problem of the axiomatic nature of the principle of self-ownership in libertarian political philosophy*, *Atheneum. Polish Political Studies*, 2016, 1 (49), pp. 42-64; *idem*, *Argumentation Ethics, Self-Ownership, and Hohfeldian Analysis of Rights*, "The Journal of Libertarian Studies" 2023, 27, pp. 75-93.

¹⁴¹ See M. Eabrasu, *A Reply to The Current Critiques Formulated Against Hoppe's Argumentation Ethics*, *Libertarian Papers* 2009, 1 (20), pp. 1-29; *idem*, *Rothbard's and Hoppe's Justifications of Libertarianism*, *Politics, Philosophy & Economics* 2012, 12 (3), pp. 288-307.

¹⁴² One of the English-language presentations of Van Dun's concept can be found in: F. Van Dun, *Economics and the Limits of Value-Free Science*, *Reason Papers* 1986, 11, pp. 17-32.

Like Hoppe, he is a proponent of private property rights as the basis of social order and anarcho-capitalism. Unlike Hoppe and other libertarians in the narrow sense, he is not an absolutist of property rights, and property itself is for him (as it was for us in the previous subsection) an instrument for the realization of freedom, but not a concept primary to it. On this basis, Van Dun defends what he calls *the "proviso of freedom."* It imposes certain restrictions on property rights, including, for example, the protection of the right to personal identity or the prohibition of surrounding a given entity's land with land belonging to others in such a way as to prevent it from leaving without their consent (the right of way). At the same time, Van Dun joined the debate surrounding Hoppe's concept, supporting him against ^{his critics}. Recently, Pavel Slutskiy also presented his concept of justifying libertarianism based on the achievements of contemporary philosophy of language, although his theory differs fundamentally from Hoppe's thinking, drawing no inspiration from the German tradition of discourse ethics of Apel, Habermas, or Lorenzen.¹⁴³ Although, as can be seen, leading libertarian theorists (Block, Dominiak, Kinsella, and above all Rothbard) are among the supporters of argumentative ethics, in quantitative terms it is difficult to speak of an equal division of libertarians (in the broader sense of the term) into camps of advocates and opponents of this theory. Shortly after the first English-language publication of argumentative ethics in 1988 (Hoppe had presented it a year earlier in German in *Eigentum, Anarchie und Staat*), a symposium devoted to it was held in the magazine *Liberty*, and even then the majority of authors took ^{a critical} stance. This was the case, to name the most important ones, of

¹⁴³ See, for example, *idem*, *Natural Law and the Jurisprudence of Freedom*, *Journal of Libertarian Studies* 2004, 2 (18), pp. 31–54; *idem*, *Freedom and Property: Where They Conflict*, pp. 223–234. The problem of the necessary road has been discussed in libertarian literature since the days of Nozick and Rothbard, the former imposing restrictions on property rights (see chapter IV of this book) and recognizing the inadmissibility of such a situation, while the latter, as an absolutist of property rights, believed that it should be legally permissible. However, Dominiak, who follows in the Rothbardian tradition, also argues against freedom of environment, demonstrating with the tools of deontic logic that recognizing it leads to the emergence of a set of mutually inconsistent rights. See Ł. Dominiak, *Must Right-Libertarians Embrace Easements by Necessity?*, *Diametros* 2019, 16(60), pp. 34–51. W. Block, *Rejoinder to Dominiak on the Necessity of Easements*, *Ekonomia – Wrocław Economic Review* 2021, 27/1, pp. 9–25; Ł. Dominiak, *Libertarian Easements Revisited*, *Ekonomia – Wrocław Economic Review* 2021, 27 (1), pp. 27–35; W. Block, *Rejoinder to Dominiak on Bagels and Donuts*, *Ekonomia – Wrocław Economic Review* 2022, 28, pp. 97–109.

¹⁴⁴ F. Van Dun, *Argumentation Ethics and the Philosophy of Freedom*, *Libertarian Papers* 2009, 1, pp. 1–32; *idem*, *Reply to Andrew Young's "Argumentation Ethics and the Question of Self-Ownership,"* *The Journal of Private Enterprise* 2015, 30 (3), pp. 89–102.

¹⁴⁵ P. Slutskiy, *Communication and Libertarianism*, Singapore 2021.

¹⁴⁶ This refers to the article "On the Ultimate Justification of The Ethics of Private Property," which has already been cited several times in this work, originally published in *Liberty*, issue 1, 1988, and then reprinted in the collection *The Economics and Ethics of Private Property*.

figures – David Friedman¹⁴⁷, Douglas Rasmussen¹⁴⁸, and Tibor Machan¹⁴⁹. Apart from them, almost all other participants in the debate, with the exception of Rothbard, criticized argumentative ethics, except for David Gordon, who did not take a clear position¹⁵⁰. Over the next thirty years, articles targeting Hoppe's theory were published by Roderick T. Long¹⁵¹, Gene Callahan, Robert P. Murphy¹⁵², and Danny Frederick¹⁵³. Hoppe, for his part, rarely responded to the objections raised by these authors. After publishing four replies in 1988–1989, which were then collected into a single article and published as *Four Critical Responses* in the collection *Economics and the Ethics of Private Property* in a series of texts published in subsequent years, he presented his ethics without attempting to refute the objections, changing the wording slightly and shifting the emphasis in various ways. Hoppe did not openly rejoin the debate until 2016, in his lecture *On the Ethics of Argumentation*¹⁵⁴, which has already been mentioned several times. In this text, he introduced some explanations and counterarguments that he had not previously presented (we also discuss them below).

Although the literature devoted to Hoppean argumentative ethics has grown considerably, as can be seen, to a considerable extent, we only use it fragmentarily below. In the course of the debate, both critics and advocates of Hoppe's concept rarely referred in their arguments to those aspects of it which we, in turn, have made the two axes of our interpretation of argumentative ethics: its broader, transcendental-pragmatic philosophical basis and the category of freedom from conflict. The former remains, as we have written, almost untouched by commentators. Those who do pay attention to it—Schmelzer and Radnitzky, mentioned in the previous chapter—criticize Hoppe's epistemology, but do not analyze the libertarian conclusions of his theory (nor do they provide a detailed analysis of the epistemology itself). Those who focus on the libertarian conclusions, i.e., all the other commentators, do not

¹⁴⁷ D. Friedman, *The Trouble with Hoppe*, Liberty, 1988, 2, p. 44.

¹⁴⁸ D. Rasmussen, *Arguing and Y-ing*, Liberty 1988, 2, pp. 50–52.

¹⁴⁹ T. Machan, *Ethics Without Philosophy*, Liberty 1988, 2, pp. 52–53.

¹⁵⁰ D. Gordon, *Radical and Quasi-Kantian*, Liberty 1988, 2, pp. 46–47.

¹⁵¹ R.T. Long, *The Hoppriori Argument*, <http://praxeology.net/unblog05-04.htm#10> [accessed on 1 June 2023].

¹⁵² G. Callahan, R.P. Murphy, *Hans Hermann Hoppe's Argumentation Ethics: A Critique*, *Journal of Libertarian Studies* 2006, 2 (20), pp. 53–64.

¹⁵³ D. Frederick, *Hoppe's Derivation of Self-Ownership from Argumentation: Analysis and Critique*, *Reason Papers* 2013, 1 (35), pp. 92–106.

¹⁵⁴ H.-H. Hoppe, *The Economics and Ethics...*, pp. 399–418, Polish edition: pp. 413–433.

¹⁵⁵ *Idem*, *On the Ethics of Argumentation*.

¹⁵⁶ G. Radnitzky, *On Austrian Apriorism...*; I. Schmelzer, *op. cit.*

recognize transcendental-pragmatic premises. As for the theme of freedom from conflict, it is clearly present only in Kinsella's work. Significant progress in the study of argumentative ethics has also been made in Dominiak's latest work, in which he takes a path partly similar to our argument: he uses Hohfeld's analytical apparatus to show that the arguer does indeed assume the obligation not to interfere with the physical integrity of the interlocutor, which, by virtue of logical equivalence, entails the latter's right to his own body. This is undoubtedly a correct conclusion, close to the simplest version of Hoppe's argument, according to which the peaceful nature of the act of argumentation directly entails the right of self-ownership of the parties involved. Nevertheless, Dominiak also refrains from appealing to transcendental-pragmatic premises of argumentative ethics and from using the category of freedom from conflict. Instead, he prefers a simpler version of Hoppe's theory, thus making it not so much a comprehensive ethical theory as ^a single argument. The first thesis of this subsection is that, as a result of familiarization with both key components of Hoppe's concept, the debate to date has, with few exceptions, missed the heart of the matter.

At the same time, the reactions of commentators are justified insofar as Hoppe himself only raised the issues most important to his theory to a limited extent in his replies. Hence, our second thesis is to extract from Hoppe's argumentative ethics a component that the author only hinted at. Namely, it states that, in addition to the libertarian component, argumentative ethics also includes an ethical element. intellectualism.

The starting point for developing this thread can be found in the comments of Rasmussen and Machan. Referring critically to the original English-language lecture on argumentative ethics, they asked questions about the epistemological presuppositions of Hoppe's theory, which we attempt to reconstruct in this work. Rasmussen points out that even if we accept the view that the negation of libertarian justice theory entangles criticism in a performative contradiction, "in the absence of a normative premise stating that 'one should not behave in a performatively contradictory manner,' it is not clear how Hoppe's 'value-free,' a priori argument could provide any reason why one should stop arguing that Locke's laws are ^{unjustified}." Machan, in turn, writes: "Prof. Hoppe takes the necessity of consistency for granted. However, in the age of Feyerabendian nihilists,

¹⁵⁷ Ł. Dominiak, *Argumentation Ethics...*, *passim*.

¹⁵⁸ D. Rasmussen, *op. cit.*, p. 52. When writing about "Lockean rights," Rasmussen refers, in a simplified form, to libertarian ethics.

ontological relativists, existentialist absurdists, and the like, some effort [of argumentation – N.S.] is indispensable here.”¹⁵⁹ Juruś shares this view: “Is it a moral duty to argue?” he asks rhetorically, stating at the same time that Hoppean ethics does not provide any vision of a good life. Hoppe’s response to Rasmussen and Machan’s objections is not exhaustive, but it does reveal an important and previously unexplored element of his concept: “But why should we be reasonable? Again, the answer is obvious. First, because it would be impossible to argue against it; second, because the person asking the question would affirm the use of reason by the very act of questioning it.”¹⁶¹

The exchange quoted here clearly shows that Hoppe’s awkward suggestions that his proposed grounding of libertarianism was value-free introduced a great deal of confusion into the reception of argumentative ethics. Although Hoppe declaratively upheld this idiosyncratic view in his initial responses to his critics’ objections, in the above passage he clearly implies that the norm of (communicative) rationality does indeed lie at the foundation of ethics. The argumentative-ethical approach to the dichotomy between being and ought does not consist in constructing a square circle, i.e., a value-free normative theory, but in recognizing that cognitive actions presuppose the *ought* of argumentation as a condition for the intersubjective meaningfulness of cognition. Argumentation, in turn, as a form of action, presupposes the existence of certain norms. In other words, from an argumentative-communicative point of view, the planes of ethics and epistemology are inevitably intertwined, since to know properly is also to recognize the validity of norms. Libertarian argumentative ethics extracts only part of these norms, namely those that relate to the normative conditions for peaceful action in a world marked by scarcity. However, the other part must also apply; after all, peace is not everything that

¹⁵⁹ T. Machan, *op. cit.*, p. 52.

¹⁶⁰ D. Juruś, *Czy istnieje etyka libertarianńska? [Is there such a thing as libertarian ethics?]*, p. 174. Ultimately, this author does not take a clear stance on Hoppe’s concept, which is why we omitted him from our list of participants in the debate on argumentative ethics above.

¹⁶¹ H.-H. Hoppe, *The Economics and Ethics...*, p. 407, Polish edition: p. 422.

¹⁶² In Apel, this view is expressed in the concept of transcendental semiotics as the first philosophy, as opposed to earlier paradigms that saw the basis of philosophy in ontology, epistemology, or language analysis. By transforming the linguistic paradigm, Apel postulates that the philosophy of language should also be the philosophy of the communicative community. In doing so, he introduces a normative element into considerations of the nature of linguistically mediated cognition. K.O. Apel, *The Transcendental Conception of Language-Communication and the Idea of First Philosophy: Towards a Critical Reconstruction of the History of Philosophy in the Light of Language Philosophy*, [in:] *Selected Essays Volume One*, Vol. 1, New Jersey 1994, pp. 90-107.

consists of rational argumentation. Obviously, this concept also includes the search for accurate, consistent, and sincere arguments instead of errors, fallacies, or manipulation. This element is clearly present in Apla: as we remember, he believes that *a priori* argumentation consists precisely in *the moral obligation* to argue.¹⁶³ According to Kuhlmann, his student, the first norm of discourse ethics is as follows: "If we really want to know something, if we are seriously interested in solving a given problem, then we should pursue the path of rational argumentation to reach the right solution ('Argue rationally!')." Van Dun also writes aptly on this subject in his presentation of his ethics of argumentation:

There is no need to deny that there is a gap between "is" and "ought," only that we find ourselves exclusively on one side of it, i.e., on the side of "is." [...] The reasons for recognizing a scientific fact or judgment as true (i.e., worthy of acceptance) or worthy of further consideration depend entirely on the conformity of the cognitive practice that produces this recognition with the cognitive ideal and norms that constitute it. If it were not for the fact that we should be reasonable, it would not be unreasonable to deny that anything should be accepted because it is a "fact."

Argumentative ethics, therefore, includes not only a libertarian component but also a component of ethical intellectualism. Although Hoppe does not state this *explicitly* anywhere, it is consistent with the epistemological position that can be reconstructed on the basis of numerous statements ^{by the thinker}. Let us mention that by exposing this thread, we are responding to Rothbard's postulate, who in his approving assessment of argumentative ethics proposed extending the application of this theory beyond the subject area of libertarianism, leaving this issue ^{for} further research.¹⁶⁴ On the other hand, we are correcting the one-sidedness of Hoppe's own approach, which, as we recall, reduces ethics to a theory of justice, or more precisely, to a theory of the ownership of scarce goods.

In our opinion, the omission of the entire philosophical background of Hoppe's theory is also behind another objection raised against him. Callahan and Murphy, as well as Frederick, argue that even if it were true that the argument presupposes the recognition of property rights in the libertarian sense, this would still entail

¹⁶³ See chapter I.

¹⁶⁴ W. Kuhlmann, *Reflexive Letztbegründung. Untersuchungen zur Transzendentalpragmatik*, Freiburg-Munich 1985, p. 185, quoted in: B. Sierocka, *Krytyka i dyskurs. O transcendentalno-pragmatycznym uprawomocnieniu krytyki filozoficznej*, Krakow 2003, pp. 135-136.

¹⁶⁵ F. Van Dun, *Economics and the Limits of Value-Free Science*, p. 22.

¹⁶⁶ See chapter I.

¹⁶⁷ M.N. Rothbard, *Beyond Is and Ought*, p. 45.

granting these rights only to participants in the debate and to no one else.¹⁶⁸ Callahan and Murphy illustrate this idea with the following example: "As long as Aristotle argued only to other Greeks about the inferiority of barbarians and their natural status as slaves, he did not fall into a performative contradiction. He could quite consistently grant the right of self-ownership to his Greek opponent in the debate while denying it to those he considered naturally subordinate."¹⁶⁹

This objection can be refuted as follows: it overlooks the special status that the principle of universalization has in Hoppe's theory. Kinsella draws attention to this issue in his response to Callahan and Murphy, but he treats universalizability simply as a defining feature of ethical judgments. However, this is not sufficient. First, one could reply that it is apparently impossible to derive any ethics from the argument, only particular technical norms binding between the parties in connection with its conduct. Second, universalization could be understood in a *strictly* formal way, as in Richard M. Hare's universal prescriptivism. As Hare writes,

"Moral judgments are, I claim, universalizable in only one sense, namely, they entail identical judgments about all cases that are identical in their universal properties." Not only does no specific norm follow positively from this formulation of the principle of universalization, but neither does it follow that norms must be non-discriminatory in relation to the problem of rights, taking the form of a set of universal individual rights. In Hare's view, universalizability means nothing more than impartiality, i.e., the willingness to apply the proposed norms to oneself, provided that one finds oneself in circumstances in which the norm in question is applied. Aristotelian, arguing in favor of the subjugation of barbarians, could therefore simply state that if he himself were a barbarian, he would have to—if he had enough sense—consciously submit to the authority of the Hellenes dictated by nature Hoppe, however, despite suggesting otherwise in *The Theory of Socialism and Capitalism*, as well as in other English-language texts, understands universalization

¹⁶⁸ G. Callahan, R.P. Murphy, *op. cit.*, pp. 58–60; D. Frederick, *op. cit.*, pp. 103–104.

¹⁶⁹ G. Callahan, R.P. Murphy, *op. cit.*, p. 58.

¹⁷⁰ S. Kinsella, *Defending Argumentation Ethics*.

¹⁷¹ R.M. Hare, *Moral Thinking. Its Levels, Method, and Point*, New York 1981, p. 108.

¹⁷² Hare would probably point out here that his criterion of universalization nevertheless allows for the rejection of certain moral judgments in advance, since only fanatics could demonstrate a consequence such as Aristotle's in our hypothetical dialogue. However, as Alasdair MacIntyre notes, this would be a highly dubious defense, based solely on a hypothetical-empirical assumption. A. MacIntyre, *A Short History of Ethics*, trans. A. Chmielewski, Warsaw 2013, p. 326.

as a principle that is not entirely formal, but at least partly ^{material}. It implies, at the very least, the rejection of discriminatory norms and, consequently, the attribution of identical subjective rights to all human beings (more broadly: to all rational beings, i.e., those capable of reasoning), while in the variant with *Eigentum, Anarchie und Staat* – directly libertarian ethics. In both variants, the basis for universalization is the status of all beings capable of argumentation as members of an unlimited communicative community. In other words, every truth claim, as a performative-propositional speech act, is made not only to the actual interlocutor (if there is one), but to all rational creatures, "to the unlimited community of argumeners." This is precisely how we should interpret Hoppe's statement quoted above, that "we can now understand and explain why the ethical principle of universalization finds its ground in the broader concept of a *priori* communication and ^{argumentation}."

The same response can be applied to another, related misunderstanding concerning Hoppe's theory. According to Callahan and Murphy, for an exchange of arguments to take place, it is sufficient to guarantee its participants

¹⁷³ Distinguishing between formal and material ethics is not always easy, as we know. Kant, considered a classic of formalism, also believed that certain concrete norms of conduct (prohibition of suicide, prohibition of lying, command to self-improve, command to help others) could be derived from the formal constraints of the categorical imperative. In turn, neo-Kantian legal theorists such as Rudolf Stammler derived from it, for example, the prohibition of slavery. I. Kant, *Groundwork of the Metaphysics of Morals*, pp. 39-41; M. Szyszkowska, *Neokantyzm: filozofia społeczna wraz z filozofią prawa natury o zmiennej treści* [Neo-Kantianism: social philosophy and the philosophy of natural law with variable content], Warsaw 1970.

¹⁷⁴ See chapter I.

¹⁷⁵ At this point, we can explain why we believe that Rothbard's *a contrario* argument for libertarianism, which Hoppe also finds convincing, can be defended more effectively if it is transposed into the theoretical framework of argumentative ethics (see footnote 41 in this chapter). If Rothbard's project fails because (a) it does not convincingly justify the claim that all people should have equal rights, and (b) it does not show why anyone should have property rights, then Hoppe's ethics, at least as we interpret it, fills these gaps. As for (a), this ethics shows how the rights of each individual are grounded in their status as a member of an unlimited communicative community. Regarding (b), it shows why property rights must be granted at all, i.e., why it cannot be as Rothbard quoted Mavrodes as suggesting—that no one owns anyone. This would be a Hobbesian world, devoid of rules, which is incompatible with the principle of non-aggression, but is not *prima facie* incompatible with the idea of natural law. At this point, we need to add only one caveat: Hoppe develops ethics not so much for humans as for those who argue. The scope of these concepts is not identical—they overlap. On the one hand, there may be non-humans capable of argumentation (non-human rational beings). On the other hand, more importantly, not all humans are capable of argumentation, and some will never be capable of it—infants or people suffering from various types of mental disabilities and illnesses. As Paweł Nowakowski rightly points out, it is not clear how human rights could be extended to them from the standpoint of argumentative ethics. P. Nowakowski, *Kapitalizm bez etosu. Antropologia i etyka w libertarianizmie* [Capitalism without ethics. Anthropology and ethics in libertarianism] (doctoral thesis, typescript made available courtesy of the author), Wrocław 2014, p. 151.

rights exclusively for the duration of its validity. However, the transcendental-pragmatic identification of cognition with argumentation implies that argumentation is ultimately infinite. As long as there are subjects of cognition, argumentation will be necessary. This does not mean that every judgment must be repeated ad infinitum. According to Hoppe, there are, after all, apodictically certain judgments, including the *a priori* of argumentation. Despite this distinguished epistemological status, however, their truth still depends on the fact that every rational being can, in principle, be convinced of them. The rights contained in argumentative ethics therefore extend to all people, both those currently living and those who will come after them. Moreover, due to their fallible nature, all other judgments—that is, those that cannot be established as necessary *a priori* axioms—are indeed open to infinite argumentative questioning. Finally, it can be said that Callahan and Murphy's confusion on this issue is signaled by their very use of the term "debate" to refer to argumentation. They clearly equate argumentation with a casual exchange of opinions, completely failing to recognize the transcendental meaning that Hoppe and the entire philosophical tradition from which he derives attribute to this concept. Another group of misguided objections to Hoppean argumentative ethics stems from the omission of the key importance of the idea of freedom from conflict within this framework. Furthermore, these objections are based on a misinterpretation of Hoppe's concept as a description of the empirical conditions of argumentation, rather than reading it correctly as an attempt to capture the transcendental-normative conditions of the possibility of argumentation. Since they suffer from similar errors, similar responses apply to them, so we will now present them one by one and then criticize them collectively. previously only briefly referring to some of them individually.

The first objection of this kind is the suggestion made by Long, Callahan, and Murphy that in order to argue, one does not even need to have ownership of one's entire body—it is sufficient that the arguer be guaranteed the right to those parts of the body that are essential to the argument. The latter two authors write:

[...] at best, Hoppe has shown that there would be a contradiction in arguing that someone is not the rightful owner of their mouth, ears, eyes, heart, brain

¹⁷⁶ G. Callahan, R.P. Murphy, *op. cit.*, pp. 56-58.

¹⁷⁷ It should be noted that at least the authors of the critical texts included in the symposium published in the 1988 issue of *Liberty* can be considered justified, as Hoppe himself unfortunately does not highlight this thread in the text to which their comments refer.

¹⁷⁸ R.T. Long, *op. cit.*; G. Callahan, R.P. Murphy, *op. cit.*, pp. 55-56.

and all other parts of the body necessary to participate in the debate. Obviously, this does not include, say, a person's legs; after all, it is clearly possible to participate in a debate without having any legs at all (note the physicist Stephen Hawking, who, despite being completely physically disabled, is still able to participate in propositional discourse of the highest caliber).¹⁷⁹

This is a rather peculiar argument, even if we accept the empirical interpretation of Hoppe's reasoning. It is difficult to disagree with Hoppe when he says that this objection "is more suitable as a ^ajoke." He also rightly replies that his critics on this point "simply confuse the physiology of argumentation and action with the logic of argumentation and ^{action}." As Hoppe notes, the body to which his ethics refers is a *nature-given* body. The autonomy of a person acting in a world marked by scarcity must consist in the right of ownership to it. From a praxeological point of view, it constitutes a unity, which can be understood with the help of an economic analogy to labor (also taken as a whole) as the primary factor ^{of production}. In other words, one certainly does not need two legs to argue. Nevertheless, those who have them cannot be treated as autonomous (free) entities if they are subject to aggression or the threat of aggression. Humorously, and thus, it seems, in the spirit of Callahan and Murphy's criticism, one could say that if these authors had been born without legs or lost them in an accident, this would obviously be irrelevant to their ability to argue. However, as long as they both have legs, continuing their argument could be somewhat difficult if someone suddenly attacked them with low kicks to the thighs. More seriously, the essence of argumentative ethics is easier to understand by reversing the perspective. Instead of asking what *I need* in order to argue, one should ask what *I have committed myself to vis-à-vis my opponent* by entering into an exchange of arguments with him. I have committed myself to a rational dispute with them. Part of rationality is peace; in argumentation, arguments speak, not fists. According to Habermas' famous formulation, argumentation "excludes all coercion [...] except coercion by a better argument [...]"¹⁸³.

Another argument, also empirical in nature, was put forward against Hoppe by authors such as David Friedman, Leland Yeager, and Mitchell Jones. It consists in an attempt to falsify argumentative ethics by pointing out that successful acts

¹⁷⁹ G. Callahan, R.P. Murphy, *op. cit.*, p. 56.

¹⁸⁰ H.-H. Hoppe, *On the Ethics of Argumentation*.

¹⁸¹ *Ibid.*

¹⁸² *Ibid.*

¹⁸³ J. Habermas, *The Theory of Communicative Action*, vol. 1: *The Rationality of Action and Social Rationality*, trans. A.M. Kaniowski, Warsaw 1999, pp. 58-59.

This argument has been and continues to be made despite the ubiquitous violations of libertarian ethics in virtually all known political systems ^{in the world}. As Yeager writes: "It is perfectly conceivable that a slave owner and his slave might debate together questions of mathematics or political philosophy, or even the acceptability of slavery itself [...]. Their discussion does not presuppose the recognition of either of them as having the 'exclusive control over his ^{own body}.'" ¹⁸⁴

Another, related variant of empirical criticism of argumentative ethics refers to the observation that even if argumentation really required control over one's own body (and possibly over some external goods, such as the space occupied by the body), this would only be an accidental fact of exercising control, i.e., possession, and not a right of ownership. This view is held by Long and, again, Callahan and ^{Murphy}. According to the former author: "I can engage in activities (e.g., exchanging arguments) that presuppose the fact, but not the validity, of your control over your body. Recognition of the fact does not therefore entail recognition ^{of validity}." ¹⁸⁵

Hoppe explains clearly in many places, however, that the core of his reflection is the recognition of normative, rather than merely factual, presuppositions of argumentative action. If we ask what should be done to ensure that communication proceeds without disruption, we are clearly concerned with the norms necessary to achieve this. The fact of control over a resource—for example, the body—is accidental; it may or may not exist, or it may be interrupted. When two interlocutors exchange views, the fact that they currently have control over their bodies is irrelevant; what they need is a normative guarantee that one of them will not end this state at some point by jumping at their partner's throat.

A more sophisticated version of this objection is presented by Danny Frederick, who refers to Hohfeld's logical distinction between rights *sensu proprio* and juridical freedom. In his view, Hoppe's theory would, at best, prove that the parties to an argument must assume that they have what Hohfeld calls "freedom to use one's body," i.e., the ability to use it without a correlative obligation on the part of the rest of the world to respect that ^{control}. However, even this is not true, according to Frederick. He writes: "This implies [the argument – N.S.] that, in the space of debate, everyone retains

¹⁸⁴ D. Friedman, *op. cit.*, p. 44; L. Yeager, *Raw Assertions*, Liberty 1988, 2, pp. 45–46; M. Jones, *A Matter of Degree*, Liberty 1988, 2, p. 49.

¹⁸⁵ L. Yeager, *op. cit.*, p. 46.

¹⁸⁶ R.T. Long, *op. cit.*; G. Callahan, R.P. Murphy, *op. cit.*, pp. 60–63.

¹⁸⁷ R.T. Long, *op. cit.*

¹⁸⁸ D. Frederick, *op. cit.*, pp. 98–99.

as if each participant had the freedom to control their body in a way necessary to engage in ^{the debate}.”¹⁸⁹

In the form proposed by Frederick, despite his use of deontic logic tools, this argument does not seem any more difficult to refute than in the versions presented by Long and Callahan Murphy. Since Hoppe's theory concerns the normative conditions of possibility of argumentation, Frederick's descriptive judgment must be transformed into a normative one: participants in a debate should behave as if each of them had freedom to dispose of themselves. In this case, however, the use of the expression "as if" loses its meaning. The above sentence essentially says that participants in a debate should have freedom to dispose of themselves.

But is freedom really enough, as Frederick maintains? Juridical freedom—unlike the rights *in the strict sense* (claims) that we already know—is, in Hohfeld's system, a position of subject A such that A is not obligated to do or not do ^{X190}. Legal freedom to dispose of oneself (one's body) therefore consists in the fact that interlocutors are not obliged to refrain from disposing of their bodies. At the same time, legal freedom does not logically correlate with the obligation of other participants in the discourse to refrain from interfering with how others dispose of their bodies. A world containing only Hohfeldian freedoms and no rights (claims) is Hobbes' world: everyone is free to do whatever they want, including attacking everyone else. In the context of argumentation, however, each arguer has the freedom to act and speak, but at the same time, each of them also has the freedom to interfere with what others say and do. The question can therefore be asked: if argumentation, understood as peaceful interaction between independent entities, is to continue, can they exercise this latter freedom? It is clear that exercising it would put an end to argumentation as understood here. The arguing parties cannot therefore exercise this freedom, which is equivalent to them not having it (they have a duty of non-interference). Hoppe's ethics, in accordance with the author's intention, therefore secures not Hohfeldian freedom, but the right of each speaker to dispose of their own body, the logical correlate of which is the obligation of the rest of the world to respect this right. In other words, it protects the right to self-ownership. It can be said that although, as Hoppe admits, argumentation can occur in virtually every conceivable ^{circumstance},

¹⁸⁹ *Ibid.*, p. 99.

¹⁹⁰ W.N. Hohfeld, *Some Fundamental Legal Conceptions as Applied in Judicial Reasoning*, [in:] *Fundamental Legal Conceptions as Applied in Judicial Reasoning and Other Legal Essays*, New Haven-London 1919, p. 35 et seq.

¹⁹¹ H.-H. Hoppe, *On the Ethics of Argumentation*.

An argument in which everyone is allowed to do whatever they want with their interlocutor would not be a *good* argument, i.e., one that could be considered consistent with a certain *standard* of argumentation¹⁹². Furthermore, we should recall our earlier suggestion that an argumentative situation should be viewed not through the prism of the speaker's needs, but through the prism of their obligations towards their opponent. If, in accordance with Hohfeld's equivalence of rights and duties, I have a duty to treat my opponent in a certain, i.e., peaceful manner, then this means that he has a right to such treatment. Slaves arguing with their masters also have this right, regardless of whether they are aware that their masters have a duty to release their pseudo-property. Moreover, if, as can be assumed, the master refrains from beating or intimidating the slave for the sake of discussion, he does so not by chance, but precisely because of the obligation dictated by the peaceful nature of argumentation. Again: this duty must be matched by someone's right. That someone must be the slave himself, for otherwise the alleged holder of the right would simply be another master, and his claim to the slave would be subject to the same criticism.

In the discussion so far, we have considered only the issue of self-ownership. Proving, contrary to critics, that argumentative ethics also entails ownership of external resources based on original appropriation is a somewhat more difficult task. To do this, we need either (a) to refer to labor theory (ownership of the body is transferred to ownership of the products of its labor), or (b) to resort to the category of freedom from conflict (in our view: the principle of non-aggression). Since we have previously argued in favor of the possessive theory of original acquisition and against its labor theory competitor, we will now reconstruct Hoppe's grounding of the rest of the libertarian theory of justice by resorting to option (b). Let us try to do this by clarifying why, according to Hoppe, the justification of non-libertarian ethics must be burdened with a performative contradiction, while the arguments of his critics do not show that this is not the case.

The central categories of Hoppe's ethics are – at least according to our reading of his theory – freedom (autonomy of those who argue) and non-aggression (freedom from conflict). Anyone who argues in favor of a set of norms that, instead of providing clear answers, would only generate conflicts and exclude universal freedom,

¹⁹² The meaning of the above statement can be understood by analogy with the well-known example of a good watch cited by MacIntyre: A. MacIntyre, *After Virtue: A Study in Moral Theory*, trans. A. Chmielewski, Warsaw 1996, p. 123.

¹⁹³ Ł. Dominiak, *Argumentation Ethics...*, pp. 86-87.

¹⁹⁴ N. Slenzok, *The Libertarian Argumentation Ethics...*, p. 57.

He thus argues in favor of pseudonorms, failing to uphold either of these ideas. In doing so, he contradicts himself pragmatically in two ways. Firstly, by engaging in argumentation as a non-violent form of interaction, he *implicitly* commits himself to treating other argumentees (in light of the transcendental-pragmatic presuppositions of argumentative ethics: all rational beings) as autonomous subjects. The autonomy of those arguing can only be guaranteed by norms *par excellence*, i.e., norms that resolve conflicts over scarce resources, including the bodies of those arguing. For where there are no norms, there is only, as Hoppe says, "inevitable domination," and the resolution of disputes is ultimately decided by force. Second, by engaging in argumentation about norms (as opposed to argumentation about facts), the speaker *implicitly* commits to proposing norms that resolve conflicts rather than generate them. Argumentation is not only a peaceful form of interaction, but its *goal* is also to work out a peaceful solution to a dispute.

At this point, it should be clear why Hoppe's critics' objections miss the mark. For norms that permit the arbitrary cutting off of other people's legs or keeping them in slavery, however physically, do not, by any measure, offer a solution to all interpersonal conflicts since, as Hoppe says, "the beginning of humanity." A norm requiring argumenters to merely recognize the fact of self-ownership is not a norm at all, precisely because self-ownership, like ownership *simpliciter*, is not a normative concept but a descriptive one. Finally, granting those who argue merely the legal freedom to dispose of their bodies (*or* external property) does not constitute any proposal for resolving conflicts; strictly speaking, it is a proposal to openly acknowledge the possibility of conflicts. A world in which there are no rights in the proper sense, but only the freedom to do as one pleases, is, let us repeat, a Hobbesian world—a world that allows war of all against all, in which no one's autonomy is protected by rights against the invasive actions of others. All of the above arguments apply, *mutatis mutandis*, to the problem of ownership of external resources. The right of self-ownership, by definition, only resolves conflicts concerning bodies. Outside the Garden of Eden, where all other goods are also scarce, conflicts over them remain unresolved. Their rational (rather than forceful or political) resolution requires a theory of justice. This theory is supposed to provide intersubjectively applicable criteria for determining who owns what. According to Hoppe, only libertarian theory of justice can meet this challenge. We must therefore agree with Kinsella that Hoppe's critics have failed to understand the challenge he has set before them. To respond to it, they would have to show that libertarian ethics

property rights do not provide the only rational solution to all possible interpersonal conflicts over scarce resources, which none of them ^{did}¹⁹⁵.

4. Standardization

Finally, for clarity's sake, let us attempt an (informal) standardization of Hoppe's argumentative ethics. In our interpretation, the reasoning proceeds as follows:

P1: One should argue.

P2: Argumentation is a rational form of interaction, which means, among other things, that it takes place peacefully between autonomous (free) agents.

P3: The goal of practical argumentation (about norms) is to develop norms that enable peace.

P4: Norms that enable peace and freedom should be followed.

P5: Libertarian theory of justice formulates the only set of norms that enable peace and freedom in a world marked by scarcity.

Hence the conclusion:

K: The norms of libertarian theory of justice should be observed.

Within the above argument, P1 is an *a priori* argument that we are already familiar with. It is not an arbitrarily chosen first premise, but – according to Hoppe's epistemology – a ultimately established certainty, the rejection of which would entail a performative contradiction. P2, in turn, is a rather uncontroversial analytical truth about the nature of argumentation. P1 and P2 together support P4 as an intermediate conclusion. At the same time, P2 implies P3: since argumentation in general presupposes the validity of norms of peaceful coexistence, the goal of a particular type of argumentation, namely practical argumentation, is to discover these norms. P3, independently of P1 and P2, supports the part of P4 that refers to peace: since the goal of norms is to avoid conflicts, then, again analytically, it is necessary to avoid conflicts. Finally, P4 and P5 together support the conclusion: libertarian theory of justice is valid.

Did Hoppe's bold attempt to definitively validate libertarianism succeed? Our arguments in this chapter constituted a conditional defense of this attempt. More precisely, we defended the formal correctness of Hoppe's theory, justifying its material accuracy only to a limited extent. The caveats boil down to two issues.

¹⁹⁵ S. Kinsella, *Defending Argumentation Ethics*.

Firstly, in order to accept Hoppe's ethics, one must—as we have tried to demonstrate extensively—accept its transcendental-pragmatic underpinnings. Although the concepts of Apl, to which Hoppe refers, constitute a fascinating attempt to integrate various strands of contemporary and recent philosophy into a single edifice of rationalist philosophy as the ultimate starting point, they are not free from controversy, the solutions to which we have only been able ^{to hint at} here. Second, we assume that Hoppe's thesis about libertarian theory of justice as the only set of norms that rationally resolves all conflicts over scarce resources requires more detailed research, conducted in particular using the analytical tools of Hohfeldian legal logic. This thesis may be challenged by various specific problems that could potentially generate paradoxes in the libertarian system of property rights (such as the question of the right of way, recently revisited in the debate between Dominiak and Block)¹⁹⁷, as well as alternative theories of justice that set themselves the same goal of principled resolution of conflicts over scarce resources (such as Steiner's theory, mentioned above).

In view of the above, further critical studies of Hoppean argumentative ethics must focus on two areas: a) research on transcendental pragmatics as the background theory of libertarian argumentative ethics; b) logical research on the concept of freedom from conflict in the context of the mutual coherence (*compossibility*) of the norms of this ^{ethics}. This will allow the debate on libertarian argumentative ethics to move beyond the impasse into which it has been pushed by fruitless considerations of the need to have legs in order to argue, or by discussions involving masters and slaves.

Summary

In this chapter, we presented Hoppe's validation of the libertarian theory of justice – argumentative ethics. We then presented the philosopher's metaethical position, identifying it as consisting of deontological (Kant), communicative (Apel), and praxeological (Mises) motives.

¹⁹⁶ See chapter I of this book.

¹⁹⁷ See footnote 143, p. 119 and the literature cited therein. On other alleged paradoxes generated by the libertarian theory of rights, see Ł. Dominiak, *Unjust Enrichment and Libertarianism*, Polish Political Science Review. Polski Przegląd Politologiczny 2022, 10(2), pp. 1-13; Ł. Dominiak, I. Wysocki, *Libertarianism, Defense of Property, and Absolute Rights*, Analiza i Egzystencja 2023, 61, pp. 5-26.

¹⁹⁸ Dominiak rightly directs the demands for background research and analytical studies of the libertarian concept of truth towards researchers of libertarian justice theory in general. Ł. Dominiak, *How to study libertarian theory of justice. Methodological remarks on the structure, problems, and methods of studying deductive theory*, Dialogi Polityczne/Political Dialogues 2018, 24, pp. 81-94.

and critically directed against teleological ethics, both in the eudaemonist and classical (including Rothbardian) versions of natural law theory, as well as in its utilitarian version. In particular, we have once again highlighted the importance of Apłowski's ideas for a proper understanding of Hoppe's practical philosophy.

Next, we carried out a rational reconstruction of Hoppe's libertarian theory of justice, which is primarily a theory of private property—self-ownership and original appropriation. With regard to the latter, contrary to most of Hoppe's writings, we included the possessive theory in his concept in place of the labor theory he most often adopted. Furthermore, we identified the idea of freedom from conflict as the goal of ethical norms as a key category of Hoppe's ethics. With its help, we reconstructed the principle of non-aggression and freedom as such, which is present in Hoppe's thought and characteristic of Rothbardian libertarianism as a whole. We presented them as metanorms justifying libertarian theory of justice.

Next, we gave a fairly detailed account of the current state of the libertarian debate on Hoppe's theory. We pointed out that most of it has so far been conducted somewhat alongside the actual topic, due to an oversight of the fundamental components of Hoppe's ethics, which are, on the one hand, transcendental and pragmatic, and on the other, related to the category of freedom from conflict. We undertook a conditional defense of this concept, but clearly raised the reservation that it can only be maintained within the broader philosophical system from which it arises. In addition, we pointed to ethical intellectualism as a non-libertarian (referring to the sphere of individual ethics) presupposition of libertarian theory of justice (social ethics) in Hoppe's view.

The State

In previous chapters, we discussed in detail the epistemological and ethical foundations of Hans-Hermann Hoppe's libertarianism. In this chapter, we ask about the implications of these foundations for the theory of the state. We will show how these premises lead to anarchism, understood broadly as opposition to the institution of the state. In addition, we will discuss the political, economic, and sociological arguments against the state put forward by Hoppe. We will also address the question of the origin and stability of the state, which, according to Hoppe, can be reduced to the question of why the state functions in a situation where it lacks both moral and instrumental justification. Within this framework, we will also discuss Hoppe's original conceptualization of socialism. Finally, we will address the issue of the libertarian theory of class struggle presented by Hoppe. As we will show, this concept forms the basis of the author's philosophy of history, and the problem of its adequacy is crucial for the libertarian theory of the state in the tradition of Hoppe and Rothbard.

As in previous chapters, we will again use the method of rational reconstruction. We will do so when, unlike the author himself, we emphasize the normative content of Hoppe's interpretation of class theory. From a methodological point of view, it is also important that we will conduct our discussion taking into account the assumptions of Hoppe's

¹ Some parts of this chapter come from our article: N. Slenzok, *The State, Democracy, and Class Rule. Remarks on the Hoppean Approach*, Civitas. Studia z Filozofii Polityki [Civitas. Studies in Political Philosophy] 2021, 28, pp. 103–136.

² This is a broad definition, because in a narrower sense, the term “anarchism” refers to theories that oppose all forms of hierarchy and inequality. However, as has already been mentioned and will be discussed further, libertarians reject only political hierarchy, considering other forms of non-egalitarian distribution of goods and status to be acceptable and sometimes even desirable. D. Grinberg, *The Anarchist Movement in Western Europe 1870-1914*, Warsaw 1994, part II, chapter I.

methodology of meaning reconstruction (grammar of action). As Hoppe clearly emphasizes, issues of the forms and directions of state development belong to the field of "sociological and historical interpretation and reconstruction," not to pure philosophical or economic theory. The latter merely imposes restrictions on them (delineates the area of permissible interpretation and reconstruction) and provides the very concept of the state.

1. 's dispossessing defender of property

Hoppe's definition of the state refers to Max Weber. In this view, the state is "a human community that within a defined territory [...] claims (successfully) the monopoly of the legitimate use of physical force." Hoppe also points to a substantial difference between the state and companies operating in a free market:

The state, according to its standard definition, is not a mere specialized company. Rather, it is an institution characterized by two unique, logically interrelated features. First, it has a territorial monopoly on *ultimate decision-making*, meaning that it is the highest judge in all conflicts, including those in which it is itself a party—it does not recognize any appeal against its decisions. Second, it has a territorial monopoly on taxation, i.e., it unilaterally sets the price that citizens must pay for its services as the supreme judge and guardian of law and order.

Complementary to the above definition is the distinction between economic and political means, which is equally important to Hoppe and comes from Franz Oppenheimer. According to Oppenheimer, the means by which people can satisfy their needs for goods can be divided into two separate and exhaustive categories: their own labor and exchange on the one hand, and the forceful appropriation of the labor of others on the other. The first category is called economic means, the second political means.

³ H.-H. Hoppe, *The Economics and Ethics of Private Property. Studies in Political Economy and Philosophy*, Auburn 2006, p. 33, Polish edition: *Ekonomia i etyka własności prywatnej. Studia z zakresu ekonomii politycznej i filozofii*, trans. K. Nowacki, Warsaw 2011, p. 43.

⁴ *Idem*, *Eigentum, Anarchie und Staat. Studien zur Theorie des Kapitalismus*, Opladen 1987, p. 157.

⁵ M. Weber, *Politics as a Vocation*, trans. A. Kopacki, P. Dybel, Kraków 1998, p. 56.

⁶ H.-H. Hoppe, *The Great Fiction. Property, Economy, Society, and the Politics of Decline*, Auburn 2021, p. 191, Polish edition: *idem*, *Krótką historia człowieka. Libertariańska rekonstrukcja postępu i upadku*, trans. Ł. Dominiak, Warsaw 2015, p. 101.

⁷ F. Oppenheimer, *The State: Its History and Development Viewed Sociologically*, trans. J.M. Gitter-man, New York 1922, pp. 24-25.

and Marxist theory of exploitation. In his view, it was precisely the failure to distinguish between economic and political means that led Marx to such categorical errors as considering slavery an economic relationship and voluntary contractual relations between employer and employee as based on coercion.

Hoppe takes up Oppenheimer's distinction, supplementing Weber's definition of the state by including the systematic use of political means: "Actions carried out through the use of violence are classified as political. A stable social system in which political actions take place is called a political or state order"⁹ For the sake of clarity, it should be added that Hoppe refers here to those political actions that are embedded in the social system thanks to their sanctioning by the norms that govern it. This is because even in a stateless society, political measures may be used on a smaller or larger scale. According to the German thinker, the tendency to enrich oneself at the expense of others is as deeply rooted in human nature as the tendency to accumulate wealth through original appropriation, production, and voluntary contracts. As long as human nature does not change – and Hoppe does not assume that this will happen with the collapse of the state – there will be looting, murder, and fraud. The difference between the state and stateless order boils down to the fact that the latter, unlike the former, excludes political means not as impossible, but as unlawful.

In light of the above terminological clarifications and what has been said so far about Hoppe's ethical position, it should come as no surprise that he completely rejects the legitimacy of the state. As Hoppe notes, there is only one organization that has consistently committed murder, theft, fraud, coercion, and contract violations over the centuries without encountering either widespread condemnation or punishment. That organization is the state. The philosopher draws attention to the duality of moral judgments that apply to the actions of states and private individuals. While the ethics of private property are generally respected in relations between the latter, the state is granted the right to violate them continuously. The state does not acquire resources through original appropriation, production, or voluntary exchange, but always

⁸ *Ibid.*, p. 26.

⁹ H.-H. Hoppe, *Property, Anarchy, and the State*..., p. 99.

¹⁰ *Ibid.*, *The Economics And Ethics*..., p. 84, Polish edition: p. 92.

¹¹ *Ibid.*, *The Great Fiction*..., p. 190.

¹² *Ibid.*, *Property, Anarchy, and the State*..., p. 16.

by arbitrary ^{decree}. The right to levy taxes, which is fundamental to the institution of the state, is nothing more than theft—the forced seizure of resources from the first appropriators, producers, and voluntary contractors—on a massive scale. If we strip away the ideological veil, the activities of the state are revealed for what they really are: identical in nature to the practices of gangs extorting protection money, which, unlike the state, operate illegally and face ^{public} condemnation. In addition to this act of aggression, which is inherent to the state, individual states commit a whole range of other violations of property rights. Hoppe lists a few randomly selected examples: governments enslave their citizens through compulsory military conscription, use violence against them in retaliation for such non-aggressive acts as insulting representatives of the state and its symbols or using drugs, deny them the right to freely enjoy their justly acquired property through radio regulations, etc. -television or prohibit the acquisition of certain natural resources such as seas or rivers, usurping ownership rights that do not derive from original appropriation or agreement¹⁵.

These statements, which express the essence of the libertarian position on the state, fully correspond to Rothbard's classic libertarian assertions. The author of *the Libertarian Manifesto* wrote:

You can recognize a libertarian by their ironclad consistency and uncompromising application of universal moral law to those working in the state apparatus. Libertarians know no exceptions here. For centuries, the state has dressed up its criminal activities in beautiful words. For centuries, it has initiated mass murders and called them "war" and thus ennobled the mutual slaughter of thousands of people. For centuries, it took people into slavery, conscripting them into the armed forces and calling this practice "recruitment" for the honorable "service to the country." For centuries, it has committed robbery under threat of force, calling it "tax collection." If you want to know what the state and its actions look like in the eyes of a libertarian, just imagine the state as a gang of criminals. The entire libertarian argument then becomes ^{obvious}.

However, according to Hoppe, the existence of the state is not only an affront to morality. It also contradicts the most basic tenets of economic science. Monopoly—understood as an exclusive privilege granted to a single producer

¹³ *Ibid.*, p. 76.

¹⁴ *Ibid.*, pp. 16-17.

¹⁵ *Ibid.*, pp. 17-18.

¹⁶ M.N. Rothbard, *For a New Liberty: Libertarian Manifesto*, trans. W. Falkowski, Warsaw 2005, p. 73.

in terms of entering a given market – is harmful to consumers. Under monopoly power, the quality of services will decline and their price will rise. "Guided, like everyone else, by their own interests and the unpleasantness of work, but possessing the exclusive power to levy taxes, state officials will invariably strive simultaneously to maximize spending on protection [...] and minimize its production," predicts¹⁷ Hoppe.

Hoppe refers here to the 19th-century economist Gustave de¹⁸ Molinari. In his 1849 work, *The Production of Safety*, he argued that combining support for the provision of services related to the safety of persons and property by the state with a general belief in the economic harmfulness of monopoly is¹⁹ a contradiction. As Molinari wrote, "if there is one well-established truth in political economy," it is the latter²⁰ view. He then continued: "If this is the case, however, the production of security should not be removed from the realm of free competition; when this happens, society as a whole suffers a loss. Either this is logical and true, or the principles on which the science of economics is based are²¹ false."

Furthermore, the status of final arbiter guarantees the state the position of judge in its own affairs; in all disputes, including those in which the state is a party, only the state can be called upon. Hoppe argues: "It is therefore foreseeable that the definition of property and its protection will be subject to constant change, and that the scope of state jurisdiction will steadily expand in favor of the state. The idea of eternal, immutable law that must be discovered will disappear and be replaced by the idea of law as legislation, i.e., arbitrary decisions of²² the state."

Consequently, again on the ethical level, according to Hoppe, the existence of the state is logically incompatible with the principle of private property. Under state rule, by analogy with fiat money, only "fiat property." As a legislator, the state assigns itself—even if it claims otherwise—the title to all property within its jurisdiction. In short, the legislative and judicial monopoly and private property rights are mutually incompatible at a purely conceptual level, because the former, which consists in the sovereign definition of property rights and the adjudication of disputes concerning them, excludes the possibility of

¹⁷ H.-H. Hoppe, *The Great Fiction*..., p. 191, Polish edition: pp. 103-104.

¹⁸ Idem, *The Economics and Ethics*..., pp. 3-4.

¹⁹ G. de Molinari, *The Production of Security*, trans. J. Huston McCulloch, Auburn 2009, *passim*.

²⁰ *Ibid.*, p. 22.

²¹ *Ibid.*, p. 26.

²² H.-H. Hoppe, *The Great Fiction*..., p. 191, Polish edition: p. 103.

recognition of the owner's rights as the final decision-maker in matters concerning his property. There cannot be two sovereigns in the same domain. Hoppe states: "The property of businessmen [as well as all other entities – author's note] therefore belongs to them only nominally. It has been assigned to them by the state and lasts only as long as the state decides ^{otherwise}."

Hoppe's final conclusion is even more radical than Molinari's:

"A tax-funded security agency [...] is an internal contradiction—it is a dispossessing defender of property and can only lead to higher taxes and poorer ^{protection}."

But is the production of security and law really no exception? Perhaps the most widespread argument in the mass consciousness for the existence of the state is the belief that its collapse would lead to unimaginable chaos—in the absence of a supreme authority, lawlessness would reign and people would ^{turn on each other}. Among philosophers, the most vocal and prominent advocate of this position was, as we know, Thomas Hobbes. In the pre-state state of nature, argued the author of *Leviathan*, no one's life, liberty, or property is safe. Motivated by selfishness and fear of one another, individuals constantly enter into conflict with one another, so that the state of nature is a state of "war of all against all," in which "man is a wolf to man." In such conditions "man's life is solitary, poor, naked, brutal, and ^{short}."²⁶ The only way to free oneself from this deplorable situation is to establish a sovereign authority that ensures law and order in ^{a given territory}.

Hoppe calls this concept the "Hobbesian myth."²⁸ He emphasizes that, contrary to popular interpretation, the dividing line does not run between anthropological meliorism and pejorativism, or at least that this is not a key issue in his view. "There is no point in arguing whether man has an evil and wolfish nature, as Hobbes claimed, or not. [...] The dispute concerns only the solution proposed by Hobbes. Assuming that

²³ *Idem*, *The Great Fiction...*, p. 174, Polish edition: pp. 166-167.

²⁴ H.-H. Hoppe, *Introduction*, [in:] *The Myth of National Defense. Essays on the Theory and History of Security Production*, ed. *idem*, Auburn 2003, p. 8.

²⁵ *Idem*, *Democracy – the God that Failed, The Economics and Politics of Monarchy, Democracy, and Natural Order*, New Brunswick-London 2007, p. 239, Polish edition: *Demokracja – bóg, który zawiódł. Ekonomia i polityka monarchii, demokracji i ładu naturalnego*, trans. J. Jabłocki, Warsaw 2006, p. 311.

²⁶ T. Hobbes, *Leviathan, or The Matter, Form, and Power of a Civil Government*, trans. C. Znamierowski, Warsaw 2009, p. 207.

²⁷ *Ibid.*

²⁸ H.-H. Hoppe, *Democracy...*, p. 239, Polish edition: p. 311.

Man is a rational creature, so *will we improve* his situation by introducing Hobbes' solution to the problem of security?

Whatever the nature of human beings may be, according to Hoppe, its diagnosis does not justify the demand for the creation of a state. "First of all," the German philosopher argues, "no matter how bad people are, S—who may be a king, a dictator, or an elected president—is also a human being. Human nature does not change with the assumption of the position ^{of S.}"³⁰ So where does the assumption come from that handing over power to representatives of the state will increase the level of order and security? According to Hoppe, it seems more likely that S will ensure his own personal security at the expense of everyone else. Even if he does bring peace between them, he will be able to use his power to attack ^{them.} Moreover, it is to be expected that the destructive tendencies inherent in human beings will be reinforced once they take office. This is because they will be able to pass on the costs of their aggressive actions to ^{the taxpayers} who are forced to finance them. It is precisely this condition that is one of the factors explaining the observable tendency of states to engage in armed conflicts. The second factor is the desire to expand their territorial monopoly of jurisdiction and taxation. If we again accept the uncontroversial assumption that rulers, like all other people, and even more so than them, given the aforementioned favorable institutional conditions – are guided by their own interests, understood as a tendency to maximize power and monetary gains, then state policy will be characterized by constant attempts at expansion. Exploitation, Hoppe argues, is inherently a monopolistic activity. It is in the interest of every exploiter—and the state is undoubtedly one—to eliminate competition in the form of other exploiters. Therefore, the more rivals—other states—can be removed and conquered, ^{the better it is} from the point of view of state officials. Since their competitors are characterized by similar aspirations, relations between states take on a form that is incomparably more hostile than relations between private individuals, as can be easily seen by comparing the level of aggression in international relations and in relations between citizens of different, including conflicting countries.

The motivation to expand their empires is not only driven by the desire to maximize profit and power. Territorial expansion constitutes

²⁹ *Ibid.*, p. 240, Polish edition: p. 312.

³⁰ *Ibid.*

³¹ *Ibid.*, Polish edition: p. 313.

³² *Ibid.*, Polish edition: p. 314.

³³ *Idem*, *The Economics and Ethics...*, pp. 96-99, Polish edition: pp. 106-108.

³⁴ *Idem*, *Democracy...*, p. 241, Polish edition: p. 314.

for them, it also provides protection against one of the fundamental limitations encountered in the process of increasing exploitation on a large scale – population movements. The prospect of emigration of productive citizens, whose activities enable the state to exist, constantly mitigates the scope of exploitation carried out by the state. The elimination of a neighboring state with its competitive legal and fiscal regime, as well as the expansion of one's own territory, effectively reduces the geographical mobility of taxpayers.

Therefore, as Hoppe writes, “war and the state are inseparable.”³⁵ In particular, in light of the massacres caused by states in the 20th century, further adherence to the “Hobbesian myth” can, according to him, only result from complete blindness. Hoppe refers here to Ru-dolph Rummel's work *Death by Government*, which estimates the number of fatalities caused by the state at 170 million in the 20th century alone.

In the author's opinion, Hobbesian statism is also burdened with three insurmountable logical difficulties. First, if we accept Hobbes's view that contracts can only be enforced by a supreme authority, then the social contract that brings Leviathan into being could not come into effect. For it to be implemented, there would need to be some pre-existing state, the creation of which would require the existence of an even earlier state, and so on *ad infinitum*.

Secondly, since, according to Hobbes' theory, the state is not a party to the social contract, it remains in a state of nature vis-à-vis its citizens, itself, and other states; it cannot, therefore, be a panacea for its ills. Moreover, according to the accepted assumption of a third party as the ultimate arbiter, whose presence is a prerequisite for compliance with agreements, no solution other than Hobbes's is possible, since there is no third party between the state and its subjects. The same applies to relations between individual state institutions and inter-state relations. Thus, the tendency of the state to expand and concentrate power, which is inherent in its nature, is also justified by the logical consequences of the statist theory. For if only the state can put an end to the anarchy of the state of nature, then the anarchy of international relations should be replaced by a world

³⁵ *Ibid.*, *The Economics and Ethics...*, pp. 54-55, Polish edition: pp. 64-65.

³⁶ *Ibid.*, p. 99, Polish edition: p. 108.

³⁷ *Idem*, *Introduction*, [in:] *The Myth of National Defense*, p. 4. See a summary of libertarian views on threats to security posed by the state: P. Hankus, *Państwo jako podstawowe zagrożenie dla bezpieczeństwa* [The state as a fundamental threat to security], in: *Wybrane aspekty bezpieczeństwa w zakresie działalności podmiotów stosunków międzynarodowych* [Selected aspects of security in the activities of international relations entities], ed. P. Niwiński, M. Ilnicki, B. Woźniak-Krawczyk, Gdańsk 2015, pp. 6-17.

³⁸ H.-H. Hoppe, *The Great Fiction...*, pp. 7-8, Polish edition: pp. 15-16.

government³⁹. But, Hoppe asks, does such a government “not pose a particularly great threat? Will not the physical power of a single world government be overwhelmingly greater than that of an individual citizen?”⁴⁰

Thirdly, according to Hoppe, Hobbes' premise about the need for an independent arbiter does not lead to statism, but to anarchism. For if it were possible to appeal against the decisions of the state to another, independent entity, then the state would become merely one of many private, competing arbitrators. In other words, Hobbes' reasoning is flawed by *ignoratio elenchi*.

2. *The modus operandi* of the state

The state, Hoppe argues, is an unacceptable institution because it not only violates inherent human rights by committing acts that would result in condemnation and at least an attempt at punishment for any other person or organization, but also threatens the most basic human need, which is biological survival. This raises the inevitable question: why does the state exist despite this? Hoppe notes that by violating property rights, the state strikes at all original expropriators, producers, and voluntary contractors. Why, then, does it not encounter massive resistance from them? As the author of *The Theory of Socialism and Capitalism* points out, given the contradiction between the existence of the state and the norms of ethics and the principles of economic rationality, the problem of the foundations of the state must be considered solely sociopsychological.

This issue has already been addressed by Rothbard, who pointed to aggression, ideology (indoctrination) and redistribution as instruments by which the state coerces, persuades and bribes its citizens, respectively. Hoppe

³⁹ Recognizing the structure of international relations as anarchic is, of course, not Hoppe's original idea. On the contrary, this assertion is the foundation of contemporary international relations theory. See J.S. Nye, *International Conflict: An Introduction to Theory and History*, trans. M. Madej, Warsaw 2009; J.J. Mearsheimer, *The Tragedy of Great Power Politics*, trans. P. Nowakowski, J. Sadkiewicz, Krakow 2019. K. Waltz, *The Structure of International Relations Theory*, trans. R. Włoch, Warsaw 2010.

⁴⁰ H.-H. Hoppe, *Democracy...*, pp. 241-242, Polish edition: pp. 314-315.

⁴¹ *Idem*, *The Great Fiction...*, p. 8, Polish edition: p. 16.

⁴² *Idem*, *Eigentum, Anarchie und Staat*, pp. 142-143.

⁴³ *Idem*, *A Theory of Socialism and Capitalism*, Auburn 2016, p. 173, Polish edition: *Teoria socjalizmu i kapitalizmu. Ekonomia, polityka i etyka*, trans. P. Nowakowski, Wrocław 2015, p. 149.

⁴⁴ M.N. Rothbard, *Egalitarianism as a Revolt Against Nature and Other Essays*, Auburn 2000, pp. 61-70.

In subsequent publications, he develops and deepens his mentor's insights, transforming them into a systematic theory of the state.

2.1. Aggression, ideology, and red

The answer to the question about the sources of state power that imposes itself in the context of the above considerations is that the state rules people by using physical violence or the threat of its use.

The state is in no way an institution resembling a private company. The existence and development of companies operating in a free market depend on competition from other producers, which forces companies to operate at the lowest possible cost, and on the size of consumer demand—a company can only survive and grow to the extent that consumers demand the goods or services it provides. Goods and services produced by the state, on the other hand, are not offered as objects of voluntary transactions – they are imposed unilaterally. Hoppe writes:

It cannot be said that, in any conceivable way, appropriators, producers, and contractors who must give part of their resources to the government demonstrate a demand for such a service. Instead, they must be forced to accept it, which is clear evidence that there is no demand for such a service. Demand cannot therefore be considered a constraint on the size of government. As long as the state grows, it does so through actions *that are openly contrary to* demand.

Hoppe emphasizes, however, that it would be a gross oversimplification to attribute the success of the state solely to its effectiveness in dispensing physical force. While in *Eigentum, Anarchie und Staat* he emphasizes—in addition to violence and the threat of its use—primarily the redistributive activity of the state, in his later works the issue of ideology plays a prominent role in his analysis., understood in the Marxist sense as the ideas of the ruling class imposed on the whole of society and thus maintaining the existing hegemony.

Referring to the observations of Hume and Étienne de La Boétie, Hoppe assumes that at least passive support ^{from the public} is necessary for the state to exercise power. This is true, as Hume has already pointed out, for all political systems: for "the most despotic

⁴⁵ H.-H. Hoppe, *Property, Anarchy, and the State*, p. 143.

⁴⁶ *Ibid.*, *The Economics and Ethics...*, p. 52, Polish edition: p. 62.

⁴⁷ See D. Hume, *On the First Principles of Government*, trans. M. Filipczuk, Principia. Pisma Konceptyjne z Filozofii i Socjologii Teoretycznej [Principia. Conceptual Writings on Philosophy and Theoretical Sociology], 2002, vol. 32-33, pp. 54-57; E. de La Boétie, *Discourse on Voluntary Servitude*, trans. K. Matuszewski, Katowice 2008, p. 6 et seq.

and militarized” as well as “free and popular systems”⁴⁸. Since in all states the rulers constitute an overwhelming majority in relation to the ruled, their submissiveness cannot be explained solely by fear. Moreover, even if we were to assume that members of the state apparatus were capable of suppressing rebellion, this would not explain why they themselves obey their leaders.

Consequently, one of the first tasks of the state is to invent an attractive ideology that legitimizes its power and then disseminate it among its victims. Historically, this role was fulfilled by the principle of sanctifying the state through religion. Today, religion has been replaced by various secular statist ideologies. All of them, although completely erroneous, are more or less successful in convincing the public, prompting various segments of society to support the state.

The benefits of nationalist ideology, which instills loyalty to “one’s own” state in citizens and justifies conquests aimed at enslaving other national groups, cannot be overestimated by those in power. Moreover, nationalism creates fertile ground for the hypertrophy of power internally, legitimizing further restrictions on freedom and interventions in the economy motivated by armament and aggressive foreign policy, carried out, of course, to protect the country from “foreign invaders.”

The aforementioned considerations on nationalism come from the essay *Economics and Sociology of Taxation*, published in 1990. In Hoppe’s later texts, national ideas are treated much less critically, as we shall see. In this context, it is worth noting that the description of nationalism in *Economics and the Sociology of Taxation* does not go beyond the summary presented here, and is therefore rather superficial. It is impossible to deduce from it what definition of nationalism Hoppe uses and, consequently, whether he equates nationalism with all national movements and the very process of nation-building, as is the case in much of contemporary Anglo-Saxon literature on the subject, or, on the contrary he considers nations and nationalism to be separate phenomena. It is therefore also unclear whether, at this stage of his theoretical development, he perceives nations as products of the statist ideology of nationalism, as do modernists such as Ernest Gellner, Benedict Anderson, and Eric Hobsbawm, or whether he stands on the ground of the common distinction between

⁴⁸ D. Hume, *op. cit.*, p. 52.

⁴⁹ H.-H. Hoppe, *A Theory...*, pp. 177–178, Polish edition: pp. 153–154.

⁵⁰ *Ibid.*, *The Economics and Ethics...*, pp. 55–56, Polish edition: pp. 65–66.

⁵¹ H.-H. Hoppe, *A Theory...*, p. 180, Polish edition: p. 155.

⁵² *Idem*, *The Economics and Ethics...*, p. 70, Polish edition: pp. 79–80.

⁵³ See chapter VII of this work.

ideological nationalism and the quasi-natural existence of a nation, shaped spontaneously throughout history without intentional political interference.

Summarizing the theme of ideology as an instrument for the state to gain public opinion, it should be emphasized that Hoppe consistently speaks as a proponent of historiosophical anti-materialism (idealism). This position can also be described as normativist—in the sense that it considers the norms governing human behavior to be the key factor in the process of historical explanation. According to him, all material incentives through which the state seeks to gain public support can ultimately be reduced to the sphere of beliefs. The success of any attempt to corrupt public opinion depends on the axiological convictions held by the public. As rational beings equipped with communicative rationality, people are capable of evaluating the policies proposed to them in terms of justice and injustice. They do not have "natural" interests that are not rooted in their worldview. Therefore, if they collaborate with the state in their own particular interest, this interest is already defined within the general structure of their beliefs. Hence Hoppe's emphasis on the concept of public opinion, which refers to associations with the sphere of ideas and mental phenomena rather than than physical entities. Hoppe concludes:

It is public opinion that ultimately limits the size of an exploitative company [state – author's note], and therefore it is reasonable to explain its growth in purely ideological terms. In fact, any other explanation that refers not to ideological changes but to "objective" conditions must be considered erroneous. The size of government does not increase for any objective reasons beyond the control of ideas [...]. It increases because the prevailing ideas in public opinion about what is just and unjust have changed.

At an even more general level, Hoppe states: "The course of history is ultimately determined by ideas, both true and false." This view is taken directly from Mises. In his polemic against Marxist historical materialism, he wrote: "In the world of reality, of life and human

⁵⁴ On contemporary sociology of the nation, including the controversy between modernism and other research trends, see, for example, B. Anderson, *Imagined Communities: Reflections on the Origin and Spread of Nationalism*, trans. S. Amsterdamski, Kraków 1997. M. Billig, *Trivial Nationalism*, trans. M. Sekerdej, Krakow 2008; E. Gellner, *Nations and Nationalism*, trans. T. Hołówka, Warsaw 2009; E. Hobsbawm, *Nations and Nationalism since 1780: A Program, Myth, Reality*, Warsaw 2010; A.D. Smith, *The Ethnic Origins of Nationalism*, trans. M. Głowacka-Grajper, Krakow 2009; *idem*, *The Cultural Foundations of Nations: Hierarchy, Covenant, and Republic*, trans. W. Usakiewicz, Krakow 2009; *idem*, *Nationalism. Theory, Ideology, History*, trans. E. Chomicka, Warsaw 2007.

⁵⁵ H.-H. Hoppe, *The Economics and Ethics*, p. 57, Polish edition: p. 67.

⁵⁶ *Idem*, *Democracy...*, p. 43, Polish edition: p. 84.

actions, there is no such thing as interests independent of ideas, preceding them in a temporal and logical sense. What a person considers to be their interests is the result of their ideas.

In addition to ideology, the state, in strengthening its rule, offers some, sometimes even all, representatives of public opinion more tangible, material benefits. By transferring resources through the public redistribution system from the original appropriators, producers, and contractors to the non-appropriators, non-producers, and non-contractors, or by providing the latter with goods and services produced with illegally appropriated resources, the state makes them dependent on itself and turns them into its allies.

In terms of state redistribution of goods, the monopolization of strategic branches of production is particularly important, as control over them allows the state primarily, but not exclusively, to prevent and suppress rebellions. It can therefore be expected that every state will strive to monopolize them.

The first of the key sectors for the state is education. The state exercises control over it by directly or indirectly managing schools. Direct control is exercised over public institutions, while indirect control is exercised over private schools, whose autonomy is limited by the obligation to follow state curricula. This allows the state ideology to be effectively instilled in the minds of citizens.

The group benefiting from the state's monopoly on education is intellectuals. As Mises has already pointed out, the discrepancy between the highly theoretical and abstract interests of many intellectuals and the market demand rooted in the low tastes of the masses, combined with the high aspirations of the former, makes this group susceptible to anti-capitalist prejudices. By offering them tax-funded jobs, the state saves them from what is often a painful market test, while buying their support, which they then turn into ideologized, statist theories disseminated in universities and schools. Furthermore, compulsory education artificially stiffens the demand for educational services provided by intellectuals.

Just as important as the monopolization of education is the state's direct or indirect control of road and communication infrastructure, including roads, railways, coastlines, sea routes, rivers, postal services, radio, and television.

⁵⁷ L. von Mises, *Theory and History: An Interpretation of the Process of Social and Economic Evolution*, trans. G. Łucz-kiewicz, Warsaw 2011, p. 87.

⁵⁸ H.-H. Hoppe, *A Theory...*, pp. 180–181, Polish edition: p. 156.

⁵⁹ *Ibid.*, p. 183, Polish edition: p. 158.

⁶⁰ L. von Mises, *Anti-Capitalist Mentality*, trans. J. Małek, Krakow 2005, *passim*.

⁶¹ H.-H. Hoppe, *The Great Fiction...*, pp. 4-5, Polish edition: pp. 10-11.

and telecommunications systems. It limits the ability of dissidents to conspire and move around.⁶² What is more, public ownership of infrastructure is a necessary condition for maintaining a tax monopoly—thanks to state ownership of streets and sidewalks, government agents can reach every taxpayer's doorstep to demand payment of alleged debts to the state.⁶³

The third strategic area of the economy and social life from the state's point of view is the sphere of money and banking. The benefits of having a monetary monopoly are numerous and their importance is enormous. Since the state naturally derives its income from compulsory transfers of wealth, it can, once the level of taxation exceeds what is tolerated by society, provoke a rebellion among taxpayers. Control over money, meanwhile, introduces an additional opportunity for enrichment. Instead of raising taxes, the state can finance its activities by causing inflation. For this reason, it is in its interest to replace commodity money, which is expensive to produce, with fiat money. The use of the latter does not entail risky coin debasement operations and, above all, involves almost zero production costs.

⁶² *Ibid.*, A Theory..., pp. 183–184, Polish edition: p. 158.

⁶³ *Ibid.*, *Democracy – the God that Failed...*, pp. 179–180, Polish edition: p. 244.

⁶⁴ *Idem*, A Theory..., p. 184, Polish edition: p. 159. There is no room here for a detailed discussion of the position of Hoppe and other representatives of the Austrian school on the problems of monetary theory. Nevertheless, two issues require a brief explanation. The first is the market origin of money. Money, as argued by the Austrians, starting with Carl Menger, is a market phenomenon—a universally accepted medium of exchange. It does not originate from a government decree, but from the voluntary, self-interested actions of individual actors. It fulfills at least two fundamental functions in the economy. First, it provides a universal unit of account, a common measure of the value of all goods and services exchanged in the economy. Second, it solves the problem of double coincidence of wants. With the establishment of money, the economy moves from the barter phase to the indirect exchange phase, in which, in order to sell one good and purchase another, an economic agent no longer has to look for a counterparty who has a demand for the same good that he wants to sell and who also wants to sell the good that he is looking for. From then on, all goods become exchangeable for a single good which, even before it acquired the status of money, must have enjoyed high marketability. A commodity aspiring to the role of money must, in addition to being universally marketable, meet several other criteria, such as durability, homogeneity, divisibility, and portability. In different circumstances of place and time, some of these properties may be exhibited by various goods, but they are best fulfilled by precious metals – gold and silver. For this reason, historically, they have most often enjoyed the status of money. In addition to describing the market origins of money, the Austrian school also proposes a theory of its degeneration. Banks, i.e. deposit or deposit and credit institutions, issue warehouse receipts to depositors who deposit money with them, confirming their title to the bullion money held by the bank. These receipts, also known as money certificates, are called fiat money (Latin: *fiducia*, trust). The key point of Austrian monetary theory – at least within the line of development that originated with Mises and was continued by scholars such as Rothbard, Hoppe, Block, Jesus Huerta de Soto, Joseph T. Salerno, and Jörg Guido Hülsmann.

It is possible to benefit from inflation thanks to an economic law known as the "Cantillon effect." This is a redistributive effect of inflation: the money supply does not increase evenly throughout the economy, but is distributed within it.

mann – there is a view that paper money cannot be separated from its original function as a deposit receipt. This is precisely what happens when banks combine deposit-taking and lending activities, using fractional reserves, i.e. maintaining reserves that are smaller than the sum of deposits, and allocating the remainder to lending. This leads to the creation of money out of thin air: while depositors still hold title to the money they have deposited in banks, borrowers receive title to funds created solely through the bank's accounting operations. In the opinion of theorists of the 100% reserve concept, who refer to Mises's ideas, including Rothbard, Hoppe, and all the other economists mentioned above, such a situation is unacceptable from both an ethical and economic point of view. In the former, fractional reserve banking creates dual titles to the same thing, as both the depositor and the bank claim independent and ultimate rights to the same money supply. This contradicts the foundations of libertarian private property theory (see Chapter II of this paper), and therefore a deposit contract with fractional reserve is a logically impossible contract and therefore invalid. In economic terms, the additional money supply generated by fractional reserve banking leads to a distortion of the supply of savings in the economy and misguided investments, the correction of which brings about an economic crisis (this is the so-called Austrian theory of the business cycle, one of the hallmarks of the school). According to the Austrians, central banking plays a particularly sinister role in this area. Central banks not only allow fractional reserve banking and keep reserve requirements low, but also support artificial credit expansion through other monetary policy instruments, such as interest rate regulation and open market operations. Therefore, as Rothbard pointed out in his works on economic history (see the literature cited below, especially *The Mystery of Banking*, Auburn 2008, pp. 177-246), the emergence of central banking was in fact initiated by the banking sector, which saw the state as its ally. This theory, both in its ethical and economic dimensions, is the subject of lively controversy. The so-called *free bankers*, represented in particular by George Selgin and Lawrence White, also have looser links with Mises' views and the Austrian school he initiated. They recognize fractional reserve banking as a tool for macroeconomic stabilization and reject the ethical and legal arguments against it. Although Hoppe is an important participant in this fascinating debate, a more comprehensive opinion on the matter goes beyond the scope of our work. On the Austrian theory of the origin of money, see, for example, J.G. Hülsmann, *Etyka produkcji pieniądza [The Ethics of Money Production]*, trans. P. Kot, Warsaw 2014, pp. 1-11; C. Menger, *Principles of Economics*, trans. J. Dingwall, B.F. Hoselitz, Auburn 2007, pp. 257-285; L. von Mises, *Human Action: A Treatise on Economics*, Warsaw 2011, pp. 340-348; M.N. Rothbard, *Man, Economy, and State with Power and Market*, Auburn 2009, pp. 187-232; *idem*, *Gold, Banks, and People: A Short History of Money*, trans. W. Falkowski, Warsaw 2009, pp. 31-45. On the Austrian theory of the business cycle and the ethical and economic aspects of fractional reserve banking, see, for example, L. von Mises, *Human Action*, pp. 457-497; M.N. Rothbard, *Man, Economy, and State...*, pp. 755-874, 989-1023; *idem*, *The Mystery of Banking, passim*; *idem*, *Wielki kryzys w Ameryce [The Great Depression in America]*, trans. M. Zieliński, W. Falkowski, Warsaw 2010, *passim*; J.G. Hülsmann, *op. cit.*, *passim*; J. Huerta de Soto, *Money, Bank Credit, and Business Cycles*, trans. G. Łuczkiewicz, Warsaw 2011, *passim*; H.-H. Hoppe, *The Economics and Ethics of Private Property*, pp. 175-204, Polish edition: pp. 185-216. On the competitive theory supporting fractional reserve banking, see, for example, G. Selgin, *Money: State vs. Market*, trans. R. Trąbski, Wrocław 2017, *passim*; G. Selgin, L. White, *In Defense of Fiduciary Media – or, We are not Devo(lutionists). We Are Misesians!*, "The Review of Austrian Economics" 1996, 2 (9), pp. 83-107.

gradually, so that earlier recipients of new money gain at the expense of those who receive it later. In a system of state-issued fiat money, the first recipients are, of course, state institutions. However, the state is not the only beneficiary of the state's monetary monopoly. Commercial banks obtain from the state legalization of fractional reserve banking, as well as protection in the event of bankruptcy, as the central bank acts as their lender of last resort. As a result, the main clients of the banking system, representatives of the business elite also reap the profits of inflation.

The fourth area that the state subordinates to itself for strategic reasons is security production: police, national defense, and the judiciary. To these should be added legislation, which Hoppe does not mention *expressis verbis* in his catalog of key state monopolies, although he does consider it in his further analysis. Together, these industries constitute, as Hoppe emphasizes, the area of greatest strategic importance to the state, to such an extent that the terms

"state" and "provider of law and order" are now perceived (wrongly, according to Hoppe) as synonyms.

What is the universal rule of redistributive state activity? It is the Latin maxim *divide et impera* – divide and rule. Hoppe considers Machiavelli to be the classic author of this maxim, which is hardly surprising. According to the author of *The Theory of Socialism and Capitalism*, egalitarianism as the proper direction of redistribution is not profitable for the state. Exploitation affecting everyone to the same extent would only strengthen the solidarity of the victims, creating a potential hotbed for rebellion. In turn, an equal distribution of benefits would be fruitless because the victims would remain victims, albeit to a lesser extent, in accordance with Hoppe's general view of the inferiority of a statized economy in relation to a free market. The optimal method of distributing confiscated resources for the state is therefore to favor some groups over others in order to provoke conflicts between them and break the unity of society in the face of political aggression, while at the same time balancing the resistance of the exploited group with the support of the profiteers. Hoppe writes emphatically: "The policy of the state is not 'the art of doing what is possible,' as statesmen like to describe their activities. It is based on

⁶⁵ H.-H. Hoppe, *The Great Fiction...*, Polish edition: pp. 153–161. For more on the Cantillon effect, see: A. Sieroń, *Efekt Cantillona, czyli dlaczego pieniądz ma znaczenie [The Cantillon Effect, or Why Money Matters]*, Warsaw 2017. On the redistributive aspects of the Cantillon effect and its impact on income and wealth inequality, see in particular: *ibid.*, pp. 131–142.

⁶⁶ *Idem*, *A Theory...*, Polish edition: p. 159.

⁶⁷ *Ibid.*, p. 182, footnote 157, Polish edition: p. 157.

⁶⁸ *Ibid.*, p. 182, Polish edition: p. 157.

on the balance of terror, the art of maintaining state income at the highest possible level through widespread discrimination and widespread and discriminatory distribution^{of benefits}.”

In his subsequent works, Hoppe repeatedly argues that the principle of *divide et impera* finds its most perfect expression in the democratic system. As we have already mentioned, every redistributive policy generates a category of primary victims, appropriators, producers, and contractors, who are a source of potential opposition to the state. Moreover, according to the economic principle that every action entails not only explicit costs but also alternative (hidden) costs, redistribution always results in the creation of yet another group of losers – those who, wanting to join the ranks of the beneficiaries of redistribution, lost the battle for influence over public decision-making, as a result of which the plan they were pushing for did not come into effect. In other words, their unfulfilled goals constitute the alternative cost of a given act of redistribution.

From the point of view of those in power, a difficult-to-overestimate advantage of democracy is that it mitigates the discontent of both groups. Under democracy, anyone who has been wronged can count on becoming a beneficiary in the future, once the political balance of power has shifted. Democracy thus opens up access to the benefits of exploitation to everyone. Hoppe points out:

Since democracy is based on respect for the will of the majority, it is by definition a universal decision-making structure. And since it gives everyone the opportunity to lobby at regular intervals for their plan of government, it maximizes the satisfaction of the present desire for power by offering the prospect^{of a better future}.

According to Hoppe, democracy is therefore not the embodiment of the pursuit of freedom and justice, but the most effective machine^{of exploitation} in history. If, as Frederic Bastiat put it, “the state is a great fiction through which everyone attempts to live at the expense of everyone else,” then this aphorism applies most aptly to

⁶⁹ *Ibid.*

⁷⁰ *Ibid.*, p. 188 et seq., Polish edition: p. 163 et seq. See also *idem*, *Eigentum, Anarchie und Staat*, pp. 152–161.

⁷¹ *Ibid.*, A Theory..., p. 190, Polish edition: p. 164. The Polish translator renders the expression “current frustrated lust for power” as “obecne i niedoszące pragnienie władzy” [present and unfulfilled desire for power], which gives the impression that there are two different desires. Instead, we translate this phrase as “present unfulfilled desire for power.” *Ibid.*, p. 189, Polish edition: p. 164.

⁷² *Ibid.*, p. 190, Polish edition: p. 164.

⁷³ F. Bastiat, *The State*, [in:] *Collected Works*, vol. 1, Warsaw 2009, trans. J. Kłos, p. 111.

democratically governed states. In such a situation, it is not surprising that the tendency of the state to continuously expand the scope of its prerogatives has intensified over the last two centuries as democratization has progressed.

Hoppe clearly emphasizes this, referring primarily to the well-known work of French political scientist Bertrand de Jouvenel, *Traité de la puissance*, that this trend is inherent in the nature of the state and can be observed throughout European history from the feudal anarchy of the early Middle Ages, through the consolidation of monarchical power and the emergence of absolute monarchies, to contemporary totalitarianism and welfare states.

2.2. The concept of socialism and its e typology

One of Hoppe's original achievements in the field of economic theory and political philosophy is his definition and typology of socialism. Although the appearance of a topic concerning, at least at first glance, a specific economic system in a chapter devoted to general state theory may seem surprising, we will see in a moment that this is by no means a sign of compositional carelessness.

Hoppe defines socialism and capitalism in terms of property rights. Socialism is therefore "institutionalized politics of aggression against property," while capitalism is "institutionalized politics of respect for property and contracts," where a contract is also defined in relation to property as "an aggression-free relationship between owners." Thus, Hoppe treats the terms "capitalism" and "free market" as synonyms. Finally, as we know from previous chapters, "aggression is aggression against property." The term "property" is used here by Hoppe as a synecdoche—in reality, it does not refer to all property, i.e., all rights of exclusive control over scarce resources, but only to legitimate private property in the libertarian sense, i.e., self-ownership and property based on original appropriation, production, or contract.

These terminological clarifications lead to an important consequence right from the outset. Namely, on this basis, the terms "socialism" and "state" have

⁷⁴ The title of Hoppe's book, *The Great Fiction*, refers to this well-known statement by Bastiat. The same quote from the French economist opens the work. H.-H. Hoppe, *The Great Fiction*, Polish edition: p. 9.

⁷⁵ *Ibid.*, *Property, Anarchy, and the State*, p. 155.

⁷⁶ B. de Jouvenel, *Traktat o władzy [Treatise on Power]*, trans. K. Śledziński, Warsaw 2013, pp. 119–178, *passim*; H.-H. Hoppe, *Democracy – the God that Failed...*, *passim*.

⁷⁷ H.-H. Hoppe, *A Theory...*, p. 20, Polish edition p. 7.

⁷⁸ *Ibid.*, pp. 18–30, Polish edition: pp. 8–19.

the same referent. Since socialism has been defined as institutionalized policy of violating property rights, in other words: as "a social system characterized by the redistribution of property titles from users-owners and contractors to non-users, non-owners, and non-contractors," it is not difficult to see that its characteristics coincide with Hoppe's view of *the modus operandi* of the state as such. More precisely, Hoppe treats the terms

"socialism" and "state" as extensionally identical, though intensionally different, as they illuminate different aspects of the same subject: while "socialism" directly refers to redistributive practices, when saying "state," Hoppe means those who use these practices and the jurisdictional and fiscal monopoly founded on them. The author of *The Theory of Socialism and Capitalism* states:

If there were no institution implementing the socialist concept of ownership, there would be no place for the state, which is nothing more than an institution based on taxation and non-contractual and undesirable interference by owners in how they use their natural property. [...] Socialism cannot exist without the state, and as long as the state exists, socialism will exist. Therefore, it is the state that is the institution that implements socialism. And since socialism is based on violence against innocent victims, violence is inherent in every state.

Therefore, referring to Hoppe's views, the terms "socialism" and "statism" can be used interchangeably without risk of semantic confusion.

This approach undoubtedly contradicts the naming conventions commonly accepted in social sciences. In the Austrian school of economics, Mises insisted on distinguishing between socialism (the policy of socializing the means of production) and interventionism (a market economy constrained by state interference). This distinction was also upheld by Rothbard, who distinguished between "forceful interference in the market," i.e., interventionism, and "forceful elimination of the market," i.e., socialism. Equating socialism with all state activity would probably astonish the vast majority of economists, political scientists, historians, and historians of ideas. Nevertheless, it must be emphasized that the solution adopted by Hoppe is a consequence of his proclaimed view

⁷⁹ *Ibid.*, p. 173, Polish edition: p. 149.

⁸⁰ In the words of Gottlob Frege, the terms "socialism" and "state" have the same meaning for Hoppe, but differ in sense. See G. Frege, *Sense and Reference*, [in:] *Semantic Writings*, trans. B. Wolniewicz, Warsaw 2014.

⁸¹ H.-H. Hoppe, *A Theory...*, p. 177, Polish edition: p. 152.

⁸² L. von Mises, *Human Action*, pp. 605, 607. See also *idem*, *Economics and Politics. An Elementary Lecture*, trans. A. Brzezińska, Warsaw 2006, *passim*.

⁸³ M.N. Rothbard, *Man, Economy, and State...*, p. 876.

about the logical incompatibility of the state and private property. The aforementioned concept of decree property—that is, apparent property based on state permission—appears *explicitly* only in Hoppe's later writings, but already in *Theory of Socialism and Capitalism*, the author formulates the thesis that, given the constant threat of redefinition of property rights by the state, property rights are "only nominal."⁸⁴ Therefore, although Hoppe by no means denies that there are significant differences between various forms of statism/socialism in terms of the scope and methods of expropriation, as well as the fact that they are based on diverse ideological motivations, and redistributive policies can take many institutional forms, from the point of view of property analysis, he ultimately considers them to be examples of the same concept. Hoppe distinguishes between four types of socialism: Soviet-style socialism, social democratic socialism, conservative socialism, and social engineering socialism. It should be noted that his division is a typology, not a classification. Hoppe's scheme is not based on a single criterion: as we shall see, the types of socialism listed are distinguished on the basis of both institutional criteria (the institutional means of violating property rights) and ideological criteria (the means of legitimizing socialist policies). Furthermore, Hoppe's distinctions are ideal types. They do not exist anywhere in their pure form, and different elements of different socialist models are mixed together in practice. For example, even in most socialist states modeled on the Soviet Union, some degree of private ownership of the means of production was allowed, while contemporary Western economic systems draw in varying proportions from all four models.

Soviet-style socialism is considered, as Hoppe points out, to be "socialism *par excellence*," if not the only authentic form of socialism at all. This is also consistent with the above definitions of socialism proposed by Mises and Rothbard. It is precisely this variant of socialism that is at stake here.

⁸⁴ H.-H. Hoppe, *A Theory...*, p. 62, Polish edition: p. 47. It should be noted that in the very next sentence, Hoppe seems to contradict this statement by saying: "Of course, in social democratic socialism, private ownership need not exist in anything but name." However, a benevolent, non-contradictory exegesis of these statements allows us to assume that the second of the quoted sentences does not so much undermine the concept of "only nominal" private property as it points to the significance of differences in how particular forms of socialism exploit their citizens. This is evidenced by the further argument that the scope of expropriation may be minimal in milder forms of socialism.

⁸⁵ *Ibid.*

⁸⁶ In the original American edition, Hoppe describes it as "socialism Russian style." The Polish translator decided to correct Hoppe, translating "Soviet-style socialism," as it refers to the system prevailing in the Union of Soviet Socialist Republics, not in "Russia." Agreeing with his argument, we also refer to "Soviet-style socialism." *Ibid.*, p. 31, Polish edition: p. 21, translator's note.

collectivization, at least ideally, of all means of production. This is orthodox Marxist socialism, implemented in the USSR and other states where Marxism was given the status of the ruling ideology, and also promoted by communist parties in the West. Mises wrote: "Socialism is the transfer of the means of production from private ownership to the ownership of an organized society, i.e., the state."⁸⁷ Marx and Engels had almost the same thing to say about their own project: "In this sense, communists can sum up their theory in one sentence: the abolition of private property."⁸⁹

According to Hoppe, the policy of collectivization has two main ideological goals: egalitarianism and the desire to overcome, in Marxist terminology, the capitalist "anarchy of production," which supposedly leads to chaos and waste. Both goals are equally illusory. The realization of the first—the equalization of all citizens through the elimination of private, and therefore unequal, ownership of resources—comes at the price of subordinating the entire economic life to a centralized state, or more precisely, to a group of central planners. Such a situation not only fails to embody the ideal of equality, but actually creates, in terms of the distribution of power, a level of inequality unknown in the decentralized property structure of the capitalist order. Overcoming the "anarchy of production," on the other hand, means nothing more than replacing a system in which decisions about economic activities are in the hands of individuals

⁸⁷ *Ibid.*, p. 33, Polish edition: p. 21.

⁸⁸ *Ibid.*, p. 34, Polish edition: p. 22. It should be remembered that Hoppe's arguments refer in this point to the period when *The Theory of Socialism and Capitalism* was written, i.e. the 1980s.

⁸⁹ L. von Mises, *Socialism*, trans. S. Sękowski, Kraków 2009, p. 48. For Mises, socialism defined in this way is synonymous with communism (*ibid.*, note 1). For the sake of accuracy, it would be more accurate to say that it coincides with Marxist communism, which is a concept subordinate to communism *simpliciter*. The latter category also includes anarchist communism (which does not envisage the centralization of the means of production in the hands of the state) and consumer communism (which demands the socialization of all goods, not only those of production). At least one of these characteristics, and sometimes both, is shared by Marx's anarchist rivals and most of the "utopian" proto-Marxist communisms. See D. Grinberg, *op. cit.*, *passim*; J. Szacki, *Spotkania z utopią [Encounters with Utopia]*, Warsaw 2000, *passim*.

⁹⁰ K. Marx, F. Engels, *The Communist Manifesto*, [in:] *Selected Works*, vol. 1, Warsaw 1949, p. 38. "Almost" because Marx and Engels' statement does not explicitly mention Mises' clarification that it is about the relocation of ownership of the means of production, and not necessarily of consumer goods. However, the authors of *The Communist Manifesto* go on to explain that the goal of communists is not to abolish the personal property of workers, stating, among other things: "Communism does not deprive anyone of the power to appropriate social products; it only deprives them of the power to enslave others through this appropriation." *Ibid.*, p. 40. On the difference between communist ownership of the means of production and consumer communism, see A. Walicki, *Marksizm i skok do królestwa wolności [Marxism and the Leap to the Kingdom of Freedom]*, Warsaw 1996, *passim*.

⁹¹ H.-H. Hoppe, *A Theory...*, p. 35, Polish edition: p. 22.

who are private owners, a system based on centralized rule by others—planners.

The second model of socialism considered by Hoppe is social democracy. As Hoppe emphasizes, it shares its ideological roots and goals with Soviet socialism.

Both versions of socialism refer to egalitarian demands, and both derive from Marxism. Their separation dates back to the turn of the 19th and 20th centuries, when the labor movement split into a revolutionary faction and a reformist-revisionist faction, reinforced in the following decades by a dispute over the assessment of the October Revolution and the policies of the Soviet Union. At first, the differences between them concerned only political methods. Soviet socialism sought to eliminate private property by revolutionary means: the existing order was to be abolished by armed force, and the means of production were to be collectivized in a single leap. Social democracy, on the other hand, was reformist; it accepted the system of parliamentary democracy, striving to achieve socialist goals by means appropriate to that system. However, the most significant political difference between communists (advocates of Soviet-style socialism) and social democrats emerged under the influence of the spectacular failure of central planning in the USSR. As a result, social democracy crystallized as a form of socialism distinct from communist orthodoxy. In its mature form, social democracy exhibits the following distinctive features:

Firstly, social democratic socialism, which positively distinguishes it from traditional Marxist socialism, does not prohibit private ownership of the means of production, and even accepts that *all* means of production are privately owned – with the sole exception of education, roads and transport, central banking, and the police and courts. In principle, everyone has the right to appropriate and privately own the means of production, to sell, buy or produce them, to give them as gifts or to rent them on the basis of a contract. Secondly, however, no

⁹² *Ibid.*, pp. 35–38, Polish edition: pp. 24–26.

⁹³ *Ibid.*, p. 57, Polish edition: pp. 42–43. Although the history of Marxism is not the subject of this work, it is worth noting that Hoppe somewhat simplifies the doctrinal disputes within this ideology. In fact, at the beginning of the 20th century, there were at least three main orientations within Marxism: Bernsteinian revisionism, philosophically orthodox but doctrinally open to reformist options, represented by Karl Kautsky, and the revolutionary orientation of Lenin and Rosa Luxemburg, between whom there were also significant controversies concerning, above all, the organization of the revolutionary movement. Hoppe, however, points to Bernstein as the main proponent of the “reformist-revisionist” direction, contrasting him with Kautsky as the “representative of orthodoxy” (note 36). In the context of Hoppe’s entire argument, this creates the impression that reformism is synonymous with revisionism, and that Kautsky represented “Soviet-style socialism” in the same way as Lenin or Stalin. Cf. L. Kołakowski, *Main Currents of Marxism: Origins, Development, and Decline*, London 1988, pp. 381–449.

The owner of the means of production does not legally possess *all* the income he obtains from the use of his means of production, nor can any owner decide what portion of the *total* income should be allocated to consumption and investment. Part of the income derived from production rightfully belongs to the society to which it is transferred and then, in accordance with the concepts of egalitarianism or distributive justice, redistributed among its individual members.

Furthermore, this share, like the amount of resources that producers are allowed to retain, is undefined and variable. The basic instrument of redistribution policy is income and wealth taxation.

The third type of socialism, according to Hoppe, is conservative socialism. Hoppe begins his discussion of conservatism with a historical overview of the feudal system and its decline. According to Hoppe, this system, which prevailed in Europe until the 18th century, with some modifications, was characterized in its original form by the dispersed power of local lords who claimed ownership of the land and everything on it, sometimes including the people living there. From the perspective of the libertarian concept of property, their claims were nothing more than usurpation—after all, it was land that had previously been appropriated and used by other people. Hoppe writes:

For this reason, the practice of leasing land and other factors of production to their natural owners in exchange for goods and services, which was established unilaterally by the suzerain and based on these alleged property rights, had to be enforced against their will, using brute force and armed violence, with the help of military classes—check military class, rewarded by the suzerain for their services with a share in the exploitation and distribution of income. For the ordinary man subject to this order, life meant tyranny, exploitation, economic stagnation, poverty, hunger, and hopelessness.

It was only the industrial revolution, made possible by the spread of liberalism and free market economics, that brought society out of this deplorable state. These emancipatory trends, bringing dynamic

⁹⁴ H.-H. Hoppe, *A Theory...*, pp. 60–61, Polish edition: p. 46.

⁹⁵ *Ibid.*

⁹⁶ *Ibid.*, p. 64 et seq., Polish edition: p. 49 et seq.

⁹⁷ *Ibid.*, p. 84, Polish edition: p. 68.

⁹⁸ *Ibid.*, p. 88, Polish edition: p. 72. Hoppe lists, somewhat conventionally, Locke's *Two Treatises of Government* and Adam Smith's *An Inquiry into the Nature and Causes of the Wealth of Nations* as milestones in the history of liberal thought. While the reference to Locke's work is not surprising, the praise for Smith may be surprising, given Hoppe's intellectual dependence on Rothbard. Rothbard, meanwhile, launched an uncompromising attack on Smith in his history of economic thought, accusing him of ignoring the achievements of earlier economists.

changes and increased social mobility encountered resistance of two kinds: from egalitarian and progressive socialist ideology and from anti-egalitarian and reactionary conservative ideology. "Conservatism," Hoppe states, "is [...] an anti-egalitarian, reactionary response to the dynamic changes initiated by liberalized society—an anti-liberal response that, while not recognizing the achievements of liberalism, idealizes and glorifies the old feudal system because of its order and stability." In Hoppe's view, conservatism should be classified as the ideological successor to feudalism. While the latter was "aristocratic socialism," conservatism is "bourgeois establishment socialism." Since the concept of tradition occupies a central position in conservative thought, conservative politics boils down to counteracting change or at least slowing its pace (this characteristic brings to mind the critique of "status-oriented rules" known from *Eigentum, Anarchie und Staat*). In terms of ownership, this means perpetuating the existing, unequal distribution of income and wealth. Consequently, the conservative model of socialism is based on two principles. According to the first, as in social democracy, the means of production remain in private hands. According to the second, however, the owner does not have rights to the entirety of the property and the entirety of the income derived from it—the society is entitled to a share of these rights and also determines the size of its share. Importantly, due to its conservative intentions, conservatism opposes the capitalist position on property in one more respect. Namely, it emphasizes the right of existing owners to maintain *the value* of their property, while the right of ownership on which capitalism is based concerns only the physical inviolability of objects that are the subject of title deeds. This entails the need to adapt

and above all, to use labor theory of value to lay the foundations for Marxian economics. However, Rothbard's work was not published until 1995. Hoppe, writing *Theory...* in the late 1980s, was clearly not yet familiar with his mentor's position, or was not convinced by it, or perhaps Rothbard himself had not yet formulated it. In his later works, Hoppe does not mention Smith, and therefore does not argue with Rothbard's criticism. Hoppe's assessment of classical liberalism as a whole has become more critical over the years, and his historical interpretations, including those concerning feudalism, have become much more revisionist than the views we have presented in this chapter. This will be discussed further in Chapter V of this book. See M.N. Rothbard, *Economic Thought Before Adam Smith. An Austrian Perspective on the History of Economic Thought* vol. I, Auburn AL 2006, pp. 435-471.

⁹⁹ H.-H. Hoppe, *A Theory...*, p. 90, Polish edition: p. 74.

¹⁰⁰ *Ibid.*, pp. 91–92, Polish edition: p. 75.

¹⁰¹ See chapter II.

¹⁰² *Ibid.*, pp. 93–94, Polish edition: pp. 76–77.

¹⁰³ See chapter II.

owners to changes in value caused by what others do with their property, and to anticipate these changes. Conservatism, on the other hand, opposing the volatility that characterizes the capitalist order, seeks to make property values independent of economic fluctuations, which implies the need to impose restrictions on the disposal of physical property. The policy of defending *the status quo* consists of three main instruments: price control, regulation, and behavior control, including in particular practices that are contrary to the traditional morality espoused by a given conservative regime.

Social engineering socialism, on the other hand, is distinguished primarily by its specific epistemological justification, provided by a positivist vision of science, including scientific methodological monism and empiricist verificationism or falsificationism. From positivist methodology, socialism draws the conclusion that nothing can be known *a priori* about economic matters—the validity of all claims about society is based on empirical testing. Any proposal for the top-down shaping of social affairs can therefore be put into practice to see what the result will be. In this way, the erroneous, internally contradictory epistemology of positivism culminates in socialism. Its principles, in the form of social engineering, are as follows: owners of scarce resources may dispose of them as they see fit, but only as long as this does not conflict with the wishes of the engineers. In such a case, they have the right to interfere in the market at will, unilaterally determining the desired results in the name of which the intervention will be carried out. Furthermore, additional legal uncertainty is generated by adherence to the rules of verificationism/falsificationism—entities engaged in productive activity can never know what the results of trial-and-error reality design will be and how these results will affect the content of property rights. This gives private property – as in other models of socialism – a purely nominal and illusory status. However, unlike social democrats and conservatives, who formulate clear and comprehensive ideological goals such as egalitarianism or the defense of the traditional order, advocates of this type of socialism apply the principles of “selective, non-fundamental, flexible partial engineering.”¹⁰⁶ As Hoppe points out,

[...] socialist engineers appear to be open to changing reactions and new ideas. This attitude certainly appeals to many people who would not support any other form of socialism. On the other hand, however, it should be remembered that social engineers are willing to experiment on their fellow citizens, who are treated

¹⁰⁴ H.-H. Hoppe, *A Theory...*, pp. 94-95, Polish edition: pp. 77-78.

¹⁰⁵ *Ibid.*, pp. 144–145, Polish edition: pp. 123–124.

¹⁰⁶ *Ibid.*, p. 145, Polish edition: p. 124.

as collections of variables that can be manipulated like pawns on a chessboard using appropriate stimuli – everything, including the most absurd ideas¹⁰⁷.

To put it even more bluntly than Hoppe, Popper's idea of partial social engineering turns out to be not the foundation of an open society understood as a free society, but rather of experiments on people. Contrary to the popular belief (promoted, among others, by Popper and his disciples¹⁰⁹) about the links between epistemological fundamentalism and authoritarian politics, a priori praxeology turns out to be a shield against the voluntarism of power¹¹⁰.

3. 's theory of class struggle

3.1. 's analysis of class

A reconstruction of Hoppe's theory of the state would be incomplete without taking into account the German thinker's concept of class conflict. In his essay *Marxist and Austrian Class Analysis*, Hoppe states that the theory of class struggle developed by Marx and Engels is "fundamentally correct". Although Marx's development of the basic tenets of class analysis must be considered misleading and rejected, its "hard core" can be successfully reformulated, resulting in an adequate interpretation of historical processes. In Hoppe's view, this hard core consists of five theses, each of which he modifies accordingly.

1. "The history of all hitherto existing society is the history of class struggles."¹¹² The struggle takes place between a relatively small ruling class and a larger exploited class, and the form of exploitation is economic in nature.
2. The ruling class is united in its desire to maintain its position as exploiters and never deliberately relinquishes power and exploitation. Power and income must be wrested from it in the course of struggles, which can only be successful if

¹⁰⁷ *Ibid.*

¹⁰⁸ Hoppe does not mention Popper by name at this point, but the concept of partial social engineering obviously comes from him. K.R. Popper, *The Open Society and Its Enemies*, vol. 1, trans. H. Krahelska, Warsaw 2006, p. 201 et seq.

¹⁰⁹ See, for example, H. Albert, *Treatise on Critical Reason*, Princeton 1985, pp. 199–229.

¹¹⁰ The view that Austrians should abandon epistemological absolutism due to its anti-liberal implications is presented by A. Linsbichler: *Was Ludwig von Mises a Conventionalist? A New Analysis of the Epistemology of the Austrian School of Economics*, London 2017, p. 99.

¹¹¹ H.-H. Hoppe, *The Economics and Ethics...*, p. 117, Polish edition: p. 127.

¹¹² Quoted from the Polish edition: K. Marx, F. Engels, *op. cit.*, p. 26.

the emergence of adequate class consciousness among the exploited, who understand their subordinate status in society.

3. Class rule manifests itself in rules governing property rights, or, in Marxist terminology, in specific "relations of production." To protect these rules, the ruling class creates the state as an apparatus of coercion and directs it. The state supports and preserves the existing class structure by building a system of "*class justice*." In addition, it co-creates an ideological superstructure designed to perpetuate exploitative relations.
4. The process of internal competition within the ruling class brings with it the concentration and centralization of power. The multipolar order of exploitation gives way over time to oligarchy or monopoly, within which fewer centers of exploitation operate, and those that survive form a hierarchical system. An aspect of this process of centralization is the intensification of imperialist wars and territorial expansion.
5. As centralizing tendencies grow, class power becomes increasingly incompatible with social development. Successive economic crises occur more and more frequently, creating the objective conditions ^{for revolution}.

In the original version proposed by Marx, this theory proves untenable, as determined by an initial error that distorts the meaning of all the theses fundamental to class analysis: the false concept of exploitation. The basis for the latter is—apart from, of course, ideas about justice that are erroneous from the libertarian point of view—the labor theory of value, which has been effectively refuted by modern marginalist-subjectivist ^{economics}.

What, then, should a correct theory of exploitation look like? It is, of course, the Austro-libertarian theory. "Exploitation," writes Hoppe, "is the dispossession of appropriators, producers, and savers by latecomers who do not appropriate, do not save, and do not contract; it is the dispossession of people whose property rights are based on work and contracts by people whose

¹¹³ H.-H. Hoppe, *The Economics and Ethics...*, pp. 117–119, Polish edition: pp. 127–129.

¹¹⁴ *Ibid.*, pp. 120–121, footnote 4, Polish edition: pp. 130–132, footnote 5. Hoppe omits the details of the critique of the labor theory of value, considering it so outdated that even among Marxists few remain who would be willing to defend it. The most famous and comprehensive refutation of this theory, along with the entire Marxian theory of exploitation, was presented among Austrian economists by Böhm-Bawerk in his groundbreaking work on Marxian economics. See E. von Böhm-Bawerk, *Karl Marx and the End of His System*, [in:] *idem*, L. von Mises, M.N. Rothbard, *Marxism: A Critique*, trans. M. Zieliński, J. Lewiński, Wrocław 2016, pp. 1–78. See also E. Böhm-Bawerk, *Capital and Interest. A Critical History of Economical Theory*, trans. W. Smart, London-New York 1890, pp. 367–392.

rights are fabricated and who ignore other people's work and agreements." Exploitation understood in this way is indeed, according to the first tenet of Marxist class analysis, an inherent part of history. It divides society into two opposing classes: the original appropriators, producers, and participants in voluntary exchanges, and those who take over the goods produced by the former through aggression. More precisely, according to Hoppe, the exploiting and exploited classes consist of net taxpayers and net beneficiaries, respectively

The way in which Hoppe reformulates further components of Marx's historical philosophy should come as no surprise in light of the philosopher's views presented thus far in this work. The Marxist concept of class consciousness is hidden in his thought under the name of "public opinion." Maintaining social order based on exploitation requires social approval, while a revolutionary situation arises when the relations of domination are grasped in the perception of the exploited group (thesis 2).

Social relations rooted in the distribution of property rights are nothing more than a distortion of the natural order arising from the state's respect for the principle of non-aggression. "Class justice" means a state monopoly on jurisdiction, violating Kant's principle of universalization of norms by allowing state officials to commit acts prohibited to private individuals. The existence of an ideological superstructure manifests itself in the state's propaganda efforts to give the appearance of legitimacy to its rule (thesis 3)¹¹⁹.

Although Marxism falsely perceives the state as the guardian of private property, it is not mistaken in its assessment of the state as an institution of exploitation. Moreover, while offering an erroneous explanation of this fact, it accurately recognizes the redistributive aspect of state activity, in particular highlighting its alliance with big business, especially the banking sector, which, for its part gains broader opportunities for manipulation based on fractional reserve banking through its collaboration with the state

The process of concentration of power within the ruling class is in turn linked to competition between states to expand their jurisdiction. The basic instruments of this competition are conquest and war. From the perspective of the state's business allies, led by banks, these actions offer prospects

¹¹⁵ H.-H. Hoppe, *Economics and Ethics...*, pp. 125-126, Polish edition: p. 136.

¹¹⁶ *Ibid.*, pp. 126-127, Polish edition: pp. 136-137.

¹¹⁷ *Ibid.*, pp. 128-129, footnote 13, Polish edition: pp. 138-139, footnote 14.

¹¹⁸ *Ibid.*, pp. 127-128, Polish edition: pp. 137-138.

¹¹⁹ *Ibid.*, pp. 128-130, Polish edition: pp. 138-140.

¹²⁰ *Ibid.*, pp. 130-132, Polish edition: pp. 140-142.

additional profit. The alliance between banks and the state results in "*monetary imperialism*," which consists of a state dominant in international relations forcing the acceptance of its currency as the basis of the monetary system, enabling it to profit from internationally coordinated inflation. Attempts by states to strengthen their monopoly by eliminating competing territorial monopolists (other states) result in a reduction in the number of states and, consequently, a global tendency towards the concentration and centralization of power (thesis 4)¹²¹.

Finally, stagnation and notorious economic crises caused by the state intensify as the territorial monopoly on violence, made possible by the removal of external competition and the expansion of the state apparatus internally, becomes more consolidated. In such a situation, growing frustration among the population leads to a tendency to reject the existing order (thesis 5)¹²². To avoid misunderstandings,

Hoppe cautions that the above interpretation of history is not based on a belief in historical necessity. "Contrary to Marxist claims, however, this is not the result of any laws of history. In fact, there is no such thing as the inexorable laws of history in the Marxist sense," he emphasizes.

Marxists," he emphasizes.

3.2. 's dispute over the class concept of the state

It is not without reason that we have included a description of Hoppe's concept of class struggle at the end of this chapter. It is the culmination of Hoppe's theory of the state and, at the same time, brings together the most crucial points of this theory. It can be reduced to four propositions: (a) the state is a territorial monopoly of jurisdiction and taxation; (b) the state is morally unacceptable; (c) regardless of the content of human nature, the state is not a rational solution to the problem of social order; (d) the state has an inherent tendency toward internal and external expansion. The first of these assertions is definitional, the second ethical. Theses (c) and (d) result from economic and political science inquiries into the structure of incentives within which state members operate. They are based on the *expressis verbis* assumption that state officials are guided in their actions by narrowly defined self-interest, including the pursuit of maximum power and income. As a result, Hoppe can describe the state as an organization with fixed, uniform interests, reflected in fiscalism, wars,

¹²¹ *Ibid.*, pp. 132–136, Polish edition: pp. 142–146.

¹²² *Ibid.*, pp. 136–138, Polish edition: pp. 146–148.

¹²³ *Ibid.*, p. 136, Polish edition: p. 146.

redistribution, indoctrination, monopolization, or centralization. Thus, thinking in terms of class conflict pervades all of the author's arguments in *The Great Fiction* about the expansive tendencies of state institutions. The controversy among libertarians and Austrians concerning the class interpretation of society can therefore be treated as *pars pro toto* – its refutation or defense will also be a refutation or defense of Hoppe's theory of the state in its political and economic aspects.

Ludwig von Mises was a staunch opponent of the class paradigm in social sciences. It can be said that, according to Mises, Marx's fundamental error boils down to the adoption by the Trier thinker of a perspective of collectivism or methodological holism. Instead of individuals, Marx's social philosophy deals with classes. It therefore overlooks the possibility of conflict between the interests of the individual and the interests of his class as described by the doctrine. This problem is further exacerbated by the confusion caused by Marx's confusion of the concepts of class and caste. For, according to Mises, only by treating social classes as legally closed castes could one be justified in considering the interests of their members in terms of permanent agreement. However, in a capitalist system, class stratification is not of this nature: the prevailing order is characterized by high vertical social mobility, which means that individuals regularly change their class affiliation during their lifetime. Engagement in revolutionary struggle is therefore no more in the interest of the proletariat than the desire to leave the working class and join the ranks of the bourgeoisie. Moreover, every proletarian is not only a wage laborer but also a consumer. As such, he is interested in the highest quality and lowest prices for goods. Depending on the catalactic function in which we conceptually place him, his interests may therefore be either convergent or divergent with the goals of other proletarians.¹²⁴ The owners of the means of production—entrepreneurs and capitalists—are not a ruling class; since their profit depends on the consumer, it is the consumer who is the sovereign of the free market economy.

What Mises writes about Marx applies *mutatis mutandis* to Hoppe's theory of class struggle, except, of course, for the objection regarding consumer sovereignty. Hopp could also be accused of abandoning methodological individualism and ignoring the movement of people between classes (just as a proletarian can become a capitalist, so too can a civil servant

¹²⁴ In Mises's view, catalactics is the branch of economics that studies the market economy. Catalactic functions—such as capitalist, entrepreneur, wage earner, or consumer—are general theoretical categories of this branch of knowledge, functions performed by participants in the economy in a system of voluntary exchange. L. von Mises, *Human Action*, p. 201 ff.

¹²⁵ *Ibid.*, *Theory and History*, pp. 70-75.

the state may have ambitions to become an entrepreneur or move to the private sector as an employee). As Marcin Chmielowski and Krzysztof Śledziński unanimously suggest, there is a tension between libertarian individualism and class analysis collectivism. Let us clarify that we are talking about methodological individualism here. It is difficult to see how Hoppe's class paradigm would contradict ethical individualism. In addition, the Marxist thesis of the primacy of the economic base over the ideological superstructure *prima facie* conflicts with the idealistic methodology of social science developed by Mises and further developed by Hoppe.

David Friedman also speaks out against attempts to combine libertarianism with class struggle theory. In his view, the class conflict paradigm overlooks the harm that a number of state-imposed rights cause to those who live off taxes. If, for example, public administration employees working in the capital city of Washington suffer losses as passengers due to aviation market regulations, it cannot be argued that they have an objective class interest in the expansion of the state in this sphere of life.

Moreover, skills useful in the public sector can be equally well discounted in the private sector. It is therefore not the case that members of the state apparatus have no future outside the statist order and will therefore always do their utmost to defend it. An efficient pure capitalist economy can offer them prospects at least as good as their current¹⁰⁷ On the other hand, constructing a classical liberal or libertarian conception of class struggle is by no means a novel undertaking initiated by Hoppe. On the contrary, as Ralph Raico shows, the roots of Marxist conflict theory lie in the works of French liberals of the Restoration period (1815-1830), such as Charles Comte, Charles Dunoyer, and the early Augustin Thierry. All of them pointed to the opposition between productive market participants and the state and beneficiaries of its policies as the dominant theme of human history and contemporary social relations.¹²⁸ Marxists themselves did not hide these borrowings—they openly admitted to them in their quotations.

by Raico Marks, Engels, and Lenin¹²⁹.

¹²⁶ M. Chmielowski, *Agoryzm. Teoria i praktyka* [Agoryzm. Theory and Practice], Katowice 2015, p. 83; K. Śledziński, *Ku libertariańskiej teorii klas*, <http://liberalis.pl/2009/06/05/krzysztof-sledzinski-ku-libertarianskiej-teorii-klas/> [accessed on 1 June 2021].

¹²⁷ D. Friedman, *The Machinery of Freedom. Guide to a Radical Capitalism*, New York 2014, chapter 38.

¹²⁸ R. Raico, *Classical Liberal Roots of the Doctrine of Classes*, [in:] *Requiem for Marx*, ed. Y. Maltsev, Auburn 1993, pp. 193-210.

¹²⁹ *Ibid.*, pp. 192-193.

Among the currents of libertarianism, a developed theory of class struggle similar to Hoppe's views is ^{agorism}, thanks to Wally Conger. Another prominent advocate of this theory on the libertarian left is Roderick

T. Long¹³¹. The theme of class struggle appears *expressis verbis* in Rothbard's work, not only in his reflections on the alliance between the state and big business and ^{banks},¹³² but also, as in Hoppe's work, in his perception of state officials as a parasitic "ruling class."¹³³ The state apparatus as a group guided by a single interest is also discussed by Anthony de Jasay, an economist and philosopher who does not belong to the libertarian left, in his attempt to explain the historical tendency of the state towards expansion. All in all, contrary to Chmielowski's opinion, Hoppe is not at all an odd figure among left-libertarian theorists ^{of class struggle}. Below, we will show that most of the errors and contradictions incriminated by critics of the class approach are also false.

Against suggestions that class theory conflicts with methodological individualism, it should be said that this stems from a misunderstanding of what methodological individualism is. It simply states that all social wholes should be considered as the results of the actions of individuals. It does not in any way imply that each individual is a closed universe, devoid of any attributes or values shared with other individuals. If this were the case, no theories or hypotheses could be put forward regarding social matters in general. No science of human action would be possible: neither praxeology, nor, even less so, the application of its claims to specific historical conditions through the use of procedures of understanding. Other widespread applications of methodological individualism, such as ^{game} theory would also be unthinkable. John Watkins provides an adequate definition of the distinction between methodological individualism and holism:

According to this principle [of individualism – N.S.], the ultimate components of the social world are individual people, acting more or less in accordance with their dispositions and understanding of their situations. Every complex social situation, institution

¹³⁰ W. Conger, *Agorist Class Theory. A Left Libertarian Approach to Class Conflict Analysis*, [no place] 2016.

¹³¹ R.T. Long, *Toward a Libertarian Theory of Class*, [in:] *Social Class and State Power. Exploring an Alternative Radical Tradition*, ed. D.M. Hart, G. Chartier, R.M. Kenyon, R.T. Long, London-New York 2018, pp. 297-329.

¹³² M.N. Rothbard, *The Mystery of Banking*.

¹³³ *Idem*, *Egalitarianism as a Revolt...*, p. 79.

¹³⁴ A. de Jasay, *The State*, Indianapolis 1998, *passim*, especially pp. 290-301.

¹³⁵ M. Chmielowski, *Agoryzm. Teoria i praktyka* [Agoryzm. Theory and Practice], Katowice 2015, p. 84.

¹³⁶ See J. Watkins, *Explaining History: Methodological Individualism and Decision Theory in the Social Sciences*, trans. A. Chmielewski, Wrocław 2001, pp. 70-133.

or an event is the result of a particular configuration of individuals [...]. Individuals may remain anonymous, and *only typical dispositions* may be attributed to them [emphasis added – N.S.]¹³⁷.

In other words, attributing actions characteristic of a collective – e.g., a social class – to individuals is not sufficient to classify a given explanation as methodologically collectivist. As Watkins writes, according to collectivism, “social systems constitute ‘wholes’ in at least the sense that some of their microscopic behaviors are guided by macroscopic ones, which are specifically sociological in the sense that they are *sui generis* and cannot be explained as mere regularities or tendencies arising from the behavior of interacting individuals” As Watkins points out, typical examples of the application of the holistic method are those theories of the business cycle which see cyclical changes in the economy as the actions of forces independent of individuals, and above all Marxist ^{historicism}. Another distinguishing feature of holism often mentioned in the literature is the use of so-called constitutive explanations, which seek the ultimate explanatory data for the actions of individuals in group ^{identities}, instead of causal explanations characterized by individualism.

Hoppe, while sharing the Marxists' class-based view of history, does not share their belief in the iron laws of history. Nor does he refer to constitutive explanations pointing to certain characteristics of specific social groups—classes, nations, etc.—as determining their mode of action. His explanations of the parasitic actions of the ruling class are individualistic. They start from attributing certain universal human characteristics, such as the pursuit of profit or power, to abstractly conceived individuals, and then place these individuals in a specific (state) institutional structure, testing how the incentives created by the latter will influence the actions of individuals. Let us illustrate this with a scenario popular in Austrian schools involving Robinson and Friday. Robinson takes Friday captive. From then on, only Piętaszka performs productive work, while Robinson reaps the fruits of his victim's forced labor. It can therefore be argued that the relationship between them has taken on the characteristics of a class relationship: Robinson has become a one-man ruling class, Piętaszka a one-man exploited class. In an attempt to predict what the consequences of this will be,

¹³⁷ *Ibid.*, p. 56.

¹³⁸ *Ibid.*

¹³⁹ *Ibid.*, p. 57.

¹⁴⁰ A. Wendt, *Social Theory of International Relations*, trans. W. Derczyński, Warsaw 2008, pp. 80-88.

Robinson's further actions, a social researcher such as Hoppe would probably conclude (based on common sense psychology) that since Crusoe, like all other people, probably desires power and easy enrichment, he will not let Piętaszek go free, but rather increase the scale of exploitation until the slave's exhaustion causes a decline in production. Since only Crusoe and Pygmalion appear as single-person classes in this scenario, it is clear that there is no methodological holism here. But if this is the case, why would expanding the classes of exploiters and exploited so that their numbers reach $1 + n$ change anything? After all, we would still be dealing with the same explanatory and prognostic procedure.

In contrast to Friedman's criticism, it should be noted that even if taxpayers bear certain costs associated with state activity, they bear them as part of the income derived from that activity. On the same basis, as Hoppe points out, it is impossible to say that people whose income comes entirely from taxes actually pay ^{taxes}. Public sector employees may indeed be interested in reducing state activity in certain areas, as Friedman rightly points out, but these will always be areas other than their own. Such conflicts of interest within the ruling class are recognized in both Marxist and Hoppean class theory and cannot be used as an argument against it. The common denominator of the representatives of the ruling class, i.e., deriving income from the confiscation of property, remains intact.

Friedman's suggestion that the possibility of state representatives using their qualifications in the private sector overturns the class paradigm is interesting. In some cases, this is certainly true, although the extent of this phenomenon is, of course, a matter of empirical observation. A more important issue, because it touches on the methodological foundations of social sciences, is whether the possibility of an employee switching from the public to the private sector precludes a class-based interpretation of society. The answer does not seem to be affirmative. As long as concepts such as wage laborer, capitalist, entrepreneur or, in the case of Hoppe's theory of class struggle – as ideal types, we can assign them specific, type-specific value judgements without claiming that we are describing the actions of every worker, capitalist, entrepreneur or official. What we are trying to describe is the actions of a member of the state apparatus *as* a member of the state apparatus, a tax collector *as* a tax collector.

¹⁴¹ H.-H. Hoppe, *Democracy...*, p. 100, Polish edition: p. 153.

At this point, however, it is worth making a comment on how the methodological differences between Mises and Hoppe influence their substantive conclusions. Mises viewed historical disciplines as fundamentally individualizing, i.e., examining unique historical events and situations in their uniqueness; for Hoppe, on the other hand, the significance of a given reconstruction for the “grammar of action” increases with the level of generality. In this regard, Mises remained highly skeptical of grand philosophical syntheses of history; Hoppe, as we have already seen and will see later, may consider them one of his intellectual calling cards. Moreover, as Anthony de Jasay, who agrees with Hoppe on this point, emphasizes, the distinctive feature of the conception of the state as a class is that it treats the state in all its historical manifestations as endowed with homogeneous goals and properties, in contrast to theories that see classes in specific bureaucratic formations (as in Milovan Djilas's concept of the “New Class”).¹⁴³ Hence, from a purely Misesian position, one could raise against Hopp the argument of excessive cognitive ambition, which he associates with his, after all, non-authoritarian considerations.

However, what is more important than the degree of abstraction is whether theoretical conceptualization allows us to understand reality. It is impossible to disagree with Hopp that the almost uninterrupted growth of state power since the Middle Ages is a fact. This fact becomes incomprehensible when we replace Hopp's strongly assumed, general theory with Mises's more moderate approach. Alfred G. Cuzan even formulates laws of the growth and concentration of power, proposing to include them among the general laws of political science, functioning similarly to elementary laws of economics such as the law of supply and demand. What we have here is a kind of nomological explanation, but one based on laws that are inaccurate and derived from general speculations about human motives.

Finally, on the question of the relationship between the base and the superstructure, it should be noted that Hoppe does not deny the ability of members of the state apparatus to make autonomous moral judgments and abandon both the statist ideology and the social position it legitimizes. although he clearly states that this position may have a positive influence on individuals' susceptibility to the influence of statism (as in the case of the intellectuals working in state positions ridiculed by Hoppe). Hoppe's assertion of the primacy of ideas in history is thus not

¹⁴² See chapter I.

¹⁴³ A. de Jasay, *op. cit.*, pp. 300-301.

¹⁴⁴ A.G. Cuzan, *Some Principles of Politics*, Libertarian Papers 2017, 2 (9), pp. 189-190.

completely abandoned. Ultimately, according to this claim, the pursuit of state officials to expand their domain and maximize revenues is not, like any free-market or aggressive economic activity, a purely material process; economic activities are rather, as human activities, phenomena rooted in the mental sphere, in the value hierarchies of actors. The same is true of members of the state apparatus: they engage in exploitation because they believe they are entitled to do so.

Nevertheless, it should be acknowledged that Hoppe's class theory mitigates his historical idealism. For his concepts clearly presuppose that there are certain human goals that are particularly enduring, and that their roots can be found in rudimentary psychological motives, such as the pursuit of power and wealth. Otherwise, it would be difficult to justify the choice of these particular ontological assumptions. Hoppe, for his part, shows some inconsistency in this matter. He admits that "The assumption is that people desire power and can therefore be induced to support the state through their actions if they are given the opportunity to satisfy this desire. When we look at the facts, we have virtually no reason to doubt that this assumption is *realistic* today." However, he immediately adds: "This does not follow from natural law, because, at least in principle, it is possible to deliberately make it unrealistic. To put an end to statism and socialism, it is enough to bring about a change in public opinion [...]"¹⁴⁶. In light of Hoppe's entire theory of the state in general, as well as his arguments on ideology and the corruption of intellectuals in particular, it ultimately appears that public opinion is not completely malleable, and ideas are not—as Mises wanted and Hoppe declaratively admits—the ultimate data of history.

However, it seems that the key to resolving this controversy must be sought above all in the foundations of Hoppe's practical philosophy. The classical paradigm in history can be defended from the standpoint of an anti-positivist thesis about the necessary anchoring of the humanities and social sciences in axiology.

As Apel pointed out, a finalistic interpretation of history can be maintained provided that it is treated as an articulation of the ideals guiding the researcher, rather than as a comprehensive description of reality itself. When undertaking the reconstruction of historical processes with an *explicitly* stated, normatively grounded set of preconditions, the historiosophist

¹⁴⁵ H.-H. Hoppe, *A Theory...*, p. 196, Polish edition: p. 170.

¹⁴⁶ *Ibid.*

cognitive standard of evaluation, is entitled to interpret history from the perspective of such a value system. This does not imply consent to manipulate historical material for propaganda purposes. Rather, it is a matter of selecting the subject of research, which, as Leo Strauss rightly argued, cannot be done outside the context of the researcher's worldview. The historian or philosopher of history, as a human being, is an active subject whose actions have an inalienable teleological dimension—they are a function of the goals set by the agent. In the case of historical research, the choice of subject necessarily bears the mark of the researcher's value hierarchy, which determines their perception of individual events and processes as worthy or unworthy of interest. For our part, we would add that such directions in moral philosophy as Apłowska's discourse ethics or libertarianism offer justification for scientific choices in objective ethical duties, rather than in the arbitrary preferences of the scientist or philosopher, which may result, for example, from the academic climate. For Hoppe, ethics is, after all, a field that is just as scientific as physics, albeit in a different way.

In its concept of historical reconstruction, Apel draws on Popper and Lakatos' methodology of rational reconstruction in the philosophy of science. Just as history and the philosophy of science select and hierarchize historical material, referring to the criterion of scientific progress (they do not examine all scientific activities that have occurred in the past, but only those that are relevant to the development of science), so historiography and historiosophy are allowed to select and hierarchize fragments of history from an ethical perspective.

In relation to Hoppe's theory of class struggle, this means the following: the assertion of class conflict as a central element of history should not be understood as a call for the construction of an all-encompassing, reductionist theory in which every detail of history is referred to a single, class-based conflictual explanatory scheme. The point is what Hoppe, as a libertarian theorist, highlights in history as *normatively* important.

It should be noted that the above reading of libertarian class struggle theory, although it constitutes a rational reconstruction referring to the views of Apl and Strauss, seems to be consistent with Hoppe's intentions. Hoppe comments on the ethical basis of his reflections as follows:

¹⁴⁷ K.O. Apel, *The Principle of Self-Foundation of One's Foundations in the Hermeneutic Reconstruction of History*, trans. P. Znaniecki, [in:] *Reason and Rationality*, ed. T. Buksiński, Poznań 1997.

¹⁴⁸ L. Strauss, *Socratic Questions: Selected Essays*, trans. P. Maciejko, Warsaw 1998, p. 65 et seq.

¹⁴⁹ K.O. Apel, *op. cit.*, *passim*.

Both sides [Austrians and Marxists – note by N.S.] oppose historiography that sees only actions and dependencies, all equal in economic and moral terms, and both oppose historiography which, not accepting such a value-free position, believes that discretionary subjective value judgments must form the basis for the way history is told. On the contrary, history must be told in the language of freedom and exploitation, parasitism and economic impoverishment, private property and its destruction – otherwise it is told falsely.

In this way, we obtain a coherent, normatively grounded vision of history as, in Rothbard's words, "a race between the state and ^{society}." This approach is also close to Kant's—normative and teleological, but not historicist in the sense of Karl ^{Popper}.

Summary

In this chapter, we presented Hans-Hermann Hoppe's theory of the state. We then identified and discussed the following elements of this theory: recognition of the logical incompatibility of the state and private property; recognition of the internal contradiction inherent in the concept of the state as a protective institution (producer of security, law, and order); the polemic with the "Hobbesian myth," i.e., the belief that the monopoly of violence is a cure for the ills of the state of nature, the sociopsychological genesis of the state as an organization based on aggression, ideological propaganda, and redistribution, the socialist nature of all statism, and finally, Hoppe's theory of class struggle. According to our position, the latter is the key point of Hoppe's theory of the state and the core of his related philosophy of history. In defending it, we also pointed out its limitations, resulting from the speculative and ideal-typological status of Hoppe's sociological and historical reconstructions. We also illustrated how the methodological differences between Hoppe and Ludwig von Mises, which we had previously characterized, manifest themselves.

¹⁵⁰ H.-H. Hoppe, *Economics and Ethics*..., pp. 126–127, Polish edition: pp. 136–137. At this point, we once again modify the Polish translation. In the Polish translation, the phrase "historiography that instead of adopting such a value-neutral stand" has been rendered as "historiography which, instead of adopting a value-free position...". As a result, one might get the impression that Hoppe is simultaneously arguing against the principle of value-freedom and recommending it.

¹⁵¹ M.N. Rothbard, *Egalitarianism*..., p. 86.

¹⁵² Cf. I. Kant, *Idea of a Universal History from a Cosmopolitan Point of View*, [in:] *Essays on the Philosophy of History*, trans. M. Żelazny et al., Kęty 2005, pp. 31–43. K.R. Popper, *The Poverty of Historicism*, trans. S. Amsterdamski, Warsaw 1999, *passim*.

in factual discrepancies concerning the theory of the state and the philosophy of history. At the same time, through rational reconstruction, we have highlighted the normative dimension of the theory under study, showing that the identification of class struggle as the dominant motif of history reflects not so much an axiologically unbiased study of historical material as the libertarian ethical position of its author.

Chapter IV

Anarchy

In the previous chapter, we discussed Hoppe's critique of the state. Now, we would like to present a positive vision of social order based on full respect for private property rights, as proposed by Hoppe, which he refers to as "individualistic private property anarchism," "100 percent capitalism," "(pure) private law society," or "natural order," and in the literature most often as

"anarcho-capitalism."¹ We will present Hoppe's arguments in favor of the thesis that under conditions of full privatization, even services such as police protection, defense against external threats, lawmaking, and legal dispute resolution would not only be provided in sufficient quantities, but would actually be provided more efficiently than when these tasks are entrusted to the state. In the reporting part of this chapter, we will focus on economic and political arguments; Hoppe's more fundamental ethical arguments against the state have been discussed in previous chapters, as have his political arguments regarding the nature and inherent anti-property tendencies of state power.

This vision became the subject of lively debate dating back to the 1960s. At that time, Murray Rothbard and Ayn Rand parted ways, and one of the bones of contention

¹ Respectively: German: "Individualistischen (Privateigentum-)Anarchismus", "100% Kapitalismus", "reine Privatrechtsgesellschaft"; English: "private-law society", "the natural order", "anarcho-capitalism." H.-H. Hoppe, *Eigentum, Anarchie und Staat. Studien zur Theorie des Kapitalismus*, Opladen 1987, p. 9; *idem*, *Democracy – the God that Failed. The Economics and Politics of Monarchy, Democracy, and Natural Order*, New Brunswick-London 2007, p. 1, Polish edition: *Demokracja – bóg, który zawiódł. Ekonomia i polityka monarchii, demokracji i ładu naturalnego*, trans. W. Falkowski, J. Jabłecki, Warsaw 2006, p. 3; *idem*, *The Great Fiction. Property, Economy, Society, and the Politics of Decline*, Auburn 2021, p. 187, Polish edition: *Krótką historia człowieka*, trans. Ł. Dominiak, Warsaw 2015, p. 97.

² See chapters II and III.

The point of disagreement was precisely the attitude towards state institutions: while Rothbard assumed that all socially necessary functions of the state could and should be privatized, Rand advocated ^{minimal} government. The debate was further fueled by the publication in 1974 of Robert Nozick's famous work *Anarchy, State, and Utopia*, in which he also defended the idea of a minimal state against attacks by anarcho-capitalists. The dispute between the latter and the minarchists continues to this day, with successive generations of thinkers taking part in it and, as with most philosophical disputes, it is difficult to expect it to come to an end in the foreseeable future. Nevertheless, in this chapter, in addition to presenting Hoppe's position, whose achievements undoubtedly place him among the leading representatives of the anarchist side of the debate, we want to assess the dispute between anarcho-capitalists and minarchists. The main research question of this chapter concerns which of these orientations is consistent with the ethical principles of libertarianism in general and its Rothbardian version in particular. Our thesis, however, is that the only political position consistent with the theory of libertarian justice in the narrow sense, which is centered on the recognition of the absolute status of private property rights, is anarchism. Advocates of the minimal state can defend their position only on the basis of other concepts of rights and, as we will show with examples from the main minarchist thinkers, they actually do so. However, as we will show, these attempts are doomed to failure, and anarchism ultimately proves to be the only view of the state that is consistent with libertarian ethics in a broader sense as well. In particular, using the tools of analytical philosophy of law, we will reconstruct what we consider to be Hoppe's most important, though hitherto unnoticed, contribution to the debate. Namely, the themes already raised in previous chapters concerning the socialist nature of the state as such and "decretal property." Given the already considerable length of this work, we will refrain from presenting in detail the debates between anarcho-capitalists and minarchists on various practical aspects of stateless order. A thorough presentation and evaluation of these debates would require a separate monograph. Furthermore, the contribution of the protagonist of this work, Hoppe, to these discussions is limited. Hoppe has written extensively on how anarcho-capitalism could function, developing in an original way, for example, the theory of insurance (which justifies the development of these issues in a monograph devoted to

³ On the origins of the Rothbard-Rand dispute, see J. Raimondo, *Against the State: The Biography of Murray*

N. Rothbard, trans. J. Wozinski, Krakow 2016, pp. 122-136.

⁴ R. Nozick, *Anarchy, State, and Utopia*, trans. P. Maciejko, M. Szczubialka, Warsaw 2010.

thinker), but he was only sporadically involved in formulating responses to the minarchists' objections.

In this chapter, we adopt the following order of argument. We begin by discussing Hoppe's economic arguments in favor of capitalism, with particular emphasis on his objections to the public goods theory, which justifies the exclusion of certain areas of the economy from the market regime in mainstream economics. Next, we will present in detail Hoppe's vision of a stateless order. We will then move on to discuss the concepts of justice underlying minarchism and the criticisms levelled against them.

1. Economic criticism of statism and the theory of public goods

As we remember, the starting point for Hoppe's economic critique of the state is the application to it of the same arguments that are usually formulated in economics about monopoly: under fiscal-jurisdictional monopoly, the price of security will rise, and security itself will decline. According to Molinari's dictum, quoted by Hoppe, either this is true or the fundamental principles of economics are false.

-jurisdictional monopoly, the price of security will rise and security itself will decline. According to Molinari's *dictum* quoted by Hoppe, either this is true or the fundamental principles of economics are ^{false}.

However, mainstream economists, says Hoppe, have found a way to counter this argument: the theory of public goods. It divides economic goods into two subclasses—private and public—of which only the former can be effectively provided by a competitive market. The latter are distinguished on the basis of two criteria: non-rivalry and non-excludability in consumption. Non-rivalry means that the marginal cost of an additional customer's participation is zero (as in an empty cinema). As a result, the consumption of a given good on the free market will prove suboptimal – additional consumers could be served for free, but this does not happen. Non-excludability, on the other hand, is associated with the occurrence of positive externalities, i.e., benefits enjoyed by actors who are not parties to the exchange. The dispersion of benefits across society creates a temptation to "free ride," i.e., to use a good or service

⁵ Synthetic studies and discussions on various aspects of anarcho-capitalism can be found in: *Anarchism/Minarchism. Is Government Part of a Free Country?*, ed.

R.T. Long, T. Machan, Hampshire 2008; P. Nowakowski, *Anarchokapitalizm – ideologia polityczna, doktryna polityczno-prawna czy nurt filozoficzno-polityczny*, "Societas et Ius" 2016, 5, pp. 31-46; *Anarchy, State, and Public Choice*, ed. E. Stringham, Arlington 2005; S. Wójtowicz, *Anarchokapitalizm, czyli czy możemy być się bez państwa? [Anarcho-capitalism, or can we do without the state?]*, Nauka 2017, 4, pp. 141-166.

⁶ See chapter III.

without paying for them – because no one can be excluded from consumption, at least some consumers will decide to become "free riders," and as a result, profit-driven producers will not ensure a sufficient supply of ^{public} goods. The list of goods classified by individual authors as public goods is long, but the most frequently cited examples are lighthouses and national defense. For obvious reasons, the latter case in particular arouses keen interest among Hopp and other anarcho-capitalists and economists of the Austrian school.

What are Hoppe's general arguments against the theory of public goods as such? He begins his critique with a series of counterexamples of goods that are commonly considered private and successfully produced on the market, yet clearly meet the definition of a public good due to the positive externalities they generate. Any improvements we make to our property can increase the value of our neighbors' property and provide various types of satisfaction to other people: a well-kept rose garden has aesthetic value that can increase the value of properties in the entire neighborhood; our fellow passengers on buses benefit when we use deodorant; a street musician plays for all passers-by, not just those who put money in his hat. Should all these goods, Hoppe asks, be considered public and therefore producible only under the auspices ^{of the state?}

The fact that all of the above goods are indeed provided by the market, and some of them are seen by economists as model private goods,

⁷ Both criteria are not always met simultaneously by the same good, although according to public goods theorists this is usually the case. On different combinations of goods according to the criteria of non-excludability and non-rivalry, see W. Block, *National Defense and the Theory of Externalities, Public Goods, and Clubs*, [in:] *The Myth of National Defense. Essays on the Theory and History of Security Production*, ed. H.-H. Hoppe, Auburn 2003, pp. 301-334.

⁸ An introduction to the theory of public goods can be found in most available economics textbooks. See, for example, P. Samuelson, W.D. Nordhaus, *Economics*, vol. 1, trans. Z. Wolińska, M. Rusiński, Warsaw 2006, pp. 74-75, 548-549.

⁹ Austrian critical literature on the issue of public goods is extensive. In addition to the works by Hoppe cited here, see, for example, W. Block, *Public Goods and Externalities. The Case of Roads*, *Journal of Libertarian Studies* 1983, 1 (7), pp. 1-34; *idem*, *National Defense...*; S. Kwiatkowski, *Teoria dóbr publicznych i rynkowe mechanizmy ich produkcji* [The Theory of Public Goods and Market Mechanisms for Their Production], in: *Pod prąd głównego nurtu ekonomii* [Against the Mainstream of Economics], ed.

M. Machaj, Warsaw 2010, pp. 95-123; M.N. Rothbard, *Man, Economy, and State with Power and Market*, Auburn 2009, pp. 1029-1041; L. Sechrest, *Private Provision of Public Goods: Theoretical Issues and Some Examples from Maritime History*, Auburn 2003; J.B. Wiśniewski, *The Economics of Law, Order, and Action. The Logic of Public Goods*, London 2018.

¹⁰ H.-H. Hoppe, *A Theory of Socialism and Capitalism*, Auburn 2016, pp. 217-218, Polish edition: *Teoria socjalizmu i kapitalizmu. Ekonomia, polityka i etyka*, trans. P. Nowakowski, Wrocław 2015, pp. 197-198. pp. 197-198. Cf. the well-known example of socks as public goods, presented in a similarly humorous vein, in: W. Block, *Public Goods and Externalities...*, pp. 1-2.

suggests that there is something wrong with the distinction itself. Moreover, as Hoppe points out, literally all goods classified by individual economists as public goods – from streets, police forces and arbitration agencies to lighthouses – are or have been privately produced at various times in history.

These are not all the difficulties associated with distinguishing between private and public goods. Hoppe points out that it is impossible to determine *a priori* what is a positive or negative external effect: neighbors may dislike a rose garden, passers-by may dislike music, and fellow passengers may dislike the smell of our deodorant. If, for example, we insure our house against fire and, after a fire breaks out, the fire brigade arrives and saves our neighbors' houses from the spreading fire, this is not necessarily a positive effect, contrary to appearances—the neighbors may have wanted their houses to burn down, for example, because of high insurance premiums. As Block writes on this subject: "What is meat to one man may be poison to another."

This remark also applies to the key example of national defense. Theoreticians of public goods believe that it is a good that benefits everyone, regardless of their own preferences. For example, Paul Samuelson and William D. Nordhaus write: "Providing national defense is a common good, and it does not matter in the least whether one is a 'hawk' or a 'dove,' a militarist or a pacifist, young or old, knowledgeable or ignorant—the army provides national security to everyone in exactly the same degree." As Hoppe and other Austro-libertarian authors point out, this view falsifies the existence of even a single anarchist who condemns the state to such an extent that he would rather not receive any public goods, including protection, than obtain them from the state.

Finally, the existence of external benefits and the free rider effect is often a consequence of the failure to establish private property rights. If, for example, a lighthouse is characterized by non-excludability in consumption, this is because the seas and oceans are public property. All that is needed is to privatize them, and the external benefits will be internalized.

¹¹ H.-H. Hoppe, *A Theory...*, p. 218, Polish edition: p. 198.

¹² *Ibid.*, p. 219, Polish edition, pp. 198–199.

¹³ "One man's meat is often another man's poison" – English proverb. W. Block, *National Defense...*, p. 309.

¹⁴ P. Samuelson, W.D. Nordhaus, *op. cit.*, p. 248.

¹⁵ H.-H. Hoppe, *A Theory...*, p. 224, Polish edition: p. 203; W. Block, *National Defense...*, pp. 308–309; M.N. Rotbard, *Man, Economy, and State*, p. 1031.

¹⁶ H.-H. Hoppe, *A Theory...*, p. 219, Polish edition: pp. 198–199.

All of the above problems stem from a fundamental flaw in the theory of public goods, namely a misunderstanding of the very nature of goods and their valuation in the economy. As Hoppe states, “the introduction of a distinction between private and public goods is in fact a return to the pre-subjectivist period in ^{economics.}”¹⁷ It ignores the fact that goods become goods only when they are perceived as such by actors.¹⁸ Hoppe writes:

There is no clear dichotomy between private and public goods [...]. All goods are more or less private or public in nature, and the extent to which they are private or public can change—and does change—as people's values and assessments change and as the structure of the population changes. Goods cannot be assigned once and for all to one of these categories [...] Thus, even things that are apparently entirely private, such as the interior of my apartment or the color of my underwear, can become public goods as soon as they begin to matter to other ^{people.}

Recognizing the subjective nature of the valuation of goods not only determines the collapse of the non-excludability criterion, but also allows us to reject the concept of non-rivalry. No external observer can know whether providing a service to additional customers really generates no cost. From the point of view of the people involved—producers and consumers—such a cost may always exist. The owner of a cinema and its customers may simply feel greater satisfaction from being in an empty theater, which will be reduced as more additional viewers take their seats. The fact that the marginal cost of providing a good to an additional customer is not zero can already be inferred from the fact that it ^{does} not ^{occur.}

Finally, according to Hoppe, it is a mistake to perceive the fact that the market does not produce goods valued by some people as a sign of market failure. This view is based on a complete misunderstanding of the nature of economic management and calculation: “The transition from the assertion that public goods are desirable to the assertion that they should therefore be provided by the state does not settle anything, because that is not the choice we face.

¹⁷ *Ibid.*, p. 221, footnote 12, Polish edition: p. 200, footnote 184.

¹⁸ Hoppe refers here to Carl Menger's definition of economic good. According to Menger, for a thing to be considered an economic good, four conditions must be met: (1) the existence of a human need; (2) the objective ability of the thing to satisfy that need; (3) recognition by the actor of the thing's ability to satisfy his need; (4) the actor's ability to control the thing. C. Menger, *Principles of Economics*, trans. J. Dingwall, B.F. Hoselitz, Auburn 2007, p. 52.

¹⁹ H.-H. Hoppe, *A Theory...*, pp. 219-220, Polish edition: p. 199.

²⁰ *Ibid.*, p. 221, footnote 12, Polish edition: p. 200, footnote 184.

[...] Money and other resources must be withdrawn from alternative uses in order to finance presumably desirable public goods [...]"²¹. Therefore, the question is not whether goods not produced on the market are desirable, but whether they are relatively more desirable than alternatives. This is the essence of economic management. The accusations of public goods theorists against the free market therefore boil down to the claim that it does not remove scarcity from the world. For as long as this fact exists, choices must be made and alternative costs in the form of unproduced goods ^{must be borne}. On the other hand, maintaining that someone benefits from the production of certain goods, even though they have never demonstrated this in action or even demonstrated their disagreement with their production (as in the case of a pacifist who allegedly benefits from the existence of national defense), would require, according to Hoppe, "a truly Orwellian ^{semantic} revolution"

2. Private security production and the right to

As we have seen, Hoppe rejects the distinction between private and public goods as completely arbitrary, and the policies proposed on this basis as founded on a mistaken understanding of the nature of economic management and calculation. According to him, there are therefore no *a priori* reasons that would determine the superiority of the state over the market in the production of such sensitive goods as security and law. The "Hobbesian myth" thus loses its last pillar, this time an economic one. What is more, according to Hoppe, there are strong theoretical arguments in favor of the market being more effective at producing goods and services that are commonly considered the monopoly of the state.

We will begin by presenting the problem of security and the fundamental differences between its production in a free market and in a statist system, before moving on to Hoppe's more detailed predictions regarding the characteristics of an unrestricted security market and the legal system prevailing in a libertarian, stateless society. As Hoppe himself emphasizes, at this point the researcher leaves the realm of *a priori* social theory. All predictions here are largely speculative; the same would be true of predictions about the structure of the hamburger market if hamburgers were produced by the state. No one could then predict how many companies would produce how many hamburgers and of what kind after the privatization of the industry, nor what

²¹ *Ibid.*, p. 224, Polish edition: p. 204.

²² *Ibid.*, pp. 225-228, Polish edition: pp. 204-208.

²³ *Ibid.*, pp. 225-226, Polish edition: p. 205.

would be the significance of the hamburger market in relation to the economy as a whole. This does not mean, however, that nothing ^{reliable} can be said about the hamburger market, security, or any other industry monopolized by the state. By adopting experience-based assumptions about "certain general conditions of demand for security," it is possible to compare the structural characteristics of its production in different systems and to identify likely trends in the development of this ^{market}.

The first argument in favor of private security production refers, once again, to the concept of economic calculation. As mentioned above, security, like any other so-called public good, competes in the free market with other consumer goods for higher-order goods necessary for the production process. Furthermore, Hoppe dehomogenizes security. He writes:

Security is not a single, homogeneous good, as it consists of numerous components and can take various forms. It is not only prevention, detection of crime, and enforcement of law, but also protection against thieves, rapists, poisoners, natural disasters, and so on. [...] Moreover, different people attach different importance to security as a whole, as well as to its individual aspects, depending on their individual characteristics, past experiences, resulting from the lack of various dimensions of security, and the time and place ^{of their} ^{lives}.

As an institution financed by compulsory transfers, and therefore exempt from market mechanisms of profit and loss, the government does not have the instruments to obtain knowledge about what exactly to deliver, where, and to whom in response to consumer demand. The decisions taken by the state regarding the allocation of production factors in the area of security are therefore necessarily arbitrary.

Moreover, even assuming optimal resource allocation, the quality of products provided by the state in the security sector will be lower than in a free market. This is determined by the structure of incentives to which state institutions are subject. Not subject to consumer scrutiny, state representatives are more interested in satisfying the needs of their superiors and themselves than those of citizens.

Finally, state courts, police stations, etc., like other capital resources in the public sector, are subject to a process of consumption.

²⁴ *Ibid.*, pp. 240–241, Polish edition: pp. 209–210.

²⁵ *Ibid.*, p. 241, Polish edition: p. 210.

²⁶ *Ibid.*, p. 241, Polish edition: p. 211.

²⁷ *Ibid.*, p. 242, Polish edition: pp. 211–212.

capital. Compared to productive assets remaining in private hands, they are generally "overused, poorly maintained, and ^{dirty}."²⁸

In unrestrained capitalism, the situation would be completely different. Of course, there would still be aggression against property rights: there would still be murder, rape, and robbery. In opposition to socialist or socialist-leaning forms of anarchism, libertarianism does not assume a radical improvement of human nature – it merely demands that violence lose its systemic character as a principle of social organization, and points out that it is a clear *non sequitur* to conclude from realistic observations about human nature that people's propensity for violence must be restrained by a monopolistic agency. Hoppe and other anarcho-capitalists also see no reason to assume that in a stateless order everyone would have to defend themselves and seek justice on their own. Although self-defense—to which everyone has a right arising from property rights—would play a role, the social division of labor would extend to this sphere of life as well, so that specialized ^{agencies} would be responsible for fighting crime. Under such a system, violations of rights would be countered much more effectively, and for the same reasons that statism fails in this regard.

Firstly, no company would be able to increase its market share by force, and its success would depend solely on customer ratings. At the same time, the entire security industry would not be able to use political means to expand its size at the expense of other industries, as is currently the case. Security would therefore be produced only to the extent that people actually demanded it.

Second, there would be far-reaching product diversification –

[...] instead of a uniform "security package" for everyone, which is characteristic of state production policy, a variety of service packages would appear on the market. These would be tailored to the different security needs reported by people who differ in terms of their occupation and risk appetite, want to protect and insure different things, live in different places, and decide to purchase services at different ^{times}.

Thirdly, private security companies would be motivated, as in any other industry, to provide their customers with the highest quality product. Companies unable to effectively combat crime and deliver justice to its victims would face bankruptcy. This would also put an end to the arbitrariness and arrogance that characterize

²⁸ *Ibid.*, p. 243, Polish edition: p. 213.

²⁹ *Idem*, *The Great Fiction*, pp. 194-195, Polish edition: pp. 107-108.

³⁰ *Ibid.*, *A Theory...*, p. 244, Polish edition: p. 213.

³¹ *Ibid.*, p. 244, Polish edition: p. 214.

state-employed police officers, soldiers, or judges. This forecast stems from a comparison of the incentive structures present in state and stateless systems, and can therefore be defended even if we assume that private security agencies will employ people with similar character traits to members of the state apparatus.

Furthermore, the provision of services would be based on a contract between the client and the security agency, clearly defining the subject matter of the transaction and guaranteeing the possibility of lodging a complaint in the event of the company's failure to fulfill its obligations. This would contrast sharply with state practices, where the public sector is not specifically required to provide taxpayers with any specific package of goods, and failure by officials to fulfill their duties is not punished by the institution they represent.

In addition to the above theses, which relate the universal comparative theory of capitalism and statism to the issue of security, Hoppe also formulates certain predictions regarding the general direction of the security market. He believes that the state's responsibilities in this area would be taken over by insurance companies. This assumption is based on two premises. First, Hoppe notes that ensuring security is in the interest of insurers – "the better the protection of insured property, the lower the compensation payments and, consequently, the costs of the insurer." Equally important, it is insurance companies that seem to be best able to effectively ensure security. This is due to their size, international scale of operations, and network of mutual agreements on arbitration and reinsurance, which together give them economic power comparable to that of many states, as well as the beginnings of a legal system.

There is also an important theoretical argument in favor of insurance companies providing security services. Namely, "protection and security are a form of insurance."³⁷ In this regard, Hoppe, although in *Eigentum, Anarchie und Staat* and *Teorii socjalizmu i kapitalizmu* he limited himself to presenting general arguments in favor of the market providing security services,

³² *Idem, Eigentum, Anarchie und Staat*, p. 176.

³³ *Idem, A Theory...*, p. 245, Polish edition: p. 214.

³⁴ This view is widespread in anarcho-capitalist literature. Rothbard, Linda and Morris Tannehill, and Robert P. Murphy, among others, hold similar views. See M.N. Rothbard, *For a New Liberty: Libertarian Manifesto*, trans. W. Falkowski, Warsaw 2005, p. 278; L. Tannehill, M. Tannehill, *Market and Freedom*, trans. W. Falkowski, Warsaw-Chicago [no date], pp. 143-146; R.P. Murphy, *Chaos Theory. Two Essays on Market Anarchy*, Auburn 2010, pp. 17-19.

³⁵ H.-H. Hoppe, *The Great Fiction*, p. 209, Polish edition: p. 130.

³⁶ *Ibid.*

³⁷ *Ibid.*

In his later works on anarcho-capitalist economics, he devotes much attention to considerations concerning the nature of insurance in general and insurance against aggression in particular.

The starting point for Hoppe's analysis is the question of what can and cannot be insured. This depends on the type of risk. Uninsurable risk is that which an entity incurs as a result of its own decisions. "It is impossible to insure against every risk in life. For example, I cannot insure myself against committing suicide, burning down my house, unemployment, morning reluctance to get out of bed, or business losses, because in each of these cases I have full or partial control over the occurrence of the event." In other words, if the state offers its citizens insurance against any of these eventualities, such as unemployment, then the use of the term "insurance" should be considered misleading—in reality, it is nothing more than a redistributive practice.

And how should insurance against aggression be treated, according to Hoppe? Is aggression insurable? The answer must be conditional. No one can insure themselves against their own aggression or the results of their own provocative behavior. It can therefore be concluded that a free market for aggression insurance would be characterized by a high degree of discrimination against aggressors—customers with a documented tendency to violate the rights of others would be rejected by insurance companies. This fact alone would have significant implications for improving safety: "at the same time, anyone who wishes to secure greater protection than they can organize on their own will be able to do so only on condition that they submit to certain norms of non-aggressive, civilized behavior." The growing popularity of insurance policies, resulting from the insurance needs characteristic of a developed economy, will also create incentives for the uninsured to comply with generally accepted rules of coexistence:

³⁸ *Ibid.*, p. 210, Polish edition: pp. 130–131. In the Polish translation, the expression "entrepreneurial losses" has been rendered as "business losses." For our part, we have decided to use the adjective "enterprising," which corresponds to the original text, as the terms "entrepreneurship" and "business" are not equivalent in meaning. Furthermore, the use of the latter term in this context does not reflect Hoppe's thinking. Business losses can be of various kinds, and many of them, as we shall see later, are in fact insurable.

³⁹ *Ibid.*, *Democracy – the God that failed...*, p. 249, Polish edition: p. 325.

⁴⁰ *Ibid.* According to Robert P. Murphy, in an anarcho-capitalist society, the pressure to participate in the insurance system would have another important source: in the absence of a state with its system of population registration, there would be a need to authenticate individuals as parties to various transactions. The lack of insurance would be a significant signal undermining the reputation of the counterparty. See R.P. Murphy, *Chaos Theory*, p. 18.

If security is a type of insurance according to Hoppe, what kind of insurance is it? The thinker refers here to the distinction between group or mutual insurance and individual insurance. A model example of the former is insurance against natural disasters – floods, hurricanes, earthquakes, etc. Although individual locations are exposed to them to varying degrees, within a given area it is possible to treat the risk of a natural disaster as homogeneous. The insurer therefore knows the frequency and average scale of disasters in a given area, but knows nothing about the risk to specific sub-locations within that area. As a result, a uniform premium can be charged for each unit of insured property, and the premiums collected are sufficient to cover losses in a given period. This creates an insurance fund within which customers insure ^{each other}. A typical example of individual insurance is industrial insurance. The risk of a production failure is closely linked to the specific nature of each production line. Although accidents in industry are insurable because owners do not cause them deliberately and are not responsible for their occurrence, it is impossible to create a common fund in this case and there is no certainty that the premiums collected in a given period will be sufficient to satisfy all claims for compensation. This forces insurers to have adequate ^{capital} reserves. Which of the above categories does insurance against aggression belong to? Hoppe believes that these categories are more like two ends of a continuum than real types to which every possible insurance case can be clearly assigned. Moreover, as a result of scientific and technological developments, insurance that was previously collective in nature may increasingly take on the characteristics of individual insurance—for example, thanks to advances in biological and medical knowledge, health risks that were previously considered non-specific can now be more precisely defined for individuals. According to Hoppe, a more detailed reflection on the nature of aggression insurance allows it to be treated as closer to the model of individual insurance, contrary to the false analogy with natural disaster insurance suggested by the ^{public} goods theory. This conclusion is by no means trivial or purely theoretical – as we will see, it has important practical implications.

There are two fundamental differences between insurance against aggression and insurance against natural disasters. First, while geographical regions are essentially

⁴¹ H.-H. Hoppe, *Democracy...*, p. 252, Polish edition: pp. 329-330.

⁴² *Ibid.*, pp. 252-253, Polish edition: p. 330.

⁴³ *Ibid.*, pp. 253-254, Polish edition: p. 331.

natural character, the boundaries of man-made locations belong to the cultural order. It cannot therefore be said, for example, that just as every inhabitant of a given geographical region is equally exposed to earthquakes and hurricanes, so every citizen of a given state is equally threatened by external invasion.

Political borders are "artificial," writes Hoppe. The borders of the United States changed throughout the 19th century, and Germany did not exist as a single country until 1781, when it was made up of 38 separate states. Surely no one would argue that the change in the borders of the US or Germany was the result of the discovery that the threat to every American and German in the enlarged state was – contrary to the previously held view – homogeneous (identical for all inhabitants).

Secondly, while nature is a blind force, human aggression is governed by conscious will. *Ceteris paribus*, attackers choose targets that contain something of value. However, the boundaries of valuable things are not national borders, which are the result of arbitrary political decisions. The only non-arbitrary boundaries, created by human values and therefore identifiable as separate targets of potential attack, are the boundaries of private property. Hoppe says:

Private property arises as a result of the acquisition or production of specific physical objects or effects by specific persons in specific places. Every acquirer-producer (every owner) confirms by their actions that they consider the acquired and produced objects to be valuable (goods). Otherwise, they would not have acquired or produced them. The boundaries of each person's property are objective and intersubjectively verifiable. They are simply determined by the extent and size of the objects acquired and produced by the individual. The boundaries of all valuable places and objects coincide with the boundaries of all property. At any given moment, every valuable place and thing is in someone's possession; only places and things that are worthless do not belong to anyone.

It follows that the existing system of security provision based on states as providers of public goods in a given, politically defined territory does not reflect the complex nature of security as a good. In an anarcho-capitalist order, each owner purchasing an insurance policy would obtain it on individual terms, linked to the value of their property and a number of specific characteristics, such as its location (the premium would increase or decrease depending on the distance separating

⁴⁴ *Ibid.*, p. 254, Polish edition: p. 332.

⁴⁵ *Ibid.*, p. 255, Polish edition: p. 333.

the assets of countries posing a threat or the location in districts with lower or higher crime rates)⁴⁶.

In addition, from the customer's point of view, the price of insurance would be positively affected by the owner taking measures to improve security (possession of weapons, installation of alarms, safes, etc.), as well as the implementation of a relatively restrictive access policy in residential areas, consisting in the exclusion of aggressors and provocateurs.

The exact opposite policy is usually pursued by the state, especially in a democracy. By artificially standardizing the price of security, it discourages people from moving out of dangerous neighborhoods. Efforts to improve the security of one's own property are not rewarded, while known criminals can move freely throughout the country. Unlike insurance companies, whose priority would be to restore stolen property and force the perpetrator to pay compensation, state institutions further violate the rights of victims by forcing them to pay for the imprisonment of criminals through their taxes. A particularly painful consequence of state-produced security is its collectivization. There is nothing in the nature of security that makes it a collective good, and so the state's claim to be its effective and legitimate provider rests on shaky ground. Nevertheless, once the state enters the arena of history, it is the state that makes its citizens a relatively uniform target for potential attack. In a society governed by private law, every aggressor is a specific person, and the measures taken against him by security agencies must be directed exclusively at him. Hitting innocent people would provoke claims for compensation and conflicts with other agencies. Meanwhile, under statism, entire populations of the warring parties are drawn into the conflict. "Since the whole society and all our wealth are involved in the war effort, losses among the civilian population and property are even desirable. There is no clear distinction between soldiers and civilians. Everyone is an enemy, and all property is a support for the attacked government. Therefore, everyone and everything is fair game."⁴⁹ This does not mean, of course, that under state rule security becomes a completely homogeneous public good. Rural dwellers are still vulnerable to attack by expansionist neighboring states to a lesser extent than the population of the capital, or other large centers of strategic importance.

⁴⁶ *Ibid.*, pp. 255–256, Polish edition: pp. 333–334.

⁴⁷ *Ibid.*, pp. 261–262, Polish edition: pp. 342–343.

⁴⁸ *Ibid.*, p. 259, Polish edition: p. 340.

⁴⁹ *Ibid.*, p. 257, Polish edition: pp. 336–337.

⁵⁰ *Ibid.*

From earlier considerations, we already know why, according to Hoppe, states are inherently prone to military aggression—in other words, why the state not only artificially collectivizes and homogenizes security, but also contributes to a universal decline in its level.⁵¹ And how would insurance companies and security agencies operating in an unfettered market deal with large-scale conflicts? What about a possible war between agencies or between a stateless territory and a neighboring state?

We will address the first of these questions in more detail later on. For now, let us focus on how it connects with Hoppe's ideas about the sources of legal order in an anarcho-capitalist system. As the term "private law society" suggests, the foundation of law in such a society is the autonomous decisions of private owners and the contracts they enter into with each other. Each owner is sovereign on a micro scale, and therefore the acts of will of landowners, agreements concluded between them and tenants, and finally the rules of housing communities acquire the status of supreme law in a given territory. Randy Barnett refers to this idea as "*decentralized jurisdiction*."

According to Hoppe, the development of a universal stateless society, transcending the boundaries of individual plots of land and legal contracts, would be due precisely to interactions between competing insurers and security agencies. On the one hand, private jurisdiction would promote greater diversity and flexibility of law in relation to the needs and worldviews of consumers. Hoppe even speculates that in a natural order, insurance companies targeting followers of particular religions could coexist alongside each other:

[...] insurers could differ from one another and stand out from the crowd in terms of customer requirements, rules for pursuing claims, and the types and methods of awards and penalties. Catholic insurance companies applying canon law, Jewish insurance companies following Mosaic law, Islamic insurance companies applying Koranic law, and atheist insurance companies applying one of the variants of secular law would probably exist side by side. All of them would survive thanks to the voluntary decisions of their customers and would compete for those customers. [...] No one would be forced to obey "foreign" law. In this way, a serious source of conflict would be eliminated.

On the other hand, a system based on private insurance companies would allow for large-scale unification of law. Particular laws, often strongly

⁵¹ See Chapter III.

⁵² R. Barnett, *The Structure of Liberty. Justice and the Rule of Law*, Oxford 2014, p. 64 et seq.

⁵³ H.-H. Hoppe, *Democracy...*, pp. 249-250, Polish edition: pp. 325-326.

anchored in the worldview of the parties, could only apply to those who agreed to submit to them. There would therefore also have to be a universal law governing relations between all entities, including those insured by different agencies with different legal systems, and between the agencies themselves. The creation of such a set of rules would be in the interest of the insurers themselves, who would seek to avoid costly conflicts, as well as their customers, for whom insurance would only be valuable to the extent that it also protected them in disputes with entities outside their own group. Competition on the one hand and cooperation between insurers on the other would therefore favor the development of a "body of law covering the widest possible range of legal and moral decisions—intercultural, intergroup, etc.—and thus constituting the greatest common denominator for different competing legal systems." – thus constituting the greatest common denominator for different competing legal systems."⁵⁴

At the same time, a system of private courts and arbitration would develop. In the event of a dispute between insurers that they were unable to resolve amicably among themselves, the logic of profit would dictate that they turn to an independent third party for a decision. Private courts and arbitration companies would be forced by consumer pressure to deliver fair judgments—otherwise, their decisions would be rejected, they would lose their authority, and thus they would be forced out of the market. The lack of a statist institution of final arbitration would not be a problem. On the contrary, according to Hoppe, this situation should be seen as an advantage. A judicial monopoly—as in any other area of life—promotes inefficiency.

Contrary to appearances, according to Hoppe, private production of security and law would be much more conducive to legal stability than its state alternative. Private law would be based on precise contracts rather than promises and unilateral projections of the will of state authorities, unlike state legislation. "No insurer would get away with it if (as the state does with impunity) it wanted to 'promise' its customers protection without specifying exactly how it intends to protect them and at what price, and claiming that it can unilaterally change the terms of the relationship between the protector and the customer."⁵⁶ Legislation that is variable and dependent on the whims of politicians, voters, or interest groups would disappear completely.

⁵⁴ *Ibid.*, p. 251, Polish edition: p. 327.

⁵⁵ *Ibid.*, p. 251, Polish edition: pp. 327-328.

⁵⁶ *Ibid.*

We can already see why, in Hoppe's view, a system based on private insurers, security agencies, and arbitrators would not become an arena for Hobbesian war of all against all, but rather would promote the rule of law and peaceful dispute resolution. But what about external threats? How could a stateless society protect itself from attack by a state?

Hoppe believes, above all, that an armed invasion of free territory would be less likely than it might seem at first glance. This follows from the thesis, already familiar to us, repeated by Etienne de la Boétie and other later authors, according to which, regardless of the form of government, the source of power must always be sought in ^{public} opinion. Those in power are always bound by public opinion in their actions. In relation to war, this means that aggression must be presented in a favorable light as self-defense or a fight for values cherished by society. If, for example, Germany has not yet conquered Luxembourg, France Monaco, Switzerland Liechtenstein, Italy the Vatican, and the US Costa Rica, it is not because their leaders are good people. The independence of small states continues because aggression against them would be difficult to justify to public opinion. Similarly, a society governed by private law would appear non-threatening and ^{innocent} to the citizens of a potential aggressor state. Operating under the rigors of economic calculation, private insurance companies and security agencies would have to avoid the risks associated with aggressive actions against neighboring states.

However, if an attack did occur, a stateless society would not be completely defenseless. Hoppe points out that the inherent inefficiency of state institutions is also reflected in the military sphere. Private production allows for greater efficiency in military technology, command, human resource utilization, and intelligence. The overall economic advantage of capitalism over statism also provides the military with a better base in the form of a more dynamic economy. In addition, the dynamic development of a free area would encourage citizens of neighboring countries to immigrate, which would reduce the level of tax resources available to ^a potential invader. In the face of a real threat of aggression, a free society would see a demand for military protection against external threats, particularly from residents of areas located near the state borders (who, if they wanted to ensure their protection, would have to pay higher insurance premiums).

⁵⁷ See chapter III.

⁵⁸ H.-H. Hoppe, *The Great Fiction*, pp. 238–239, Polish edition: pp. 172–174.

⁵⁹ *Idem*, *Democracy...*, pp. 262–263, Polish edition: pp. 344–345.

Insurance agencies would therefore have an economic incentive to resist an attack, which would mean that the attacker would have to reckon with the necessity of fighting a coalition of effective and resourceful ^{defense} companies.

Unlike in statist conditions, where military action involves the confrontation of two armies under a unified and centralized command, in a private law society, the aggressor would be threatened not only by security agencies, but also by their clients. The conquest of a stateless area, and even more so the maintenance of control over it, would be further hampered by the widespread availability of weapons (Hoppe predicts that no one would agree to an insurance contract that required them to renounce the possibility of effective self-defense; in his opinion, insurance companies would even encourage individual armament because of its beneficial effect on the security of the protected property, offering lower premiums)⁶¹. This would allow for a long and exhausting guerrilla war against the occupier. It must be remembered that in an anarcho-capitalist order, there would be no central decision-making body that could declare surrender on behalf of the entire population. Hoppe speaks highly of guerrilla warfare and places considerable trust in it. Unlike state armed forces, which are financed by compulsory transfers and use civilian facilities under duress during wartime, guerrilla units rely on the voluntary support of the non-combatant population and must treat them kindly if they want to win. If they gain support, this makes them "practically impossible to defeat, even by a much larger invading army," writes ^{Hoppe}. In this context, the philosopher cites historical examples of successful guerrilla warfare: the defeats of Napoleon in Spain, France in Algeria, the US in Vietnam, and Israel in ^{South} Lebanon.

Finally, even if all military measures failed, according to Hoppe, a free society would still have one instrument at its disposal that had proven its effectiveness in the past and could, of course, be used simultaneously with armed struggle: civil disobedience. It is impossible to place a police officer next to every person. The population of a stateless territory would have to show obedience on its own. If it refused to do so, "the invader would be defeated," ^{Hoppe} writes with conviction.

⁶⁰ *Ibid.*, pp. 263-264, Polish edition: pp. 346-347.

⁶¹ *Ibid.*, pp. 263-264, Polish edition: pp. 345-346.

⁶² *Ibid.*, *The Great Fiction*, p. 241, Polish edition: p. 176.

⁶³ *Ibid.*

⁶⁴ *Ibid.*

3. 's challenge to minarchism

3.1. Minarchists and the law of property

The fundamental ethical argument in favor of anarcho-capitalism has already been adequately presented in chapters two and three of this book. Indeed, based on the libertarian position as understood by Rothbard and Hoppe, it is impossible to argue in favor of the state. The state is a coercive monopoly and, as such, must violate property rights as understood by these thinkers; an expropriating defender of property is a semantic contradiction. Advocates of minarchism have, admittedly, proposed that the state be based on voluntary contributions from citizens. For example, Rand and her followers have proposed in this context that the state be maintained by lotteries or ^{contract} fees. Leaving aside the technical doubts about these projects, it can be said that even if they were feasible, they would only remove one of the coercive features of the state: taxation. The state's monopoly in the areas of dispute resolution and, most likely ^{security} would remain intact.⁶⁶ A minimal state would therefore have to compel individuals not to use the services of other providers, thereby violating their rights.

As long as one remains committed to the absolutism of property rights, this conclusion is irresistible. It can only be avoided if property rights are treated as non-absolute, subjecting them—as Locke — a *proviso* that would limit property rights to external resources or self-ownership, or if one adopts some other, broader concept of subjective rights, of which property and self-ownership are only one element. It is therefore no coincidence that authors who position themselves in terms of justice theory

⁶⁵ See W.R. Thomas, *Objectivism Against Anarchy*, [in:] *Anarchism/Minarchism*, pp. 40–42.

⁶⁶ Minarchism is most often described as a theory of the night-watchman state, according to the well-known formula repeated, among others, by Rand in her manifesto *The Nature of Government*: "police, military, courts." A similar scope of state prerogatives seems to emerge from Nozick's theory of the emergence of the state from a dominant protection agency. However, as we remember, according to Hoppe, the defining attribute of the state is its exclusivity as the ultimate arbiter. It is therefore possible, at least conceptually, to imagine a state that acts as a court of last resort, but at the same time privatizes police and military services, and even the lower courts. In the context of the dispute between anarcho-capitalists and minarchists, it follows that even if the latter are right about the market inefficiency of anarchy in some sphere (e.g., national defense), such an argument only speaks in favor of maintaining the state's presence in that sphere, and not in all spheres known from the night watchman concept.), this argument only speaks in favor of maintaining the presence of the state in the area in question, and not in all areas known from the night watchman concept. On this dynamic (rather than static) understanding of the minimal state, see J. Hasnas, *Reflections on the Minimal State*, "Politics, Philosophy and Economics" 2003, 1 (2), pp. 115-128; S. Wójtowicz, *Czym jest minarchizm?* ("What is minarchism?"), "Societas et Ius" 2016, 5, pp. 62-65.

In the Rothbardian tradition, they are all anarcho-capitalists, while minarchists adopt slightly different concepts of authority or have no systematic theory in this regard. This applies in different ways to the two most important minarchist philosophers, Nozick and Rand.

Nozick, as his critics pointed out, never presented a comprehensive theory of subjective rights: we do not know exactly what rights he believes individuals are entitled to, nor what the justification ^{for} his libertarian ^{views} is. Furthermore, he defended the existence of procedural rights to determine guilt in the most reliable procedures possible, which cannot be derived from property rights. These procedures would allegedly not be observed by independent agencies, which would justify their delegalization by the dominant agency, while ensuring compensation for their clients and thus achieving the status of an ultraminimal state and then ^{a minimal} state. It is unclear why Nozick believes that the procedures of independent agencies would be unreliable. Moreover, as Roy Childs points out, if this were the case, independent agencies could simply imitate the procedures of the dominant agency, which, combined with the fact that they would not be burdened with the obligation to pay compensation, would give them a competitive advantage. From a libertarian point of view, however, the very idea of procedural rights as human rights is unacceptable. These rights are not derivable from property rights; moreover, they constitute positive entitlements, as they imply the existence of an obligation to provide the accused with a trial conducted according to standards whose implementation requires the use of scarce resources. These resources may simply not be available. Thus, procedural rights fall under the standard criticism of positive entitlements, according to which entitlements that impose unilateral obligations on some individuals for the benefit of others, as well as those whose realization depends on the contingent state of social welfare, cannot be ^{universal} entitlements. Furthermore, libertarian anarchists point out that Nozick's principle of compensation contradicts the logic of property rights. If contracting with unreliable agencies violates the rights of others, then no compensation is due for prohibiting such actions. However, if compensation is due, then there can be no violation of rights on the part of the person entitled to compensation. Moreover, compensation is a remedy, not a justification for the violation ^{of property} rights.

⁶⁷ M.N. Rothbard, *The Ethics of Liberty*, trans. J.M. Fijor, J. Wozinski, Warsaw 2010, p. 380.

⁶⁸ R. Nozick, *op. cit.*, pp. 121-127, *passim*.

⁶⁹ R. Barnett, *Whither Anarchy? Has Robert Nozick Justified the State?*, *Journal of Libertarian Studies* 1977, 1 (1), pp. 16-20.

⁷⁰ M.N. Rothbard, *The Ethics of Liberty*, pp. 365-366; R. Barnett, *Whither Anarchy?*, p. 20. On the anarcho-capitalist critique of Nozick's views, see also D. Osterfeld, *Internal Inconsistencies in*

Finally, Nozick used the theory of unproductive exchanges, which states that one party to an exchange is no better off than if the other party had not participated in the exchange or did not exist. Such exchanges should, in his view, be prohibited. For this reason, there is also no obligation to negotiate with independent agencies the terms of their withdrawal from the market. Demanding a fee for refraining from using unreliable procedures is not ^a productive exchange. One example of an inefficient exchange, according to Nozick, is blackmail. The victim cannot derive any benefit from the exchange. As Rothbard and Block point out, this is not true: if blackmail is prohibited, the holder of compromising information may disclose it precisely because he cannot seek a source of profit in refraining from doing so. Above all, however, Rothbard and Block consider the problem of blackmail in terms of property rights: no one owns their own image, because it is nothing more than a picture of themselves existing in the minds of others. Like other actions aimed at an individual's reputation, blackmail cannot therefore be prohibited.

To sum up the discussion on Nozick, it should be noted that the author is unclear about the theory of rights, their catalogue goes beyond property rights (procedural rights), and he imposes a clause on these rights (prohibition of unproductive exchanges).

Rand, on the other hand, when writing about the natural rights of the individual, never reduced them to (self-)ownership rights. Although she does not *explicitly* formulate clauses limiting property rights, she also does not provide a precise enumeration of human rights or a description of the logical relationships between them. In a manner reminiscent of both the American Declaration of Independence and the libertarian principle of non-aggression, she wrote: "Human rights can be

Arguments for Government: Nozick, Rand, and Hospers, Journal of Libertarian Studies 1980, 3 (IV), pp. 331-340; D. Juruś, *Czy Robert Nozick był libertarianinem?* [Was Robert Nozick a libertarian?], Principia: Pisma Koncepcyjne z Filozofii i Socjologii Teoretycznej [Principia: Conceptual Writings in Philosophy and Theoretical Sociology] 2005, vol. 41-42, pp. 233-260.

⁷¹ R. Nozick, *op. cit.*, pp. 108-111.

⁷² M.N. Rothbard, *The Ethics of Liberty*, pp. 219-229, 373-374; W. Block, *Defending the Undefendable*, Auburn 2018, pp. 41-46.

⁷³ It is worth noting that Hoppe, with his characteristic ideological intransigence, is highly skeptical of Nozick's ideas and of Nozick himself. Unlike the philosophically systematic and politically engaged Rothbard, Nozick was, in his opinion, a typical representative of contemporary academic philosophy: unwilling to construct a system, and above all ultimately relativistic, and therefore incapable of justifying his own theory and skeptical of it. According to Hoppe, Nozick never took his libertarianism completely seriously, considering it rather a kind of intellectual entertainment or curiosity. This explains both Nozick's lack of response to arguments from various critics and his abandonment of libertarianism in his later years. H.-H. Hoppe, *Introduction*, [in:] M.N. Rothbard, *The Ethics of Liberty*, Auburn 2016, pp. xxii-xxix, Polish edition: H.-H. Hoppe, *Introduction to the American edition*, [in:] M.N. Rothbard, *Libertarian Efficacy*, pp. 23-31.

violated only by the use of physical force. Only by physical force can one human being deprive another of his life, enslave him, rob him, or prevent him from pursuing his own goals, or compel him to act contrary to his rational judgment.”⁷⁴ It would seem that the position expressed in this quote is in line with the views of Rothbard and Hoppe. After all, individuals who refuse to submit to the state do not initiate the use of physical force against others. However, Rand then shifts the burden of her argument to the question of a rational social order: the use of force—even in response to aggression initiated by someone else—cannot be left to individuals, because, in her view, this would lead to chaos and widespread fear of violence, in other words, to a society that would not provide conditions for the development of rational egoists. This position – assuming, of course, that Rand's concerns about the consequences of abolishing the state are valid – is compatible with the teleological ethics of egoism, but not with the absolutist and negative rights-centered libertarianism proposed by Rothbard and developed by Hoppe. For such libertarianism—using a distinction that, although derived from Nozick, is nevertheless useful for our purposes—formulates not moral goals but limitations. It requires individuals to respect private property rights absolutely (restriction), rather than striving to create an order in which these rights are respected to the greatest extent possible (goal). The latter solution would conflict with ethical absolutism and the inviolability of individual rights: rights would have to be weighed and limited if required by the establishment of a just society.

⁷⁴ A. Rand, *The Nature of Government*, <https://fee.org/articles/the-nature-of-government-by-ayn-rand/> [accessed on 1 June 2023].

⁷⁵ *Ibid.* Some of Rand's students go even further, suggesting that the natural right of the individual is precisely to create such an order, rather than life, liberty, or property as such. John Roger Lee writes: "At best, it is a metaphor to say that people have a natural right to life, liberty, or property. Rather, people have a right to a system of laws operating in their environment that guarantees private property in some form, enforced by some mechanism that guarantees life for some time and subject to some qualifications and conditions, and that guarantees complete freedom of action and thought, compatible with similar freedom for others." J.R. Lee, *Libertarianism, Limited Government and Anarchy*, [in:] *Anarchism/Minarchism*, p. 19. According to Lee, such vagueness of subjective rights stems from the nature of the legal system, from the necessity of including a whole range of conventions that specify the content and scope of rights in a given place and time. This view is not only far removed from the position of libertarians such as Hoppe or Rothbard, but also close to legal positivism. Lee is not alone in this view: similar arguments were put forward by the objectivist journalist Yaron Brook during a debate with Dominiak on minarchism and anarcho-capitalism, which took place in Toruń in 2018. See the recording of the debate: Y. Brook, Ł. Dominiak, *Do We Need a State?*, <https://www.youtube.com/watch?v=cGVRXavK-A4> [accessed on June 1, 2023].

order which, *on balance*, would promote a lower level of infringements than if no restrictions⁷⁶ had been imposed.

Nozick's distinction can also be used against Randall Holcombe's attempt to invalidate the ethical differences between anarcho-capitalists and minarchists. According to Holcombe, both in economic and political terms, as well as in theory, the fundamental problems that divide the two sides of the debate have been misrepresented. In his view, the question of whether it is morally right and economically efficient to have a government or not presupposes that we are faced with a choice. This is not the case. Referring to arguments about the prospect of wars between security agencies and market monopolization and the transformation of the dominant agency into a state, Holcombe argues that government is not necessary (i.e., necessarily desirable), but it is inevitable—once it has been overthrown and replaced by market anarchy, it will reemerge. Therefore, it makes no sense to say that it should disappear. Duty presupposes possibility. According to Holcombe, the focus of the discussion should therefore shift to issues related to how to most effectively limit the power of the state. Then, unlike in the case of the emergence of the state from anarchy, it is possible to try to design its system and at least partially maintain control⁷⁷ over it. Peter Leeson and Edward Stringham, commenting on Holcombe's position, describe it as the point of view of a "pessimistic anarchist"—someone who does not consider the state to be justified or desirable, but at the same time recognizes its existence as inevitable.⁷⁸ Stanisław Wójtowicz, in turn, develops this view, pointing out that one way of ethically justifying minarchism and incorporating it into libertarian philosophy is to argue that although the minimal state itself commits aggression, it at least minimizes its amount compared to the alternative of a state emerging from a state of nature, which, remaining outside civic control, will probably be more than minimal. -ing outside of civic control, will certainly be of a supra-minimal nature. It should be noted that Wójtowicz maintains a distance from this idea, raising objections to the concept of minimizing the amount of aggression that are obvious in libertarianism: that the "amount" of aggression is immeasurable, and that the demand to eliminate it allows for the violation⁷⁹ of individual rights.

⁷⁶ R. Nozick, *op. cit.*, pp. 45–53.

⁷⁷ R. Holcombe, *Government: Unnecessary but Inevitable*, The Independent Review 2004, 3 (8), pp. 325–342.

⁷⁸ P.T. Leeson, E.P. Stringham, *Is Government Inevitable? Comment on Holcombe's Analysis*, The Independent Review 2005, 4 (9), p. 544.

⁷⁹ S. Wójtowicz, *What is minarchism?*, pp. 54–56.

Holcombe's argument, contrary to his belief, cannot refute the ethical position presented by Rothbard or, especially, Hoppe. For when it prohibits the violation of property rights, it does so unconditionally. The violation of rights cannot be justified on the grounds of the protection of rights, regardless of the scale of violations committed by others, if we refrain from committing them ourselves. *Fiat iustitia, pereat mundus*. Apart from this Kantian reply, Holcomb could also be accused of using the term *inevitability* too strongly when referring to the prospect of market anarchy sliding into statism. Even if one were to accept the author's arguments about the instability of anarchy as valid, one would still have to speak of a high probability rather than inevitability. After all, we are not dealing here with the laws of nature, but with human action. This also means that regardless of the institutional conditions and incentives that may or may not favor the emergence of the state, its establishment can ultimately be traced back to individual human choices. Someone—a specific person—decides to attack a competing agency, outlaw competitors, participate in these activities as an executor, or support them as a client. We are therefore still in the realm of moral choices, not in the realm of necessity. Holcombe does not so much invalidate the problem of the legitimacy of the state as he justifies it. Similarly, Holcombe's argument can be considered terminologically imprecise with regard to the economic aspect of the debate. If, as Holcombe believes, anarcho-capitalism will indeed lead to the rebirth of the state through struggle or monopolization, then it follows that it cannot effectively ensure the protection of property rights, not that the state-anarchy alternative does not exist as a choice. As Łukasz Dominiak and Igor Wysocki aptly write, appealing to the alleged (objective, non-moral) necessity of the state's existence means nothing more than minarchists surrendering in ^{the ethical} debate. Let us add that surrender means admitting defeat, not declaring the game null and void. To sum up: political anarchism is part of libertarianism in the narrow sense, while minarchism is not—it belongs, at most, to libertarianism in the ^{broad}er sense. Should we therefore consider considerations regarding the effectiveness of stateless order in protecting property rights irrelevant to the legitimacy of anarcho-capitalism as a component of libertarian thought? Such a conclusion would be an exaggeration. Anarcho-capitalism as a view

⁸⁰ Ł. Dominiak, I. Wysocki, *The Anarcho-Capitalist Case Against the State as a Challenge to the Minarchist Libertarians*, *Roczniki Filozoficzne* 2022, 2 (LXX), p. 59.

⁸¹ See the introduction to this work.

It is positive in nature – it says that all socially necessary functions of the state can be effectively provided by the market. Anarchism, on the other hand, can have a strictly negative status – manifesting itself solely in the rejection of state authority. Anarcho-capitalism is therefore not simply the same as libertarian anarchism. If anarcho-capitalism proved to be a system that could not be realized or maintained, it could not, by definition, constitute a viable alternative to statism. It would then have to be acknowledged that libertarianism, due to (a) its absolutism in understanding the principle of non-aggression; (b) the impossibility of a political order that excludes aggression – does not provide a vision of an optimal social order at all, focusing instead on the formulation of ethical standards for evaluating politics. The idea we would then arrive at would be a moralistic critique of politics; libertarians could (and, guided by political prudence, should) not seek to overthrow the state, realizing the consequences of such an event, but they themselves could not create it if it did not exist, nor participate in its actions against those who refuse to submit to it. This would therefore be a kind of pessimistic anarchism, as described by Leeson and Stringham.⁸² It would differ from Holcombe's position in that it would not invalidate the problem of the moral legitimacy of the state, consistently denying it. Minarchism, on the other hand, understood as a constant striving to minimize the competence of the state, could then constitute a libertarian political program, but it would not fully express the philosophical (ethical) attitude of libertarians toward the state.

3.2. An analytical argument against the state

Regardless of the above considerations, there is, in our opinion, another libertarian argument against the state, which makes this institution unacceptable even on the basis of the standards of justice espoused by authors such as Nozick and Rand. As signaled at the beginning of this chapter, this argument can be drawn from Hoppe's remarks on socialism and decree property. Recall that, according to Hoppe, private property and statism—even minimal statism—are analytically (conceptually) incompatible. If the state exercises sovereign power over a given territory and everything in it, then the property of its subjects cannot be property in the proper sense of the word. There cannot be two ultimate decision-makers with regard to the same resource at the same time. Hoppe writes about statism

⁸² Its pessimistic tone is reinforced when one considers what anarcho-capitalists think about the prospects for limited government. See Chapter V of this work.

solutions to the problem of social order as follows: "This solution would mean [...] that they [citizens – author's note] could enjoy the right to life and property only to the extent that I [the ruler – author's note] grant it to them, i.e., only when I allow them to live and possess the things they consider their property. Thus, in the final analysis, only I would have the right to life and be the owner of all goods."⁸³

In our opinion, this argument can be expressed more precisely by referring to the achievements of contemporary analytical jurisprudence. In this field, there are two competing theories about what it means to be the subject of a right (in *the strict sense* of entitlement or claim). According to the first theory, known as *the "will" or "choice" theory*, having a right to something means having *the competence (power) to control the corresponding freedoms and duties of others* (all these terms are used in the Hohfeldian sense⁸⁴). Consequently, according to the will theory, having a right also consists in having the freedom to control the freedoms and duties of others (if the subject of the right did not have such freedom, i.e., was subject to a duty not to exercise control, it could not have the competence to exercise it). In particular, according to the theory of will, having a right means having the power to extinguish or enforce duties equivalent to rights. On the other hand, according to the opposing view, known as *the "interest/benefit theory,"* having a right is equivalent to *being the beneficiary of the performance of a legal obligation*, which does not necessarily entail having ^{the relevant} competence. Following Herbert Hart's well-known example, let us imagine that A undertakes to B to take care of his sick mother. According to the theory of will, the subject of the right associated with this obligation is exclusively B; only he can extinguish the obligation incurred by A, i.e. release him from his promise. The theory of interest, on the other hand, would attribute the right to both B and the mother, as both can be characterized as beneficiaries of A's fulfillment of his ^{obligation}. The libertarian—and also minarchist—theory of rights uncontroversially positions itself on the side of the theory of will. Following Łukasz Dominiak, three decisive arguments can be cited here. First, the theory of will speaks of rights in terms of freedom of decision, which clearly harmonizes

⁸³ H.-H. Hoppe, *A Short History of Man. Progress and Decline: An Austro-Libertarian Reconstruction*, Auburn 2015, p. 105, Polish edition: p. 69.

⁸⁴ On Hohfeld's matrix of legal positions, see chapter II.

⁸⁵ H. Hart, *Essays on Bentham*, Oxford 2001, pp. 162-193; H. Steiner, *An Essay on Rights*, Oxford-Cambridge 1994, pp. 59-73.

⁸⁶ H. Hart, *Are There Any Natural Rights?*, *Philosophical Review* 1955, 64, 2, pp. 180-182.

with a libertarian emphasis on this particular issue. Second, since the interests of individuals in conditions of scarcity inevitably conflict with each other, the acceptance of interest theory precludes the realization of the libertarian ideal of freedom from conflict, and thus of the principle of non-aggression itself. However, the distribution of exclusive decision-making powers between Hart's individual "small-scale sovereigns"⁸⁷, as predicted by the theory of will, aims precisely at excluding conflicts between the latter. Thirdly, since it is impossible for every entity to freely define its legally protected interests, these interests must be defined in an objective manner by the legislator, which opens the door to all conceivable forms of paternalism. Let us note that, within the theory of interest, the existence of property rights can be reconciled with the sovereignty of the state. As the creator of this theory, Jeremy Bentham, wrote: "Property is nothing but the basis of expectation; the expectation of obtaining certain benefits from the thing we are to possess [...]" Of course, the existence of the state in no way negates our expectation that we will derive benefits from the objects we possess: for example, the author of these words reasonably expects to benefit, even if only cognitively, from the keyboard on which he is writing and which, he would like to believe, is his property. However, if we present the fact that the author of this book is under the authority of a sovereign state called the "Republic of Poland" in terms of the theory of will, his hope may prove futile.

To understand this, let us illustrate the differences between the two theories by referring to civil and criminal law. It seems that the theory of will is best suited to explain the first of these areas. A telling example can be found in Hillel Steiner, one of the proponents of the theory of will. Imagine that we order flowers for a friend's wedding. The theory of will offers a simple and intuitive understanding of the right that arises in this situation: it consists in having a dual competence to enforce (even if only by demanding compensation in the event of non-performance by the seller) the seller's obligation to deliver the flowers on time or to extinguish this obligation by withdrawing the order. The holder of the right to deliver the flowers on time is clearly us, as the customer, since it is we who have the aforementioned powers of enforcement and termination. The theory of interest would suggest that

⁸⁷ *Ibid.*, *Essays on Bentham*, p. 183.

⁸⁸ Ł. Dominiak, *Libertarianism and the Theory of Subjective Rights*, Athenaeum. Polish Political Studies, 2018, 58, pp. 41–59.

⁸⁹ J. Bentham, *Theory of Legislation*, London 1931, pp. 111–112.

Meanwhile, the newlyweds are the ones who have the right to receive the flowers, as they are the ultimate beneficiaries ^{of the delivery}.

The theory of will is more difficult to apply to contemporary criminal law: although at first glance it might seem, for example, that the law guarantees individuals the right to life or physical integrity, it is clear that either they do not have the competence to extinguish and enforce these rights, or they have them to a very limited extent (we encounter limited competence to extinguish these rights, for example, when the law permits euthanasia or boxing matches). This time, the theory of interest has no problem explaining the nature of the rights contained in the code: in accordance with its basic tenets (and contrary to the theory of will), we are dealing with a situation where the subject of the power to extinguish and enforce and the holder of the right are not the same: the former are members of the state apparatus, the latter is the beneficiary of the obligation corresponding to the right, i.e., the citizen. The most prominent advocate of the theory of will, Herbert Hart, simply assumed that criminal law, unlike civil law, does not constitute a field of rights at all, but only ^{a field of duties}. However, this solution is difficult to accept, as it involves rejecting Hohfeld's equivalence of duties and rights and, as a consequence, leads to a loss of clarity as to what rights and duties actually are. Steiner proposes a more consistent solution to this issue on the basis of the theory of will. He notes that the competence to enforce the powers covered by criminal law lies, in principle, with the state authorities. The same applies to extinguishing powers: however faintly visible, they ultimately lie at the highest levels of the political hierarchy—at the level of parliaments or other institutions empowered to amend ^{the code}.⁹² In no case, however, is it so that these powers do not exist at all. Since they do exist and, moreover, belong to the state, we have no choice but to conclude that, at least in the light of the theory of will, even in a minimal state, our rights to “life, liberty, and property” are only apparent. Ultimately, the right to our life, liberty, and property is held by the state.

The same analysis will, of course, apply to constitutional law. The constitution of a liberal or even minarchist state may grant citizens all the rights that are dear to the hearts of friends of freedom. In Hohfeld's terms, these will be immunities that exclude the state's competence to take action against

⁹⁰ H. Steiner, *op. cit.*, pp. 61-62.

⁹¹ H. Hart, *Essays on Bentham*, pp. 181-186.

⁹² H. Steiner, *op. cit.*, pp. 248-255.

citizen to a range of actions such as torture, imprisonment without a court ruling, or expropriation without compensation. In light of the above analysis, however, we see a serious limitation to the protection guaranteed by these immunities: the state as a sovereign entity or Weberian monopolist of legal coercion still has the power (one might say: a higher power) to revoke all liberties by amending the constitution. The constitutional guarantee that no one will be unlawfully imprisoned or expropriated therefore means, in essence, that these measures will not be taken unless the sovereign decides otherwise.

Referring to Nozick's famous thought experiment, which the philosopher called the slave's story, it can be said that the contemporary narrative about universal human rights guaranteed by sovereign states and the international organizations they create is precisely such ^{a story}. What is more, this would still be the case even if states reduced their activities to the narrow protective sphere envisaged by minarchists. We would then be dealing with a state that is a benevolent ^{slave} owner. Such an owner allows his living inventory to eat and drink whatever they want, indulge in their favorite pastimes, take up any work they wish, and even leave him to go to another master if they so desire. The life of slaves thus flows in an atmosphere of freedom and, as one might expect, numerous joys. From an empirical point of view, it is largely indistinguishable from the life of free people. However, this is only true as long as *the master allows it*. Cinema lovers may recall the image of Mammy, a slave, head housekeeper, and nanny on the O'Hara family plantation, from the unforgettable *Gone with the Wind*. This character plays an important role in the household, enjoys a considerable degree of autonomy, and seems very content with her life (she is largely responsible for raising the children, gives orders to other slaves, and travels freely to the city). The other O'Hara's slaves

⁹³ R. Nozick, *op. cit.*, pp. 338–340.

⁹⁴ Our analysis is somewhat complicated by the contemporary departure from Bodin's concept of state sovereignty within the international human rights protection system. However, this complication is not serious. Even if we assume that international law gives the international community the right to interfere in the internal sovereignty of states in the event of serious human rights violations, the powers of enforcement still lie with entities established by states, i.e. international organizations. Thus, at most, there is a division of the bundles of property rights over the body and property of individuals between different entities: for example, the power to tax remains with the state, while the powers to extinguish and enforce the right to life of individuals (and therefore the right itself) belong to international bodies. In other words, a slave is subject to his master in some matters and to associations of masters and their agencies (the UN General Assembly and Security Council, the European Court of Human Rights, etc.) in others.

They do not have as high a status as Mammy, but they live quite comfortably and freely. Nevertheless, they remain slaves to the planters, as one of Scarlett's maids is reminded during an argument when she is threatened with being sold if she does not follow her instructions. A characteristic feature: contemporary critics of *Gone with the Wind* argue that the fate of the overwhelming majority of slaves in the US was much worse than that of Mammy and her companions, and that the film therefore propagates a false, idealized image of slavery. Is the mere fact that one human being lives in slavery to another not enough to arouse moral revulsion? Would slavery cease to be evil if the lives of most or all slaves were like Mammy's?

Summary

In this chapter, we have examined Hoppe's vision of a stateless society – 100% capitalism, natural order, or a society based on private law. We presented the philosopher's arguments against the theory of public goods and in favor of the view that all economic goods can, in principle, be provided by the market. We described the advantages of such a completely market-based order according to Hoppe and why, in his opinion, it surpasses the state in the production of such critical goods as security and law. In the critical section, we focused on the ethical dimension of the debate between anarcho-capitalists and minarchists. We attempted to show that even if the optimism of Hoppe and similar authors regarding the prospects for the functioning of private property anarchy proved to be

⁹⁵ Despite the radical nature of our conclusions, our argumentation refers to Quentin Skinner's third, "Roman" concept of freedom as not so much the absence of interference as the absence of power. As Skinner writes, "freedom is limited not only by actual interference or the threat of it, but also by the very knowledge that we live in dependence on the goodwill of others. [...] To know that we are free to act or refrain from acting only because someone else has decided not to restrain us is to be reduced to slavery" (Q. Skinner, *A Third Concept of Liberty*, Isaiah Berlin Lecture. Proceedings of the British Academy, 2002, 117, pp. 247–248). The analysis presented here goes beyond Skinner's views in two key aspects. First, while agreeing that dependence on the power of another makes us slaves, contrary to Skinner, we deny that this lack of freedom stems from our awareness of subordination. From a legal point of view, it is sufficient that one entity has sovereign power (competence) to control all the legal positions of others. Whether or not the subjects are aware of this is objectively irrelevant. Second, unlike the republican Skinner, we do not believe that slavery is characteristic only of the tyrannical power of dictators and absolute monarchs. Slavery is inherent in the essence of the state. A similar libertarian analysis of Skinner's theory can be found in: Ł. Dominiak, *Quentin Skinner's Third Concept of Freedom: A Libertarian Critique*, [in:] *idem*, Ł. Perlikowski, *Justice, Identity, Rationality. Selected Problems in Political Philosophy*, Toruń 2016, pp. 144–156.

unjust, then it would still be impossible to justify it on libertarian grounds, and libertarians would have to become "pessimistic anarchists." This is because, as we have argued in previous chapters, the existence of the state as an entity with a monopoly on the final resolution of disputes is incompatible with libertarian property ethics. As we have shown, minarchist authors such as Nozick and Rand arrive at the opposite conclusion solely by adopting other, inconsistent or unargued theories of rights. Finally, using the analytical tools of contemporary jurisprudence, we presented an additional argument in favor of anarchism that has been overlooked in the debate so far and which, in our opinion, can be extracted from Hoppe's work. This argument holds that the existence of the state and libertarian theory of justice, even in its less radical, minarchist form, cannot be reconciled on purely conceptual grounds: there cannot be two sovereigns with overlapping spheres of competence, and the sovereign power of the state, however minimal, ultimately means the enslavement of the individual.

Chapter V

History

The previous chapters dealt with Hans-Hermann Hoppe's general theoretical views. We discussed his epistemology, ethics, theory of the state and the market, and stateless society. In Chapter 3, devoted to the theory of the state, we also highlighted the historiosophical dimension of Hoppe's thought: the concept of history as an arena of class struggle, or, in Murray Rothbard's words, a race between the state and liberty. In this chapter, we elaborate on this idea. Referring to Hoppe's later writings, published since the 1990s, we present him as a revisionist interpreter of history, proposing in his works an antithesis to the progressive, Wigian view of history as the progress of freedom, knowledge, and prosperity. According to Hoppe, while it is difficult to argue with the view that Western civilization (and, thanks to it, the whole world) is richer today than ever before, it enjoys a steadily declining range of freedoms. The most glorious period in its history in this respect was the Middle Ages with its polycentric, feudal order. The emergence of centralized absolute monarchies in the modern era must be seen as a sign of historical regression, the severity of which, however, pales in comparison to the times of mass democracy. Hoppe's narrative of Western history thus fits in with the philosopher's characteristic view of the inherent tendency of states toward hypertrophy. Moreover, according to Hoppe, liberal checks and balances—constitutionalism, the rule of law, and the separation and balance of powers—not only fail to curb this tendency, but actually reinforce it. Consequently, this chapter also concerns Hoppe as a critic of classical liberalism.

In the critical part of this chapter, we deal with one of Hoppe's most controversial theses, namely the claim that monarchy is superior to democracy from the point of view of libertarian principles. We will attempt to answer the question of whether this thesis is true. Our answer is that libertarian

The rehabilitation of monarchy carried out by this thinker, however intellectually interesting and partly justified, is burdened with certain methodological ambiguities and substantive simplifications. More precisely, we argue that, contrary to the impression given by Hoppe himself, his theory of political systems does not have *a priori* status, but is an application of the ideal type method. This application suffers from a one-sided approach, which treats monarchs as quasi-capitalists seeking to maximize monetary profit from the state they possess, while ignoring other important motives for their actions. With regard to democracy, we will argue that, although most of Hoppe's observations on the subject are accurate, he goes too far in his theses when he denies any effectiveness of liberal checks on democratic power. Finally, we will address the question of Hoppe's attitude toward classical liberalism. The question that interests us here is whether Hoppe's thought—as *pars pro toto* of libertarianism—can be placed within the broad current of liberal thought. In our opinion, this is justified, although libertarianism constitutes an independent current within liberalism, rather than simply a repetition of the theses of former liberals in modern times.

1. Aristocracy

1.1. The origins of the state

The positive assessment of the medieval social order mentioned in the introduction undoubtedly conflicts with Hoppe's earlier reflections on feudalism, in which he classified it as a precursor to conservative socialism – a system that forced the overwhelming majority of the population to suffer under the yoke of a military class of exploiters and, as a result, to live a life filled with oppression, misery, and hopelessness. However, these statements came from *The Theory of Socialism and Capitalism*, published, let us recall, in 1989. However, Hoppe's position on feudalism has clearly evolved since the 1990s, as can be seen in numerous texts published since then. This change represents a more general trend towards the growing importance of anti-egalitarian and elitist (hierarchical) themes in the thought of

¹ See chapter III.

² See H.-H. Hoppe, *A Short History of Man. Progress and Decline. An Austro-Libertarian Reconstruction*, Auburn 2015, pp. 103–132, Polish edition: *Krótką historia człowieka. Libertarian Reconstruction of Progress and Decline*, trans. Ł. Dominiak, Warsaw 2015, pp. 67–95; *idem*, *Economy, Society, and History*, Auburn 2021, pp. 101–114.

Hoppego. In his earlier works – *Eigentum...* and *Teorii...* – the author's anti-egalitarianism was limited to the theory of justice. In his later writings, however, his clear-cut theses aimed at egalitarian postulates refer to a broader socio-cultural context. This will be discussed in more detail in the next chapter, where we will focus on the conservative elements of Hoppe's philosophy. Here, however, we must draw attention to the theory of the origin of the state that appears in Hoppe's later works.

Hoppe distinguishes between exogenous and endogenous theories of the origin of the state. It should be added that, in light of his characterization, both point to violence as the source of the state—Hoppe clearly considers other theories unworthy of attention. Exogenous theories are those that see conquest as the cause of the state. Hoppe cites Franz Oppenheimer, Alexander Rüstow, and Albert J. Nock as proponents of this theory. In his opinion, the exogenous explanation raises doubts of both a historical and theoretical nature. In light of research by ethnographers and anthropologists—Hoppe cites Wilhelm Mühlmann here—at least some states did not arise as a result of the military subjugation of one community by another. Theoretically speaking, the ability to conquer would also indicate the prior existence of a *state-like* structure within the conquering group.

The endogenous theory, which Hoppe opts for, drawing on the theses of Bertrand de Jouvenel, states that the emergence of the state was the result of processes taking place within individual groups.³ Hoppe proposes the following hypothesis: due to inequalities between people in terms of wealth, wisdom, or courage, some members of a community gain status within it.

"*natural elite*." Thanks to their distinctive characteristics, they play a leadership role, and in the event of conflicts, they are the ones to whom people turn for mediation or arbitration. Their grassroots authority is then transferred to entire families through appropriate marriage, upbringing, and genetic inheritance. This process can still be observed today in smaller communities. The state enters the arena of history when one of the representatives of the natural elite begins to effectively usurp

³ *Idem*, *Democracy – the God that Failed. The Economics and Politics of Monarchy, Democracy, and Natural Order*, New Brunswick and London 2007, p. 72 et seq., Polish edition: *Demokracja – bóg, który zawiódł. Ekonomia i polityka monarchii, demokracji i ładu naturalnego*, trans. W. Falkowski, J. Jabłecki, Warsaw 2006, p. 118 et seq.; *idem*, *Economy, Society, and History*, pp. 123–126; *idem*, *Natural Elites, Intellectuals, and the State*, Auburn 2005.

⁴ *Idem*, *Natural Elites, Intellectuals, and the State*, pp. 3–4.

⁵ See B. de Jouvenel, *Traktat o władzy* [Treatise on Power], trans. K. Śledziński, Warsaw 2013, p. 85 et seq.

⁶ H.-H. Hoppe, *Natural Elites...*, pp. 4–5.

⁷ *Idem*, *A Short History of Man...*, p. 110, Polish edition: p. 73.

a monopoly position among judges and arbitrators. When other arbitrators are eliminated, which of course cannot happen without the use of coercion, only he can be turned to in disputes. This is how ^{Leviathan} is born.

1.2. A new r the Middle Ages?

Hoppe uses the term "aristocracy" in a slightly different way than has been accepted in academia since at least the time of Plato and Aristotle. In his view, it does not designate a form of government (an aristocratic republic), but a stateless, elite order whose core is the natural elite, or (more conventionally) the natural elite itself. He uses expressions such as

"natural aristocracy" or "nobility" (*natural aristocracy, nobles*)⁹.

According to Hoppe, this type of order existed in medieval Europe. Hoppe describes it as stateless, "*hierarchical-anarchic*." Feudal lords generally collected voluntary contributions, and taxation did not exist. The king, regardless of his own claims, enjoyed only the position of *primus inter pares* – his power came from election, and most importantly, he was subject to the law like everyone else. If he broke them, he had to reckon with armed opposition from the nobility and his overthrow. The law was essentially private in nature – it was based on agreements and belief in ancient customs that man was not empowered to change. It was also highly heterogeneous, encompassing a number of local and regional differences, whose common core was imposed by the teachings of the Church. Legislation, i.e. the legislative activity of the ruler, was absent. The weakness of kings and the discontinuity of the gradation of power associated with the principle of "my vassal's vassal is not my vassal" led to the dispersion of decision-making centers; an agreement between a senior and a vassal could be terminated in the event of a breach of bilateral arrangements, and protection could be sought from various lords, so that security and dispute resolution were ensured by

"a large number of competing, cooperating, overlapping, and hierarchically ordered levels of social authority."¹¹ This stateless system gave way to statism only when kings managed to secure a monopoly on jurisdiction. To avoid misunderstandings, Hoppe points out that medieval feudalism did not fully reflect the principles of natural order. After all, it allowed for the institution of serfdom (although the taxes imposed

⁸ *Idem, Natural Elites...*, p. 6.

⁹ *Idem, A Short History...*, p. 109, Polish edition: p. 73.

¹⁰ *Idem, The Great Fiction. Property, Economy, Society, and the Politics of Decline*, Auburn 2021, p. 482.

¹¹ *Ibid.*

on the peasantry were lower than today's fiscal burdens), as well as drastic penalties, often disproportionate to the offense, imposed, among other things, for crimes without victims. However, it was closer to a natural order in three key aspects: "(a) in terms of the supremacy of law and the subordination of all to one law; (b) the absence of the power to create law; (c) the absence of a legal monopoly on the adjudication of disputes."

As a comment, it should be said that the image of the Middle Ages contained in Hoppe's later writings undoubtedly contains many inaccuracies and simplifications. A comprehensive comparison with the findings and discussions of historians would, of course, require the preparation of a monumental work on medieval studies, which cannot be expected of Hoppe. However, it is worth making a few basic remarks. First, the one-sidedness of Hoppe's picture of the Middle Ages stems from his emphasis on the best (from a libertarian perspective) elements of its heritage and his marginalization of those elements that are worthy of condemnation. Aware that serfdom affected a significant part of the population at the time and that criminal law was far from libertarian ideals, Hoppe arbitrarily treats these issues as less important than the benefits of the polycentric nature of the medieval order. Secondly, and related to the first point, in constructing his synthesis, the thinker overlooks numerous systemic differences that occurred in both chronological and geographical terms during this long and heterogeneous era. He therefore does not reflect on the various types of feudalism that existed in different parts of the continent (historians are still debating the scope and nature of the different types of feudalism¹⁴), nor does he consider the non-linear evolution of the system, which at different times and in different countries sometimes strengthened central power and at other times weakened it¹⁵.

This presentation, simplified out of necessity, plays an important didactic role for Hoppe. The philosopher declares that the expression "natural order," which he uses

¹² *Ibid.*, *A Short History of Man...*, p. 112, Polish edition: p. 75.

¹³ *Ibid.*, p. 112, Polish edition: pp. 75-76.

¹⁴ A key point of contention regarding the feudal system is the issue of allodial ownership, i.e., ownership exempt from feudal encumbrances and thus closer to the libertarian concept of property. In her widely commented dissertation, Susan Reynolds argues, for example, that the scope of allodial property was much greater than historians had previously thought, as it was the predominant form of property in Western Europe as well, and not only in Eastern Europe, as had previously been believed. Reynolds' thesis seems to support Hoppe's view of the Middle Ages, especially since in *A Short History of Man...* Hoppe specifies that his highly approving description refers to "allodial" feudalism (p. 112, Polish edition: p. 75). Nevertheless, he does not refer to Reynolds' book even once. Instead, he cites Fritz Kern's 1914 work: *Kingship and Law in the Middle Ages*, trans. S.B. Chrimes, Oxford 1939, *passim*. Cf. S. Reynolds, *Lenna and Vassals: A Reinterpretation of Medieval Sources*, trans. A. Bugaj, Kęty 2011, *passim*.

¹⁵ See J. Baszkiewicz, *Władza*, Wrocław 2009, pp. 21-57.

often – including in the subtitle of the book *Democracy: The God That Failed* – to describe anarcho-capitalism, precisely because of its scholastic ^{origins}. As he emphasizes, the progressive vision of European political history from the “dark ages” to modern social democracies is a key instrument of statist propaganda. It instills in the public the belief that technological and economic progress goes hand in hand with processes of centralization within the framework of a state monopoly on jurisdiction and taxation. According to Hoppe, this belief is deeply mystified—in reality, social development takes place not as a result of the development of the state, but despite it, thanks to the free market, which is logically incompatible with the state. However, combating the “Wigian vision of history” is a task of particular importance for libertarian intellectuals, not only because of its falsity. Most importantly, historical politics is perhaps the most dangerous element of state ideological pressure. The wider public shows no more than superficial interest in theoretical issues, but is susceptible to the charm of attractive historical narratives. According to Hoppe, libertarians should therefore develop an appealing counter-narrative—one that, on the one hand, provides an inspiring model of a society located in the past and, on the other, exposes the miasma ^{of the} prevailing ideology.

2. Between monarchy and democracy

2.1. Libertarianism versus democracy

Before we move on to examine one of the most famous themes in Hoppe's thought, namely his principled criticism of democracy combined with a relatively favorable assessment of monarchy, we must first address several issues related to his and other libertarians' position on the democratic system.

First, in the context of Hoppe's intellectual biography, it should be emphasized that while a positive revaluation of the feudal aristocracy appears gradually only in his writings from the 1990s, the thinker's abhorrence of the democratic system is already evident in his early libertarian works: *Eigentum, Anarchie und Staat* and *Theories of Socialism and Capitalism*. As we have seen, Hoppe already recognized democracy in these works as the highest form of state development, the most perfect machine of exploitation in history – the “rationalization of rule” (*Rationalisierung von Herrschaft*) consisting in

¹⁶ H.-H. Hoppe, *Vorwort zur deutscher Ausgabe*, [in:] *Demokratie – der Gott, der keiner ist; Monarchie, Demokratie und natürliche Ordnung*, trans. R. Grözing, Waltrop-Leipzig 2003, p. 12.

¹⁷ *Ibid.*, *The Great Fiction*, pp. 472-475.

the corruption of society by the state through allowing it as a whole to profit from the process of expropriation. Furthermore, already in *Eigentum...* there is a statement which, as we shall see, plays a key role in the comparative analysis known from later works, namely that monarchy is favourably distinguished from democracy by a structure of incentives resulting from different types of state ownership. While kings and princes, as private owners of their lands, demonstrate relative foresight, democracy is a form of public ownership under which the extent of exploitation increases regardless of long-term consequences, according to the principle of “take and run”

Secondly, opposition to democracy has a long tradition in libertarian thought and among its precursors, the individualist anarchists, which is hardly surprising. The criticism of this system by Rothbard, Hoppe, and other libertarians is based on the rigorously consistent application of the principles of social individualism. In their view, consciousness and will belong exclusively to individuals, never to collectives, so the ideology of government – according to Abraham Lincoln's famous formula – “of the people, by the people, for the people”²⁰ cannot be regarded as anything other than a dangerous superstition. Rothbard comments emphatically:

“We are not the government, and the government is not us. [...] Reasoning in this way, we must conclude that the Jews [German Jews – author's note] murdered by the Nazi authorities were not murdered, but ‘committed suicide’.”²¹ He then adds: “A crime is a crime, aggression is aggression, regardless of how many citizens agree to such practices. In the minds of the majority, nothing is sacred. After all, a mob carrying out lynch justice constitutes a majority in its own territory.”²² In a similar vein on democracy, the leading American individualist anarchist Lysander Spooner, often quoted by Rothbard, compared votes to bullets with which citizens shoot at each other's rights.²³

Thirdly, despite the consensus among libertarians – at least those of the Rothbard school – on the unjust nature of democracy, Hoppe's position is nevertheless original within libertarianism. It was Hoppe who first argued that democracy is the most degenerate form of the state.

¹⁸ *Idem, Eigentum, Anarchie und Staat. Studien zur Theorie des Kapitalismus*, Opladen 1987, p. 154.

¹⁹ *Ibid.*, p. 180.

²⁰ Quoted from: J. Bartyzel, *Śmiertelny bóg Demos. Pięć wykładów o demokracji i jej krytykach* [The Deadly God Demos. Five Lectures on Democracy and Its Critics], Warsaw 2009, p. 9.

²¹ M.N. Rothbard, *For a New Liberty: Libertarian Manifesto*, trans. W. Falkowski, Warsaw 2005, p. 76.

²² *Ibid.*

²³ L. Spooner, *No Treason*, trans. S. Sękowski, Warsaw 2008, p. 28.

compared to which monarchy may seem an attractive alternative. Rothbard, however, not only failed to introduce a clear gradation of political systems from the worst to the least bad, placing democracy in the former category, but even seemed to favor it moderately. He even suggested that democracy could serve libertarians as a means of defense against the state. As he argued, it can be treated as a political means to an end. This end can be either socialism or the maximization of freedom.²⁴ Hoppe, on the other hand, takes the position that democracy is absolutely unreformable. In one of his most famous *passages*, he says: "The foundation and essence of freedom is the institution of private property. Private—exclusive—property is logically incompatible with democracy—majority rule. Democracy has nothing to do with freedom. It is a mild form of communism and has rarely been considered anything else in the history of ideas."

2.2. A comparative analysis of monarchy and democracy

Before proceeding to Hoppe's comparative analysis of monarchy and democracy, several points must be clarified: one terminological, one historical and ideological, one methodological, and one substantive.

With regard to terminology, it follows from the above considerations that, in Hoppe's view, monarchy (at least *in the strict sense*) is not a form of government characteristic of medieval Europe. This fact has been overlooked in the literature so far—the difference between Hoppe's concept of monarchy as private property government and the medieval "relatively stateless" order has been noted only by Tomasz Gabiś.²⁵ Hoppe, however, clearly points out that the medieval order was generally stateless, while the monarchy of that time

²⁴ M.N. Rothbard, *Man, Economy, and State with Power and Market*, Auburn 2009, p. 1291.

²⁵ H.-H. Hoppe, *The Great Fiction*, p. 235, Polish edition: *Krótką historia człowieka. Libertariańska rekonstrukcja postępu i upadku*, trans. Ł. Dominiak, Warsaw 2014, p. 166. In light of the above statement, it is impossible to agree with Jacek Bartyzel, who believes that Hoppe's criticism of democracy is merely accidental (in the researcher's terminology: "acknowledging the serious flaws of democracy [...], but nevertheless taking the view that these flaws are not necessary or accidental"), rather than substantialist (recognizing in democracy "an essential evil [...], inherent in the very nature of the object [...], irreplaceable and unreformable"). According to Bartyzel, despite the radicalism of Hoppe's theses, the fact that he links the evil of democracy with only one feature of this system, namely the conflict between it and the principle of private property, prevents it from being classified as substantialist. Meanwhile, bearing in mind the libertarian absolutism of property rights, it would be more accurate to say that it is precisely this issue that, from Hoppe's point of view, determines the inherently defective nature of democracy. Cf.

J. Bartyzel, *op. cit.*, pp. 32–33.

²⁶ T. Gabiś, *Hans-Hermann Hoppe on monarchy, democracy, and natural order*, <https://mises.pl/blog/2005/09/20/219/> [accessed on June 1, 2023].

was an institution integrated into this ^{order}. He also wrote that the name "monarchy" (in the sense of a form of government) most accurately corresponds to absolute monarchy – *the ancien régime* prevalent in 18th-century Europe. From the perspective of the history of ideas, it is important to note Hoppe's dependence on earlier researchers and conservative and liberal critics of democracy. In particular, as Gabiś rightly points out, Bertrand de Jouvenel, whom Hoppe quotes extensively, plays an important role here, showing the rise of state power from the Middle Ages, through absolute monarchies, to ^{democracy}. The influence of Erik von Kuehnelt-Leddihn, who described himself as a "liberal conservative," was also significant, although he was cited less frequently than de Jouvenel by Hoppe. an "extremely conservative arch-liberal" enemy ^{of democracy}, and of all conservative and liberal anti-democratic thought, which sees democracy as unbridled mob rule. Hoppe clearly adopts its intellectual categories, arguing that "the masses [...] always and everywhere consist of 'brutes,' 'dullards,' and 'fools' who are easily deluded and made to submit." As we shall see, however, what Hoppe has to say about democracy is by no means limited to a simple condemnation of it as mob rule.

On a methodological level, it should be emphasized that Hoppe classifies his reflections on political issues as belonging to the realm of grand theory (*grand theory*). In his opinion, explaining the historical trend towards expanding the scope of state power requires the use of a *priori* theory – one that is true in an apodictically necessary way and not susceptible to empirical falsification. In his opinion, an "elementary theoretical analysis of the nature of private ^{property}" is sufficient to substantiate the claim of the economic superiority of monarchy over democracy. At the same time, in line with Hoppe's strongly anti-empirical stance, all historical examples cited by Hoppe in his book appear solely as illustrations and have no

²⁷ H.-H. Hoppe, *Democracy...*, pp. 268-269, Polish edition: p. 351.

²⁸ *Ibid.*, p. 18, footnote 19, Polish edition: p. 54, footnote 34.

²⁹ T. Gabiś, *op. cit.*

³⁰ E. von Kuehnelt-Leddihn, *Liberty or Equality. The Challenge of Our Time*, Caldwell 1952, *passim*, esp. pp. 1-164; *idem*, *Democracy – Opium for the People*, trans. M. Gawlik, Warsaw 2012, *passim*. The influence of this thinker on Hoppe can also be seen in the latter's inclusion of Leddihn's essay in the collection *The Myth of National Defense*. The theses contained therein regarding the mitigating effect of the monarchical form of government on armed conflicts coincide with Hoppe's claims, which we discuss below. *Idem*, *Monarchy and War*, [in:] *The Myth of National Defense. Studies on the Theory and History of Security Production*, ed. H.-H. Hoppe, Auburn 2003, pp. 83-125.

³¹ H.-H. Hoppe, *Democracy...*, p. 92, Polish edition: p. 143.

³² *Ibid.*, p. XIX, Polish edition: p. 25. Cf. *idem*, *On Theory and History. Reply to Benegas-Lynch Jr.*, [in:] *Values and the Social Order*, Vol. 3, ed. G. Radnitzky, Avebury 1997.

no ^{probative} value. The philosopher constantly uses the *ceteris pari-bus* clause. What is particularly important, he also *explicitly* operates with the double assumption of the rationality and self-interest ^{of politicians}.

In terms of substance, the concept of time preference occupies a central place in Hoppe's analyses. Although time preference (focus on the present) cannot fall to zero in any human being (it is impossible to completely stop consumption), its intensity varies from person to person depending on various factors of a personal nature (psychological tendency towards short- or long-term thinking), biological (e.g., age—the actions of older people will, all other things being equal, be characterized by a shorter planning horizon) or institutional (a higher level of exploitation by the state will result in an increase in time preference, manifested in a decline in savings and investment)³⁵. The decline in the focus on the present among individuals and groups initiates what Hoppe calls, borrowing a term from Norbert Elias, the "civilizing process." It is based on discipline and control of instincts; on long-term planning, savings, and ^{investment}. This process, unlike in ^{Elias's view}, is halted by the emergence of the state, which is capable of violating property rights and thus undermining the foundations of social development on a scale unattainable by any illegal ^{criminal} organization.

At this point, we arrive at the main topic of our inquiry. Hoppe maintains that although the existence of any state brings about the aforementioned results, its particular forms differ from one another in terms of the scale of the de-civilizing effects they cause.

In accordance with the position articulated in all his works, according to which property rights are the key category of ethics, politics, and economics, Hoppe constructs his typology of basic political systems, taking as the criterion of division who is entitled to the title of ownership of the state. This leads to the distinction of only two systems: monarchy and democracy. In the first of these systems, the ruler (king, prince) is treated as the private owner of the state. In democracy, on the other hand, those in power are merely temporary

³³ H.-H. Hoppe, *Democracy...*, p. XVII et seq., Polish edition: p. 23 et seq.

³⁴ *Ibid.*, p. 15, *passim*, Polish edition: p. 50, *passim*.

³⁵ *Ibid.*, pp. 9–15, Polish edition: pp. 33–38.

³⁶ *Ibid.*, p. 7, Polish edition: p. 40. Cf.: N. Elias, *The Civilizing Process: Socio-Psycho-Genetic Studies*, trans. T. Zabłudowski, K. Markiewicz, Warsaw 2011.

³⁷ Elias argued, as is well known, that the development of the state is linked to the monopolization of violence, thanks to which the use of force is, in a sense, drained from society, which in fact constitutes an act of civilization. N. Elias, *op. cit.*, pp. 372–492.

³⁸ H.-H. Hoppe, *Democracy...*, pp. 12–15, Polish edition: pp. 47–50.

temporary caretakers of the state, which, according to the doctrine of popular sovereignty, is public property. The essence of Hoppe's argument in favor of the superiority of monarchy over democracy boils down to the claim that private property is superior to public property. In economic terms, the basis for this view is that, as the author of *Democracy...* argues, private property has a positive effect on the time horizon of decision-making. A private owner will, *ceteris paribus*, be inclined to be more far-sighted, because it is he who will personally reap the benefits. Public ownership, on the other hand, is inherently flawed, a defect described by economists as *the tragedy of the commons*: each user of a common good is motivated to exploit it as quickly as possible before others do. Consequently, it can be expected that a monarch who sees himself and his successors as private owners of the state will treat it as a valuable capital asset, providing him with profits for the rest of his life and then serving subsequent generations of the dynasty. Meanwhile, democratic politicians, due to the term limits on their power, will see the state they control as merely a consumer good, and will therefore exploit it with disregard for long-term costs. In short, while monarchs are entitled to the capital value of the country, democratic administrators only enjoy its ^{current} value. As a result, democracy "promotes the consumption of ^{capital}."

To supplement Hopp's theoretical construct, it should also be noted that monarchy and democracy, as pure types of political systems, represent two extremes of a continuum within which we can find a whole range of intermediate forms. For example, constitutional monarchies such as those known from France and functioning under the constitution of 1791 or after the July Revolution of 1830, based on the division of power between the monarchical and parliamentary branches, would be positioned somewhere between the two ^{extremes}.

³⁹ *Ibid.*, pp. 45–46, Polish edition: pp. 85–86.

⁴⁰ *Ibid.*, *A Short History of Man...*, p. 119, Polish edition: p. 83.

⁴¹ At first glance, it might seem that Hoppe's terminology deviates from the standard distinctions accepted in political science, where, at least since Montesquieu, the collective form of government has been referred to as a republic. Democracy, in turn, is considered subordinate to the republic—a republic in which sovereignty belongs to all citizens, not to a part of them, as is the case in an aristocratic republic. However, such a criticism would be misguided. This is precisely because Hoppe treats monarchy and democracy not as real types, but as models representing extremes on a continuum. Hence, from his perspective, the democratic republic known from textbook classifications will be a model, pure democracy, while the aristocratic or bourgeois republic will be an intermediate form, an incomplete democracy.

Importantly, the nominal form of government is not a decisive factor for Hoppe. Contemporary Western parliamentary monarchies, with their rule *of rex regnat, sed non gubernat* are in fact democratic ^{republics}. The consistent application of the criterion of state ownership also leads Hoppe to classify totalitarian communist, Nazi, and fascist dictatorships as democracies. Hoppe already expressed this view in *Eigentum, Anarchie und Staat*, defining "party dictatorship" (*Parteidiktatur*) as the rule of public property. After all, neither Adolf Hitler, Joseph Stalin, nor other totalitarian dictators enjoyed the position of private owners of their states; they stood at the head of mass political parties and, in the light of the theories that legitimized their power, were merely representatives of *the Volk*, the revolutionary proletariat, or some other large social group regarded by the ruling ideology as having a special mission. For the sake of precision, let us add that Hoppe does not consider modern dictatorships to be embodiments of pure democracy—as he puts it, they are rather regimes "closer to democracy." He clearly recognizes that the lack of cyclical alternation of power in fair elections and the autocratic manner of governance shift them on the monarchy-democracy axis toward the former, although they still remain closer to populism.

As Hoppe states, his main idea can be expressed in the following two theses:

- (1) The owner of a private government will plan with a longer time horizon in mind, i.e., his time preference will be lower, and therefore the extent of economic exploitation he will engage in will be less than that of the state; (2) A society subject to more intensive exploitation will also be more present-oriented under public government than under private government.

How exactly do these trends manifest themselves?

First, a monarch whose right to rule is itself a specific title of ownership must respect the property of his subjects. Otherwise, he would delegitimize his power. Second, bearing in mind the long-term capital value of the country, a king or prince will refrain from pursuing policies that ruin the economy: high taxation,

⁴² *Idem*, *Democracy...*, p. 18, footnote 19, Polish edition: p. 54, footnote 34.

⁴³ *Ibid.*, *Property, Anarchy, and the State*, p. 179.

⁴⁴ *Ibid.*, *Democracy...*, pp. 24–25, footnote 25; Polish edition: p. 62, footnote 40. There are, of course, exceptions to this rule: in Castro's Cuba and Kim's North Korea, power was inherited, which brings the regimes there closer to monarchical systems.

⁴⁵ *Ibid.*, p. 46, Polish edition: p. 86.

regulations or debt. Thirdly, the group of tax consumers will be relatively small: it will be limited to the ruling family and a small circle of state officials. Fourthly, the private nature of monarchical governments will compel the ruler to respect private law. Although he will make efforts to create and expand the sphere of legislation, he will remain a judge rather than a legislator. Fifth, the monarchical system has a moderating influence on the conduct of wars: military conflicts will be fought with the monarch's resources, and the stakes will be lands to be taken over by the ruler. To avoid rebellion among his subjects, the monarch will refrain from introducing universal conscription into the army. This will have a mitigating effect on military expansion: the monarch will not seek to destroy disputed territories and will show concern for the health and lives of his few and therefore valuable soldiers. In addition, the monarch has the option of acquiring new lands peacefully, through political marriages or trade in territories.

In a democracy, things will take a completely different turn. First, ruling politicians will have no good (instrumental-rational) reason to respect private property. Second, the temporary nature of their power will make it the last thing that will benefit them from the perspective of their particular interests. In order to maximize their current revenues, they will impose high taxes and easily succumb to corruption. Since "the president (unlike the king) has no interest in ruining his country"⁴⁶ he will have no qualms about causing inflation or indebting the state. Third, in a democracy, temporary administrators represent parties or, more broadly, political factions, and are additionally forced to routinely bribe their clientele—the electorate. Once in office, they will therefore make positions available at various levels of government to a whole host of other people, expanding bureaucratic structures. Fourth, democratic politicians will not recognize private law, replacing it with public pseudo-law—legislation. This will lead to the depreciation of law—a kind of legal inflation. Fifth, democratization will result in the massification and brutalization of armed conflicts. The irrationality of resource management inherent in public ownership will deprive managers of the incentive to refrain from devastating the land that is being fought over, while the participation of the general public in government will justify mass conscription. This, in turn, will result in a decline in the value of a single soldier's life and allow politicians to wage war regardless of the scale of casualties—just as public levies can be increased almost indefinitely, so too can conscription be repeated and expanded. In general,

⁴⁶ *Ibid.*, p. 24, Polish edition: p. 62.

The goal of the campaign will be the physical annihilation of a collective, depersonalized enemy—an entire nation.

As Hoppe emphasizes, free competition is not always a good thing. It is desirable when it involves the production of *goods*. However, it poses a mortal threat when it concerns the production of "*bads*." "Competition in torturing and killing innocent people or, for example, in cheating and swindling is absolutely undesirable [...]" writes Hoppe. Democratic electoral competition is nothing more than competition in the field of exploitation. Its effects therefore also leave a harmful mark on the character traits of those in power. A king may certainly be a thoroughly corrupt man, but there is also a chance that he will be merely a harmless dilettante, or even, thanks to a proper upbringing in the ruling family, a noble man. Meanwhile, competition for votes means that the most dangerous people, "demagogues devoid of moral inhibitions" rise to the top of power.

According to Hoppe, democracy has an equally harmful effect on society's attitudes (the socio-cultural dimension of this influence will be discussed in the next chapter). Subjected to the rule of a populist regime, it will also reduce the time frame of its planning and, above all, succumb to corruption and engage in mass redistributive competition. The author of *Democracy...* illustrates this thesis with the following thought experiment: imagine that a democratic world government is proclaimed. Taking into account the size of individual nations, it can be assumed that representatives of the Chinese and Indians would win in a universal election held by such a global regime. The government they would elect would probably impose huge taxes on the citizens of the rich Western countries, carrying out a gigantic forced transfer of funds to the relatively poor populations of China and India. This would establish a global redistribution machine which, by reducing Americans and Europeans to the status of slaves, would constantly undermine the foundations of property rights and, consequently, freedom and economic development.

According to Hoppe, what a hypothetical world government would do is already happening all the time, just on a smaller scale in individual countries. The philosopher says: "When it comes to morality, we must constantly remind ourselves that, according to the rules of democracy, A and B can join forces and rob C, and C can team up with A to rob B.

⁴⁷ *Ibid.*, pp. 46-54, Polish edition: pp. 87-96.

⁴⁸ *Ibid.*, p. 87, Polish edition: pp. 135-136.

⁴⁹ *Ibid.*, pp. 88-89, Polish edition: pp. 137-138.

⁵⁰ *Idem*, *A Short History...*, p. 120, Polish edition: p. 83.

⁵¹ *Idem*, *Democracy...*, p. 95, Polish edition: p. 147.

rob B, B and C may in turn conspire against A, and so on. This has nothing to do with justice, of course: but simply offends decency.”⁵² It is therefore democracy, not natural order, that constitutes Hobbes’s “war of all against all.”⁵³ It is, as the title of one of the German editions of Hopp’s essays proclaims, “a competition of rogues” (*Wettbewerb der Gauner*).

It should be noted that, contrary to the suggestion implied by the counterfactual example of a world government, Hoppe does not maintain that democratic redistribution necessarily involves the transfer of wealth from the fewer rich to the more numerous poor. In fact, according to the author of *Democracy...*, the trend is the opposite. The virtues that enable success in an unfettered market coincide, at least in part, with the qualities required of leaders and members of organizations that resort to political means to direct the flow of redistribution toward themselves. In both a free market economy and a democratic political game, people who are more resourceful, determined, and far-sighted gain an advantage over those who are less resourceful, determined, and more short-sighted. This thesis leads Hoppe—as it does Rothbard—to recognize Robert Michels’ iron law of oligarchy. According to the German economist, the main beneficiaries of redistribution programs are plutocrats (especially the banking sector and the so-called industrial-military complex), who benefit from the support of the claim-oriented poorest, while the heaviest burdens in a democracy fall on the shoulders of the middle class.

Hoppe illustrates his theoretical arguments (but, as mentioned, does not support them) by showing the historical trend of the expansion of statism. This trend—although it may be considered a dominant feature of Western civilization since the Middle Ages—gains strength-stically intensifies in what Hoppe calls the “democratic-republican era,” when, after two world wars, democracy spreads as a universal form of government in our cultural circle. However, this process was only partly rapid—democratization had already been progressing in the 19th century due to the growing role of parliaments and the gradual lowering of voting restrictions until universal suffrage was introduced, first for men and eventually for women as well.

⁵² *Ibid.*, p. 104, Polish edition: pp. 157–158.

⁵³ *Ibid.*, *A Short History...*, p. 122, Polish edition: p. 86.

⁵⁴ *Ibid.*, *Der Wettbewerb der Gauner. Über das Unwesen der Demokratie und den Ausweg in die Privatrechtsgesellschaft*, Berlin 2012.

⁵⁵ M.N. Rothbard, *For a New Liberty...*, p. 77.

⁵⁶ H.-H. Hoppe, *Democracy...*, pp. 96–98, Polish edition: pp. 148–150; *idem*, *A Short History...*, pp. 121–124, Polish edition: pp. 84–87.

⁵⁷ *Ibid.*, *Democracy...*, p. IX et seq., Polish edition: p. 11 et seq.

⁵⁸ *Ibid.*, pp. 50–54, Polish edition: pp. 92–96.

According to Hoppe, the statist trend observable in Western European countries is expressed in the following indicators:

1. Growing taxation. Taxes also grew during the monarchy – while fixed taxation was practically non-existent in the Middle Ages, modern monarchies gradually introduced customs duties, excise taxes, and land taxes. Income taxes did not exist until the mid-19th century, but over the next few decades, until the 1920s, they became commonplace in Western countries. At the same time, until the outbreak of World War I, government spending accounted for no more than 10 to slightly over 15% of GDP (as in the case of Germany, which was the most centralized country). In the interwar period, government spending reached 20-30% of GDP, reaching around 50% by the 1970s.

2. The number of state officials (civil servants) increased significantly. Until the end of the 19th century, employment in the public sector did not exceed 3% of the workforce. Around 1900, it was usually around 5%, and in the 1970s it reached 15% – except in Switzerland, where it remained at around 10%.

3. Rising inflation. While monarchs never managed to establish a monopoly on empty, fiat money, democratic republics did. The gold standard was abolished during World War I and was never reinstated in the "democratic-republican era" that followed. This led to at least a twofold, and usually severalfold, increase in prices in the following decades. In contrast, during the commodity money era, prices usually fell over the long term.

4. Public debt. Monarchs usually incurred debt during times of war, but reduced their debts during peacetime. Democratic states are permanently in debt: the debt of Western countries has been growing steadily since World War I, multiplying several dozen times over and eventually exceeding ^{GDP} in many countries.

5. Legislative overproduction and increasingly intense and severe interference in the personal lives of individuals, families, and other grassroots communities. Monarchs struggled to emancipate themselves from the bonds of private law, expanding their legislative monopoly. In democratic states, legislation has reached monstrous proportions, generating hundreds of thousands of pages of regulations, eliminating private property, increasing regime uncertainty, and thus contradicting the very idea ^{of law}. Hoppe states dramatically:

Every detail of private life, of owning and acquiring property, of trading and contracting, is subject to a pile of legal regulations.

⁵⁹ *Ibid.*, pp. 54-60, Polish edition: pp. 97-104.

⁶⁰ *Ibid.*, pp. 60-62, Polish edition: pp. 104-106.

(legislative). In the name of social, public or national security, our administrators are trying to "protect" us from global warming and cooling, from the extinction of animals and plants, from husbands and wives, from parents and legislators, from poverty, disease, disasters, ignorance, prejudice, racism, sexism, and hundreds of other "public enemies" and dangers.

The German thinker is undoubtedly right about the facts. The expansion of state institutions over the centuries, and in particular over the last century, cannot be questioned. The only thing that can be discussed is the evaluation of this state of affairs. But should we agree with Hoppe in his most important field—the realm of theory? The logical basis for his diagnosis is a relatively positive assessment of monarchy, which, according to Hoppe, is less conducive to the hypertrophy of power than democracy. Below, we will attempt to show that this claim is not free from unjustified simplifications.

2.3. Criticism of the theory of monarchy

As we have seen, Hoppe situates his analyses in the realm of what he calls grand social theory. The structure of the introduction to *Democracy...* may even suggest that he regards them as part of praxeology, which has the same *a priori* status as the entire discipline. The defense of the possibility of a *priori* judgments in the social sciences is directly adjacent to the presentation of the book's subject matter, objectives, and main theses. However, it is doubtful whether judgments such as "monarchs wage war less destructively than democratic rulers" or "a king or prince allows only a small part of society to participate in the redistribution of wealth" can be considered synthetic *a priori* judgments. The suggestion that these judgments correspond in character to the classic examples of synthetic *a priori* cited by Hoppe, such as "every object that has some color is an extended object," "an object that is completely red is not completely green," or even Mises's "man acts," seems suspect. This problem was pointed out in his review of *Democracy...* by David Gordon, who pointed to ambiguities regarding the epistemological status of Hoppe's claims and suggested that it would be more reasonable to consider them logically connected to *a priori* judgments (e.g., concerning the impact of taxation on the economy), but not constituting such judgments themselves. It is worth noting that Gordon's objection was not addressed by Hoppe.

⁶¹ *Ibid.*, p. 89, Polish edition: p. 139.

⁶² *Ibid.*, p. XV et seq., Polish edition: p. 19 et seq.

⁶³ *Ibid.*, Polish edition: p. 20.

⁶⁴ D. Gordon, *Democracy – The God That Failed*, [in:] *An Austro-Libertarian View*, Vol. 2: *Political Theory*, Auburn 2017, p. 99.

It should be noted that similar suggestions can also be found in Hoppe's works, although they are scattered and appear in texts other than *Democracy...* As already mentioned, the philosopher qualified his reflections on state theory and the philosophy of history — which are, after all, on the same theoretical level as studies on democracy and monarchy — with the reservation that although they draw on praxeology — they are instructed and limited by it — as such they no longer belong to the realm of pure a *priori* theory, as they operate with certain additional, speculative assumptions.

One must agree with Gerard Radnitzki's view that Hoppe's conceptualizations of political systems correspond rather to Weber's ideal types, a tool used in social science methodology also by von Mises and Hoppe himself. Let us briefly recall what, according to Mises, constitutes the difference between praxeological theory and the ideal type. Namely, the former explains the form of action—it deduces the logical consequences of the fact that man acts. The latter, on the other hand, deals with the matter of action — that is, its content, which consists of the goals actually (empirically) chosen by the subject. Hoppe's use of the assumption of politicians' self-interest clearly positions his considerations in the domain of Misesian history, and according to the author's own disciplinary distinctions in *Democracy...* — sociology. This is all the more so because, as is clear from the above summary of his arguments, he understands this assumption in a reductionist way. As Paweł Nowakowski rightly points out, the German thinker reduces the complex motivations behind the actions of those in power to the motive of monetary gain:

There are serious differences of opinion in the literature regarding the nature and function of ideal types. However, it is not disputed that ideal types are defined in opposition to real types: ideal types are not concepts referring to classes of real objects distinguished on the basis of common features. Instead, they are constructed on the basis of deliberate exaggeration and one-sided emphasis of certain features while ignoring others. As Mises wrote:

"Ideal types are temporary measures that simplify the consideration of the troublesome multiplicity and diversity of human affairs. When using them, one must always bear in mind

⁶⁵ See chapter III.

⁶⁶ G. Radnitzky, *Is Democracy More Peaceful than Other Forms of Government?*, [in:] *The Myth of National Defense*, ed. H.-H. Hoppe, p. 161.

⁶⁷ See chapter I.

⁶⁸ P. Nowakowski, "Why do bad people rule?" *On the critique of democratic "administrators" in the political philosophy of Hans-Hermann Hoppe*, "Dialogi Polityczne" 2010, 13, p. 272.

⁶⁹ See M. Kuniński, *Model Thinking in Max Weber's Sociology*, Wrocław 1980, pp. 35-119.

⁷⁰ M. Weber, *Economy and Society*, trans. D. Lachowska, Warsaw 2002, p. 7.

awareness of the shortcomings of any kind of simplification. The exuberance and variability of human life and action cannot be fully captured by concepts and definitions.”⁷¹ A classic example of the ideal type is Weber’s famous model of the Protestant guided by strict work ethic. Within this pure type, only one factor among a number of factors that could shape the actions of the faithful is selected and taken to the extreme. The same applies to Hoppe’s model of the monarch, according to which the ruler is motivated solely and consistently by the desire for personal enrichment. However, the way Hoppe uses ideal types differs from how Weber and Mises perceived their role. It is worth noting the differences between their approaches in order to better highlight the specificity of Hoppe’s approach and then be able to evaluate it.

Firstly, Mises does not attribute nomothetic values to the ideal type. He strongly opposed Weber’s treatment of economic laws as ideal-typological simplifications, which implies that for him the laws of praxeology and ideal types were two separate methodological categories. Furthermore, based on his dichotomous division between theory and history, Mises clearly saw the ideal type as an instrument of the latter. Hence the requirement for the ideal type to be as historically concrete as possible, allowing it to capture the specificity of a given historical situation. As Mises wrote: “The general ideal type of ‘entrepreneur’ is not particularly useful in history. More specific types are more applicable: the American entrepreneur living in Jefferson’s time, German heavy industry in the time of Wilhelm II, the textile industry in New England in the last decades before World War I [...]”

The differences between Weber and Mises on the one hand and Hoppe on the other reflect their divergent views on the philosophy of science. Unlike Weber, Hoppe is a consistent anti-empiricist and refuses to subject his arguments to any empirical falsification. The historical examples cited in *Democracy...* can therefore only illustrate, but never confirm, his theory. Unlike Mises, Hoppe does not divide knowledge about man into a dichotomy of “generalizing” theory (praxeology) and “individualizing” history. According to him, between these two groups of disciplines lies the field of sociology, which includes “generalizing” research—grand theories that, although they use praxeology, contain elements of looser, non-authoritative *a priori* speculation.⁷⁴ Investigations of this kind, in turn, differ from Mises’s history,

⁷¹ L. von Mises, *Theory and History: An Interpretation of the Social Process*, trans. G. Łucz-kiewicz, Warsaw 2011, p. 208.

⁷² *Ibid.*, *Epistemological Problems of Economics*, trans. G. Reisman, Auburn 2003, pp. 79–98.

⁷³ *Ibid.*, *Human Action: A Treatise on Economics*, trans. W. Falkowski, Warsaw 2011, p. 53.

⁷⁴ See chapters I and III.

that they operate at a high level of generality and therefore do not take into account the postulate of historical specificity. A general comparative analysis of monarchy and democracy should be classified as part of this set. As we will see below, the limitations of this theory stem largely from an excessive tendency toward simplification, or more precisely, from the above-mentioned absolutization of the role of economics in the actions of monarchs. For, as Kenneth Waltz rightly writes, although theorizing is essentially simplification, the need for theoretical simplification does not mean that it is worthwhile to simplify to the point where theory is reduced to a single ^{explanatory} variable.

Another cognitive benefit of recognizing Hoppe's theory of monarchy as based on an ideal type rather than on praxeological *a priori* assertions is that, as an example of the application of the former, it cannot be confused with what Mises called catallactic functions. According to Mises,

The terms "entrepreneur," "capitalist," "landowner," "worker," and "consumer" are used both by those who deal with issues concerning their own activities and by scholars in fields such as economic history, descriptive economics, and economic statistics [...]. However, when using these terms, they all refer to ideal types. When these terms are used in economics, they denote catallactic categories. Entrepreneurs, capitalists, landowners, workers, and consumers in economic theory are not specific people whom one encounters in life and history, but represent distinct functions of ^{market} operations.

Having recognized the ideal-typological nature of Hoppe's concept, we can now move on to analyzing the content of the type it offers. The very attribution of financial motives as leading motives to politicians raises serious objections. As a result, Hoppe proceeds as if the concept of a monarch corresponded, at least in part, to the catallactic function of a capitalist or landowner. Only by doing so can Hoppe claim that an "elementary theoretical analysis of the nature of private property" is sufficient to derive his theory of monarchy. Mises defined these functions as follows: "The capitalist and the landowner are actors in a context of changes in value and price which, even if all market data remain unchanged, must occur as a result of the passage of time and the difference between the assessment of the value of present goods and the value of ^{future} goods."⁷⁷ Mises adds explicitly that the catalactic function does not

⁷⁵ K. Waltz, *The Structure of International Relations*, trans. R. Włoch, Warsaw 2010, p. 9 et seq.

⁷⁶ L. von Mises, *Human Action*, p. 218.

⁷⁷ *Ibid.*, p. 220.

can be identified with ^a specific person. In fact, all landowners and capitalists are also entrepreneurs (i.e., entities facing uncertainty). In a free market economy this forces them to adapt to changing ^{consumer} preferences. A monarch is therefore not a capitalist or a landowner in the sense given by Mises. Capitalist and landowner are catallactic functions, and therefore belong to the free market economy. The free market or capitalism is, according to the definitions of Hoppe and Rothbard themselves, a system based on private property derived from original appropriation, contracts, and production. There is therefore no "free market of states" in which "capitalists" (kings and princes) could exchange and invest their wealth in expectation of positive returns ultimately derived from positive consumer evaluations. Such a concept is *a contradictio in adiecto* in Hoppe's theory. Significantly, in *The Theory of Socialism and Capitalism*, Hoppe lists three reasons for the economic superiority of capitalism over socialism:

Firstly, only capitalism can rationally allocate means of production, i.e. in terms of consumer assessments. Secondly, only capitalism can ensure that, given a certain quality of the population and a certain allocation, the quality of the product produced will be optimal – again in terms of consumer assessments. Third, given a given allocation of factors of production and a given product quality – again in terms of consumer assessments – only a market system can guarantee the effective maintenance of the value of factors of production over ^{time}.

It should be noted that these three advantages are not entirely separate from each other: on the contrary, they are logically interrelated. All of them boil down to the fact that in capitalism, the supply side is dependent on the demand side. In stark contrast to this, states—including monarchies—develop against demand, thanks to taxation and monopolization. Meanwhile, economic calculation, resulting in the most efficient allocation of productive resources, becomes possible and, at the same time, indispensable precisely because of the need to satisfy consumer preferences. As Mises has shown, this problem is most noticeable in a socialist economy, where central planners are unable to obtain the knowledge necessary to make decisions about the direction ^{of production}.⁸² Nevertheless, even public enterprises operating in a free market environment

⁷⁸ *Ibid.*

⁷⁹ *Ibid.*, pp. 234–237.

⁸⁰ H.-H. Hoppe, *A Theory of Socialism and Capitalism...*, pp. 180–181, Polish edition: p. 156; M.N. Rothbard, *Man, Economy, and State...*, p. 877.

⁸¹ H.-H. Hoppe, *A Theory...*, p. 192, Polish edition: p. 172.

⁸² L. von Mises, *Economic Calculation in Socialism*, trans. J. Jablecki, Warsaw 2011.

They also prove incapable of allocating resources effectively. Being free from the pressure of consumer whims, they simply do not need to strive for it. By the same token, if it were not for this pressure, producers would have no need to strive for the highest quality of their products. In short, the source of capitalism's efficiency is that producers must serve consumers. Since this is not the task of a monarch, none of the advantages discussed above apply to him. It is therefore not surprising that Hoppe does not mention them in the context of his theory of monarchy. Things become a little more complicated when it comes to the issue of preserving value over time. It is also clear that this issue lies at the heart of Hoppe's theory based on the category of time preference. Indeed, one does not need to be a demand-responsive entrepreneur to have a well-understood interest in preserving the value of one's property. Since all value is subjective, what counts as the long-term value of a resource depends on who is doing the valuation. Needless to say, in the case of a monarchical state, it is not willing buyers, but the ruler himself. Even if monarchs, as Hoppe⁸⁴ points out, sometimes sell their lands to each other, they do so within a political, not an economic (in the sense of Oppenheimer's division recognized by Hoppe) structure. The factors that can shape the value of a given area in the eyes of the rulers are therefore political factors – strategic location, terrain and the associated ease or difficulty of defense or attack, importance for dynastic arrangements, fortifications, availability of recruits, etc. Economic attributes (economic strength) are undoubtedly crucial, but they are still only one of the important variables. Strictly speaking, in the Oppenheimer-libertarian sense, monarchs do not engage in economic activity at all, but only in political activity. Hopp's concept of a monarch cannot therefore be treated as an economic category (again in the Oppenheimer sense). Instead, it should be treated as an ideal type of politician with a hereditary title to rule. This explains, incidentally, why monarchs rarely sell their lands. Other rulers—potential buyers—are also politicians. They can therefore use such a purchase against the seller, which may mean even the destruction of his kingdom or principality from the face of the earth.

This does not, of course, completely invalidate Hoppe's analysis, as long as it is treated simply as an ideal-typological consideration exploring the consequences of the greater foresight of monarchs compared to democratic leaders. In writing the above, we also do not remove from the field

⁸³ *Idem, Bureaucracy*, trans. J. Klos, Lublin-Chicago-Warsaw 2005; M.N. Rothbard, *Man, Economy, and State...*, pp. 952-953.

⁸⁴ H.-H. Hoppe, *Democracy...*, p. 18, Polish edition: p. 54.

monarchs' view of economic development. Ultimately, it is a key variable in any long-term calculation made by state leaders, significantly shaping – as an element of so-called *latent power* – the military and diplomatic potential ^{of a state}. The point is to see things in the right proportions, neither ignoring nor absolutizing the role of economic factors in politicians' calculations.

Nevertheless, it seems that the desire for power for its own sake can successfully pass as at least an equal motive for political activity as financial gain. Jacek Sierpiński rightly points out that from this perspective, a ruler may wish his subjects to be poor, enslaved, and terrorized, as this makes it easier to rule over them than a dynamically enriching society whose elites could threaten ^{the monarch's} monopoly on power. Let us add that even with strong financial motivations, a ruler can largely satisfy them regardless of the economic condition of the country. Numerous examples of dictators living in luxury while ruling countries plunged into poverty are telling in this context. This stems from the fact, highlighted above, that a monarch, not being a capitalist landowner but a politician, can derive income from his property regardless of the valuation of the services it provides by others.

The issue is not only about motives of power, but also about institutions. Today's democracy, if we accept its so-called real definition proposed by Joseph Schumpeter, is based on the cyclical alternation of power through universal ^{elections}. Logically, this requires, as Robert Dahl notes, the guarantee of certain political freedoms, which also fall within the sphere of negative freedom, such as the aforementioned freedom of speech or freedom ^{of association}. The opposite is true in the case of a monarchy, where maintaining a monopoly on power requires the restriction of these freedoms. It can be assumed that in a modern society, with its mass media and pluralism of worldviews, defending the authority of the king would only be possible at the cost of systematic repression. This objection seems even stronger than the previous ones. The former only pointed to the limitations of Hoppe's thesis that monarchy means a longer planning horizon, which in turn means a lower level of

⁸⁵ J. Mearsheimer, *Tragedy of Great Power Politics*, translated by P. Nowakowski, J. Sadkiewicz, Krakow 2019, pp. 69–93.

⁸⁶ J. Sierpiński, *A Critique of Hans-Hermann Hoppe's Thesis on Lesser Harmfulness of Monarchy than Democracy*, *Res Publica. Revista de Historia de las Ideas Políticas* 2016, 19 (2), p. 557.

⁸⁷ J.A. Schumpeter, *Capitalism, Socialism, and Democracy*, trans. M. Rusiński, Warsaw 2009, p. 336 et seq.

⁸⁸ R. Dahl, *Democracy and Its Critics*, trans. S. Amsterdamski, Warsaw 2012, pp. 131–132.

violations of individual rights. As a rule, however, as mentioned above, they did not challenge this view, if only because of the importance of economic development for the relative strength of the state in its relations with other states. In short, the argument so far has shown why a monarch can steal and enslave *despite* being a monarch. The above argument from political freedoms shows, however, that in a certain sense, a monarch is more dangerous from a libertarian point of view *precisely* because he is a monarch.

The private nature of monarchical governments can prompt rulers to take aggressive action in yet another way: by exacerbating conflicts over power. It is no coincidence that democratic politicians rarely kill each other or start civil wars when they are unable to gain power through elections, while among monarchs, brutal games for the throne often become commonplace. The reason is simple: the greater the reward, the more one is willing to do to obtain it. Someone who balks at the idea of murdering an opponent (perhaps a colleague or brother) for a four- or five-year term will not necessarily be equally repulsed by the prospect of doing the same if it means securing a vast estate for himself and his family for eternity.

Similarly, private ownership of the state generates incentives to initiate inter-state conflicts. It is true that the possibility of deriving income from a conquered economy should, *ceteris paribus*, deter rulers from destroying it during warfare, but the absence of nationalist

-democratic legitimacy of power weakens the justification for conscription. On the other hand, however, the same factors increase the likelihood that war will be started in the first place. First, empire building and the expansion and maintenance of spheres of influence are generally long-term endeavors that require relatively low time preference. Their time horizon usually extends beyond the term of a democratic politician. It is therefore more likely that such projects will be carried out by a king than by a president. It is not without reason that Austro-libertarians usually invoke the interests of the "*deep state*" when trying to explain the imperialism of democratic states such as ^{the US}. Ultimately, bankers and representatives of the industrial-military complex

-armament are private owners with the right to make testamentary dispositions. Their time preference should therefore be relatively low, exactly as is the case with monarchs. Moreover, newly acquired lands provide an opportunity to increase the profits of the king and his relatives, which again increases the likelihood that they will seek territorial gains. Structure

⁸⁹ See chapters III and VII on this subject.

The structure of incentives is different in the case of a democratic politician, who as such has no interest in fighting for spoils that can only be enjoyed long after his term of office has ended.

Finally, the ideology of the democratic nation state mitigates imperialism insofar as it imposes an unavoidable limitation on the policy of conquest: according to this ideology, the size of the state should correspond to the settlement boundaries of a given nation⁹⁰. Monarchy, on the other hand, as a cosmopolitan system in which the legitimacy of power derives not from universal (national) approval but from the legitimate title of the ruler, faces no such barriers. The monarch, being completely uninterested in the identity of the people he will rule, can, in principle, seize any territory he finds attractive.

As can be seen, our criticism has focused mainly on Hoppe's rehabilitation of monarchy⁹¹. This is because Hoppe's arguments on the effects of democratization should be rated much higher, as long as they do not rely on the claim that democracy is necessarily inferior to monarchy. At this point, it is worth referring once again to Nowakowski's findings. In his article criticizing Hoppe's critique of democracy, he distinguishes two autonomous lines of argument developed by the German thinker. The first refers to the effects of public ownership of government as such, while the second refers to the results of universal suffrage.

⁹⁰ E. Gellner, *Nations and Nationalism*, trans. T. Hołówka, Warsaw 2009, p. 75.

⁹¹ Our criticism was *strictly* theoretical, not historical or empirical. As such, it constitutes an immanent critique—adopting Hoppe's methodological position for the purposes of discussion, we sought to demonstrate the limitations of his approach to monarchy on the basis of this strictly anti-empirical position, thus avoiding *a posteriori* polemics. It is worth noting, however, that Hoppe's rigid anti-falsificationism should not be taken at face value. His criticism, which is again essentially immanent, could be as follows: since the theses of sociology (as understood by Hoppe) do not have the status of necessary knowledge, they should be subject to the test of experience. On the other hand, it would seem that if Hoppe's argument about the possibility of learning is correct, then such a test is impossible: causes that are constant over time do not exist in the sphere of human action, and therefore the appearance of a "falsifier" says nothing. However, this would only be the case on the basis of Popper's original falsificationism, in which a single prognostic failure of the theory under investigation is sufficient for falsification: if a theory fails once, then, assuming the constancy of causal relations in the world, it must always be false. However, if, as Hoppe wants, this assumption fails, there is no reason to impose such rigorous requirements on social science theories. This does not mean, however, that the need to confront theory with experience disappears altogether. The latter can only result from *the a priori nature* of a given judgment or set of judgments. In the case of non-apodictic claims of sociology, the reliability of a theory may rather be determined by an impossible-to-precisely-define combination of the quality of the understanding contained therein and the relative predictive success (or retroductive success, if past events are included in the field of research), i.e. the relationship between the number of successful and unsuccessful predictions (retrodictions) in comparison with alternative theories. On Hoppe's empirical critique of the theory of monarchy, see J. Sierpiński, *op. cit.*

⁹² P. Nowakowski, *op. cit.*, pp. 276–277.

agree with Nowakowski that the second criticism is more valid. Democracy, seen in this light, is the liberal-democratic system we know, with universal elections, cyclical alternation of power, and what Dahl calls "polyarchy," that is, the rule of competing ^{social} factions. This is why Hoppe's description of the redistributive practices of the democratic system corresponds to reality. Democracy in the broader sense, which Hoppe has in mind when he writes about public ownership of the government *tout court*, is a far-reaching simplification in which the power of American presidents is considered to be of the same category as Stalin's dictatorship. Again, this does not mean that Hoppe's analyses based on the concepts of time preference and capital consumption have no cognitive value – it is difficult to disagree that far-reaching waste and mismanagement characterize both communist and liberal-democratic regimes. However, due to its monocausality, this claim reveals a much narrower slice of reality than a critique of democracy based on an analysis of the effects of electoral competition.

3. Hoppe's libertarianism and liberalism

3.1. The impossibility of limited government in a liberal society

It is commonly accepted that the political regime found in contemporary Western states is in fact a mixed system – a synthesis of democratic elements (the principle of popular sovereignty) and the principles of classical liberalism (the principles of individual freedom, pluralism, the rule of law, and the separation and balance of powers), where the central values of *the liberal creed* – individual rights – are protected against violations by institutions that restrain the power ^{of the majority}. As Hoppe argues, however, these safeguards are illusory, and the power of the democratic state over the individual is inherently unrestrained, "almost ^{totalitarian}."

"The main and greatest mistake of liberalism is its theory of government," says Hoppe. "No minimal government can be reconciled with the original desire of liberals to protect property rights, because every such government has a natural tendency to transform itself into ^{a large government}." For, as

⁹³ R. Dahl, *Democracy and Its Critics...*, *passim*.

⁹⁴ See, for example, J. Bartyzel, *op. cit.*, pp. 73-96. G. Sartori, *Teoria demokracji* [The Theory of Democracy], trans. P. Amsterdamski, D. Grinberg, Warsaw 1994, *passim*.

⁹⁵ H.-H. Hoppe, *Democracy...*, p. 62, Polish edition: p. 107.

⁹⁶ *Ibid.*, p. 224, Polish edition: p. 294.

⁹⁷ *Ibid.*, p. 229, Polish edition: pp. 299-300.

We remember that the class of tax consumers is united in a common interest in practicing aggression and expanding its scale. Under the rule of a jurisdictional-fiscal monopoly, the quality of protection systematically declines, while its price, expressed in public levies, rises. What is more, the sovereignty of the state logically excludes the sovereignty of the owner and thus the right of ownership as ^{such}. For these reasons alone, the classical liberal ideal of a "constitutionally limited government" whose purpose is to protect individual rights must be considered utopian in the strongest sense of the word, as it is internally contradictory. "A tax-funded protection agency is an antinomy," Hoppe reminds us.

Hoppe criticizes the liberal principle of the rule of law with numerous arguments. First, he attacks the liberal and democratic concept of equality before the law. As a libertarian, Hoppe is, of course, in favor of egalitarianism of subjective rights (however, the term

"Egalitarianism" never appears in an affirmative context in his work, and he considers the very expression "equality before the law" to be potentially misleading, as ^{discussed} below. Every rational being (capable of reasoning) has an absolute right to ownership of their body and all other economic resources that they have acquired through original appropriation, contracts, and production. For Hoppe, universalizability is a prerequisite for the validity of any ethical theory. Therefore, he approves of classical liberalism as a moral philosophy that proclaims the universalism of human rights, which, according to Hoppe, boil down to property rights. However, the very existence of the state and public law is incompatible with these rights. Therefore, it was a fatal mistake on the part of liberals to commit the error of *non sequitur*: from true premises about the defective nature of human beings and the need to protect property rights, they drew the false conclusion that ^{the state} must be the provider of security. This error was compounded by the absurd concept of the social contract, which only ostensibly made it possible to reconcile the praise of freedom with the acceptance of state coercion. In reality, no universal contract establishing government has ever taken place. Nor would it be either rational or, as an act of voluntary slavery, ethically acceptable. From John Locke to James Buchanan

⁹⁸ See chapter IV.

⁹⁹ H.-H. Hoppe, *Democracy...*, p. 229, Polish edition: p. 299.

¹⁰⁰ *Ibid.*, p. 230, Polish edition: p. 300.

¹⁰¹ *Idem*, *The Future of Liberalism. A Plea for a New Radicalism*, lecture presented at the Mont Pelerin Society conference in Barcelona, 1997, <http://www.hanshoppe.com/wp-content/uploads/publications/hoppe-plea.pdf> [accessed on 1 June 2023].

¹⁰² *Idem*, *Democracy...*, pp. 225–227, Polish edition: pp. 295–297.

and Gordon Tullock, liberals attempt to overcome this aporia by creating ever new variants of the concept of tacit consent, expressed – as in Locke – through residence in the territory of the state or – as in Buchanan and Tullock – in the original constitutional contract. Hoppe considers all these attempts unconvincing, absurd, even “Orwellian” in their presentation of coercion as a voluntary relationship.

By accepting the legitimacy of the state, liberals are faced with the question of how to resolve the issue of rights to participate in political decision-making procedures from the perspective of the principle of equality before the law. Although some liberals—such as the founding fathers of the United States, cited by Hoppe—cultivated an aristocratic skepticism toward mass democracy and advocated census restrictions, there can be only one logical solution: universal and equal suffrage and universal and equal access to public office. According to Hoppe, however, such “democratic equality before the law” is quite different from the idea of “one universal law, equally binding on everyone, everywhere and at all times.” In a democracy, there are no “personal privileges and privileged persons,” but there are “functional privileges and privileged functions.” State officials are allowed to impose taxes and violate the rights of other people in all other ways that are prohibited to private individuals. Discrimination does not disappear with the replacement of monarchy by democracy; it is access to positions that allow for its exercise that becomes widespread.

Obviously, Hoppe also opposes the position of liberals such as Montesquieu and Hayek, according to whom freedom consists in being bound only by law; if the latter meets certain conditions such as generality and impartiality, then, according to this view, its norms can be regarded as not incompatible with freedom. As Anthony de Jasay, whose position corresponds to Hoppe's view, says: it is not the rule of law that matters, but good law.

¹⁰³ *Ibid.*, pp. 227–228, also footnote 15, Polish edition: pp. 297–208, also footnote 324.

¹⁰⁴ *Idem*, *The Economics and Ethics of Private Property. Studies in Political Economy and Philosophy*, Auburn 2006, p. 16, footnote 18, Polish edition: *Ekonomia i etyka własności prywatnej. Studia z zakresu ekonomii politycznej i filozofii*, trans. K. Nowacki, Warsaw 2011, p. 26, footnote 19. Cf. J. Locke, *Two Treatises of Government*, trans. Z. Rau, Warsaw 2015, p. 304 et seq.

¹⁰⁵ H.-H. Hoppe, *Democracy...*, p. 232. Polish edition: p. 303.

¹⁰⁶ *Ibid.*, p. 233, Polish edition: p. 303.

¹⁰⁷ *Ibid.*

¹⁰⁸ Montesquieu wrote: “Freedom is the right to do everything that the laws permit.” Montesquieu, *The Spirit of Laws*, trans. T. Boy-Żeleński, Krakow 2016, p. 170.

¹⁰⁹ A. de Jasay, *The State*, Indianapolis 1998, p. 75.

Furthermore, even good law—if the state manages to provide it to some extent—cannot last long if it is enforced by the state, which acts as a monopoly based on coercion. Hoppe again quotes de Jouvenel, who argued in *his Treatise on Power* that all ideologies originally developed to impose limits on the expansion of power eventually became propaganda instruments providing justification for it. In this context, the principles of the rule of law and constitutionalism share the fate of the concept of the divine origin of kings and the principle of popular sovereignty. Even a constitution that is closest to libertarian principles will therefore be interpreted in such a way as to give the appearance of legality to violations ^{of individual} rights.

Hoppe also considers the principle of separation and balance of powers, with particular emphasis on the ideal of judicial independence, to be illusory. His arguments correspond to the views previously expressed on this subject by Rothbard and Jasay, to whom the philosopher refers extensively. Constitutional control of legislation by courts and tribunals is just another ideological tool that legitimizes acts of violence by the state. For, in addition to the already described corruption of the governed, so that the politically relevant part of society is bound to the state by a network of common interests, Leviathan needs, in order to strengthen its rule, an ideology (understood in the Marxist sense as false consciousness) that effectively convinces the public of the legitimate status of power. Endowing laws that violate freedom with a certificate of legitimacy issued by a constitutional control body—the supposed guardian of rights and freedoms—is an excellent way to lull the governed into complacency. Why, according to Hoppe, should we expect the constitutional court to act as an ally of the government rather than a protector of freedom? This is because all segments of Montesquieu's division of power – the legislative, executive, and judicial branches – are agencies of the same institution: the state. This fact – as trivial as it is often overlooked in literature apologetic toward democracy – means that in disputes between citizens and the state, courts assume the position of judge in their own case, which must create a risk of biased judgments, at least where decisions on the scope of state competence are at stake. Secondly, in democratic regimes, the separation between different types of power is never strict – they always remain interdependent, for example as a result of the creative functions of the legislature vis-à-vis the executive and ^{judicial} powers.

¹¹⁰ B. de Jouvenel, *op. cit.*, pp. 42–61.

¹¹¹ H.-H. Hoppe, *Democracy...*, p. 231, footnote 17, Polish edition: p. 301, footnote 326; *ibidem*, pp. 271–277, Polish edition: pp. 353–360. See also M.N. Rothbard, *Egalitarianism as a Revolt Against Nature*, Auburn 2000, pp. 70–80.

from each other, a situation different from that in which Montesquieu developed his theory. Living in the 18th century, the philosopher perceived the three branches of power as rooted in separate social classes, with the king at the head of the executive or the legislature divided, following the English model, between the aristocracy and the bourgeoisie. This division of power was certainly more firmly established than today's division between institutions staffed according to the egalitarian criterion of universal access to office. As Jasay points out, the effectiveness of the formal balance of powers can only be a function of the real balance of the social forces behind them. Hoppe further states: "Constitutional division of power is of virtually no importance here. Two or three bad factors will not add up to anything good. On the contrary, they will lead to the spread, accumulation, and intensification of evil." In other words, the belief that the separation of powers between different state agencies will allow them to mitigate each other is completely unfounded. Each of them, in its own domain and at its own level, is engaged in the violation of human rights. Taken together, the political measures they employ will not be limited, but will complement and accumulate.

According to Hoppe, the best empirical illustration of the unreliability of liberal restraints and, at the same time, the utopian nature of all liberal projects of limited government is the example of the United States of America. Established as a constitutional republic with strictly limited powers, in less than two centuries it has transformed into a state classified by Hoppe as social democratic, in which the government takes about 40% of citizens' income, various aspects of life are subject to meticulous control by officials, and the ambition of those in power is to exercise hegemonic control over the entire world. The US Constitution is therefore wrongly a source of pride for the country's inhabitants: in fact, its adoption was a dramatic mistake. After a successful war of independence, the revolutionaries should have established a stateless territory. By granting the central government the right to legislate and impose taxes, they brought upon themselves and their descendants a tyranny worse than that exercised over them by the English king. Contrary to the classical liberal vision of history espoused by William of Norwich, constitutionalism has never been a step forward. Even in the days of monarchy, it was in fact a step backward:

The constitution did not protect the people from the king, but the king from the people. It was, after all, a state constitution that accepted what had previously been treated with great

¹¹² Montesquieu, *op. cit.*, pp. 172-201.

¹¹³ A. de Jasay, *op. cit.*, pp. 205-214.

¹¹⁴ H.-H. Hoppe, *Democracy...*, p. 276, Polish edition: p. 359.

¹¹⁵ *Ibid.*, pp. 278-279, Polish edition: pp. 361-362.

¹¹⁶ *Ibid.*, pp. 271-278, Polish edition: pp. 353-360.

suspicion, namely the king's right to impose taxes without the consent of the citizens and to create new laws. By submitting to a few formalities and procedures, the constitutional monarch gained the opportunity to increase his power and enrich himself on a scale completely unimaginable for an absolute monarch.

Let us summarize: the real role of constitutionalism and the balance and separation of powers according to Hoppe was most accurately described not by him, but by Jasay, who wrote about them as a belt of virtue, the key to which is within the reach of a lady.¹¹⁷ Minimal government is a misguided ideal that has never existed and cannot exist.

3.2. But what's liberalism?

This revisionist view of liberal democracy should be considered fundamentally correct. However, there are certain tensions and ambiguities inherent in it. Hoppe's *dictum* about democracy as a "mild [emphasis added] variant of communism" can be interpreted in these terms. One may ask: why is democracy a mild variant? What determines its mildness? Why is communism, or, in Hoppe's terminology, Soviet-style socialism, not introduced under its rule? This question can be treated as a manifestation of a universal problem: if power in general shows an irresistible tendency to expand, then, as Jasay rightly points out, the fact that its momentum is sometimes restrained requires explanation.

Let us also note that Hoppe allows himself a certain terminological inconsistency in the quotation in question. For while in *Democracy...* he considered communism to be a regime that could be placed on the monarchy-democracy axis, -democracy, here he writes about it as a concept superior to democracy (democracy is supposed to be a variant of communism). Clearly, Hoppe himself does not treat state ownership strictly as a factor determining its quality and place in the typology of political systems. Furthermore, Hoppe illustrates his distinction between private and public state ownership with an analogy to private and public slavery. For him, the former is exemplified by the practices used in the US to end the Civil War, and the latter by the relations between the state and citizens in the Soviet Union. Hoppe believes that thanks to private property and the associated right to the capital value of a resource (a slave), as well as the extended planning horizon, private slaves, however regrettable their status may have been, were in a better situation.

¹¹⁷ *Ibid.*, *A Short History...*, p. 116, Polish edition: pp. 79–80.

¹¹⁸ A. de Jasay, *op. cit.*, p. 211.

¹¹⁹ *Ibid.*, p. 5, *passim*.

than their counterparts enslaved by Lenin, Stalin, and subsequent Soviet leaders. Private slave owners were more or less brutal, but the vast majority of them – unlike communists – did not murder, maim or starve their slaves, just as one does not generally destroy other capital goods that one ^{owns}. But why does Hoppe use Soviet communism as a counterexample to private slavery, rather than Western democracies, since both systems are public property states? Clearly, there are mechanisms other than ownership that mitigate the democratic drive to rule.

Two factors should be mentioned here, the first of which can be described as systemic, and the second as ideological. The systemic factor is related to the simplification contained in the positions of authors such as Hayek and Kuehnelt-Leddihn. These authors completely separate the domains of liberalism (individual freedom, limitations on power) and democracy (sovereignty of the people), which directly implies the possibility of totalitarian democracy, which, without *explicitly* using Jacob Talmon's term, is essentially ^{what Hoppe} ^{writes} ^{about}. Although totalitarian democracy is possible, it is misguided to identify it with democracy based on universal suffrage. The simplification of Hayek and Leddihn's distinction lies in the fact that, as we have already mentioned, the very occurrence of cyclical alternation of power as a result of free elections entails – provided that the elections are truly free and fair – a guarantee of a certain range of individual freedoms, which can be described both as political freedoms and as components of liberal personal freedom (and, from a libertarian perspective, as derivatives of property rights and self-ownership). Examples include freedom of speech and the media, or freedom of association, provided, of course, that these freedoms are not recognized by the legal system as superior to ^{property} rights: At this point, it is worth noting another inaccuracy in Hoppe's diagnosis of democracy. While insisting on the classical liberal category of majority tyranny (this can be seen, for example, in the quoted statement about the conflict between freedom and majority rule), he correctly clarifies that in practice democracy means not so much majority rule as competition between many, often minority, interest groups for public resources, described by Robert Dahl as "polyarchy."

¹²⁰ H.-H. Hoppe, *Note on Socialism and Slavery*, Chronicles, 1993, 6; *idem*, *Democracy...*, pp. 24–25, footnote 25, Polish edition: pp. 62–63, footnote 40.

¹²¹ E. von Kuehnelt-Leddihn, *Democracy – Opium for the People*, pp. 13–20; F.A. Hayek, *The Constitution of Liberty: A Treatise on Economics*, trans. W. Falkowski, Warsaw 2011, pp. 112–116; J.L. Talmon, *The Origins of Totalitarian Democracy*, trans. A. Ehlrich, Krakow 2015.

¹²² R. Dahl, *op. cit.*, pp. 131–132.

¹²³ *Ibid.*, *passim*.

Fair competition between them, based primarily on election results, although it significantly leads to violations of the libertarian principles described by Hoppe, also logically implies (though not always in practice) protection against at least some of such violations.

The ideological factor, however, is the stigma that liberalism has left on Western culture. The components of contemporary liberal democracy that are genetically derived from it, such as the principle of pluralism and the protection of minority rights, do not, as critics of democracy accurately point out, have their roots in democratic ideology, but they have nevertheless become permanently intertwined with it in the popular consciousness. Perhaps Hoppe himself would agree with this suggestion. It is none other than libertarian authors who rightly emphasize the important role that public opinion plays in the process of legitimizing power.

In terms of the intellectual genealogy of Hoppe's libertarianism and his attitude towards liberalism, it is worth paying some attention to the ambivalence that characterizes this relationship. In the literature, one often encounters the view that libertarianism is a contemporary, radicalized continuation of ^{classical} liberalism. Rothbard held this position, and Hoppe seems to agree. He even calls libertarians "new liberals" and considers the revision that classical liberals should undertake, consisting in replacing statism with support for private property anarchy, to be a "minor intellectual exercise," albeit one of "decisive ^{practical} importance." As he states, "private property anarchy is simply consistent liberalism, liberalism taken to its ultimate conclusion or reduced to its original ^{premises}." Characteristically, one of the chapters of *Democracy* devoted to refuting the idea of limited government begins with a passage from ^{the US} Declaration of Independence on the right of people to overthrow a government that violates their rights. Hoppe also considers classical liberalism to be the only true liberalism, condemning contemporary "social democrats in liberal disguise" and denouncing the appropriation of the liberal banner by the left, especially ^{in the US}. At the same time, some of Hoppe's statements on classical liberalism are extremely harsh. He emphasizes that liberalism is in decline, and the cause of its failures lies inherent in its philosophy, more precisely in its mistaken recognition of the legitimacy of the state. It is liberals, Hoppe argues, despite their attachment to individual rights, who have contributed to

¹²⁴ See the introduction to this book and the references cited therein.

¹²⁵ H.-H. Hoppe, *Democracy...*, pp. 236–237, Polish edition: pp. 307–308.

¹²⁶ *Ibid.*, p. 236, Polish edition: p. 308.

¹²⁷ *Ibid.*, p. 239, Polish edition: p. 313.

¹²⁸ *Ibid.*

unwittingly to the explosion of socialism in our era, legitimizing the modern state and, ultimately, ^{democracy}. He compares liberals—like all other statist (in Hoppe's terminology: supporters of the state, even if its powers are limited)—to communists. The latter reacted to all failures of their ideal with evasions, seeing their causes in accidental historical circumstances and arguing that if only a different variant of communism were introduced—for example, Bukharin's, Trotsky's, or, preferably, their own—everything would have turned out better. Similarly, supporters of limited government, despite decisive theoretical arguments and overwhelming empirical evidence, stubbornly refuse to accept that their ideal is inherently flawed. Instead, they believe that it would be enough for a different politician to come to power at some point or for an appropriate amendment to be introduced into the constitution, and the state would maintain its activity within strictly defined ^{limits}.

It should be emphasized here that Hoppe's argument, although insightful and at times strikingly accurate, actually only applies to the most laissez-faire variants of classical liberalism, which are closest to libertarianism. Hoppe's reading of the classical liberal tradition is selective, and the thinkers he admires are often cited in a one-sided manner, ignoring or marginalizing those elements of their legacy that can hardly be considered proto-libertarian. Hoppe deliberately omits Locke's famous *proviso*, which qualifies his theory of property, considering it an expression of the inconsistency of the author of *Two Treatises of Government*.¹²⁹ Herbert Spencer appears on Hoppe's recommended reading list on anarcho-capitalism and its precursors, but only because of *Social Statics*, his early, most anarchistic work, which includes, among other ^{things}, the essay *The Right to Ignore the State*.¹³⁰ It is worth mentioning, however, that Spencer, like Locke but unlike libertarians, was not an absolutist of private property. He linked his "law of equal freedom" to the common original ownership ^{of land}. Hoppe's bibliography also includes *The Right and Wrong of Compulsion by the State* by a lesser-known radical follower of Spencer's thought and proponent of voluntary taxation.

¹²⁹ *Ibid.*, pp. 221–224, Polish edition: pp. 292–294.

¹³⁰ *Ibid.*, pp. 244–245, Polish edition: p. 319.

¹³¹ *Ibid.*, *The Economics and Ethics of Private Property*, p. 410, Polish edition: p. 425.

¹³² *Idem*, *Bibliography on Anarcho-Capitalism*, [in:] R.P. Murphy, *The Chaos Theory*, p. 69; H. Spencer, *Social Statics*, London 1851, pp. 206–216.

¹³³ H. Spencer, *Social Statics*, pp. 114–125.

Auberona^{Herbert134}. In addition, Hoppe refers to the aforementioned French leseferist liberals: Bastiat, Molinari, Denoyer, and Comte¹³⁵. The most important place among Hoppe's classical liberal inspirations undoubtedly belongs to Mises, whose groundbreaking significance for social thought and his own development Hoppe constantly emphasizes. At the same time, he attacks Mises for his support for the minimal state and democracy as the form^{of government} closest to the post-cooperative ideals of liberals. Two leading liberal theorists, John Stuart Mill and Friedrich August von Hayek, are in turn exposed by the author of *Democracy...* as socialists. In a succinct comment in a footnote, Hoppe approvingly quotes Mises' opinion of the former, that he was "a precursor of the thoughtless confusion of liberal and socialist ideas" and "a great supporter^{of socialism}." Hayek, on the other hand, is not a classical liberal in Hoppe's eyes, but a moderate^{social democrat}. Hoppe finds Hayek's anti-rationalism unacceptable. In Hoppe's view, Hayek's entire philosophy, from his theory of knowledge through social philosophy to his political ideas, is permeated by skepticism toward reason, which leads to error after error on each of these^{levels}. Hayek, repeating after Hume that reason is and should be only a slave to the passions and that rationality is a product of history, is, in Hoppe's view, simply a relativist. Hayek's evolutionism must be rejected as internally contradictory—it claims the status of universal social knowledge, while its concept of cultural transmission (unconscious adaptations at the individual level, producing rationally unpredictable results) implies that such knowledge is impossible. Furthermore, the evolutionary approach as such is unjustified in the sciences of human action: in a world of individual, subjective

¹³⁴ See A. Herbert, *The Right and Wrong of Compulsion by the State*, Indianapolis 1978, esp. essay 4, title essay, par. 6.

¹³⁵ See chapter III of this book.

¹³⁶ H.-H. Hoppe, *Democracy...*, pp. 77–81, Polish edition: pp. 123–128. On Mises's position on democracy, see L. von Mises, *Liberalism in the Classical Tradition*, trans. S. Czarnik, Kraków 2009, pp. 61–65.

¹³⁷ H.-H. Hoppe, *Democracy...*, p. 221, footnote 1, Polish edition: p. 290, footnote 310, quoted from: L. von Mises, *Liberalism in the Classical Tradition*, p. 258.

¹³⁸ H.-H. Hoppe, *Why Mises (and not Hayek)?*, https://mises.org/library/why-mises-and-not-hayek?bclid=IwAR0LDumESp5VIOWWcIpDoBqAiNRj4f_PeDMxMovtLXHJVdSZBg16-cfHPf8, [accessed on 1 June 2023].

¹³⁹ Hayek is now considered a contemporary classic, most of his political works have been translated into Polish, and there is a considerable amount of Polish-language literature on Hayek. We therefore see no need to refer here to the views of this thinker that Hoppe criticizes. On Hayek's political thought, apart from his works cited here and there, see the studies: M. Kuniński, *Wiedza, etyka i polityka w myśli F.A. Hayeka [Knowledge, Ethics, and Politics in the Thought of F.A. Hayek]*, Kraków 1999; J. Godłowski-Legiędź, *Doktryna społeczno-ekonomiczna Friedricha von Hayeka [The Socio-Economic Doctrine of Friedrich von Hayek]*, Warsaw 1992.

valuations, there is no clear criterion for evolutionary progress similar to adaptation in nature. Worse still, evolutionism, anti-rationalism, and relativism, combined with the application of subjectivism where it has no place, lead Hayek to a flawed concept of freedom. His theory, according to which freedom is defined (correctly) as the absence of coercion, i.e. (incorrectly) as a state in which an individual can act according to his plans rather than according to the arbitrary will of others, "contains nothing that refers to actions, scarce goods, and property. "Coercion" here refers rather to a specific configuration of subjective wills [...]"¹⁴¹. This definition not only fails to meet the requirement of operability by not providing a clear answer to what we are allowed to do (we cannot know whether, when, and how our actions interfere with the plans and preferences of the rest of the population). Above all, due to its vagueness, it allows any action to be classified as coercive and thus justifies any interference with property rights in order to avoid allegedly greater coercion. This problem is further exacerbated by Hayek's excessive focus on the rule of law, leading to the postulate that as long as the will of others to which one must submit is not arbitrary but bound by stable and universally binding (non-discriminatory) laws, it ceases to be a source of coercion and becomes something similar to the laws of nature, in relation to which one can successfully plan one's own actions. Thanks to such "terminological hocus-pocus," one can defend any invasion of persons and their property, including a 90% income tax and long-term compulsory military service, as consistent with the idea of freedom. "Just make sure it's a proportional tax and universal military service!" Hoppe says ironically. As if that were not enough, Hayek demands that the state provide all necessary goods that are not provided by the market, which, as in the case of public goods theory, constitutes a *blank* check for the state (after all, one can always say that some goods, important from someone's subjective point of view, have not been provided by the market). According to Hoppe, the extensive list of prerogatives that Hayek attributes to the state, including building roads, regulating the trade in harmful substances, setting minimum wages, compulsory social insurance, spatial planning, and many others, should therefore come as no surprise. "The difference between Hayek and modern

¹⁴⁰ H.-H. Hoppe, *The Great Fiction*, pp. 412–431.

¹⁴¹ *Ibid.*, p. 407.

¹⁴² *Ibid.*, p. 406.

¹⁴³ *Social Democrat Hayek*, interview conducted by Mateusz Machaj, *Najwyższy Czas!* 2004, 39 (749), pp. 36–37.

¹⁴⁴ H.-H. Hoppe, *The Great Fiction*, p. 406.

social democrat boils down to the question of whether postal services should be privatized (Hayek says “yes”).¹⁴⁵

Norman Barry distinguishes two main lines of development in classical liberal thought based on their attitude toward private property and freedom. One of them can be considered the successor to Rothbard and Hoppe: it is legal-naturalistic and, from this position, sets fixed limits on individual freedom and property, as well as, accordingly, specific limits on political power. The second approach to freedom and property is characterized by proceduralism and, at least in part, conventionalism. It refers to the overriding value of a stable and predictable law, within which freedom and property can be assigned a historically diverse scope. This approach includes philosophers such as Hume, Montesquieu, and ^{Hayek} Hoppe's criticism of the latter's views can therefore be seen as representative of our philosopher's attitude toward the procedural-conventionalist version of classical liberalism as ^{such}. As we can see, Hoppe unilaterally narrows the spectrum of classical liberal concepts to the natural law and laissez-faire traditions. He ignores or outright rejects the latter as ^{socialist}.

Meanwhile, bearing in mind Hoppe's model considerations in *The Theory of Capitalism and Socialism*, Hayek's "social democrat" could rather be said to have had political recommendations that were in fact close to social democracy (but also to conservative socialism): nevertheless, the entire philosophy of this thinker—the justification for these postulates—is definitely not social democratic in nature. It is not based on egalitarianism in terms of income, wealth, and opportunities. On the contrary, it situates

¹⁴⁵ *Ibid.*

¹⁴⁶ N. Barry, *On Classical Liberalism and Libertarianism*, London 1986, p. 27.

¹⁴⁷ Hoppe's refutation of Hayekism is more comprehensive and includes more arguments than we present here, especially on epistemology and social evolutionism. However, we assume that the above summary is sufficient to illustrate the fundamental differences between the two philosophers. A systematic libertarian critique of Hayek's concept of freedom and the state can also be found in Rothbard, although the article by Hoppe referred to here is much longer and clearly more in-depth, especially with regard to Hayek's idea of spontaneous order, which Rothbard does not criticize. See M.N. Rothbard, *The Ethics of Liberty*, trans. J. Fijor, J. Wozinski, Warsaw 2010, pp. 337–351.

¹⁴⁸ It is significant that Hoppe does not refer positively to Kant, who is so close to him in epistemology and ethics, when it comes to political issues. Only Kant's expression appears in Hoppe's works.

“eternal peace,” referring to the libertarian vision of overcoming normative conflicts through respect for property rights. H.-H. Hoppe, *The Great Fiction*, p. 508. In addition, Hoppe mentions Kant in a political context solely as one of the theorists of the social contract, which, as we already know, is not a compliment. *Idem*, *The Idea of Private Law Society: The Case of Carl-Ludwig von Haller*, <https://mises.org/wire/idea-private-law-society-case-karl-ludwig-von-haller> [accessed on June 3, 2023].

¹⁴⁹ Hayek's postulates, such as the regulation of trade in weapons or harmful substances, can be included in Hoppe's conservative-socialist ideas.

in opposition to him, except that he operates with a concept of freedom that differs from the libertarian one.

To sum up the discussion on the relationship between Hoppe and the libertarianism he represents and classical liberalism, it should be said that although libertarianism is indeed a continuation of classical liberalism, it is a continuation rooted in only one version of the latter philosophy, and even that version is radicalized. Nevertheless, contrary to the position expressed by Dariusz Juruś, we do not believe that this fact precludes the inclusion of libertarianism à la Hoppe and Rothbard in the broader family of liberal thought. If we define liberalism, following John Gray, as a political philosophy based on four pillars: individualism (freedom and subjective rights), egalitarianism (in the sense of the moral equality of humans as rational beings), meliorism (the ability of individuals and societies to self-improve and create functional social orders from the bottom up), and universalism (the universality of individual rights), Hoppe's thought fits well into this canon. In addition, we find in him most of the consecutive elements of liberalism relating to the political organization of society that are usually pointed out in the literature, such as the (anarchistically interpreted) ideal of the rule of law or the division and balance of powers.¹⁵⁰ Of course, the overwhelming majority of classical liberals saw the state as the guarantor of all these values. If we include their support for the state in the definition of liberalism, then Rothbard and Hoppe's libertarianism would no longer fit into this concept. However, we do not consider this to be justified for two reasons. First, we believe that definitions of political philosophy—unlike, for example, definitions of political doctrines—should focus more on the intangibles they defend, such as concepts of good, justice, or freedom, than on specific institutional proposals. The latter are, after all, only the tip of the iceberg in philosophy, so to speak. Secondly, it should be remembered that even among classical liberals there are thinkers, albeit a small minority, who advocate private property anarchy, such as Molinari.

¹⁵⁰ See D. Juruś, *Is Classical Liberalism the Source of Libertarianism?*, Res Publica. Revista de Historia de las Ideas Políticas, 2016, Vol. 19, No. 2, pp. 437–458; *idem*, *In Search of the Foundations of Libertarianism: From the Perspective of Rothbard's Concept of Property*, Kraków 2012, pp. 193–234.

¹⁵¹ J. Gray, *Liberalism*, trans. R. Dziubecka, Kraków 1994, chap. I.

¹⁵² R.T. Long writes interestingly about anarcho-capitalism as a form of nomocracy in *Market Anarchism as Constitutionalism*, [in:] *Anarchism/Minarchism. Is Government Part of a Free Country*, ed. R.T. Long, T. Machan, Hampshire 2008, pp. 133–154.

Summary

In this chapter, we have presented a basic outline of the political history of Western civilization according to Hoppe. For him, it is a history of decline: from a not entirely libertarian but stateless medieval order, through absolute and then constitutional monarchies, to contemporary mass democracy. According to Hoppe, each successive stage represents a further departure from respect for private property. Classical liberalism played a special role in this process of degeneration. On the one hand, Hoppe acknowledges its contribution to the theory of freedom, but on the other hand, he accuses it of contributing to the crystallization of the modern state.

In the critical section of this chapter, we focused primarily on Hoppe's claim about the superiority of monarchy over democracy, formulated on the basis of a comparison between the private (monarchy) and public (democracy) characteristics of government ownership. Our thesis with regard to Hoppe's theory of monarchy is that (a) Hoppe does not use an a priori deductive economic argument here, but rather an ideal-typological analysis, and (b) that Hoppe's ideal type of monarchy is flawed, mainly due to his interpretation of the monarchical form of government in terms of the praxeological function of the capitalist and the associated overestimation of the role of economic factors in politics. We rate the cognitive value of Hoppe's ideal type of democracy highly, with the difference that we have distinguished within it – following Nowakowski – two lines of argument, one of which is related to public ownership of the government, and the other to the consequences of universal suffrage. The limitations of the former stem from the same source as those characterizing the theory of monarchy: it is an overly abstract, single-factor ideal type.

We also criticized Hoppe's view that classical liberal checks and balances built into democratic or monarchical systems, such as the separation of powers or the rule of law, instead of limiting power, only strengthen it. Although many of Hoppe's arguments in favor of this position are valid and inspiring, they do not paint a complete picture of reality. Finally, we pointed to the selectivity that characterizes Hoppe's drawing on the classical liberal tradition, while ultimately classifying his philosophy as falling within the broad current of liberal political philosophy.

Chapter VI

Culture

In this chapter, we continue our discussion of conservative-right-wing themes in Hoppe's later thought. We focus on his views on the moral and cultural order that, in his opinion, should coexist with the institutions of a stateless society based on private law. As we will see, this is a non-egalitarian, hierarchical order based on the leading role of grassroots communities, in particular the family. The essence of Hoppe's position is expressed, as we will show, in the assertion that there is a symmetrical relationship of support and complementarity between libertarianism and conservatism. These are present on two levels: descriptive and normative. A private law society is sociologically compatible with a conservative vision of social relations, and its establishment will naturally entail the implementation of this vision. Moreover, according to Hoppe, this is how it should be. On the other hand, socio-cultural conservatism conflicts with the activities of the state, in particular the welfare state. Therefore, "conservatives must be consistent libertarians (anti-statists)," while libertarians "must be staunch conservatives in the realm of morality and culture"

The critical part of this chapter covers three main issues. From a historical point of view, we will reflect on the connections between Hoppe's ideas and conservative thought. We will try to answer the question of to what extent this author's philosophy can be placed within the ideological spectrum of conservatism. In our opinion, this is not the case: Hoppe's thought does not constitute, in a philosophical sense, a variant of conservatism.

¹ H.-H. Hoppe, *Democracy – the God that Failed. The Economics and Politics of Monarchy, Democracy, and Natural Order*, New Brunswick-London 2007, pp. 199, 218, Polish edition: *Demokracja – bóg, który zawiódł. Ekonomia i polityka monarchii, demokracji i ładu naturalnego*, trans. W. Falkowski, J. Jablecki, Warsaw 2006, pp. 266, 288.

The second issue concerns the assessment of the sociological credibility of Hoppe's position. Although a comprehensive examination of this issue would require a separate study devoted to the cultural aspects of the free market economy, we will attempt, drawing on the rich body of philosophical and sociological thought in this field, to challenge some of Hoppe's conclusions, without, however, rejecting his proposal in its entirety. The second thesis of this chapter is that the libertarian social order actually opens up many areas for the development of communities that are inaccessible under statism. In addition, however, we also put forward a third thesis. It is that private community rights functioning in society should not—from the point of view of ethics, not law—practice an ethos that is contrary to the liberal virtues of criticism and intellectual openness. This follows from the same theory on which Hoppe's theory of justice is based—from argumentative ethics, or more precisely, from its component identified in chapter two, namely ethical intellectualism. The adjective that argumentative ethics implies when attached to the word “libertarianism” is therefore not “conservative” but simply “liberal.”

Finally, in this chapter, we analyze Hoppe's concept of limited immigration. Hoppe's position on this issue is discussed extensively in the last subsection. As we will show, the problem of migration is of significant importance within libertarian property rights theory. Ultimately, it boils down to the question of who, if anyone, can consider themselves the owner of the public domain under this theory and, on this basis, exercise the power of inclusion and exclusion within its boundaries. We have decided to include our discussion of this issue in this chapter because of its conceptual links to the category of coercive integration, which is central to Hoppe's conservative thinking. Moreover, Hoppe himself recognizes the dispute between advocates of open and partially closed borders as one of the dividing lines between the libertarian right and left. Nevertheless, due to space constraints, we will limit our discussion to the issue from the perspective of justice theory, leaving aside the empirical issues related to migration, which Hoppe also addresses. The question we ask ourselves is therefore whether the concept of limited immigration is logically consistent with libertarian theory of justice. Our thesis is that it is not, and that the only position compatible with this theory is the view traditionally held by libertarians before Hoppe: that individuals have a fundamental right (in the Hohfeldian sense) to migrate between different state jurisdictions. We also point out that this solution, in

² *Idem*, *Getting Libertarianism Right*, Auburn 2018, p. 34.

Contrary to Hoppe's theses on migration, it is compatible with Hoppe's critical view of the recent restrictions imposed during the COVID-19 pandemic.

1. Between the left and the right-

As can be easily seen from our introduction to libertarianism, as a political philosophy it has a very narrow scope of interest. Namely, it boils down to a theory of just property rights, from which it derives political consequences (anarcho-capitalism). Thus, classic questions from the fields of ethics and political philosophy remain outside the scope of libertarianism, such as: What is a good life? What is the value of community? What social institutions (apart from private property) are legitimate and necessary? What is the social role of religion, and should religion be supported or opposed?

The position on the problematic limitations of libertarianism is one of the issues that most strongly divides libertarian thinkers. Generally speaking, three opposing positions can be distinguished in their dispute. The first is *thin* libertarianism, whose most prominent advocate is Walter Block. According to this view, libertarianism is philosophically limited to the theory of property rights, without taking a position on other philosophical, political, and social issues. The other two positions can be described as broad libertarianism (literally "*thick*" *libertarianism*), whose distinctive feature is the willingness to consider a wider range of issues than just those related to property and justice. Within broad libertarianism, we find left-wing and right-wing libertarianism, with the criterion for distinction being the attitude towards issues commonly referred to as socio-cultural (the traditionalism-progressivism axis) and the idea of equality (the egalitarianism-anti-egalitarianism axis). On the left-libertarian side, in the sense used here, we find authors such as Roderick Long, Matt Zwolinski, and Charles Johnson, who are grouped around the website Bleeding Heart Libertarians. It was they who introduced the *thin-thick* distinction into libertarian thought, attempting to

³ See W. Block, *Plumb-Line Libertarianism. A Critique of Hoppe*, Reason Papers 2007, 29, pp. 151–163; *idem*, *Thick and Thin Libertarianism*, Dialogi Polityczne/Political Dialogues 2015, 19, pp. 11–20.

⁴ A comprehensive discussion of the views of libertarians of this school can be found in: M. Zwolinski, J. Tomasi, *The Individualists. Radicals, Reactionaries, and the Struggle for the Soul of Libertarianism*, Princeton-Oxford 2023, chapter 6.

distinguish their position from the views of Rothbard, Hoppe, or Block by identifying the liberal-progressive concept of man and society as the foundation of libertarianism, to which property must remain ^{subservient}. Some authors of this school of thought—e.g., Zwolinski—depart entirely from Rothbard's "propeptarian" position. They limit property rights by imposing various variants of Locke's *proviso* on external property and even defend the idea of a basic guaranteed income.

Another strand of left-wing libertarianism is agorism (from the Greek *agora*, meaning "marketplace"). It is a countercultural variant of Rothbardian libertarianism. Its founder was Samuel Edward Konkin III (1947–2004), also known under the pseudonym SEK3, a student of Rothbard. One of his leading successors is Wally Conger quoted above in the context of libertarian class struggle theory. This concept, based on Rothbard's theory of justice, adds several original elements from the fields of social philosophy and political doctrine. First, in opposition to the conservative libertarianism of Hoppe and the late Rothbard, agorists link libertarianism integrally with cultural pluralism and moral freedom. Second, rejecting all democratic methods of political struggle as inconsistent with the principles of libertarianism, they seek to overthrow the state through actions called "counter-economic." This involves building a parallel

⁵ See, for example, Ch. Johnson, *Libertarianism, Through Thick and Thin*, The Freeman 2008, 6 (58), <https://fee.org/articles/libertarianism-through-thick-and-thin/> [accessed on 1 June 2023]; R.T. Long, *Monster Thickburger Libertarianism*, <https://aaeblog.com/2008/07/24/monster-thickburger-libertarianism/> <https://aaeblog.com/2008/07/24/monster-thickburger-libertarianism/> [accessed on 1 June 2023]; M. Zwolinski, *Libertarianism. Thick and Thin*, <https://bleedingheartlibertarians.com/2011/12/libertarianism-thick-and-thin/> [accessed on 1 June 2023].

⁶ Needless to say, this positions them outside the spectrum of libertarianism as we understand it in this work. For this reason, we will not engage in the controversy between their views and those of Rothbard and Hoppe. The left-libertarianism that Hoppe argues against and that we're interested in is basically Rothbardian libertarianism, but culturally and socially more egalitarian and progressive than Rothbard's, and even more so than Hoppe's. We do not discuss here the trend most commonly associated in Anglo-Saxon literature with the name *left-libertarianism*, i.e., a philosophy that combines the recognition of property rights with the belief that land should be treated as a common good. The leading representatives of this trend are Peter Vallentyne and Hillel Steiner. See P. Vallentyne, *Left-Libertarianism – A Primer*, [in:] H. Steiner, P. Vallentyne, *Left-Libertarianism and its Critics. The Contemporary Debate*, London 2000, pp. 1–22; H. Steiner, *An Essay on Rights*, Oxford 1994, *passim*.

⁷ See, for example, M. Zwolinski, *Classical Liberalism and the Basic Income*, *Basic Income Studies* 2011, 2 (6), pp. 2–14; *idem*, *Six Reasons Libertarians Should Abandon Non-Aggression Principle*, <https://www.libertarianism.org/blog/six-reasons-libertarians-should-reject-non-aggression-principle> [accessed on June 1, 2023]; *idem*, *The Libertarian Nonaggression Principle*, *Social Philosophy and Policy* 2016, vol. 32, no. 2; *idem*, *Property Rights, Coercion, and the Welfare State. The Libertarian Case for a Basic Income for All*, *The Independent Review* 2015, vol. 19, no. 4; P. Vallentyne, *Libertarianism and the Justice of a Basic Income*, *Basic Income Studies* 2012, 6 (2).

⁸ See chapter III of this book.

a society based on the black and gray markets. Samuel E. Konkin assumed that the development of an underground agora would lead to the deprivation of state funds and the overthrow of the ruling class through ^{revolution}.

Left-wing libertarians – both those with "bleeding hearts" and the historically earlier agorists – are additionally characterized by a strong aversion to large corporations, whose size they consider to be the result of government intervention – subsidies, bailouts, protective tariffs, tax exemptions, public infrastructure investments entailing the socialization of the costs of large-scale economic activity, and finally, overt monopolistic privileges. According to Long, "in a free market, companies would be smaller, less hierarchical, more local, and ^{more numerous}."

Right-wing libertarianism, also known as "paleolibertarianism", has its most prominent advocate in Hoppe. Another well-known right-wing libertarian is Lew Rockwell, a former colleague of Murray Rothbard, founder and long-time president of The Mises Institute, and creator of the term

"paleolibertarianism"¹². In the last period of his life, Rothbard himself also belonged to this movement¹³. This theme, as well as the circumstances surrounding the formation of paleolibertarianism, will be discussed in more detail in the next chapter. It is of key importance for disputes over the strategy of the libertarian movement.

According to Hoppe, citing the American paleoconservative Paul Gottfried, the division between left-wing and right-wing (also called "realistic" by Hoppe) libertarianism runs, like the distinction between left and right in general, along the lines of the attitude towards

⁹ See especially S.E. Konkin, *New Libertarian Manifesto*, Koman Publishing [no place], 1983. An exhaustive description of Konkin's doctrine and his followers, as well as a comprehensive overview of attempts to put it into practice, can be found in: M. Chmielowski, *Agoryzm. Teoria i praktyka* [Agorism: Theory and Practice], Katowice, 2015. There is no room here for a broader discussion of the doctrinal aspects of agorism and the problems accompanying it. It is worth noting that Rothbard was critical of Konkin's counter-economic and revolutionary strategy, pointing, among other things, to the limitations of scale inherent in underground production and the unsuitability of agorism for the vast majority of the population, which does not operate in the criminal or countercultural underworld and demands mainly goods available in legal trade. Furthermore, Rothbard rejected Konkin's anti-corporate egalitarianism as contrary to economic science. M.N. Rothbard, *Konkin on Libertarian Strategy*, <https://mises.org/library/konkin-liber-tarian-strategy> [accessed on 1 June 2023]. See also the description of the exchange of articles between Rothbard and Konkin in: M. Chmielowski, *op. cit.*, pp. 97-109.

¹⁰ R.T. Long, *Corporations versus the Market; or, Whip Conflation Now*, <https://www.cato-unbound.org/2008/11/10/roderick-t-long/corporations-versus-market-or-whip-conflation-now> [accessed on 1 June 2023].

¹¹ M.N. Rothbard, *Why Paleo?*, Rothbard-Rockwell Report 1990, 1 (2), pp. 1-5.

¹² See, for example, Rockwell's manifesto: *The Case for Paleolibertarianism and Realignment on the Right*, [no place] 1990.

¹³ M.N. Rothbard, *Why Paleo?*

egalitarianism. Although it is clear that the ideas of equal opportunity, let alone equal outcomes, are in stark contrast to libertarian theories of justice, libertarians classified by Hoppe as left-wing exhibit a specific egalitarian bias. Namely, they assume that all existing cultures are equally capable of adopting and implementing libertarian ^{ethics}. According to Hoppe, their support for anti-discrimination policies and unlimited ^{immigration} is linked to this cultural relativism. Hoppe, on the other hand, argues: "As members of the same species, humans [...] are strikingly different and unequal. Not only individually—one person relative to another—but also collectively—one group more or less closely united by a common language, religion, culture, and customs relative to another group with a different language, religion, culture, or ^{customs}." In other words, unlike our initial two-criteria division, Hoppe reduces the cultural axis of division between the left and the right to the opposition between egalitarianism and anti-egalitarianism.

According to Hoppe, the egalitarianism of left-wing libertarians also has an economic dimension, rooted in a specific interpretation of libertarian justice theory. They attempt to reconcile the libertarian concept of property rights with redistributive demands. The only possible way to achieve this is to "cast moral suspicion on all currently existing private property and its ^{distribution}." This approach can be found in the writings of Zwolinski and other libertarians with "bleeding hearts." Interestingly, Rothbard temporarily held a similar position. The father of libertarianism at one point even praised the post-World War II agricultural reform in Poland for overthrowing the property relations that had grown out of the class society and returning the land to its original ^{users}.

Hoppe rejects the view that questions *en bloc* the property rights of privileged social groups such as the aristocracy, considering it incompatible with the theory of original appropriation. According to this theory, both in its laborist and possessivist variants, who is entitled to a given resource

¹⁴ Hoppe's distinction, although controversial, like any conceptualization of the left-right dichotomy, is justified by the classic statements of Norbert Bobbio, who drew a line between the left and the right based on the opposition between egalitarianism and anti-egalitarianism. N. Bobbio, *Right and Left*, trans. A. Szymanowski, Krakow 1996.

¹⁵ H.-H. Hoppe, *Getting Libertarianism Right*, pp. 26-27.

¹⁶ *Ibid.*, p. 32.

¹⁷ *Idem*, *On Getting Libertarianism Right*, <https://www.lewrockwell.com/2018/01/hans-hermann-hoppe/on-getting-libertarianism-right> [accessed on June 1, 2023].

¹⁸ *Ibid.*, *Getting Libertarianism Right*, p. 34.

¹⁹ M.N. Rothbard, *Egalitarianism as a Revolt Against Nature and Other Essays*, Auburn 2000, p. 113.

determines priority. Consequently, there must be a presumption of legality in favor of the current owner. The burden of proof therefore lies with those who question the legitimacy of the current distribution of property titles. This person must be an individual claimant capable of demonstrating their historically prior title to the resource. Any acts of collective restitution such as historical land reforms involving the parcelling of land must therefore be considered ^{indefensible}.

In his later works, Hoppe identifies himself not only with the broader concept of the right wing, but also with conservative philosophy. We have already encountered the concept of conservatism as used by Hoppe in *The Theory of Socialism and Capitalism*, where he unequivocally condemned this movement as fundamentally incompatible with libertarianism. His later, approving definition reads as follows:

"Conservative" means someone who, through the "noise" of anomalies and accidents, sees what is old and natural, and who defends it, supports it, and tries to protect it from what is temporary and abnormal. In matters concerning human beings, including the social sciences, conservatives recognize the family [...] and the household, based on private property and cooperation in a community with other households, as the most basic, natural, essential, oldest, and most indispensable social unit. The family household is also a model of social order in general. In society, as in the family household, there is a hierarchy within the family community, there are students, servants and masters, vassals, knights, chiefs [...], and even kings. They are all connected in a complex and intricate system of kinship relations, which includes children, parents, priests, bishops, cardinals, patriarchs or popes, and finally, the transcendent God himself. [...] If conservatives (or, more precisely, conservatives from the Western Greco-Christian tradition) defend anything, it is the family, social hierarchy, and authority in the material and spiritual-intellectual spheres, based on family ties and ^{kinship} relations:

This definition is undoubtedly somewhat hyperbolic. Taken literally, it would be more appropriate for an author writing from a neo-medieval reactionary position than for a ^{libertarian} philosopher.

²⁰ H.-H. Hoppe, *Getting Libertarianism Right*, pp. 35-36.

²¹ *Idem*, *Democracy...*, p. 188, Polish edition: pp. 253-254.

²² Interestingly, Hoppe recently (2021) devoted a separate article to the views of just such an author: the Swiss conservative Carl Ludwig von Haller, whose ideas he considered proto-libertarian because they prefigured a vision of a feudal-like society based on private law. *Idem*, *The Idea of a Private Law Society. The Case of Carl Ludwig von Haller*, <https://mises.org/wire/idea-private-law-society-case-karl-ludwig-von-haller> [accessed on June 1, 2023].

rather the last sentence: according to Hoppe, the pillars of conservatism are hierarchy, authority, and family and other communities, especially those based on kinship. It is also clear that for the German thinker, conservatism is a political philosophy that encompasses a comprehensive vision of a good society. Thus, it cannot be reduced to a conservative attitude. Hoppe firmly rejects conservatism understood in this way, pointing to its particular and relativistic nature—after all, what constitutes the status quo changes depending on time and place.

2. 's conservative libertarianism

2.1. The state and the process of de ization

The claim that there is a necessary and symmetrical relationship of complementarity and support between libertarianism and conservatism is based on several fundamental premises. The first is the identification of the state as the decisive factor in moral decay, which, according to the consensus of most conservatives and Hoppe, is corroding contemporary Western societies. The state—an institution inherently based on the redistribution of goods—inevitably transfers scarce resources from producers to non-producers. In this way, it exacerbates all kinds of evil that it—at least in theory—seeks to minimize through its activities.

Therefore, according to Hoppe, any kind of redistribution causes people to produce fewer units of "good" and more units of "evil." [...]. Subsidizing (with funds obtained from others through taxes) people who are poor (evil) will cause more poverty. Subsidizing the unemployed (evil) will cause even more unemployment. Subsidizing single mothers (evil) will lead to more single mothers, and so on.²⁴

In an intensely redistributive welfare state, these problems can only get worse. The government taking over economic functions previously performed by voluntary social institutions—churches, associations, and above all the family—reduces their value and thus discourages their creation. According to Hoppe, it is therefore no coincidence that all the symptoms of the cultural crisis, especially those affecting the institution of the family—the increase in the number of divorces, children born out of wedlock,

²³ *Idem*, *Democracy...*, p. 187, Polish edition: p. 252.

²⁴ *Ibid.*, p. 195, Polish edition: p. 262.

broken families, single people, and abortion—correlates with the expansion of the welfare state.

Universal insurance plays a particularly sinister role in the process of undermining the foundations of civilization. Compulsory pension contributions mean that having children and maintaining good relations with them is no longer linked to securing a livelihood in old age. The costs of supporting the elderly are shifted onto all productive individuals. Hoppe attributes a similarly harmful effect on morality to universal health insurance. They reduce the motivation to live in accordance with the capitalist ethos of foresight—saving, working, and engaging in lasting interpersonal relationships—and encourage irresponsibility by allowing imprudent individuals to externalize the costs of their self-destructive behavior. In an unrestricted free market, private insurance companies would make the terms of service dependent on the risk group to which the customer belongs, creating incentives for a healthy, mature, and sensible life.

Another tool used by the state to attack the institution of the family is public education. "Many, if not all, of the pathologies afflicting the modern West have their common source in the institution of 'public education.'" It is because of this that young people have been freed from the guardianship of their parents, whose authority is systematically undermined by state education. In the 1960s and 1970s, this led to the emergence of a counterculture—young people "alienated themselves from the mainstream 'bourgeois' morality and culture," creating "a new lumpenproletariat consisting of intellectuals and young people with intellectual aspirations."

Hoppe considers the relationship between the family and the state in terms of a conflict between two competing centers of jurisdiction, the first representing social authority based on voluntarily accepted authority, and the second representing coercion that violates individual rights. Any state interference in the internal structure of the family must therefore be condemned from a libertarian-conservative perspective.

²⁵ *Ibid.*, p. 196, Polish edition: p. 263. An extensive empirical study on the impact of the American welfare state on the social fabric, including the institution of the family, also referred to by Hoppe, was presented by Charles Murray. Ch. Murray, *Bez korzeni. Polityka społeczna USA 1950-1980 [Without Roots: Social Policy in the United States, 1950-1980]*, trans. P. Kwiatkowski, Poznań 2001.

²⁶ H.-H. Hoppe, *Democracy...*, pp. 195-196, Polish edition: pp. 262-263.

²⁷ *Ibid.*, pp. 196-197, Polish edition: pp. 263-264.

²⁸ *Ibid.*, *Getting Libertarianism Right*, p. 96.

²⁹ *Idem*, *Democracy...*, p. 205, Polish edition: p. 275.

It must be clearly stated that as soon as government law supplants and replaces the competences of family law (including such matters as agreements between families, including multigenerational families, marriages, inheritance proceedings, etc.), the institution of the family is bound to undergo progressive erosion. For what is a family to be if it is not even allowed to establish and maintain its own law and order?³⁰

In its quest to undermine the position of the family in society, the state resorts to its most typical *modus operandi* – the principle of *divide et impera*. This means not only redistributive activity in the popular sense of the word, but also the incitement of cultural wars. In order to weaken the family, legislation is enacted to reinforce intergenerational and marital conflicts, which are treated as a source of political support. In recent decades, this method of governance has been successfully applied in many other areas of social life. The pattern is always the same: first, a group is identified and assigned the status of a historical or contemporary victim, and a group of oppressors responsible for its wrongs is identified; then, the two groups are turned against each other by offering the former promises of redistribution and privileges that are supposed to eliminate its previous oppression. This leads to a constant multiplication of divisions and intensification of social tensions, as well as to an unstoppable wave of material claims that cannot be reasonably settled, if only because every human being belongs to many intersecting groups and can therefore be classified simultaneously as both a "victim" and a "persecutor." Hoppe writes:

Women, especially single mothers, blacks, Latinos, gays, lesbians, bisexuals, and transsexuals have been awarded the status of "victims," accompanied by legal privileges in the form of prohibitions on discrimination and affirmative action. [...] Furthermore, these groups of "victims" have been pitted against each other and all together against white, Christian, heterosexual males, especially those who are married and have children, as the last group remaining without legal protection
"perpetrators."

Characteristic of Hoppe's views on family sovereignty is his position on abortion and *child abandonment*. In the introduction to Rothbard's *Ethics of Liberty*, Hoppe supports his mentor's claim that libertarian ethics does not logically allow for the prohibition of abortion or the imposition of non-voluntary obligations on parents towards their children. For there is no right to life understood other than as a derivative of the right

³⁰ *Ibid.*, p. 183, Polish edition: pp. 248–249.

³¹ *Ibid.*, p. 183, Polish edition: p. 248.

³² *Ibid.*, *Getting Libertarianism Right*, p. 88.

property, the fetus—regardless of whether we consider it a human being or not—has no right to occupy the mother's body without her consent. Nor can it be argued that, at least in the case of consensual sexual intercourse, the mother herself consented to carrying the fetus, since at the moment of intercourse the fetus did not yet exist as a moral and legal entity to which obligations could be imposed. By the same token, it is always permissible to abandon ^{a child}. Rothbard emphasized that he was speaking about abortion and child abandonment solely from the perspective of political philosophy, leaving aside the question of the moral evaluation ^{of these practices}. Agreeing with his position, Hoppe adds that the opposition it provoked among conservatives is the result of ideological confusion. The prohibition of abortion and the unilateral imposition of parental responsibilities are associated with a restriction of family autonomy and the transfer of further prerogatives to the state. Meanwhile, “for conservatives in particular, state interference in family life should be ^{anathema}.”

Finally, we should mention the role played by the category of time preference in Hoppe's sociological arguments. In his comparative analysis of monarchy and democracy, he formulated a thesis about the dual influence of the latter form of government on time preference. Firstly, democratic politicians (temporary administrators) are more oriented towards the present than monarchs. Second, in a democracy, the planning horizon of individuals is also shortened. This is because they operate under conditions of strong regime (legal) uncertainty, as well as systemic incentives to accelerate the acquisition of wealth through political means without the need for long-term planning and savings. According to Hoppe, increased time preference affects

³³ M.N. Rothbard, *Ethics of Liberty*, trans. J.M. Fijor, J. Wozinski, pp. 188-209.

³⁴ *Ibid.*

³⁵ H.-H. Hoppe, *Introduction*, [in:] M.N. Rothbard, *Ethics of Liberty*, New York-London 1998, p. XLI, Polish edition: *idem*, *Introduction*, [in:] M.N. Rothbard, *The Ethics of Liberty*, p. 47.

Rothbard's statement on abortion sparked a dispute between the clear majority of libertarians who shared his position and those who attempted to combine libertarian ethics with the demand to protect life from the moment of conception. Advocates of the former view are divided into those who deny the fetus any moral or legal status and the so-called evictionists. The latter term was coined by Walter Block, who is also the most prominent advocate of evictionism. This position is closest to Rothbard's: recognizing the fetus as a subject of moral and legal rights, it shifts the burden of the discussion to the realm of property rights, opting for the permissibility of abortion in the name of the mother's property rights over her body. Since Hoppe never devoted much attention to this issue and did not become a leading participant in the debate, we will refrain from discussing it in detail in this work. For a more detailed discussion of the arguments of evictionists, see: W. Block, R. Whitehead, *Compromising the Uncompromisable: A Private Property Rights Approach to the Abortion Controversy*, *Appalachian Journal of Law* 2005, 4, pp. 1-45; cf. the critique of evictionism: J.B. Wiśniewski, *A Critique of Block on Abortion and Child Abandonment*, *Libertarian Papers*, 2010, 2 (16), pp. 1-4.

many areas of social life, including those outside the sphere of market production. There is a two-way relationship between family and time preference: since starting a family and then maintaining ties within it requires long-term planning, an increased focus on the present results in a decline in the importance of family and other lasting social ties that require effort. In turn, having a family, like being involved in other long-term relationships, reduces ^{time} preference. What is more, Hoppe also attributes the rise in social time preference to the increase in crime. This is particularly true in the US, where, he argues, citing research by Terry Anderson and P.J. Hill, the number of serious crimes such as rape, robbery, and murder is higher today relative to the population than in ^{the} 19th-century Wild ^{West}. As Hoppe points out, acquiring goods on the free market generally requires diligence and foresight. Rape, robbery, and murder, on the other hand, guarantee quick gratification with delayed and uncertain ^{consequences}.

We can therefore see why, according to Hoppe, conservatives should adopt libertarian positions: the state is the main cause of moral decline and the breakdown of social bonds. Through its actions, it raises the social level of time preference, thereby initiating a process of decivilization, understood in Elias's sense as a reduction in the scope of control over instincts and cultural sublimation ^{of behavior}. In particular, the agenda of social conservatives who want to counteract cultural decadence through the institutions of the ^{welfare} state is praxeologically and sociologically inconsistent. But why should libertarians also become conservatives?

2.2. nd natural order

Here we arrive at Hoppe's positive vision of a stateless order. The family is an ancient and respected institution in every civilized society. It allows sexual desire and the act of copulation that satisfies it to be transformed into a lasting, consensual bond based on love. No other community can match it in terms of the emotional satisfaction it provides. The family also fulfills important economic and care functions,

³⁶ H.-H. Hoppe, *Democracy...*, pp. 174–175, Polish edition: pp. 239–240.

³⁷ See T.L. Anderson, P.J. Hill, *The American Experience with Anarcho-Capitalism: The Wild West Not So Wild*, [in:] *Introduction to Libertarianism. Selected Texts*, ed. Mises Institute, pp. 135–160, <https://mises.pl/blog/2016/03/12/42721/> [accessed on 1 June 2023].

³⁸ H.-H. Hoppe, *Democracy...*, pp. 66–68, Polish edition: pp. 111–114.

³⁹ *Ibid.*, pp. 9–42, *passim*, Polish edition: pp. 42–84, *passim*.

⁴⁰ *Ibid.*, pp. 197–199, Polish edition: pp. 265–267.

which gives it a key position in the social division ^{of labor}. In his essay *The Origin of Private Property and the Family*, which probably isn't a coincidence that it references Engels' famous article on a similar topic, Hoppe takes up the Marxist view that property and ^{family} have common roots. He proposes an explanation that combines elements of sociobiology and a sociological-economic reconstruction of history. In primitive hunter-gatherer societies, the institution of the family did not exist: all women and all men were potential sexual partners, and children belonged to the entire community. At the same time, these groups found themselves in a situation known as the Malthusian trap: with relatively constant land and capital productivity, population growth resulting from the evolutionary drive of humans to reproduce their genetic material had to result in a decrease in *per capita* income and even famine. The latter was only avoided by the death of a large percentage of the population in fights over hunting grounds and, sometimes, the killing of infants. Controlling population size was difficult because the socialization of childcare meant that the costs of raising children were externalized, which weakened the incentives to rationally plan procreation. This changed only with the Neolithic revolution. The invention of agriculture and the transition to a sedentary lifestyle enabled the emergence of autonomous households as units of social division of labor, whose independence was ensured by private land ownership. New methods of economic management and the resulting increase in productivity were accompanied by the rationalization of birth control within families, which were now responsible for the costs of ^{childcare}.

The family is not the only grassroots community that, according to Hoppe, constitutes a permanent component of the natural order. According to the philosopher, humans have a natural tendency to live together with people who are genetically and culturally related. In rural areas, this leads to the formation of relatively homogeneous communities that maintain spatial distance from one another and engage in economic cooperation while preserving the territorial dispersion of individual properties and ^{settlements}. The situation is different in cities: here, due to the high intensity of economic contacts and population density,

⁴¹ *Ibid.*, pp. 174–175, Polish edition: pp. 239–240.

⁴² See F. Engels, *The Origin of the Family, Private Property, and the State*. In connection with the research of Lewis H. Morgan, [in:] K. Marx, F. Engels, *Works*, vol. 21, Warsaw 1969.

⁴³ H.-H. Hoppe, *The Great Fiction. Property, Economy, Society, and the Politics of Decline*, Auburn 2021, pp. 53–61, Polish edition: *Wielka fikcja. Państwo w epoce schyłku*, trans. K. Nowacki, Warsaw 2014, pp. 77–87.

⁴⁴ *Ibid.*, *Democracy...*, p. 175, Polish edition: pp. 239–240.

is relatively large, and cultural mixing is part of everyday life. Both in villages and cities, life is governed by rules established by hierarchical communities. Historically speaking,

[...] a settlement [...] constituted a proprietary or contractual community belonging to one person or was leased to the community by a single owner, who granted individual plots to selected individuals for use under specific conditions. Initially, lease agreements were based on kinship ties. The head of the family or clan acted as the owner. [...] In our times, when the population is growing rapidly and the importance of kinship relations is declining, this original libertarian model of ownership community has been replaced by a new phenomenon, well known to us in the form of shopping centers and gated communities. Both shopping centers and housing estates are owned by a single entity—a person or a corporation. The relationship between the owner and the tenants or residents is based entirely on contracts.

Hoppe contrasts this model of natural order with what he calls "countercultural capitalism" of left-wing libertarians. He attaches particular importance to the right to discriminate. This right is logically contained in property law—the owner, as the ultimate decision-maker in his domain, has the sovereign power to accept or exclude others. In Hoppe's view, the inclusion of the prohibition of discrimination on the basis of many protected characteristics such as gender, religion, nationality, or sexual orientation in the category of civil rights does not constitute progress, but rather the abolition of the elementary human right to participate in social relations free from coercion. "Action means choosing. Choosing can also be called preferring. Preferring, in turn, is distinguishing, discriminating" – as can be seen, Hoppe treats the last two terms as synonymous. Discrimination is therefore an indispensable element of social life—we discriminate when we decide to deepen our intimacy with certain people and reject others; we discriminate as consumers when we decide to use the services of one producer rather than another. In other words, Hoppe draws attention to the arbitrary nature of the subject matter.

⁴⁵ *Ibid.*, pp. 175–177, Polish edition: pp. 240–241.

⁴⁶ *Ibid.*, pp. 214–215, Polish edition: pp. 283–284. In the above quotation, we have modified the Polish translation of the first sentence. The translation reads: "the settlement was owned by one person or leased to the community by a single owner." The term "community," which is key to understanding Hoppe's concept, is missing here.

⁴⁷ *Ibid.*, p. 204, Polish edition: p. 273.

⁴⁸ *Ibid.*, *Der Wettbewerb der Gauner. Über das Unwesen der Demokratie und den Ausweg in die Privatrechtsgesellschaft*, Berlin 2012, p. 69.

⁴⁹ *Ibid.*

to which legal prohibitions of discrimination apply. If individuals are free to decide in their private lives and in matters of consumption what relationships and exchanges they wish to engage in, why are they denied the same right as producers?

It should be emphasized that although Hoppe is particularly critical of legal prohibitions of discrimination in civil rights laws, he believes that the very existence of the public sphere is the source of "forced integration" and "forced *disintegration*." Because infrastructure is publicly owned, roads are laid out differently than they would be under pure capitalism. Thus, the distances between private properties are artificially increased or decreased: people are forced to live closer or farther apart than their preferences would dictate. Moreover, as Łukasz Dominiak notes in his reconstruction of Hoppe's arguments, the boundaries of the public sphere are arbitrary, and the sphere itself is unwanted (taxpayers do not demonstrate a preference for the existence of the public sphere—it exists thanks to acts of coercion). As we remember, the core of Hoppe's ethics is the view that only private property provides a rational solution to interpersonal conflicts over scarce resources. Public property, on the other hand, is inherently conflictual. Dominiak aptly expresses the essence of the concept of coercive integration when he writes:

Within the public sphere, there must therefore be conflict between conflicting visions of the good life [...]. Individuals, families, churches, neighborhoods, districts, businesses, universities, schools, etc. are forced to live under foreign laws and foreign morality [...]. This means having to live "under one roof" with people and organizations that we consider undesirable, corrupt, sinful, crippled, ugly, disgusting, etc.⁵²

Hoppe predicts that an anarcho-capitalist society would be thoroughly exclusivist and discriminatory, which would result from the human tendency to live in their preferred cultural environment, as well as from the desire of private owners of streets and neighborhoods to maximize the market value of their property. This, in turn, would require systematic discrimination against

⁵⁰ *Idem*, *Democracy...*, p. 179 et seq., Polish edition: p. 244 et seq.

⁵¹ Ł. Dominiak, *Hans-Hermann Hoppe and the conservative implications of anarcho-capitalism*, [in:] *idem*, Ł. Perlikowski, *Justice – identity – rationality. Selected problems of political philosophy*, Toruń 2016, pp. 108–111.

⁵² *Ibid.*, p. 112.

in people who ostentatiously break ^{social} conventions.⁵³ “The right to exclude is a fundamental right of self-defense,” states ^{Hoppe}.⁵⁴ It solves the “*bad neighbor problem*.” Faced with the decriminalization of numerous non-aggressive but uncivilized behaviors that are contrary to moral and customary norms, discrimination, ostracism, and exclusion from private domains serve an essential control and disciplinary function. More specifically, existing regulations of behavior contained in public law can be transferred to the level of private law—obscene or harassing behavior can and should be subject to restrictions in the rules and regulations of housing estates, shopping centers, or roads and sidewalks.

What is more, such a trend would be highly desirable as a mechanism for the self-preservation of a libertarian society. Discrimination is a virtue (*Tugend*), allowing the process ^{of civilization} to continue. As Hoppe states in one of his most famous passages:

In a libertarian social system, there can be no tolerance for democrats and communists. They will be physically separated and expelled from the community. Given the existence of a contract that aims to protect family and relatives, there can also be no tolerance for people who consistently promote lifestyles that conflict with this goal. Advocates of alternative lifestyles who focus on goals other than the protection of family and relatives, such as hedonists, parasites, worshippers of the natural environment, and promoters of homosexuality or communism, will also be removed from society if a ^{libertarian} system is to be maintained.

Let us add that in the original English text, the author writes that all the groups mentioned will be *physically* removed from society, which sparked spectacular controversy. Many of Hoppe's opponents accused him of promoting violence and excluded him from the ^{libertarian} community. However, these accusations are unfounded. Hoppe clearly means the expulsion of communists, democrats, and those who contest bourgeois values from private property belonging to owners focused on protecting property and family, which, at least in the light of libertarian ethics, is a completely legitimate action. Stephan Kinsella points out

⁵³ H.-H. Hoppe, *Democracy...*, pp. 213–218, Polish edition: pp. 282–288.

⁵⁴ *Idem*, *Der Wettbewerb...*, p. 71.

⁵⁵ *Idem*, *Getting Libertarianism Right*, p. 83.

⁵⁶ *Idem*, *Der Wettbewerb...*, p. 69.

⁵⁷ *Ibid.*, *Democracy...*, p. 218, Polish edition: p. 88.

⁵⁸ See, for example, T.G. Palmer, *Hans-Hermann Hoppe and the German Extremist Nationalist Right*, <http://tomgpalmer.com/2005/07/01/hans-hermann-hoppe-and-the-german-extremist-nationalist-right/> [accessed on June 1, 2023].

note that the key phrase in the quoted text is “*in a covenant*”⁵⁹. Moreover, Hoppe himself adds:

To avoid misunderstanding, it is worth noting that the expected increase in discrimination that would occur in a purely libertarian society would not necessarily take the same or similar forms and dimensions in all places. On the contrary, in a libertarian world, there would be a great diversity of local communities, each of which would follow different rules ^{of discrimination}.

Nevertheless, it should be acknowledged that although Hoppe allows for the possibility of communities with highly non-traditional cultural codes existing within a libertarian social order, he clearly believes that conservative attitudes, associated with decreasing time preference, will dominate in a natural order. This is evidenced by Hoppe's numerous statements about the costs that “left-wing libertarians and multi- and countercultural lifestyle experimenters” will have to bear. According to Hoppe, they will either limit their extravagances to the four walls of their own homes or be forced to live “in physical isolation in ghettos, as a social fringe, without access to many jobs and ^{professions}.”

In his writings from the last dozen or so years, Hoppe combines his conservative ideas with issues of civilization. In his opinion, the survival of Western civilization, from which libertarianism stems and whose social order corresponds to a relatively large (greater than anywhere else) extent to its ethical ^{message}, is a *sine qua non* condition for the effective dissemination of libertarian principles. Hoppe developed themes of cultural anti-egalitarianism primarily in several works published over the last decade, in particular in his book *A Short History of Man*, in which he took a position in the decades-long scientific debate on the origins of the industrial revolution and the rapid development of prosperity it brought about, which allowed humanity to escape the so-called Malthusian trap. In his book, Hoppe rejects, among other things, the explanation accepted by some scholars and classical liberals, which refers to the improvement of property rights in the modern era (in fact, the central thesis of *Democracy...* is the negation of this claim). According to Hoppe, the condition for the unprecedented growth in prosperity was an increase in the average level of intelligence necessary for inventiveness and entrepreneurial

⁵⁹ S. Kinsella, *Hoppe on Covenant Communities and Advocates of Alternative Lifestyles*, <http://www.stephankinsella.com/2010/05/hoppe-on-covenant-communities/> [accessed on June 1, 2023].

⁶⁰ H.-H. Hoppe, *Democracy...*, p. 212, footnote 25, Polish edition: p. 280, footnote 301.

⁶¹ *Ibid.*, p. 212, Polish edition: p. 280.

⁶² *Ibid.*, *Getting Libertarianism Right*, pp. 55-56.

introducing new production methods into the economy. What is more, Hoppe recognizes the significance of the uneven distribution of IQ in different parts of the world. In his opinion, this may explain the varying levels of civilizational development. Hoppe traces the roots of this state of affairs back to the pre-Neolithic revolution, when the more difficult living conditions in the northern regions of the globe favored natural selection, eliminating individuals with lower intelligence, or at least limiting their chances of economic success and the reproductive success correlated with it

3. ic or liberal libertarianism?

The question of whether Hoppe's philosophy constitutes a form of conservatism can only be answered if one has some conceptualization of conservatism, including a general distinction between its main strands. There are many such definitions and typologies in the doxographic literature. There is not enough space in this dissertation to cite and discuss even a significant portion of them. We can, however, say that they usually refer *explicitly* or *implicitly* to the category of the autonomy of reality introduced by Karl Mannheim in his classic work *Conservative Thought*. From the conservative point of view, a permanent foundation can be identified in the field of social affairs, one that is impervious to human interference arising from wishful thinking or ideological fictions. This foundation—this autonomous reality—deserves to be defended, because attacking it can only bring bad, disappointing results.

In light of the above, the content of the reality that would be subject to protection (conservation) remains an open question. The different varieties of conservatism are distinguished precisely by the position taken by their representatives on this issue. At this point, it is convenient to use the well-known typology of conservatism developed by Ryszard Legutko. He distinguishes three fundamental conservative orientations:

In the first sense, conservatives are concerned with reality in the eternal sense, in the second sense with reality in the sense of a long historical process, and in the third sense with immediate and actual reality. In other words, in the first sense, it would be what constitutes the most fundamental component of reality.

⁶³ *Idem*, *A Short History of Man. Progress and Decline: An Austro-Libertarian Reconstruction*, Auburn 2015, pp. 73-102, Polish edition: *Krótką historia człowieka. Libertariańska rekonstrukcja postępu i upadku*, trans. Ł. Dominiak, Warsaw 2014, pp. 37-65.

⁶⁴ K. Mannheim, *Conservative Thought*, Warsaw 1986, p. 44.

in the second sense – a cultural whole created over a long period of historical change, and in the third sense – the world of everyday life of a group or ^{individual}.

The first type of conservatism identified by Legutko can be described, following Ryszard Skarżyński, as metaphysical: its philosophical foundations are usually formed by Platonism, Aristotelianism, or scholastic metaphysics, which are seen as sources of certain knowledge (*episteme*) about the unchanging nature of man and social affairs. The model representatives of this strand of conservatism are the classics of traditionalist, religiously inspired, counter-revolutionary conservatism in continental Europe: Joseph de Maistre, Louis de Bonald and their numerous successors, but also thinkers who refer to the heritage of classical ancient philosophy, such as Leo ^{Strauss}. The second type of conservatism is most often referred to as evolutionary or, by Skarżyński, as organicist. Its founding father is Edmund Burke, since whose time it has dominated in Anglo-Saxon countries. On the epistemological level, it is characterized by a more rationalist approach: using secular arguments, it refers to the value of institutions and longevity. Both strands are linked by an empirical, sociological method: by observing real societies, they seek cultural universals, universal foundations ^{of order}. The third type of conservatism refers more to a conservative attitude (or possibly doctrine) than to political philosophy.

To which conservative orientation, if any, could Hoppe be assigned? The third one can be rejected out of hand. Passive acceptance of *the status quo* is undoubtedly one of the last characteristics that could describe this author's philosophy. Hoppe himself, as we have mentioned, also firmly rejects such an affiliation. Importantly, he considers the philosophy of Michael Oakeshott, most often associated with Anglo-Saxon ^{evolutionary} conservatism to be representative of such views. This is not without reason. As an extreme rationalist, Hoppe unequivocally rejects social evolutionism understood in a conservative, anti-naturalistic way, as is the case in the writings of Burke and his followers. Hoppe's criticism of Hayek's evolutionism is telling in this regard.

At first glance, it would seem tempting to associate Hoppe with metaphysical conservatism. Such a classification would suggest

⁶⁵ R. Legutko, *Three Conservatisms*, [in:] *Absolute Ethics and the Open Society*, Krakow 1998, p. 103.

⁶⁶ A. Wielomski, *Conservatism. Main currents, ideas and figures*, Warsaw 2007, pp. 75-138; R. Skarżyński, *Conservatism. An outline of the history of political philosophy*, Warsaw 1998, pp. 19-20.

⁶⁷ R. Skarżyński, *op. cit.*, p. 29 et seq.

⁶⁸ H.-H. Hoppe, *Democracy...*, p. 187, footnote 10, Polish edition: p. 252, footnote 277.

some of the philosopher's statements, including his definition of conservatism, according to which a transcendent God would be at the top of the hierarchy of being. However, this would be a mistake. Although Hoppe does not deal extensively with issues of religious philosophy, he publicly declares his ^{agnosticism}. His attitude toward Christianity as a social phenomenon is, however, rather positive, though not without ambivalence. According to Hoppe, the roots of Western civilization lie primarily in Greek philosophy and Christianity. The legacy of the Greeks is primarily rationalism in the form of a conception of being as intelligible and man as a rational animal. On the other hand, decadent intellectual currents already appeared in Greece: sophistry and skepticism. The merits of Christianity, on the other hand, lay in the expansion and strengthening of the concept of universal moral law encompassing all human beings as separate individuals, the creation of the hierarchical institution of the Church, and the development of the scholastic idea of the harmony of faith and ^{reason}. As Hoppe points out, "scholasticism failed to bridge the gap between faith and revealed dogma on the one hand, and knowledge and knowability on the other. Its recognition of rationalism was therefore ultimately only ^{conditional}." Moreover, Christianity was only able to achieve these accomplishments—culminating **i n** the thought of St. Thomas—after it had overcome its initial stage of sectarianism, communism, and doctrinal disputes. "Early Christianity was not individualistic. It was based on a collective community to which the individual was strictly subordinated," ^{Hoppe} assesses.

As we can see, the central values of Hoppe's practical philosophy – rationality, justice, freedom, and property – also constitute the standard of evaluation he applies to successive epochs in cultural history. The periods following the Middle Ages bring varying results for these values. Hoppe's view of the Renaissance is highly critical: scholasticism was replaced by mysticism, rational reflection on reality by art, and political philosophers such as Machiavelli laid the theoretical groundwork for the development of the modern state. Hoppe also takes a negative view of the Reformation: it brought about an eruption of irrationalism (fideism) and religious egalitarianism linked to the principle of *sola scriptura* and individual interpretation of the Bible, resulting in the fragmentation of Western Christianity and bloody wars between followers of competing churches and sects. The Church's response

⁶⁹ On the Right – Hans-Hermann Hoppe. Interview by Michael Malice on "Your Welcome," <http://www.hanshoppe.com/2019/01/interview-by-michael-malice-your-welcome/> [accessed June 1, 2023].

⁷⁰ H.-H. Hoppe, *The Great Fiction*, pp. 454–455.

⁷¹ *Ibid.*, p. 455.

⁷² *Idem*, *Economy, Society, and History*, Auburn 2021, p. 88.

Catholic, such as the Counter-Reformation, only deepened the regression of rationality in thought and ^{social} relations.

Hoppe treats the legacy of the Enlightenment with greater reverence. He understands it broadly, including in its scope the achievements of 17th-century natural law theorists such as Grotius. In *Democracy...*, Hoppe also writes that ^{Libertarianism} is a “product of Enlightenment rationalism.”⁷⁴ However, the revitalization of reason and universal principles of justice in the Enlightenment was not without fundamental errors. Hoppe includes among them egalitarianism, present in the perception of all cultures as equally capable of submitting to the authority of rational law, as well as anti-clericalism. Meanwhile, it was the Church that historically constituted *the intermediary authority*, protecting individuals from the absolutism of the state. Its decline in the modern era was one of the factors conducive to the formation of territorial ^{jurisdictional and fiscal} monopolies.

Hoppe considers the culture of Romanticism to be mainly decadent. The idea of inner freedom, finding its highest expression in art, meant a departure from the post-latu of rational organization of social relations based on freedom within the framework of subjective rights. In addition, Romanticism saw the flourishing of historicism, another component of culture that justified the arbitrary power of the state. Since all knowledge about man was supposed to be historically contextual and therefore contingent, the concept of universal law binding the will of the rulers lost ^{its} meaning.

Finally, the modern era is marked by the dominance of “*secular relativism*,” a particularly dangerous form of ^{positivism}. By refusing to recognize the existence of synthetic *a priori* judgments and the ability of practical reason to discover universally binding ethical principles, positivism proves to be no less relativistic and irrational than romantic historicism. Thus, it also provides intellectual nourishment for politicians who are convinced that their power has neither moral nor ontological ^{limits}. The dominance of positivism in economic methodology plays an important role in this regard. By studying the immutable laws of human action, which are not affected by the voluntarism of power, economics once constituted “a powerful ideological fortress against

⁷³ *Idem*, *The Great Fiction*, p. 456.

⁷⁴ *Idem*, *Democracy...*, p. 199, Polish edition: p. 267.

⁷⁵ *Ibid.*, *The Great Fiction*, p. 458.

⁷⁶ *Ibid.*, pp. 458–459.

⁷⁷ *Ibid.*, p. 453.

⁷⁸ *Ibid.*, p. 463.

the excess of ^{state} power.”⁷⁹ Positivism, by reducing the judgments formulated by economists to the status of hypothetical *a posteriori* assertions, led to the dismantling of this fortress.

According to Hoppe, the spiritual response to positivism cannot be a return to Christianity. What the West needs is rather a call for a return to rationalism—epistemological, ethical, and social.

Such a call is neither a call for a return to the Aristotelian-Christian rationalism of scholastic philosophy, nor a call for a return to the specific rationalism of the Enlightenment. Just as the legitimacy of monarchical rule has disappeared, so too may the same be true of Christianity and the Christian Church. In the words of Nietzsche: “God is dead” (*Gott ist tot*). A return to the Christian past would also not be desirable, as Christian rationalism has always been merely ^{conditional}.

These arguments shed light on important elements of Hoppe's philosophical position. First, they clearly show – although this should be obvious in light of the other views presented here – that his conservatism is by no means Christian or religious in origin. Second, they reveal another important aspect of his philosophy of history. As we already know, for Hoppe, the political history of the West is essentially a history of decline. In contrast, the development of science and the economy, despite increasingly strong state interference, can be seen as a success story. Contrary to authors such as Kuhn and Feyerabend, science develops in ^{a linear and cumulative} manner. In the economy, thanks to the industrial revolution, it was possible to escape the Malthusian trap, achieving an unprecedented leap in living standards. Finally, the history of intangible culture is non-linear, with periods of prosperity interspersed with times of decline. The legacy of the West provides undoubted inspiration for contemporary rationalists and libertarians, which stems primarily from the achievements of Greek philosophy, Christianity, and the Enlightenment. However, none of these points of reference constitute an unattainable ideal. Although, at least in political and intellectual terms, “things used to be better,” a future better than the past is still achievable. Hoppe is therefore neither a historical optimist nor, unlike most conservatives, a pessimist.

Even more significant is the divergence between Hoppe and conservatives in the field of epistemology. Unlike them, Hoppe stands at the opposite end of the spectrum from both

⁷⁹ *Ibid.*, p. 461.

⁸⁰ *Ibid.*, p. 464. On Hoppe's attitude towards Christianity and other major religions, see also *idem*, *Economy, Society, and History*, pp. 76-93.

⁸¹ See chapter I.

fideism and empiricism. The philosopher himself recognizes this difference, writing: "Of course, each of these doctrines [libertarianism and conservatism – N.S.] uses a different method. One is (or appears to be) empirical, sociological, descriptive, while the other is rationalistic, philosophical, logical, and ^{constructivist}." A moment later, however, he adds that libertarian ethics "is not revolutionary, but old and conservative" in the sense that it expresses widely shared moral intuitions, understood and applied by most people at all ^{times}. Regardless of whether this is actually the case, the difference in epistemological foundations is impossible to ignore in the philosophical dimension. Different epistemological positions give rise to different practical philosophies. Hoppe is neither an evolutionary nor a metaphysical conservative, because he represents a different type of rationalism than that of classical philosophy and scholasticism. The roots of Hoppe's epistemology go back to Kantian criticism, and insofar as they draw inspiration from App's transcendental pragmatics, they belong to the post-metaphysical trend in rationalist philosophy. It is therefore out of the question to place Hoppe in the same category as such conservative representatives of classical rationalism as Leo Strauss and his ^{school}.

Kant's orientation distinguishes Hoppe from conservatives not only on the level of epistemology, but also on the level of ethics. In *Eigentum, Anarchie und Staat*, Hoppe distinguished, as we remember, between filtering rules (*Filter-Regeln*) and state-oriented rules (*Zustandorientierterregeln*). Libertarian ethics formulates norms of the first kind: it evaluates actions according to their conformity with deontological principles. Rules oriented toward the state of affairs (in other words, teleological rules), on the other hand, cannot provide universally binding justification for ethics, because they make the validity of norms dependent on empirically variable states of affairs (social relations) that the norms are supposed ^{to} support. It is easy to see that this second characteristic of practical rationality fits in with conservative thinking.

^{Block}⁸⁶ draws attention to Hoppe's artificial blurring of the theoretical differences between conservatism and libertarianism. He is a thinker worth mentioning in this context, if only because he is by no means a member of the libertarian left. On the contrary, by advocating pure ("narrow") libertarianism limited to the defense of just property, he simultaneously emphasizes

⁸² H.-H. Hoppe, *Democracy...*, p. 203, Polish edition: p. 271.

⁸³ *Ibid.*

⁸⁴ See, for example, L. Strauss, *Socratic Questions: Selected Essays*, trans. P. Maciejko, Warsaw 1998; A. Bloom, *The Closed Mind*, trans. T. Bieroń, Poznań 2012.

⁸⁵ Cf. chapter II.

⁸⁶ W. Block, *Plumb-Line Libertarianism. A Critique of Hoppe*, Reason Papers 2007, 29, pp. 151-163.

Block emphasizes the distinction between libertarianism and libertinism. Like Hoppe, he sympathizes with conservative values such as family and institutional religion and condemns non-aggressive behaviors such as prostitution, pornography, and drug addiction on moral grounds. Unlike Hoppe, he values Hayek's theory of spontaneous order, which is why his conservative inclinations cannot be dismissed as mere subjective ^{preferences}. At the same time, however, Block emphasizes: "What is the libertarian view of those activities that I would call 'perverse'? Apart from seeking their legalization, a libertarian—as a libertarian—has absolutely no opinion on them. To the extent that he takes a position on them, he does so as a non-libertarian." Block accuses Hoppe of "definitional juggling," suggesting that conservatives would become "anti-state libertarians." "My answer is that if conservatives were anti-state libertarians, they would be libertarians first, not conservatives," Block aptly writes. Perhaps influenced by criticism from Block, with whom he otherwise holds in high regard and remains on good terms, Hoppe has recently softened his stance in his latest works. He admits that libertarianism as such is a strictly political philosophy with a narrow subject area. However, he emphasizes that as an abstract theory, it needs sociology—an empirical view of the world to which a priori ^{ethics} refers. Even if one agrees with this last statement, Block is still right: libertarianism and conservatism are two different philosophies. Hoppe's position is therefore not a strand of conservatism, but a libertarian political philosophy supplemented by selectively chosen elements of conservative social philosophy, detached, however, from its epistemological or metaphysical foundations.

Hoppe's belief that the cultural content of a libertarian order will reflect conservative values seems to be based on an argument that is not without merit, but is rather one-sided. It should be remembered that a certain openness to social change is inherent not only in libertarian theory of justice (*Filter-Regeln*), but also in the sociological characteristics of the free market. Hoppe himself previously used Popper's term "open society" (*offene Gesellschaft*) in reference to 100% capitalism. As Joseph Schumpeter wrote: "The capitalist process, thanks to the psychological foundations it creates, increasingly overshadows the values of family life."

⁸⁷ *Ibid.*, *Libertarianism and Libertinism*, Journal of Libertarian Studies 1994, 1 (11), pp. 117-128.

⁸⁸ *Ibid.*, p. 119.

⁸⁹ *Ibid.*, *Plumb-line Libertarianism*, p. 154.

⁹⁰ H.-H. Hoppe, *Getting Libertarianism Right*, p. 26.

⁹¹ *Ibid.*, *Eigentum, Anarchie und Staat. Studien zur Theorie des Kapitalismus*, Opladen 1987, p. 36.

and removes the scruples that a long moral tradition would impose on a different lifestyle, while at the same time developing new ^{tastes}.⁹² In other words, although the free market does not necessarily determine the development of culture towards hedonism and moral permissiveness, by increasing the level of wealth, entrepreneurial activity broadens the spectrum of choice not only of economic goods, but potentially also of related life strategies.

The case of Robert Nisbet, an American conservative sociologist frequently cited by Hoppe, to whom Hoppe undoubtedly owes an intellectual debt, is instructive in the context of the relationship between conservatism and libertarianism. The list of similarities between Nisbet and Hoppe's social concepts is long. According to Nisbet, the modern state is a revolutionary institution which, regardless of its form of government or prevailing ideology, undermines the foundations of smaller communities – ^{intermediary} bodies. In this context, like Hoppe, Nisbet defended the right to abortion. He did so not in the name of the personal autonomy of the mother, but in the name of the autonomy ^{of the family}. Nisbet also emphasized the importance of private property as a guarantee of the independence of the family and other grassroots ^{communities}. However, even a reading of Nisbet's works, despite the author's clearly anti-statist orientation, shows that the theoretical differences between conservatism and libertarianism are reflected in practical differences. The conservative attachment to concrete and empirical reality translates into an approach to private property. As a historian of conservative thought, Nisbet emphasizes that representatives of this school derive their approval of property not from abstract principles of justice theory, but from recognition of the role that this institution plays in maintaining civil order. Genetically, property is rooted in historically established rights and privileges. Therefore, as Nisbet points out, the strong approval of the market economy found in Burke, who sympathized with Adam Smith's views, was rare among the classics of conservatism. The dynamics of changes in the distribution of property titles, which characterizes the free market, seemed to conservatives to contradict the stabilizing function of property. Nisbet himself expressed his aversion to the stock exchange and shareholding as institutions that break the link between property and ^{the household}. This corresponds well with the concept overlooked by Hoppe in his later works.

⁹² J.A. Schumpeter, *Capitalism, Socialism, and Democracy*, trans. M. Ruciński, Warsaw 2009, p. 196.

⁹³ R. Nisbet, *Community and Power (formerly The Quest for Community)*, New York 1962, pp. 75–211.

⁹⁴ *Idem*, *Superstition: A Philosophical Dictionary*, trans. M. Szczubiałka, Warsaw 1998, entry: Abortion.

⁹⁵ *Ibid.*, *Conservatism. Dream and Reality*, New York 2002, p. 64.

⁹⁶ *Ibid.*, p. 67 et seq.

conservative socialism, known from his *Theory of Socialism and Capitalism*. The central thesis of Nisbet's social and political thought was that one of the main criteria for dividing modern political theories—the vision of the relationship between the individual and the state—should be corrected and replaced with the opposition between the state and ^{the community}. This is a fundamentally different approach from libertarianism, regardless of how likely it is that a community-based order will be adopted by a society governed by private law. After all, the core of libertarianism is the theory of individual rights.

That said, we nevertheless argue that there is a rational core to Hoppe's libertarian-conservative synthesis. Hoppe convincingly shows how, in a stateless system based on a libertarian conception of rights, private law would replace public law as the regulator of social behavior, including those behaviors that fall outside the domain of libertarianism in the narrow sense. As Hoppe has shown, such law, thanks to the dispersion of private centers of jurisdiction, would probably be much more pluralistic than contemporary centralized legislation. The community aspect of this pluralism is accurately identified by Dominiak. Private law communities would be established on the basis of the consent of their residents, so their internal legal order would reflect the preferences of the latter. In this sense, they would resemble—to use Ferdinand Tönnies' well-known distinction—communities (*Gemeinschaften*) connected by spontaneous social bonds, and would distance themselves from an artificial society (*Gesellschaft*) devoid of ties of sympathy. The essence of this concept is also well captured by Gabiś's phrase: "an open society full of closed communities." These closed communities, as Gabiś also writes, do not necessarily have to be conservative in nature, contrary to Hoppe's view. What is important is that their members regain full "moral jurisdiction," as Dominiak puts it, establishing within their property rights compatible with their concept of the good, freed from the need to clash with supporters of other concepts of the good in ^{the public domain} created by the state.

Peter J. Boettke and Rosolino Candela – defending libertarianism, which they call "liberal," they describe Hoppe's libertarianism as "illiberal" and, consequently, from their perspective, false. According to them, libertarianism presupposes a liberal concept of a subject open to change and *flourishing* in a morally and culturally pluralistic society based on

⁹⁷ *Ibid.*, p. 37.

⁹⁸ Ł. Dominiak, *Hans-Hermann Hoppe...*, p. 112.

⁹⁹ T. Gabiś, *Hans-Hermann Hoppe on monarchy, democracy, and natural order*, <https://mises.pl/blog/2005/09/20/219/> [accessed on June 1, 2023].

¹⁰⁰ Ł. Dominiak, *Hans-Hermann Hoppe...*, p. 109.

division^{of labor}. This refers to a society consisting of individualistic individuals who are prone to innovation and experimentation in life, as we know it from the writings of John Stuart Mill¹⁰¹. To supplement Boettke and Candela's argument, it is worth noting that Hoppe takes as his starting point for social ethics not the conflict between broad visions of the good life, as is the case in many strands^{of} contemporary liberalism¹⁰², but the conflict over scarce resources. At first glance, this makes Hoppe's libertarianism compatible with any cultural order that respects property rights, even the most oppressive and monoideal ones. At the sociological level, this in turn makes it possible to reconcile the idea of individual autonomy (understood narrowly as the autonomy of the owner) with the strong socializing influence of the community. Imagine a society corresponding to *an* idealized medieval *Christianitas*. All its members fervently profess the Catholic faith, joyfully and without hesitation celebrating holy days and obeying all other religious precepts. Authors such as the pluralist Isaiah Berlin or the late John Rawls would probably consider that a liberal would have little to say in such a society: the insurmountable conflicts of values on which his thinking is based have no place here. On the other hand, a liberal in the style of Mill or the aforementioned Boettke and Candela would probably think of such a community with disgust, seeing in it the worst tyranny of opinion and, in functioning within it, the death of an intelligent, self-directed human being. From Hoppe's point of view, however, there is no problem here: because goods remain scarce and the harmony of goals is not complete, the theory of justice remains necessary (two pious brothers can still argue over which of them is entitled to the devotional objects left by their deceased mother). Moreover, as long as just property rights are not violated, the monoideal nature of society is merely a cultural fact, neither good nor bad, like driving on the right or greeting someone with a handshake. Interpreted in this way, libertarianism can be seen as compatible not so much with the philosophy of conservatism as with^a more relativistic communitarianism¹⁰³.

At least, that is how things would appear at first glance. However, deeper reflection leads to the conclusion that, while in the positive (non-judgmental)

¹⁰¹ P.J. Boettke, R.A. Candela, *Liberal Libertarianism*, [in:] J. Brennan, B. van der Vossen, D. Schmidtz, *The Routledge Handbook of Libertarianism*, New York 2018, p. 100 et seq.

¹⁰² See J.S. Mill, *On Liberty*, [in:] *Writings on Liberty and Happiness*, trans. J. Starkel, Warsaw 2017, pp. 65–83. Cf. I. Berlin, *John Stuart Mill and the Ends of Life*, [in:] *Freedom*, trans. B. Baran, Warsaw 2017, pp. 271–308.

¹⁰³ See J. Rawls, *Political Liberalism*, trans. A. Romaniuk, Warsaw 1998.

¹⁰⁴ This point of view can be found in our earlier article: N. Slenzok, *The libertarian concept of the moral agent in the light of the dispute between liberals and communitarians*, "Dialogi Polityczne/Political Dialogues" 2015, 19, pp. 77–95.

In this respect, the above considerations may constitute a convincing forecast for the development of a stateless order; in normative (ethical) terms, conservative and communitarian tendencies cannot be accepted without reservation. To understand why this is so, let us return for a moment to the distinction between thick and thin libertarianism. Is it possible, as Block wants, for libertarianism to be limited only to the theory of justice and its political implications? The answer to this question depends on the level to which we refer it. In political philosophy, we must agree with Block that an integral linking of libertarianism with communitarianism, conservatism, or any theory other than libertarianism itself would involve failing to recognize the specificity of each of these currents—and the mutually contradictory or opposing theses on which they are based. We have already discussed the fundamental differences between conservatism and libertarianism above. The same can be said about the relationship between libertarianism and communitarianism: the former is individualistic, recognizes the existence of universal individual rights and therefore rejects the claim that moral subjectivity is rooted in a specific historical community; the latter is collectivist, perceiving subjective rights as an incidental element of the cultural order and the moral subject as necessarily anchored in it.

The same reason—taking into account the philosophical integrity of individual positions, rather than just their most superficial layer, which is political demands and the social consequences of their implementation—also argues against adopting a narrow conception of libertarianism. Libertarian theory of justice does not hang, so to speak, in the air: its truth depends logically on the truth of the premises belonging to its background theory, which in turn belong to more fundamental areas of philosophy. In Hoppe's case, these are, as we have shown, epistemology and ethics. In these areas, we believe that arguments can be found against both certain conservative strands of Hoppe's thought and its more relativistic or communitarian interpretation. Let us recall what has been demonstrated earlier: Hoppe's epistemology, derived from transcendental pragmatics, assumes that communication is the basis of rationality, and this imposes on the individual an ethical duty to argue rationally for their beliefs, from which the claims of justice theory are derived. The key component of argumentative ethics is therefore ethical intellectualism. According to Habermas, it requires the arguer to focus exclusively on the strength ^{of the arguments}. This excludes not only the strength of the fist, but also the strength of prejudice. In order for

¹⁰⁵ See Chapter II.

To free oneself from the latter, certain skills are needed. In other words, to argue rationally, one must *be* a rational person, a valuable member of an unlimited community of communication. Thus, within the background theory of Hoppe's libertarianism, as it were in the background of the theory of justice, a door opens for the concept of virtue. Although there is no room here to develop a proper theory of virtue, it is not difficult to see that it must include such skills as criticism and courage, which are necessary to stand on the side of truth regardless of external social pressure and internal compulsions and desires. Consequently, communities whose ethos conflicts with the development of these virtues must be considered morally reprehensible, even if they do not violate libertarian law. Imagine a community of religious fundamentalists functioning within a private law society, refusing to give their children any education beyond reading holy books and learning simple practical skills. In addition, any contact with outsiders would be prohibited in such a community, especially with those whose lifestyle—for example, homosexuality or alcohol consumption—contradicts religious precepts. This description closely resembles certain passages *from* Democracy... Hoppego, which refers to the acceptability of discrimination regardless of its grounds. Nevertheless, in light of the underlying argumentative ethics of ethical intellectualism, it is clear that a religious group of this kind, however it may not be physically attacked, deserves moral disapproval. After all, it shapes spiritually crippled human beings who are incapable of forming autonomous judgments. Similarly, a person who puts up a sign on his property saying "No Jews allowed," mistakenly believing that Jews sacrifice Christian children and stubbornly refusing to confront evidence to the contrary, deserves censure. Finally, by the same token, a university that expels scholars who deny that gender is solely a cultural construct, excluding discussion on the subject simply because some people may find it offensive, is morally wrong. Such a policy must be considered inherently wrong (albeit legal).

even if the university is privately owned.

This does not mean that the community aspects of Hoppe's theory mentioned above are completely invalidated. Argumentative ethics, even when extended to include the component of ethical intellectualism, still covers only a certain segment of human activity, beyond which there are considerable areas of axiological pluralism, and thus also of legally and morally permissible influence of the community on the individual. Its forms include, for example, the creation of more or less culturally homogeneous housing estates described by Hoppe, dominated by Catholics,

Jews, Anglo-Saxons, Mexicans, white and black people, etc. Nor do we suggest that argumentative ethics implies extreme nonconformity expressed in the contestation of all cultural norms except property rights. Exhibitionism, ostentatious self-denial, or disregard for table manners have, as a rule, nothing to do with rational argumentation. On the other hand, elementary intellectual openness or the aforementioned criticism and courage are uncontroversially conducive to it. Moreover, one could venture to say that practicing these virtues also helps to maintain the libertarian order better than the society described by Hoppe, which is dominated by conservative communities. Such a liberal society itself becomes a community of values whose ethos, internalized by individuals, can be recognized by them as worthy of sacrifice and defense. Hoppe's vision, on the other hand, assumes that a libertarian society will be largely inhabited by communities professing ideals contrary to the principles of libertarianism. Christian, Islamic, or Jewish fundamentalists (like, for example, militant atheists who support positivist social engineering) can never fully internalize the normative foundations of a libertarian society; to the extent that they agree with the libertarian concept of justice, they simply cease to be consistent adherents of their worldviews. The belief that at least some elements of morality or even religious faith should be imposed on others in violation of the rights recognized by libertarianism as natural lies at the very heart of such doctrines. To paraphrase Hoppe, it must therefore be concluded that their supporters must be persuaded by society to (voluntarily) revise their beliefs if a ^{libertarian} system is to be maintained in that society.

The above arguments reinforce the thesis expressed in the previous chapter that Hoppe-style libertarianism is, after all, a strand of liberalism. The links between libertarianism and the legacy of the Enlightenment are also narrowed. Our considerations lead us to conclude that, due to his own background theory, a Hoppean libertarian cannot be either “lean” or, contrary to Hoppe himself, conservative. He must simply be *liberal*. Let us emphasize once again that the liberalism we are talking about here is neither relativistic nor does it presuppose the unreflective cult of cultural diversity known from the agenda of most contemporary Western states. On the contrary, it is based on a conscious affirmation of the Western, i.e., Enlightenment-rationalist, form of life.

¹⁰⁶ The argument presented here loosely refers to Stephen Macedo's concept of liberal virtues and his critique of Rawls' idea of political liberalism. S. Macedo, *Liberal Virtues*, trans. G. Łuczkiewicz, Kraków 1995.

4. Libertarianism of " -limited immigration"

4.1. Against open borders

Hoppe's position on ^{immigration}, which is original in libertarian philosophy, is linked to the aforementioned concept of forced integration. Unlike earlier libertarians (and classical liberals), Hoppe considers unrestricted migration not as a manifestation of freedom, but as an extension by the state of the scope of coercion applied to citizens – compulsory integration with uninvited guests from abroad. At the level of justice theory, Hoppe's position is based on two theses. The first of these we will call, following Simon Guenzle, the theory of public domain ownership¹⁰⁷ and the second the theory of ^{public} domain management. The first of these theories boils down to recognizing the public domain as the private property of taxpayers expropriated by the state in order to finance it. Hoppe writes: "There is a fundamental difference between goods that belong to no one and public property. The latter is, *in fact*, the property of the taxpayers of a given country. They financed this property and they, depending on the amount of taxes they pay, must be considered its rightful ^{owners}." This gives citizens the right to refuse entry to foreign newcomers to the territory of the state. This is where the theory of public domain management comes into play. According to Hoppe, as long as it exists, the state must act in its domain as a kind of temporary administrator or *trustee* of the taxpayers' property, attempting to imitate the policy that ^a private ^{owner} could pursue in an anarcho-capitalist system. In a private law society, however, there is no such thing as the right to free movement—freedom to move around on someone else's land can only be obtained with the owner's consent. Consequently, it is the duty of the government to pursue a restrictive immigration policy aimed at allowing only immigrants with an invitation from a citizen to enter the country. Importantly, this is not the only condition recommended by Hoppe; in various places, he also writes about the inviter's acceptance of full

¹⁰⁷ John Hospers presented similar views. However, unlike Hoppe, this philosopher did not make a systematic attempt to reconcile migration restrictions with libertarian ethics by referring to consequentialist arguments. He pointed, among other things, to the increase in the costs of the welfare state, crime, and social tensions resulting from mass immigration. J. Hospers, *A Libertarian Argument Against Open Borders*, *Journal of Libertarian Studies* 1998, 2 (13), pp. 156-157.

¹⁰⁸ S. Guenzl, *Public Property and the Libertarian Immigration Debate*, *Libertarian Papers* 2016, 1 (8), pp. 154-155.

¹⁰⁹ H.-H. Hoppe, *Democracy...*, p. 160, footnote 10, Polish edition: p. 221, footnote 244.

¹¹⁰ *Ibid.*, *Getting Libertarianism Right*, p. 47.

legal responsibility for guests, payment by newcomers of fees for their stay to cover the costs of their use of public resources, or strict requirements related to cultural affiliation (preference for immigrants from similar cultural circles) or the qualifications¹¹¹ of newcomers¹¹². Hoppe emphasizes the distinction between the status of a foreigner with temporary residence rights and that of a citizen. Obtaining the latter should be additionally conditioned on¹¹³ the immigrant's purchase of real estate¹¹⁴.

These are measures that should be taken by the central government as long as it claims a monopoly on immigration policy. However, Hoppe's preferred solution in a world of statism would be to transfer this competence to the local level, including – following the Swiss model –, making the granting of citizenship dependent on the results of a local referendum, which would best reflect the polycentric order of jurisdiction characteristic of a¹¹⁵ stateless society.

In concluding the description of the immigration restrictions recommended by Hoppe, it should be noted that they are not so much a universal theory as a set of pragmatic prescriptions. The suggested conditions for admission vary in the philosopher's various works; perhaps the only requirement formulated in each case is the idea of immigration by invitation. Hoppe cautions that immigration policy should not be the same everywhere and at all times—it must respond to the challenges of time and place. More specifically, when immigration pressure is low, restrictions can be relaxed to such an extent that they often become almost imperceptible, as was the case in Europe up to and including the 19th century. However, when a state—such as contemporary Western countries—faces a massive influx of immigrants, it is obliged to take stricter measures to protect the property of its citizens and its¹¹⁶ values.

Importantly, Hoppe clearly emphasizes that his intention is not to question traditional economic arguments in favor of freedom of migration. If the population of a given country is below the optimum level, the resulting decline in minimum wages is accompanied by an increase in real wages. Standing on the ground of subjective welfare economics, Hoppe reminds us, however, that arguments relating to productivity cannot have decisive status in economics. People may value other goods, such as homogeneity

¹¹¹ H.-H. Hoppe, *Democracy...*, pp. 148–149, Polish edition: pp. 209–210; *idem*, *The Great Fiction*, pp. 129–131, Polish edition: pp. 147–149; *idem*, *Getting Libertarianism Right*, pp. 47–50.

¹¹² *Ibid.*, *Democracy...*, p. 168, Polish edition: pp. 232–233.

¹¹³ *Ibid.*, p. 148, Polish edition: pp. 208–209.

¹¹⁴ *Ibid.*, *Getting Libertarianism Right*, pp. 147–148.

cultural environment in which they live.¹¹⁵ Hoppe also considers it important to distinguish between free migration and free trade. Protectionism is economically unsustainable. Hoppe points out that, from an economic point of view, there is no contradiction between free trade and a restrictive approach to immigration: "the relationship between trade and migration is rather one of flexible substitutability." *Ceteris paribus*, the free movement of capital leads to the emergence of a global market and the equalization of production factors on a global scale, which also means a reduction in wage differentials. This weakens the incentives for economic migration. Protectionism, in turn, contributes to the growth of wage inequalities between countries and, as a result, increases incentives to migrate. Once again, the typical contemporary right-wing agenda—a combination of opposition to immigration and protectionism—proves to be inconsistent.

Most importantly, unlike the free movement of people, free trade is ethically unobjectionable. Hoppe writes: "People can move and migrate on their own, but goods and services cannot."¹¹⁸ In other words, the concept of free trade presupposes mutual consent between the trading parties. Immigrants, on the other hand, can move to foreign territory uninvited. The term "free immigration" is therefore misleading, which is why Hoppe often puts it in quotation marks.

In the context of Hoppe's intellectual biography, it is worth mentioning that this can be placed within the conservative shift that his thinking underwent in the 1990s. In *Eigentum, Anarchie und Staat*, he still listed migration restrictions as one of the manifestations of state aggression. Hoppe's volte-face on freedom of migration should not be interpreted in consequentialist terms; the thinker clearly seeks to provide a strictly deontological justification for restrictions on the free movement of persons across state borders, presenting them as a violation of the property rights of the citizens of individual states. Nevertheless, it should be noted that civilizational issues related to immigration, although secondary to fundamental ethical decisions in Hoppe's philosophy, are also raised by him. In Hoppe's view, the demographic expansion of representatives of non-Western cultures in Europe and the US leads to the decline of the West.

¹¹⁵ *Ibid.*, *Democracy...*, p. 138, Polish edition: p. 197.

¹¹⁶ *Ibid.*, p. 156, Polish edition: p. 217.

¹¹⁷ *Ibid.*, pp. 156-157, Polish edition: pp. 217-218.

¹¹⁸ *Ibid.*, p. 160, Polish edition: p. 222.

¹¹⁹ *Ibid.*, pp. 113, 117, *passim*.

¹²⁰ *Ibid.*, *Eigentum, Anarchie und Staat*, p. 20.

and burying any chance of building a free society.¹²¹ Moreover, the influx of people from cultural circles different from those of the West entails further hypertrophy of the welfare state and an escalation of social tensions, the suppression of which will also require an increase in the power of the state. *All in all*, therefore, libertarians who advocate open border policies are unwittingly acting in the interests of the ruling class and against the cause they claim to be fighting for. They are, as Hoppe bluntly puts it, "Viagra for the state."¹²² In his view unlimited immigration is a "recipe for social suicide."¹²³ If it were ever implemented, it would lead to disaster: Western states

[...] would immediately be overrun by millions of immigrants from the Third World. Social welfare costs would rise dramatically, and the overburdened economy would begin to falter and collapse as the capital accumulated in the past and inherited from our ancestors melted away. Civilization would disappear from America, just as it once disappeared from Greece and Rome.

4.2. Criticism of Hopp 's position

The theory of limited immigration is one of the most controversial parts of Hoppe's contribution to libertarian thought. The debate sparked by his speech continues in libertarian literature to this day: articles on the subject are constantly appearing, and in Europe, the immigration crisis caused by tensions in the Middle East after 2010, following the Arab Spring, has brought the discussion back to life. A review of the existing literature leads to the conclusion that most commentators have rejected Hoppe's position. Among the leading libertarian thinkers opposed to the author of *Democracy...* was Block, who devoted a series of articles, written alone or with co-authors, to defending the policy of open borders: Frank Van Dun, Simon Guenzl, Jan

¹²¹ *Idem*, *Reviving the West*, <https://www.lewrockwell.com/2002/04/hans-hermann-hoppe/reviving-the-west/> [accessed on 1 June 2023].

¹²² *Idem*, *Getting Libertarianism Right*, p. 45.

¹²³ *Ibid.*, *Democracy...*, p. 160, Polish edition: p. 222.

¹²⁴ *Ibid.*, p. 159, Polish edition: pp. 220-221.

¹²⁵ W. Block, *A Libertarian Case For Free Immigration*, *Journal of Libertarian Studies* 1998, 2 (13), pp. 167-186; *idem*, *Rejoinder to Hoppe on Immigration*, *Journal of Libertarian Studies* 2011, 1 (22), pp. 771-792; *idem*, G. Callahan, *Is There a Right to Immigration? A Libertarian Perspective*, *Human Rights Review* 2003, 1 (5), pp. 46-71; W. Block, A. Gregory, *On Immigration. A Reply to Hoppe*, *Journal of Libertarian Studies* 2007, 3 (21), pp. 25-42; W. Block, E. Wirth, J.A. Butt, *A Response to the Libertarian Critics of Open-Borders Libertarianism*, *Lincoln Memorial University Law Review* 2016, 1 (4), pp. 142-165; W. Block, E. Wirth, J.A. Butt, *Immigration and Homesteading*, *The Journal of Jurisprudence* 2017, 9.

Krapelka and Jakub ^{Wiśniewski}. Hopp was supported by Stephan Kinsella and Lew Rockwell, but only the former contributed original ^{theoretical} arguments to the discussion. A specific position, contrary to both Hoppe's theory and the postulate of open borders (which will be discussed later), was taken by Łukasz ^{Dominiak}. Below, we present our own criticism of Hoppe's approach. It draws heavily on the achievements of earlier polemicists, while expanding their arguments with an extensive critical discussion of Kinsella's contribution. The argument will focus in turn on (1) the theory of public domain management; (2) the theory of ^{public} domain ownership.

Re 1. The demand that politicians imitate the actions of private managers in their own actions cannot be upheld on the basis of Austrian economics. The question must be asked: what specific actions should be expected from state managers? There can be no rational answer to this question, simply because it is impossible to know what private owners would want if they regained control of land currently controlled by the state. We do not know what the distribution of land ownership would look like, not to mention the preferences of the owners. Basically, in order for the results of market processes to be known, these processes must first take place. No state planner has the ability to predict and replace them. As Block and Gregory write: if this were not the case, there would be no ^{need for} a market at all. At best, some reasonable predictions can be made about what private owners and managers would *not* do with the public domain. For example, it is highly unlikely that they would turn highways into giant garbage dumps. However, our ability to make such predictions is very limited. It is not known what exactly would happen to highways. Similarly, we have no knowledge of what preferences regarding immigration would be adopted.

¹²⁶ F. Van Dun, *Not Really a Libertarian Case Against Open Immigration*, 2008, <https://users.ugent.be/~frvandun/Texts/Articles/LibertarianCaseAgainstImmigration.pdf> [accessed on June 1, 2023]; S. Guenzl, *op. cit.*, pp. 153-177; J. Krapelka, *A Pure Libertarian Theory of Immigration*, *Journal of Libertarian Studies* 2010, 22, pp. 35-52; J.B. Wiśniewski, *Public property as a praxeological contradiction: causes, effects, implications*, 2019, <https://slib.pl/jakub-bozydar-wisniewski-wlasnosc-publiczna-jako-prakseologiczna-sprzecznosc-przyczyny-skutki-i-implikacje/?fbclid=IwAR0xhUyLiQ-UrPEFNaDfV7u0-Jn2rESmGbg9I7F9vNWUDy1wnnjLhYUSds> [accessed on 1 June 2023].

¹²⁷ S. Kinsella, *A Simple Libertarian Argument Against Unrestricted Immigration and Open Borders*, <https://www.lewrockwell.com/2005/09/stephan-kinsella/a-simple-libertarian-argument/> [accessed on 1 June 2023].

¹²⁸ Ł. Dominiak, *The problem of migration in the political philosophy of libertarianism*, *Civitas. Studia z Filo-zofii Polityki* [Civitas. Studies in Political Philosophy] 2016, 19, pp. 59-96.

¹²⁹ We develop here the argument first presented in the article: N. Slen-zok, *Libertarianism, Property Rights, and the COVID-19 Pandemic Policies*, *Journal of Libertarian Studies* 2021, 25 (1), pp. 272-299.

¹³⁰ W. Block, A. Gregory, *op. cit.*, p. 32.

demonstrated. This would depend on many economic, political, and cultural circumstances, and ultimately on the individual preferences of individuals. In general, it is impossible to know what a central government or even a local government, which as a result of privatization would be divided into many individual jurisdictions, should do in order to replicate decisions that are necessarily the subject of vague speculation.

Migration restrictions also conflict with the broader, not only economic, political theory of libertarianism. As is often noted in the literature, the very idea of a libertarian government program—which is what Hoppe's anti-immigration proposals essentially are—is *prima facie* surprising. In light of Hoppe's own theory of the state, it is naive to expect that it is possible to design a state that serves libertarian goals. It is difficult to understand how a philosopher who proclaims the inherent expansiveness of the state and the impossibility of limited government can at the same time demand the expansion of state powers in any area, in this case immigration policy. Furthermore, it is not clear why the idea of "rational" management of the public domain should not be extended beyond migration issues. Why, in an effort to imitate the actions of private owners and managers, should state authorities not, for example, prohibit people from drinking alcohol or smoking cigarettes in public parks, as they often do? Perhaps from the point of view of Hoppe and his supporters, this is precisely the desired direction: the theory of public domain management saves libertarians from supporting a situation in which all unhygienic or obscene activities are permitted in public spaces, as long as they do not violate the property rights of others. It is worth noting, however, that Hoppe is not consistent here. During the COVID-19 pandemic, he protested against any attempts to restrict individual freedom in the name of fighting the disease, and considered the sight of states forcibly reorganizing entire societies overnight to be "downright devastating." Although it is difficult to disagree with his view on the basis of libertarianism, this is only because both Hoppe's theory of public domain management and, as we will show in a moment, his view of the ownership status of the latter are false. Yes, indeed:

¹³¹ See, for example, *ibid.*, pp. 37–38; S. Guenzl, *op. cit.*, pp. 167–172.

¹³² J.B. Wiśniewski, *Public Property...*

¹³³ This is presumably what is meant. See the discussion of Rothbard's late postulates in the next chapter, in which he clearly calls for the protection of the public domain from degradation and the fight against homelessness.

¹³⁴ *State or Private Law Society on Dealing with Corona*, interview with H.-H. Hopp conducted by Thomas Jacob, <https://www.lewrockwell.com/2021/01/hans-hermann-hoppe/state-or-private-law-society-on-dealing-with-corona/> [accessed on June 1, 2023].

Anti-pandemic restrictions also applied to private locations such as bars and gyms. In this respect, Hoppe also considered the actions of the state to be unlawful. Only private owners have sovereign powers to decide who may be on their property and under what conditions (including the level of health risk). However, if Hoppe's arguments regarding immigration were true, why would the state, acting as the administrator on behalf of the collective owners of *public* sidewalks, roads, parks, and forests, would not protect them from *forced integration* with people for whom the risk of transmitting a dangerous disease exceeds the limits of risk acceptable to a large part of the population? If, despite this, the actions of states during the pandemic were unacceptable from a libertarian point of view, it was precisely because the state cannot rationally manage the public domain, which, as will be discussed below, is a no man's land over which no one has decision-making power. The latter means that no one has the power to decide what level of epidemiological risk is ^{acceptable}¹³⁵.

Ad 2. Contrary to Hoppe, his views on public domain ownership conflict with libertarian theory of justice. First, Hoppe overlooks a minor but potentially important detail pointed out by Guenzl. Namely, within public property, a distinction must be made between two types of property: land with an unknown previous ownership status, to which the state claims rights (*state-claimed land*) and areas directly taken away from specific, identifiable owners (*state-seized land*), as was the case, for example, but not exclusively, during the expropriations carried out in ^{communist} states. These plots are certainly not the collective property of taxpayers. On the contrary, they still belong to the people from whom they were taken. They and they alone can therefore decide who and on what terms may be present on their property, which belongs to them under natural law. What about the remaining areas? Let us remember that libertarian ethics provides for four and only four ways in which an entity can obtain title to an external resource: original appropriation, voluntary transfer, production, and ^{restitution/compensation}. As Wiśniewski and Guenzl point out, none of these activities occur in relation to taxpayers and their alleged title to state-owned sidewalks, parks, roads, or ^{buildings}. It is clear that

¹³⁵ See more broadly N. Slenzok, *Libertarianism, Property Rights...*, pp. 283–292.

¹³⁶ S. Guenzl, *op. cit.*, p. 162.

¹³⁷ See Chapter II of this book.

¹³⁸ J.B. Wiśniewski, *Public Property...*

that state land and infrastructure were not subject to initial appropriation by citizens, and therefore no legitimate transfer of ownership between them took place. Hoppe therefore believes that taxpayers' claims to state property derive from the act of production—after all, taxpayers did contribute to its creation through their financial contributions. However, this does not seem to give them title to it. For this to be the case, the following major premise would have to be true: whoever makes a financial contribution to the production of a good automatically becomes its legitimate (co-)owner. This is certainly not the case. In the case of production, the creation of ownership must be preceded by an act of original appropriation or appropriate contractual arrangements – otherwise, as Guenzl rightly points out, the institution ^{of sponsorship} would be impossible.

Another, at first glance more promising proposal to justify the collective property rights of taxpayers to the public domain was put forward by Kinsella. In his view, taxpayers exploited by the state become owners of state-controlled space in compensation for the harm they have suffered. By the same token, they can expect the state to manage the public domain effectively, providing various public services in a manner that is as satisfactory as possible for them. Kinsella gives the example of a public swimming pool: in his opinion, from a libertarian perspective, it is fair that this pool—to which access is a form of compensation—should be clean and ^{comfortable}.

However, this solution does not seem convincing either. First of all, it should be noted that although the victims of state violence are usually taxpayers, there are also other aggrieved parties. As Block and Gregory point out, we must remember, for example, the victims of wars waged by ^{states} who are living abroad. Who could have a stronger claim to compensation than people who have lost their homes and limbs as a result of the actions of foreign aggressors? From the point of view of Hoppe and Kinsella, however, it would be difficult to conclude that the immigration policy of the United States should be decided by Afghans, Iraqis, or Serbs.

More importantly (after all, not every state is guilty of anything towards foreigners), compensation claims can only cover (a) the perpetrator's original property; (b) something that the perpetrator obtained in violation of someone else's rights, the use of which for compensation purposes would not, however, result in

¹³⁹ S. Guenzl, *op. cit.*, p. 161.

¹⁴⁰ S. Kinsella, *A Simple Libertarian Argument...*

¹⁴¹ W. Block, A. Gregory, *op. cit.*, p. 34.

subsequent violations. The second scenario can be illustrated by the example of a pickpocket who, brought to justice, has already spent all the stolen money. Although he cannot return the money to the victims, he is still able to compensate for the harm done by giving the victims the goods purchased with the stolen money, provided, of course, that the court, the victims, or their security agencies consider this form of compensation appropriate.

As we can see, the common denominator of the scenarios outlined above is that re-compensation cannot involve the violation of anyone's rights. From a libertarian point of view, however, it is not possible for the state—an institution whose very existence constitutes a violation of individual rights—to remedy its wrongdoings by means that involve *further* control of resources by itself. More precisely, an attempt to compensate for state aggression through services provided in the public domain would lead to a paradoxical situation. The state would continue to expropriate taxpayers' resources, monopolize industries whose operation and existence would depend on voluntary consumer decisions in a free market, and prevent taxpayers from regaining actual control over public areas in order to compensate them for these crimes. In short, compensation would be carried out precisely by means of what constitutes the premise for its implementation. A similar situation would arise in the case of a bandit who, after kidnapping his victim and taking his wallet, then, while still holding the unfortunate man captive, fed him with food purchased with his own money. It is, of course, difficult to deny that it would be better to be kidnapped by a thug who at least cares about keeping his victims alive than by one who starves them to death. However, this has nothing to do with compensation. Similarly, the mere fact of kidnapping would not give the victim ownership of the building in which he was held. Goods and services provided to citizens by the state are analogous to goods and services provided to victims by a kidnapper, and just as the legitimate claims of victims against their tormentor are not diminished in this way (as would be the case if food or bedding provided by a bandit were treated as compensation), so too do citizens retain their full claim for compensation from the state, regardless of how many times they enjoyed swimming in a public pool.

A related reason why the provision of public services by the state to taxpayers cannot be regarded as compensation is that "compensation" means a (remedial) transfer of property rights, i.e., decision-making rights.

¹⁴² On the libertarian theory of compensation and punishment, see S. Kinsella, *A Libertarian Theory of Punishment and Rights*, Loyola of Los Angeles Law Review 1997, 30, pp. 633-635.

However, these rights are not transferred in any way in the case of state services. It is the state, not the taxpayers, that remains the ultimate decision-maker with regard to the entire public domain.

Furthermore, it should be remembered that ultimately there is no such entity as “taxpayers.” In light of libertarian ontological individualism, there are only individual taxpayers and other victims, each of whom has a separate claim requiring separate remedies. If the idea of the public domain as the collective property of taxpayers were to be taken seriously, it would result in irresolvable disputes over how this property should be used. As Wiśniewski aptly puts it: “the claims of all those expropriated for its creation are in inherent and permanent conflict with each other, which exposes this category of ‘property’ as a concept that is praxeologically self-contradictory.” In the context of migration policy, this means that there can be no rational decision between different preferences regarding who should be allowed into the country and on what terms, as long as the decision-making power in this matter rests with the state. Admittedly, one can agree that from the perspective of immigration skeptics, the necessity of interacting with foreigners constitutes “forced integration.” Ultimately, the condition for the emergence of a public domain in which this integration takes place is the violation of their rights. However, adapting state policy to their wishes would result in the opposite phenomenon: the forced separation of migrants and citizens who wish to interact with them. The idea of treating taxpayers as the true owners of public space is therefore contrary to the fundamental function of property rights, which is to avoid interpersonal conflicts. Since state officials cannot be owners either, the public domain—with the exception of that part which has owners known by name and expropriated by the state (*state-seized land* Guenzla)—must be classified as no man’s land, i.e., land that is not the legal property of any person.

Dominiak takes a similar, though not identical, position. On the one hand, he recognizes the demand for free movement of persons across state borders as incompatible with the right of exclusion enshrined in property law; on the other hand, he rightly excludes the possibility of entrusting immigration policy to the state. He proposes a solution which he calls “communitarian-syndicalist.” It consists in transferring decision-making powers in immigration matters to certain public sector employees (the staff of individual factories, mines, schools, or hospitals) and members of local communities—neighborhoods

¹⁴³ J.B. Wiśniewski, *Public Property...*

and condominiums controlling a large part of roads, streets, and parks. It is these groups that can claim exclusive control over individual sublocations within the state domain and, consequently, consider themselves their ^{owners}. Dominiak emphasizes that he understands this concept as a "practical rule for deciding on the admission of immigrants into *public space* [emphasis added]."

The problem with the communitarian-syndicalist concept is that it is difficult to see how it differs from the demand for full privatization. Decision-making powers over public space are not only not assigned to the state; they are also distributed according to libertarian criteria of original appropriation, rather than on the basis of state administrative units at any level. But if this is the case, then this proposal is not so much a practical rule governing public space as a rule abolishing public space and replacing it ^{with private space}. There is therefore no reason not to go further and recognize that the only strictly libertarian solution to the problem of immigration is the complete privatization of state property and, as a result, the invalidation of

¹⁴⁴ Ł. Dominiak, *The Problem of Migration in Libertarian Political Philosophy*, pp. 92–96.

¹⁴⁵ *Ibid.*, p. 92.

¹⁴⁶ Dominiak's concept refers to Hoppe's vision of universal privatization. Commenting on the course of the proposed privatization of the public sector, Hoppe formulated separate recommendations for communist (Soviet-style socialist) and social democratic countries. Hoppe recommended the syndicalist option (schools for teachers, hospitals for doctors, etc.) only for the former, and only if there was no identifiable person who had been expropriated from the land on which the state buildings stood. In social democratic states, where there is a private sector, it is possible to separate the class of taxpayers from the class of tax consumers. Consumers cannot consider themselves the rightful owners of state property, as this would mean granting them an unfairly acquired privileged position. According to Hoppe, the wealth of social democratic states should therefore be distributed in proportion to the tax burdens previously borne, again with the exception of cases where state-owned land was expropriated and the rightful owners are still alive. In accordance with the theory of public domain ownership, Hoppe proposes that state property be distributed according to the financial contribution of individual taxpayers. Hoppe's critical remarks about the syndicalist variant are misguided in this context. In the case of land and property usurped by the state (*state-claimed land* Guenzla), it is impossible to identify their rightful owners, so, as Dominiak rightly argues, there is no reason why public sector employees should not be able to act as appropriators. Unlike Dominiak and Hoppe with regard to communist states, however, we also see no reason why ownership should fall to them *a priori*. Initial appropriation is an intentional act. It cannot therefore be argued that persons who, in their own understanding, have hitherto only used resources belonging to the state are currently and in principle the owners of those resources, and not only potentially and conditionally, provided that they use their advantage in access to them at the time of privatization. H.-H. Hoppe, *Democracy...*, pp. 124–136, Polish edition: pp. 179–194; *idem*, *De-Socialization in a United Germany*, "The Review of Austrian Economics" 1991, 2 (5), pp. 77–104; Ł. Dominiak, *Problem migracji...*, pp. 93–94.

the problem of inter-state migration in such a way that from now on it will be possible to speak exclusively about migration between private domains. These can be established not only by local communities and work crews (although they certainly enjoy a privileged starting position in this regard), but, in principle, by all interested parties who have appropriated the primary resources in question. An exception must be made for areas falling under the second type identified by Guenzla, i.e., those that were expropriated by the state and whose rightful owner (the expropriated person or their heir) can be identified. In such a case, only they can make effective claims. Furthermore, it cannot be ruled out that, with regard to the remaining part of the public domain, the compensation claims of the victims of a given state should be given priority over those of the original appropriators at the time of privatization. However, this is a difficult question that goes beyond the discussion on immigration policy.

Summary

In this chapter, we have dealt with conservative themes that have been increasingly present in Hoppe's thinking since the 1990s. We also introduced a division between the libertarian left and right, based on Hoppe's criterion of attitude toward equality (both material and cultural). We also discussed the arguments that, according to Hoppe, suggest that the state is the leading cause of what he and other conservatives see as the moral decay of contemporary society, as well as the reasons why he believes that an anarcho-capitalist society would be much closer to conservative ideals than a socialist or communist one. of the moral decay of the present day, as well as the reasons why he claims that an anarcho-capitalist society would be much closer to conservative ideas than the societies of contemporary social democratic states. A central place in the chain of reasoning for both of these theses is occupied by the category of time preference—its growth caused by the expansion of the state is associated with moral decadence, while the institutional incentives of a private law society would favor a longer planning horizon. Another key issue in this chapter was the consideration of the coherence of Hoppe's libertarian-conservative synthesis. For our part, we argue, first, that libertarianism and conservatism are two distinct political philosophies and therefore cannot, as Hoppe sometimes suggests, be combined into a single coherent set of philosophical views. Secondly, we believe that even if the threads of cultural conservatism are treated as merely complementary to what is essentially a libertarian political philosophy, there will still be significant tensions between these components. Hoppe's theory does have a rational core, namely a well-founded belief in the growing importance of grassroots communities in society.

private law. Hoppe's interest in civilizational issues, including his rejection of cultural egalitarianism and his courageous defense of the achievements of Western civilization, is also commendable. However, it should be emphasized that argumentative ethics—taken as a whole, not just as a libertarian theory of justice—implies, in the realm of individual ethics, the recognition of the liberal virtues of rationality and criticism. From this position, it is therefore desirable that the ethos of a private law society promote the practice of these virtues rather than the conservative virtue of intolerance extolled by Hoppe. Of course, these ethical skills should not be equated with relativism: as we know from Kant, criticism makes sense only insofar as it aims to distinguish truth from appearances.

Finally, in this chapter, we addressed Hoppe's concept of limited immigration and the controversy that has erupted around it among libertarian advocates. As we have shown, this theory contradicts the fundamental tenets of libertarian ethics and state theory, as well as the Austrian school of economics. However, there is a grain of truth in it, namely the recognition that there is no right to migration under private property and the identification of state ownership as the source of coercive integration and disintegration. We argue that the only libertarian solution that allows for the removal of coercive integration and disintegration is the abolition of the public domain.

¹⁴⁷ This does not mean, of course, that no libertarian recommendations applicable under state authority can be formulated in this area. Some of Hoppe's proposals—such as selective citizenship policies (as opposed to simply allowing entry into the country) or the abolition of anti-discrimination laws—are entirely compatible with libertarian theories of justice.

Chapter VII

The Doctrine

In previous chapters, we analyzed Hoppe's thought in its *strictly* theoretical aspects. In other words, we presented the author of *The Theory of Socialism and Capitalism* as a political philosopher in the classical sense of the term: a thinker engaged in general reflection on cognition, existence, morality, history, and, finally, a vision of the desired political order. In this chapter, however, we will focus on Hoppe's libertarianism as a political doctrine, i.e., a set of judgments encompassing not only the concept of an optimal political system, but also the methods by which this concept would be put into practice. It should be borne in mind that Hoppe's intention, like Rothbard's, was never merely to practice Aristotelian wisdom for its own sake. The philosopher's ambitions also include being the animator of a social movement aimed at overthrowing the existing statist system and replacing it with a society of private law as described by libertarian theory. This is the domain of Hoppe's theses on the preferred methods of transition from the state-socialist *status quo* to an anarcho-capitalist order. The theory of secession as a fundamental tool for political change, which we analyze in the last section of this chapter, plays a particularly important role here. Another theme of this kind is Hoppe's idea of an alliance between libertarians and the populist right, and the construction of a conservative-libertarian counterculture outside state institutions and the mainstream of contemporary political and intellectual life. On the one hand, these postulates aim to preserve those areas of freedom and what Hoppe considers cultural normality that still function in the Western world; on the other hand, they are also intended to serve as a signpost indicating the directions in which the libertarian movement should follow in order to achieve its ultimate goals.

The main research problem of this chapter can be characterized as follows: if, referring to Lord Acton, Rothbard stated that libertarianism is a political philosophy that seeks to eliminate all coercive institutions, then it follows that the state, as a coercive institution, is incompatible with libertarianism.

If libertarianism is a “philosophy in search of a politics,” can Hoppe’s search be considered ^{successful}? In other words, do the measures he recommends correspond to the goals of libertarian political philosophy? The answer to this question is not clear-cut. On the one hand, libertarianism has not yet developed a doctrinal framework that would allow its supporters to look to the future with optimism and actively pursue actions that offer a realistic prospect of ultimate success in the foreseeable future. As we will try to show, this situation is not solely due to the accidental state of the libertarian debate and social affairs in general. The political limitations of libertarianism are inherent in its very nature, rooted in the ethical and methodological rigor of this philosophy. On the other hand, despite certain errors and simplifications, the concepts put forward by Hoppe offer libertarians a fundamentally realistic vision of the fulfillment of their political ideal in the distant future.

This general critical thesis consists of two partial theses. With regard to the concept of an alliance with right-wing populist forces, we point out that libertarians do indeed share certain points of contact with the right wing. At the same time, some of the proposed elements of the libertarian-right agenda directly conflict with the ethical principles of libertarianism. We welcome Hoppe’s proposal for secessionism, although we identify significant reservations that must be taken into account when libertarians support initiatives aimed at dividing existing state entities.

From a historical and systematic point of view, we draw attention to two issues. First, we emphasize the convergence of Hoppe’s doctrine with Rothbard’s later theses, while highlighting the significant differences between the two authors. Second, although we present the ideas of an alliance with right-wing populism and secessionism separately, both in descriptive and critical terms, we also present Hoppe’s doctrine as a unified doctrine of right-wing libertarianism, stemming from the philosopher’s

1. Populist right-

1.1. Paleolibertarianism

Hoppe’s postulates for placing libertarianism in a broader anti-establishment right-wing movement not only fit into the post-

¹ M.N. Rothbard, *Egalitarianism as a Revolt Against Nature and Other Essays*, Auburn 2000, p. 25.

the previous chapter, a theoretical project of a libertarian-conservative synthesis, but also refer to Rothbard's earlier organizational efforts, who at the end of his life – at the turn of the 1980s and 1990s – broke away from the Libertarian Party (LP), which he had previously co-founded, in order to establish cooperation with the so-called paleoconservative milieu. A concise presentation of those events, in which Hoppe also participated, seems necessary to place his dispute with part of the contemporary libertarian movement in the proper historical context.

Demonstrating political ambitions (although he was never a professional politician and never ran for public office), Rothbard went through several very different stages of political engagement throughout his life. It should be emphasized that these changes did not signal any significant ideological shifts on his part. Rothbard's philosophy remained essentially unchanged from the 1950s, when the views of "Mr. Libertarian" crystallized. The reasons for his joining and leaving successive political and ideological camps were rather situational in nature—depending on the circumstances of time and place, Rothbard saw more common ground with libertarianism on the American left or right.

It should also be noted that Rothbard's political movements coincided with a shift in his self-identification on the left-right axis, although it is difficult to determine today what was the cause and what was the effect. In the 1960s, during his organizational shift to the left, Rothbard wrote, for example, about libertarianism as the heir to the historical libertarian left (as is well known, when the left-right dichotomy emerged at the turn of the 18th and 19th centuries, it divided parliaments primarily into liberals and conservatives, respectively). He characterized conservatism as the party of the old order, hostile to individual freedom, contractual relations, industrialization, and modernity. Socialism, in turn, was supposed to be an intermediate orientation, pursuing liberal goals (freedom) through conservative methods (statism)³. Many years later, after participating in the Republican primary convention of Patrick Buchanan, Rothbard would enthusiastically recount how, after years of political wanderings, he managed to return to his true (right-wing) home⁴.

² J. Raimondo, *Against the State: The Biography of Murray Newton Rothbard*, trans. J. Wozinski, Krakow 2016, pp. 67-72.

³ M.N. Rothbard, *Egalitarianism as a Revolt Against Nature...*, pp. 21-53.

⁴ J. Raimondo, *op. cit.*, p. 248.

Marcin Chmielowski distinguishes four basic phases in Rothbard's political activity:

1. The early years, from the 1940s to the mid-1960s. At that time, Rothbard felt part of *the* old, pre-war American Old Right – which was free-market, hostile to centralization, militarism, and US interventionism in international relations. Rothbard's complete break with conservatism and the Republicans came as a result of the domination of the right wing of the American political scene by various interventionist orientations during the Cold War.
2. The period of cooperation with the New Left, dating from the mid-1960s to 1971. At that time, Rothbard engaged in dialogue with left-wing revisionist historians such as Gabriel Kolko, already mentioned in this work, and also appeared in person at rallies and conventions of the anti-establishment, countercultural left. The common platform of libertarians and left-wing protesters consisted primarily of opposition to the Vietnam War and compulsory military service, as well as the fight against drug prohibition.
3. Activity in the Libertarian Party, founded in 1971. Although Rothbard was involved in its functioning from the very beginning, he did not believe that the LP could ever come to power in the US and subsequently dismantle the state. From the outset, the party – which, although it still exists today, has never achieved electoral success in the American two-party system – was intended to be an additional channel for promoting libertarian ideas.
4. The paleolibertarian period, lasting from 1990 to 1995, ended with Rothbard's death and is the most interesting for us here.

In 1990, the Rothbard-Rockwell Report, a magazine published by Rothbard together with Lew Rockwell, an economist and libertarian activist with whom he had founded the Ludwig von Mises Institute in 1982, published a programmatic text entitled *Why Paleo?* In it, Rothbard explains the reasons for his departure from the Libertarian Party and declares his disillusionment with the entire libertarian movement in its current form. Rothbard directly cites this disappointment as the reason why, despite being

⁵ M. Chmielowski, *Murray N. Rothbard's Paleolibertarianism. In Search for a Political Success During the Republican Party Presidential Primaries 1992*, "Res Publica. Revista de Historia de las Ideas Políticas" 2016, 2 (19), p. 375.

⁶ For more on the Old Right, see J. Spindel, *Indywidualizm amerykańskiej Starej Prawicy* [The Individualism of the American Old Right], *Historia i Polityka* [History and Politics] 2011, no. 6 (13), pp. 41–50.

⁷ See more broadly: M.N. Rothbard, *The Betrayal of the American Right*, Auburn 2007, *passim*. Cf. J. Raimondo, *op. cit.*, pp. 88–100.

⁸ On this period in Rothbard's career, see J. Raimondo, *op. cit.*, pp. 166–178.

⁹ On Rothbard's shift on the left-right axis and the origins of paleolibertarianism, see also M. Zwolinski, J. Tomasi, *The Individualists. Radicals, Reactionaries, and the Struggle for the Soul of Libertarianism*, Princeton-Oxford 2023, chapter 7.

the founder of this movement, refuses to continue using the term “libertarianism” in relation to his views, preferring instead the term “paleolibertarianism.”

The first reason is philosophical in nature. Rothbard, taking a clear stance on this issue for the first time, advocates expanding the scope of libertarian thought beyond questions of justice, the market, and the state. Although, as he emphasizes in another text published in the Rothbard-Rockwell Report, libertarianism is “logically compatible with almost every approach to culture, society, and moral principles,” “psychologically, sociologically, and practically, it just doesn’t ^{work} that way.” The environment most conducive to freedom is “bourgeois Christian culture.” The second reason lies in the realm of political strategy. According to Rothbard, despite the passage of more than twenty years since the hippie revolution, the spirit of the summer of love still hovered over the libertarian movement. In his view, most activists are attracted to libertarianism by the atmosphere of revolt directed not only against the state, but in fact against all hierarchies and authorities of bourgeois society. According to Rothbard, the typical *libertarian* at the dawn of the 1990s was an aging veteran of the former youth protest movement, whose main slogan was to question all authority and cultural norms (*Question Authority!*).¹² His personality is steeped in “hippiedom.” Although he is well-read in libertarian theory, he knows less about world affairs than “a rank-and-file member of the most marginal Trotskyist sect.” His only contact with culture is reading science fiction books. He is hostile towards Christianity, but his declared anti-religiousness often does not prevent him from being a supporter of *New Age*. No

¹⁰ M.N. Rothbard, *Big-Government Libertarians*, [in:] *The Irrepressible Rothbard. The Rothbard-Rockwell Report Essays of Murray N. Rothbard*, ed. R. Rockwell, Burlingame 2000, p. 101.

¹¹ *Idem*, *Why Paleo?*, Rothbard-Rockwell Report, 1990, 1 (2), p. 3. There is no space here for a broader discussion of the premises that led Rothbard to this position. Although the author himself, in his later writings—no doubt mindful of the constraints of brevity imposed by the convention of newspaper articles—says little about them, more information can be found in his academic works, primarily in his history of economic thought, which he was preparing at the same time (unfortunately unfinished due to Rothbard's death – he only managed to complete the first two volumes, devoted to pre-Smithian thought and classical economics). In this work, he presents a revisionist view of the history of economics, according to which the origins of free market ideas can be found in late Scholastic Spanish thought, while Protestant classical economics led to the squandering of the achievements of previous centuries and created the ground for the development of Marxism. Rothbard's claims about the relationship between Christianity and the free market should not, therefore, be read as a simple repetition of Max Weber's well-known theses on the Protestant origins of capitalism. *Idem*, *An Austrian Perspective on the History of Economic Thought*, Vol. 1-2, Auburn 2006.

¹² *Idem*, *Why Paleo?*, p. 4.

He is therefore referring to the consistent, militant atheism of Ayn Rand, although her views have also left their mark on the thinking of the Typical Libertarian. Ultimately, for him, everything boils down to a confrontation with traditional bourgeois culture and its characteristic religion, which he opposes, motivated both by Randism and by an enduring youthful rebellion.

The highly derogatory image of the Typical Libertarian outlined by Rothbard, regardless of whether and to what extent it is true, serves an important function in justifying the proposed political strategy. The starting point for paleolibertarianism at the level of political practice was the recognition that the libertarian movement had become alienated from American culture and, as a result, addressed its message to a rebellious minority and lost its ability to influence the masses. In Rothbard's view, the proper target group for libertarians should be the representatives of so-called *Middle America* – "people from the middle or working class." This concept is also linked to a revision of Hayek's strategy for liberalism. It was to consist of a top-down approach – promoting libertarian ideas among the intellectual elite so that they would gradually trickle down to the general public through opinion makers in the media. For Rothbard, this vision was simply unrealistic. Like Hoppe later, he argued that in a system where the entire education system is state-controlled, intellectuals occupy the position of state ideologues, thus repaying the authorities for secure and well-paid jobs, the existence of which would be questionable in a free market. For the cause of libertarianism, most of them are therefore lost, and the movement's resources should be used to reach average Americans.

¹³ *Ibid.*, pp. 4–5. Accusing Rand of promoting anti-bourgeois and "hippie" tendencies in the libertarian movement is a common theme in paleolibertarian journalism. However, it seems that this should be attributed to the mutual animosity that libertarians and objectivists have harbored since Rothbard and Rand broke off their social relations, despite their far-reaching theoretical similarities. In fact, while militant atheism is undoubtedly one of the hallmarks of the author of *Atlas Shrugged*, attributing her sympathies to the anti-bourgeois counterculture is certainly a misunderstanding. On the contrary, Rand devoted a separate collection of essays to her fierce criticism of the New Left and the youth movements of the 1960s. A. Rand, *The Return of the Primitive: The Anti-Industrial Revolution*, trans. Z.M. Czarnecki, Poznań 2003. On the origins of the conflict between libertarians and objectivists, see J. Raimondo, *op. cit.*, pp. 122–136.

¹⁴ Walter Block, also a participant in the libertarian movement during that period and the decades preceding it, questions the credibility of Rothbard's tirade. According to him, the type of person described by the author of *For a New Liberty* was never dominant among libertarians, comprising no more than ten percent of activists. W. Block, *Plumb-Line Libertarianism, A Critique of Hoppe*, "Reason Papers" 2007, 29, p. 157.

¹⁵ M.N. Rothbard, *Why Paleo?*, p. 3.

¹⁶ F.A. Hayek, *Intellectuals and Socialism*, trans. P. Mroczkowski, Warsaw 2012.

¹⁷ M.N. Rothbard, *Right-Wing Populism*, [in:] *The Irrepressible Rothbard*, p. 39.

Lew Rockwell shared a similar opinion. In his programmatic text entitled *The Case for Paleolibertarianism*, he cites the results of social research on the level of religiosity in the United States and in the Libertarian Party. While 94% of Americans believe in God, only 27% of ^{PL18} members make similar declarations. Aware that libertarianism is not based on religious belief and that many of its leading representatives – including Rothbard himself – are not believers, Rockwell believed that only by appreciating Christianity as a positive social phenomenon and appealing to its libertarian themes could libertarians win the sympathy of a broader group of Americans.

Rockwell's essay also contains a ten-point ideological declaration of paleolibertarianism. The first six points contain the tenets characteristic of libertarianism as such: an apology for private property and the free market and a condemnation of the state as their opposite, in particular the welfare state and the "garrison state," i.e., American ^{militarism}. The specificity of paleolibertarianism is constituted by points seven to ten. In point seven, Rockwell writes about egalitarianism as destructive to private property, but also

"social authority." Social authority, as we read in the next point, is understood "as embodied in the family, the church, the community, and other intermediary institutions—as supporting the protection of the individual against the state [capitalized in the original – N.S.] and as necessary for a free and *virtuous* society." Point nine, in turn, states that

"Western culture is particularly worth preserving and defending." Finally, Rockwell states that "objective standards of morality, particularly those found in the Christian and Jewish traditions, are essential to a free and civilized ^{social} order."²¹ This marriage of libertarian *credo* with Western Christian cultural conservatism—for that is how paleolibertarianism can be defined—was succinctly summarized by Rothbard, who wrote: "We want *liberty plus*."

Standing on the ground of these principles, Rothbard, Rockwell, and their supporters (including Hoppe) could start looking for allies on the American right. They found them among paleoconservatives, building a "*paleo-alliance*" with them. The term "paleoconservatism" refers to a fairly diverse group of critics of the mainstream Republican Party.

¹⁸ R. Rockwell, *The Case for Paleolibertarianism and Realignment on the Right*, [no place], 1990, p. 9.

¹⁹ *Ibid.*, pp. 9-10.

²⁰ *Ibid.*, pp. 6-7.

²¹ *Ibid.*, p. 7.

²² M.N. Rothbard, *Why Paleo?*, p. 3.

intellectuals, politicians, and activists whose common denominator—and point of contact with paleolibertarian views—was their aversion to interventionist US foreign policy after the end of the Cold War and populism, understood in a specifically American sense as a political ideology and policy declaring opposition to the business and political elites in defense of the interests of ordinary Americans (the aforementioned *Middle America*). From the outset, the main point of contention for paleoconservatives was not only the entire left, but also the neoconservatives who formed the Republican establishment. Beginning in 1989, increasingly intense contacts between right-wing libertarians and paleoconservative intellectuals such as Joseph Sobran, Mel Bradford, Thomas Flemming, and Paul Gottfried resulted in the creation of the John Randolph Club in 1990, which was intended to serve as a forum for the exchange of ideas between both sides of the alliance. On the political level, the cooperation resulted in Rothbard and Rockwell's support for Patrick's candidacy, which was promoted by the paleoconservative minority of the GOP.

J. Buchanan in the 1992 Republican primaries. Rothbard proposed an eight-point agenda for the campaign, the content of which is worth quoting here, as we will return to it later when attempting to assess the strategic alliances between libertarians and the populist right. It was as follows:

"1. Cut taxes; 2. Cut welfare spending; 3. Abolish racial and group privileges; 4. Take back the streets: crack down on crime; 5. Take back the streets: get rid of the bums; 6. Abolish the Federal Reserve: strike at the bankers; 7. *America First*; 8. Defend family values."

While the first two points seem quite obvious from a libertarian point of view, the content of the remaining points requires some clarification. By abolishing racial and group privileges, Rothbard meant abandoning affirmative action and questioning the very concept of civil rights as positive entitlements separate from property rights. The most con-

²³ M. Chmielowski, *op. cit.*, pp. 379-384.

²⁴ On neoconservatism, see, for example, *Neokonserwatyzm*, ed. I. Stelzer, trans. D. Suwik et al., Warsaw 2007; J. Bartyzel, *Neokonserwatyzm amerykański. Jego geneza, rozwój i wpływ na politykę USA* [American Neoconservatism: Its Origins, Development, and Influence on US Politics], *Dialogi Polityczne-Political Dialogues* 2019, 27, pp. 11-28; R. Skarżyński, *From Neoconservative Dream to Bush Doctrine. The American Vision of a Unipolar Empire and Its Polish Copies*, *Pro Fide, Rege et Lege* 2012, 1 (69), pp. 24-41; S.A. Niewiński, *The foreign policy vision of American neoconservatives*, *Pro Fide, Rege et Lege* 2012, 1 (69), pp. 41-55.

²⁵ M. Chmielowski, *op. cit.*, p. 380.

²⁶ M.N. Rothbard, L. Rockwell, *For President: Pat Buchanan*, Rothbard-Rockwell Report, January 1992, pp. 1-5. For more on Buchanan's campaign and the participation of libertarians, see M. Chmielowski, *op. cit.*, p. 385.

²⁷ M.N. Rothbard, *Right-Wing Populism*, pp. 40-41.

Controversial points 4 and 5 are based on a premise which, as we have seen, is also central to Hoppe's theory of migration. As Rothbard says, "we must ultimately reject the left-libertarian view that government-managed resources must be a cesspool." Instead, "we should strive to manage state facilities in a manner most conducive to business or neighborhood control."²⁸ Hence the demand to remove the homeless from public spaces, which, according to Rothbard, should encourage them to find productive employment. Even if this does not happen in many cases, Rothbard dismisses this possibility with a shrug. "Where will they go?" he asks, and immediately answers: "Who cares?" On the other hand, when it comes to fighting criminals – "robbers, bandits, rapists, and murderers" – Rothbard calls for increased police powers so that they can punish offenders in the act, with the possibility of holding officers accountable for mistakes.

The sixth slogan is less controversial for supporters of uncompromising anti-statism. Here, we can see how Rothbard attempts to combine traditional libertarian and Austrian school ideas related to depriving the state of control over the money supply with populist rhetoric ("hit the banksters"). Point seven can be assessed in a similar way. The slogan "America First," used by opponents of US global engagement at various times in history, and in the years

90. The 20th century, as recalled by Buchanan's faction, fits both the rhetoric of the populist right and the principled opposition to the state's right to wage war, which characterizes ^{libertarian} thought. Finally, an attempt to place typically libertarian demands in right-wing discourse is the slogan of defending family values, which for Rothbard means nothing more than depriving the state of its power over the family, and in particular "replacing state control with parental control," especially in the area ^{of} education. As long as the existing political circumstances do not allow for the complete privatization of education, Rothbard believes that we should at least strive for the greatest possible decentralization, transferring the management of schools to ^{local} communities

²⁸ *Ibid.*, p. 41.

²⁹ *Ibid.*

³⁰ On Buchanan's critical views on neoconservatism and American imperialism (who, describing himself as an American nationalist, considers the global primacy of the US to be a manifestation of liberal-democratic internationalism and messianism), see, for example, P.J. Buchanan, *The Right Under Attack: How the Neoconservatives Undermined the Reagan Revolution and Hijacked the Bush Presidency*, trans. J. Morka, Wrocław 2005; *idem*, *The Suicide of a Superpower: Will America Survive Until 2025?*, trans. J. Morka, Wrocław 2013.

³¹ M.N. Rothbard, *Right-Wing Populism*, p. 41.

³² *Ibid.*

1.2. The New Counterculture and Alternative Right ()

His rapprochement with paleoconservatives in the first half of the 1990s played an important formative role for Hoppe. As he himself seems to admit, it was thanks to the contacts he made through the John Randolph Club that his views evolved towards libertarianism with ^a distinctly conservative ^{flavor}. Hoppe recalls: “The anti-establishment Austro-libertarians wanted to learn more from the conservative side about the cultural requirements of a free and prosperous society. I think that at least I succeeded in this.”

However, the John Randolph Club disbanded shortly after Rothbard's death, and, according to Hoppe, there were serious substantive reasons for this. The main reason, in his opinion, was that the libertarians' desire to enrich their political philosophy with a deeper understanding of culture was not matched by the paleoconservatives' desire to broaden their knowledge of economics, which they could have learned from representatives of the Austrian school. Without knowledge of economics – according to Hoppe, “the queen of social sciences” – understanding social phenomena is impossible. Without first understanding its principles, one is prone to systematic errors in explaining and interpreting events, and this is precisely what happened to the paleoconservative movement. Buchanan, in addition to his demands, which Hoppe considered justified, to limit the American military presence in the world in the name of American national interests, based his election campaign on slogans promoting the expansion of protectionism and the welfare state, hoping to attract the American proletariat to his side. Ultimately, his program became a mixture of nationalist and socialist motifs. Hoppe writes: “For obvious reasons, supporters of this kind of conservatism do not call it what it should be called. This doctrine is known as National ^{Socialism}.” The arguments presented in the previous chapter by Hoppe in favor of the thesis of a causal link between the activities of the welfare state and what he, along with conservatives, recognizes as moral and cultural decay were directed, among others, against Buchanan and his supporters. In *Democracy...*, Hoppe concludes: “Buchanan's conservatism

³³ H.-H. Hoppe, *The Great Fiction. Property, Economy, Society, and the Politics of Decline*, Auburn 2021, p. 542.

³⁴ *Ibid.*

³⁵ *Ibid.*

³⁶ *Idem, Democracy – the God that Failed. The Economics and Politics of Monarchy, Democracy, and Natural Order*, New Brunswick-London 2007, p. 193, Polish edition: *Demokracja – bóg, który za-wiódł. Ekonomia i polityka monarchii, demokracji i ładu naturalnego*, trans. W. Falkowski, J. Jabłecki, Warsaw 2006, p. 259.

is false; it wants to restore traditional morality while advocating the preservation of institutions that are responsible for the distortion and destruction of traditional moral principles.”³⁷

According to Hoppe, the key lesson that libertarians should learn from the collapse of the JRC and Buchanan's campaign is not to place trust in politics or politicians³⁸. The philosopher does, however, retain a great deal of respect for Buchanan – he shares his views on the crisis of Western civilization, which he expressed in an extremely favorable review of Buchanan's book *The Death of the West*. Despite his harsh criticism of his views, he does not hesitate to call him a “great man” Ultimately however, according to Hoppe, Buchanan was “at heart a politician who believed above all in government as a means of social change.”

The above statements can be interpreted as a correction of Rothbard's paleolibertarian position, part of which was the idea of political (electoral) action aimed at the middle and working classes. This does not mean a return to Hayek's intellectual-oriented strategy. Hoppe rejects this for the same reasons as Rothbard. In addition, he extends his class analysis of the position of intellectuals in the statist system to the activities of free-market think tanks such as the Cato Institute in Washington^{D.C.} In Hoppe's view their gradualist *modus operandi*, based on constant lobbying in Congress and other federal government institutions, is completely wrong. It leads to excessive ideological compromises, forced by the need to maintain credibility in the eyes of political partners and sponsors. At the same time, this comes at the cost of failing to achieve any significant successes—in accordance with the internal logic of the democratic Leviathan, the hypertrophy of the state continues unabated. What is more, it is not in the interest of institutions such as the Cato Institute to change this state of affairs. According to Hoppe, they can thrive

³⁷ *Ibid.*, p. 199, Polish edition: pp. 266–267. In the Polish translation, the word “false” is rendered as “hypocritical.” However, a more literal translation, “false,” is preferable. Unlike the adjective “hypocritical,” it does not imply a deceptive intention, which Hoppe does not attribute to Buchanan.

³⁸ *Idem*, *The Great Fiction*, p. 542.

³⁹ *Idem*, *Reviving the West*, <https://www.lewrockwell.com/2002/04/hans-hermann-hoppe/revi-ving-the-west/> [accessed on June 1, 2023].

⁴⁰ *Idem*, *Getting Libertarianism Right*, p. 81.

⁴¹ *Idem*, *The Great Fiction*, p. 542.

⁴² It is worth noting that Hoppe's dispute with what is arguably the largest institution presenting itself as libertarian also has its roots in a conflict involving Rothbard. “Mr. Libertarian” was initially one of the founders of the Institute, only to be expelled a few years later due to personal differences and disagreements regarding the degree of radicalism that should characterize the libertarian movement. J. Raimondo, *op. cit.*, pp. 203–235.

as long as politics exists and big business donors need them to gain access to politicians. Hoppe even goes so far as to maliciously refer to them as *the "limited-government-free-market industry"* (this is probably an analogy to *the term "Holocaust Industry"* coined by Norman Finkelstein).

Instead of activity at the level of the intellectual and political elite, Hoppe calls for the creation of a "new ^{counterculture}."⁴⁴ The Property and Freedom Society (PFS), which he founded in 2006, is to serve as its incubator. This is an organization similar to the well-known, classical liberal Mont Pelerin Society, of which Hoppe was a member for some time in the late 1980s and ^{early} 1990s. Its annual conferences bring together authors close to Hoppe representing a broad spectrum of the anti-establishment right from various countries. Although there are numerous libertarians among the pre-lecturers (including Kinsella, Van Dun, and Hoppe himself), other speakers are also invited who can be collectively described as representatives of the anti-establishment (mostly free-market, though not necessarily) right wing. At Hoppe's invitation, lectures were given by, among others, the informal leader of the so-called Alternative Right, Richard Spencer, the political writer Jared Taylor, who is also associated with it, the psychologist Richard Lynn, known for his research on IQ as a decisive determinant of civilizational development, the paleoconservative essayist Paul Gottfried, and Janusz ^{Korwin-Mikke}.

In the words Hoppe uses to describe the mission of the PFS, one can sense a hint of what Jerzy Szacki calls the "utopia of the order" – that is, a vision of a radical transcendence of the existing political order, which takes place within a community that cuts itself off from the degenerate reality that ^{surrounds} it. In a world of democratic statism and cultural decline – described by Hoppe

⁴³ H.-H. Hoppe, *The Great Fiction*, p. 397.

⁴⁴ *Ibid.*, *Getting Libertarianism Right*, p. 57.

⁴⁵ As he recalls, his speeches at the association's forum were met with a rather cool reception due to the anti-state and anti-democratic radicalism of his theses. The decision to establish his own association was also motivated by his disappointment with membership in this famous organization, whose members in the past included Mises, Hayek, and Popper. In Hoppe's view, over the years it had become increasingly close to the democratic ruling elites, which, as in the Cato Institute, resulted in the tabooing of the most politically incorrect topics. This applied not only to anarcho-capitalism and criticism of democracy, but also to conservative elements of Hoppe's worldview. *Idem*, *The Great Fiction*, p. 531.

⁴⁶ See the list of speakers at subsequent PFS conferences on the Association's website, <http://propertyandfreedom.org/meetings/> [accessed on June 1, 2023].

⁴⁷ J. Szacki, *Spotkania z utopią* [Encounters with Utopia], Warsaw 2000, p. 131 et seq. We use the term "utopia" here – as does Szacki – in a neutral sense, referring to any project involving a radical transformation of the existing reality. By using it, we do not wish to suggest in any way that Hoppe's anarcho-capitalist vision is an idea that is inherently unrealistic, i.e., definitively impossible to implement and maintain due to its conflict with human nature or the laws of nature or economics.

as "Absurdistan" – people such as the members of the association are supposed to be a dying species, new ^{Neanderthals}. PFS meetings are intended to provide Absurdistan's contestants with a spiritual refuge outside the realm of politics, official academia, and mainstream media. Hoppe declares:

The minimum goal is to protect Neanderthal culture, i.e., the culture of natural law, order, and justice, from complete extinction. They [PFS meetings – N.S.] are intended to provide intellectual nourishment for this increasingly rare species of people and culture. A more ambitious task is to show Neanderthals their culture and help them regain strength in the eyes of the public by presenting them as a species and a counterculture with unique ^{appeal}.

The lineup of speakers appearing at PFS conventions clearly indicates that Hoppe has by no means abandoned the idea of building bridges between libertarianism and the anti-establishment right. He also continues to show ambition to transform libertarians into part of a broader right-wing formation capable of effectively appealing to the masses. It is no coincidence that speakers at his conferences include luminaries of the *Alternative Right* (*Alt-Right*), such as Spencer and Taylor. This name refers to ^a broad, decentralized, and heterogeneous ^{social} movement that has emerged over the past decade. It gained wider publicity in 2016, when its leaders and internet activists supported Donald Trump's presidential campaign, as well as during the violent riots in Charlottesville (2017) and the attacks on the Capitol after Trump lost his re-election campaign (2021). *The Alt-Right's* common ideological identity consists of: rejection of the Republican Party's existing policies, criticism of democratic liberalism and human rights ideology, American nationalism (*America First!*) opposed (as with paleoconservatives) to imperialism and demoliberal messianism, and, above all a strong emphasis on ^{racial} issues. Although within the *Alternative Right*

⁴⁸ H.-H. Hoppe, *Getting Libertarianism Right*, pp. 71-73.

⁴⁹ *Ibid.*, pp. 72-73.

⁵⁰ We use the term *Alt-Right* here in its narrow sense. In a broader sense, the term refers to all contemporary populist, anti-systemic right-wing movements and parties. See L. Szczegół, *Populizm retropijny. O tożsamości alternatywnej prawicy* [Retro-populism. On the alternative identity of the right], *Teoria Polityki* 2023, 7, pp. 81-99.

⁵¹ There is no room here for an exhaustive description of the heterogeneous ideology of the *Alt-Right*. A more comprehensive description can be found in: N. Slenzok, *Libertarianism versus the Alternative Right*,

"Pro Fide, Rege et Lege" 2018, 80. See also the book by G. Hawley, *Making Sense of the Alt-right*, New York 2017. The movement's prolific online activity (manifesting itself, for example, in the mass production of memes, the most famous of which are probably those featuring Pepe the Frog, depicted depending on the context as Donald Trump, Jair Bolsonaro, Augusto Pinochet, and even Adolf Hitler or an SS soldier) is described by A. Nagle, *Kill All Normies. Online Culture Wars From 4Chan and Tumblr to Trump and the Alt-Right*, Alresford 2017. In Polish literature

Although there is a fairly broad spectrum of views on these issues, it is safe to say that the minimum requirement for belonging to *the Alt-Right* is the recognition of white nationalism (defining the American nation as essentially based on the heritage and political, cultural, and demographic dominance of the population of European descent), as well as what Taylor later popularized as "racial realism." This is a position that recognizes race as an objectively given foundation of individual and group identity, and emphasizes the influence of racial factors (primarily the biologically determined IQ coefficient) on civilizational development and the disparities between different populations in this regard. These ideas unite the Alternative Right despite its far-reaching pluralism of views. The latter is the result of a lack of uniform organization and the choice of the Internet as the primary platform⁵² for action. As Spencer declares in his manifesto *What It Means To Be Alt-Right*: "Race is real. Race matters. Race is the foundation of identity."

It should be noted that there is no uniform ideological line within *the Alt-Right* on economic issues. Interestingly, some of the leading representatives and activists of the Alternative Right (including Spencer) took their first political steps in 2008, supporting the primary campaign of Ron Paul, a presidential candidate who presented himself as a libertarian. Influencers and activists inspired by right-wing libertarianism, such as Christopher Cantwell and Stefan Molyneux, are also associated with the movement. Nevertheless, pro-market and anti-statist views, although present (declared, for example, by Taylor), were quickly marginalized within *the Alt-Right* in favor of economic nationalism. This was particularly strong, as

M. Szymański writes about this in *Alternatywna prawica. Prawo do hejtowania?* (The Alternative Right: The Right to Hate?), in *Amerykańska myśl polityczna, ekonomiczna i prawna – zagadnienia wybrane* (American Political, Economic, and Legal Thought: Selected Issues), vol. 1, M. Urbańczyk, Ł. Bartosik, M. Tomczak, Poznań-Łódź 2018, pp. 207-228. The online cultural war waged with memes also had a significant impact on Hoppe's public image, which is sometimes portrayed by Pepe. Hoppe is depicted by his online supporters with a rifle or accompanied by a helicopter, from which he is supposed to throw left-wing activists into the sea, following the example of the Argentine junta led by Jorge Rafael Videla. It should be added that Hoppe does not seem concerned by this phenomenon – in the fall of 2017, Stephan Kinsella posted a photo of himself with Hoppe on his Facebook profile, in which they are both smiling and holding a helicopter figurine. As C.J. Engel points out, a negative consequence of the "memification" of Hans-Hermann Hoppe is that many less well-read supporters of libertarianism are completely unaware of the theorist's achievements, and he is associated exclusively with right-wing political extremism, which in many more progressively oriented libertarian circles leads to him being perceived as a fascist. C.J. Engel, *The Memification of Hans Hoppe*, <http://www.hanshoppe.com/2019/04/the-memification-of-hans-hoppe/> [accessed on June 1, 2023].

⁵² G. Hawley, *op. cit.*, p. 13.

⁵³ R. Spencer, *What It Means To Be Alt-Right*, unavailable, <https://altright.com/2017/08/11/what-it-means-to-be-alt-right/> [last accessed on March 1, 2020].

As before in Buchanan's rhetoric, protectionism and anti-globalism are emphasized. Moreover, explicit declarations of national socialism are often encountered. Although in light of the above characteristics it might seem that the ideology of the Alternative Right is diametrically opposed to libertarian thinking, let us remember that, as we wrote in the previous chapter, racial themes have become increasingly prominent in

Hoppe's work in recent years. They are part of a broader trend towards an increasingly strong emphasis on anti-egalitarian, pro-discriminatory, and specifically communitarian (pro-community) views. As we have seen, Hoppe, although he does not use the term *expressis verbis*, does not hesitate to join the *Alt-Right's* narrative of White Genocide, presenting middle-class white men as the main victims of social democratic *divide et impera* politics in its current form. Another common denominator with the *Alt-Right* is opposition to global processes of political centralization, American imperialism, and unilateralism in international relations. Finally, Hoppego and the *Alt-Right* share a criticism of mass immigration of non-European populations to the US and Europe. These similarities, in Hoppego's view, make it possible to bring the positions of libertarians and the *Alt-Right* closer together and facilitate political cooperation between them.

⁵⁴ See, for example, R. Spencer, *op. cit.*

⁵⁵ The most emphatic formulation of the concept of an alliance between the *Alt-Right* and libertarians can be found not in Hoppe's writings, but in those of Christopher "Chase" Rachels, a young libertarian journalist writing for the Radical Capitalist website. He calls not so much for a tactical alliance between libertarianism and the *Alt-Right* or their theoretical synthesis, but simply – in his own words – for the creation of a libertarian Alternative Right. Rachels is also the author of a book with the telling title *White, Right, and Libertarian*. Regardless of its cognitive value, the book sparked considerable controversy even before it was published. This was due to the cover design, which depicted four dead figures bearing the symbols of communism, Islam, Antifa, and feminism, hanging from ropes dangling from a helicopter marked with the golden letter "A" on a black background, symbolizing anarcho-capitalism. Rachels' work includes a foreword by Hoppe, even though Hoppe withdrew his consent to include the foreword shortly before the book's publication, probably due to the content of the cover. Although Rachels immediately expressed his willingness to change the design, Hoppe did not reconsider his decision. Ultimately, the book was published with a modified cover, stripped of its distinctive graphic motifs and, despite the withdrawal of consent, with Hoppe's foreword. See the explanations provided by Hoppe and Rachels: H.-H. Hoppe, *A Note on Chase Rachels's Book*, <https://www.hanshoppe.com/2018/01/a-note-on-chase-rachels-book/> [accessed on 1 June 2023]. Ch. Rachels, *Clearing Up the Hoppe Foreword Controversy*, <https://web.archive.org/web/20180415033549/https://radicalcapitalist.org/2018/01/25/clearing-up-the-hoppe-foreword-controversy/> [accessed on 1 June 2023]. However, Rachels' work is eminently derivative in nature—his socio-political concepts are merely a repetition of Hoppe's claims, and his works are rife with quotations from this thinker (and lesser right-wing libertarian authors, who, like Rachels himself, publish on the Radical Capitalist website). These quotations, often cited *in extenso*, make up a significant part of the texts. Therefore, we will not refer to Rachels' statements in our further analysis. See Ch. Rachels, *White, Right, and Libertarian*, CreateSpace Independent Publishing Platform 2018.

The Alt-Right devoted a separate speech to Hoppe during the 2017 PFS convention, published in print in a collection of essays by the thinker, rather emphatically titled *Getting Libertarianism* ^{Right}.

According to Hoppe, the complementarity of both currents stems from their different areas of interest. Libertarians, with their coherent and, in Hoppe's view, undeniably true social theory, often suffer from a lack of realistic judgment on empirical issues. This, Hoppe argues, is the source of the popularity of progressive and egalitarian libertarianism. *The Alt-Right*, on the contrary, demonstrates a sense of reality in empirical matters, but lacks a genuine political philosophy. Hoppe puts it this way: "While much of today's libertarianism can be characterized as theory and theorists without psychology and sociology, much, if not most, of *the Alt-Right* can be described in contrast as psychology and sociology without ^{theory}." According to Hoppe, the sociology and psychology of *the Alt-Right* can be summarized by the following quote from one of its publicists, Colin Robertson: "Equality is bullshit. Hierarchy is essential. Races are different. Genders are different. Morality matters, and degeneration is a reality. All cultures are not equal, and we are not obligated to believe that they are. Man is a fallen being, and there is more to life than shallow materialism. Finally, the white race matters, and civilization is precious. This is ^{the Alt-Right}."⁵⁸ Hoppe refers to this *credo* of the Alternative Right with clear approval. The synthesis of this trend with libertarianism is therefore not only possible but also highly desirable. Developing this idea, Hoppe—like Rothbard a quarter of a century earlier in the context of his alliance with paleoconservatives—formulates a list of demands that could unite libertarians with supporters of the Alternative Right. They are as follows: (1) stop mass immigration; (2) end foreign military interventions; (3) deprive the political elite and their intellectual bodyguards, i.e., intellectuals supported by taxpayer money, of their resources; (4) put an end to the Federal Reserve; (5) end affirmative action and abolish anti-discrimination laws; (6) crush *the "anti-fascist" mob* (this refers to cracking down on left-wing activists organizing riots in the streets and on college campuses); (7) crack down on street crime and gangs; (8) get rid of parasites supported by the welfare state; (9) remove the state from education; (10) do not place your trust in politics and ^{political} parties.

⁵⁶ H.-H. Hoppe, *Getting Libertarianism Right*, pp. 75–98.

⁵⁷ *Ibid.*, p. 79.

⁵⁸ *Ibid.*, p. 80.

⁵⁹ *Ibid.*, pp. 90–98.

Furthermore, once again following in Rothbard's footsteps, Hoppe states *expressis verbis* that the libertarian strategy must be a populist strategy. Its target audience, an idea shared by Hoppe with *the Alt-Right*, but not with his master, is "the dispossessed and disenfranchised native whites." (*dispossessed and disenfranchised native whites*)"

This also implies a rejection of the approach to promoting libertarian ideas characterized by the group labeled by Hoppe with derisive terms such as "liberallala-libertarians," "peace-love-and-liberty," "Friede-Freude-Eierkuchen," and "Stupids for Liberty" (a travesty of the name of an organization hostile to Hoppego "Students for Liberty"). As argued by Jeffrey Tucker, perhaps the most widely known advocate of this approach, libertarians should—whenever they attempt to promote their ideas to people who are not yet convinced—be as polite as possible, not assume ill will on the part of their opponents, and not treat them as ^{enemies}. Hoppe, following the example of *Alt-Right* internet activists who deliberately violate all taboos of political correctness, recommends the opposite approach. Of course, this does not mean that libertarians should abandon the rules of personal conduct. However, they must uncompromisingly oppose intellectuals who praise and support statist evil, resorting to populist rhetoric that strikes at ^{the} degenerate ^{elites}.

1.3. Is this alliance possible ?

As mentioned at the beginning, most prominent libertarians do not share Hoppe's enthusiasm for the *Alt-Right* phenomenon. Among them is Tucker, criticized by Hoppe for his "humanitarian libertarianism," who in 2017 published a book with the telling title *Right-Wing Collectivism. The Other Threat to Liberty*, devoted, among other things to ^{the} Alternative ^{Right}. In his opinion, there are five irreducible differences between this movement and libertarianism.

Firstly, libertarians and authors associated with *the Alt-Right* share historiographical views. For followers of Rothbard's thinking, the driving force of history is the conflict between political power and individual freedom. Tucker derives the philosophy of the Alternative Right from right-wing Hegelianism, which sees

⁶⁰ *Ibid.*, p. 89.

⁶¹ J. Tucker, *Dos and Dont's of Talking Liberty*, <https://fee.org/articles/the-dos-and-don-ts-talk-ing-liberty/> [accessed on 1 June 2023].

⁶² H.-H. Hoppe, *Getting Libertarianism Right*, pp. 85-86.

⁶³ J. Tucker, *Right-Wing Collectivism. The Other Threat to Liberty*, Atlanta 2017.

the force that drives human history in ^a collective spirit. Second, as the heir to classical liberalism, libertarianism recognizes the possibility of harmonious cooperation between people; particular interests are reconciled through market exchange and the formation of a price system. In opposition to this thesis, *the Alt-Right* stands on the ground of social conflict theory – different cultures are rooted in racial differences and cannot be reconciled; they must fight each other or at least function in spatial separation from each other. Third, libertarians are characterized by trust in what Hayek called

“spontaneous order.” The Alternative Right, on the other hand, is constructivist, according to Tucker; it values a top-down order designed by political leaders. Sixth, libertarians differ from *the Alt-Right* in their stance on international trade and migration. While libertarians approve of the free movement of services, goods, and people, the Alternative Right sees trade and migration as instruments of political competition. Hostility towards migration is one of the foundations of its ideological credo. The fifth and final insurmountable difference described by Tucker is ethical in nature, but also, like the first, historiosophical. While libertarians lean toward historiosophical optimism, welcoming the civilizational progress and social emancipation brought about by modernity, *the Alt-Right* takes a position of historiosophical pessimism and moral opposition to emancipatory trends. Human rights do not have universal status for them; rather, they are rooted in the community. The liberation of successive social groups, such as women, comes at an unacceptable cost to the cohesion of the community.

In conclusion, Tucker has no doubt that the right-wing collectivism represented by *the Alt-Right* poses as serious a threat to libertarian ideals as left-wing collectivism and, as such, should be vigorously opposed by libertarians. Tucker also sees *the Alt-Right* as a continuation of historical fascism (and Nazism), explaining the susceptibility of the younger generation of Americans

⁶⁴ *Ibid.*, pp. 115–117. In fact, Tucker shares the negative attitude towards Hegel's legacy characteristic of Anglo-Saxon liberal thought, treating him as a precursor of fascist totalitarianism. Convincing arguments for a more balanced assessment of the political philosophy of the author of *The Phenomenology of Spirit* as an eclectic combination of motifs that we would today classify as conservative, liberal, and socialist are presented by the Italian Hegelian Shlomo Avineri. S. Avineri, *Hegel's Theory of the Modern State*, trans. T. Rosiński, Warsaw 2009.

⁶⁵ J. Tucker, *Right-Wing Collectivism*, pp. 117–118.

⁶⁶ *Ibid.*, pp. 118–119.

⁶⁷ *Ibid.*, pp. 119–120.

⁶⁸ *Ibid.*, p. 120.

his ideas with ignorance resulting from the long time that had passed since the end of World War II and the fall of fascist regimes.

Some of Tucker's arguments are far-fetched. He simplifies, for example, the libertarian attitude toward various contemporary emancipation movements: the expansion of voting rights or the development of anti-discrimination legislation, for example, can hardly be considered the implementation of libertarian philosophy, and recognizing the costs that various forms of cultural emancipation entail for community life cannot automatically be considered a departure from libertarian ideals. The thesis of continuity between fascist or Nazi totalitarianism and *the Alt-Right* is also exaggerated – such references characterize only part of this heterogeneous movement, and certainly cannot be attributed to Hoppe. Tucker speaks here more from the position of a centrist or democratic liberal than a libertarian. Nevertheless, Tucker is quite right about the Alt-Right. Former president of the American Mises Institute Jeff Deist notes that the populist-right strategy for libertarianism recommended by Rothbard and Hoppe proved its effectiveness in Ron Paul's election campaigns.⁶⁹ right-wing strategy for libertarianism proved effective in Ron Paul's election campaigns. The demands to abolish the Federal Reserve or withdraw US troops from the Middle East appealed to large sections of the electorate, striking a blow against the establishment while expressing libertarian principles.⁷⁰ However, it should be noted that these are typically libertarian demands, simply presented to voters in a populist form. This does not mean that libertarians can accept right-wing populism as promoted by Pat Buchanan or, even less so, by *the current Alt-Right*. We have already discussed the aporias accompanying attempts to reconcile libertarian ethics with restrictive immigration policy above.⁷¹ Furthermore, serious doubts arise as to the compatibility of this ethics with the increased state activity that would be required to implement the demands for a tougher fight against crime. Hoppe anticipates this objection by asking rhetorically why state activity in the field of ensuring the security of citizens should be objectionable, since private companies would perform exactly the same task in an anarcho-capitalist order. However, bearing in mind Hoppe's own statements, which are undoubtedly consistent with both libertarianism and the theories of the Austrian school of economics, as well as the accurate comments of his critics on Hoppe's theory of immigration, it must be remembered that, from an Austro-libertarian standpoint, the possibility of

⁶⁹ *Ibid.*, pp. 129–130.

⁷⁰ J. Deist, *Rothbard on Libertarian Populism*, <https://mises.org/wire/rothbard-libertarian-populism> [accessed on June 1, 2023].

⁷¹ See chapter VI.

⁷² H.-H. Hoppe, *Getting Libertarianism Right*, p. 94.

morally justified and economically rational imitation of the private sector by the state. Intensifying the fight against street violence requires a specific allocation of budgetary resources, which does not necessarily reflect consumer wishes. As we already know from Hoppe's critique of the concept of security as a public good, the premise that security is a desirable goal does not necessarily imply how much security, in what form, and at what alternative cost would actually be demanded by entities that are free to exchange property titles. Moreover, a libertarian analysis of the state's inherent tendency to expand is difficult to reconcile with Hoppe's instrumental approach to this institution. The same can be said of some elements of Rothbard's program for the 1992 presidential election, which included, let us recall an increase in police powers or the removal of homeless people from public spaces (Rothbard's call to end the perception of the state domain as a cesspool clearly reveals a way of thinking in terms of common ownership by taxpayers, even if Rothbard never developed this intuition into a theory, which Hoppe did). It can therefore be argued that, due to its ethical absolutism, methodological rigor, and political radicalism, libertarianism, by its very nature, makes it impossible to formulate the common-sense, short-term state policy programs that Rothbard and his disciple seek to create.

Returning to the libertarian right, it should be acknowledged that Hoppe strongly idealizes the *Alt-Right* movement. The German thinker does recognize that a significant part of *the Alt-*

-Right does not share libertarian moral principles, promotes policies contrary to libertarianism (at least protectionism) and *explicitly* distances itself from libertarianism, perceiving it as an element of the civilizational decadence of our times. This applies, for example, to Spencer, who in earlier years attended Property and Freedom Society conventions organized by Hoppe, but then positioned himself in stark opposition to libertarianism, which Hoppe accepts with clear disappointment. Ultimately, however, Hoppe overlooks what Tucker rightly points out: the political differences between libertarianism and *the Alt-Right* are not accidental; they do not result from a mistake that libertarians could, as the advocates of an alliance or even a merger between the two forces would have their partners believe, dissuade their partners from without revising the very foundations of their beliefs. Libertarianism is ethically individualistic, while *the Alt-Right* is collectivist. These are fundamental ethical principles on which the edifice of political philosophy rests. For libertarians, even if they rightly recognize the need to defend civilization against various threats, this principle—and at the same time the cornerstone

⁷³ *Ibid.*, p. 82.

cornerstone of civilization itself—is freedom based on private property; for the Alt-Right, it is the good of the national or racial community, for which freedom and property can be sacrificed.

2. Secessionism

2.1. Enclaving and ex

As in the case of the political shift to the right, it is worth preceding the description of Hoppe's secessionist position with a presentation of Rothbard's views on the subject. Both authors formulated their concepts at around the same time, i.e. in the early 1990s, presumably influencing each other.

Rothbard presented the outlines of his views on secession as early as the 1960s.⁷⁴ However, he developed them more systematically against the backdrop of the processes of state decomposition in the first half of the 1990s. In a series of essays published at that time, he argued that libertarians, while consistently holding an individualistic position in ethics and philosophical anthropology, must also take seriously the communal determinants ^{of individual} behavior: “Libertarians tend to focus on two analytical units: the individual and the state,” Rothbard notes, continuing:

This approach, however accurate, does not exhaust the spectrum of research. The nation, of course, is not the same as the state [...]. Contemporary libertarians often mistakenly assume that individuals are connected only by a chain of market exchange. They forget that everyone is necessarily born into a family, surrounded by language and culture. Everyone is born into a community or a number of overlapping communities, which usually include an ethnic group with its specific values, culture, religious beliefs, and traditions.

The author of *Ethics of Liberty* maintains the view that real existence belongs exclusively to individuals, not to collectives, which should be understood to mean that there is no self-aware, collective entity that can be made the subject of rights. At the same time, however, he recognizes that individuals, by interacting with each other, form communities to which membership is not a condition of existence.

⁷⁴ J. Raimondo, *op. cit.*, p. 166.

⁷⁵ M.N. Rothbard, *The Nationalities Question*, [in:] *The Irrepressible Rothbard. The Rothbard-Rockwell Report Essays of Murray N. Rothbard*, Burlingame 2000, pp. 225-234; *idem*, *Nations by Consent. Decomposing the Nation-State*, [in:] *Secession, State, and Liberty*, ed. D. Gordon, New Brunswick-London 1998, pp. 79-88.

⁷⁶ *Idem*, *Nations by Consent*, p. 79.

the result of a conscious choice. Rothbard directly describes denying this as a “nihilistic trap.”⁷⁷

So how, according to Rothbard, should a truly libertarian position on nations and state borders be presented? The American thinker begins with a basic observation: just borders are the boundaries of ^{private} property. Many libertarians, the philosopher continues, draw the mistaken conclusion from this that the course of state borders is by definition irrelevant; whatever it may be, it is in the nature of the state to violate property rights, so its borders must always and everywhere be regarded as arbitrary and illegitimate. Only in a society governed by private law will it be possible to establish boundaries of jurisdiction that are compatible with the principles of private property.

"Fine," Rothbard replies, "but in the real world, what language should state courts use in their proceedings? What should be the language of signs on state streets? Or the language of state schools?"⁷⁹ As can be seen, Rothbard's objection is aroused by libertarians' focus on a maximalist ideal while refraining from speaking out on the most important issues of current politics. Meanwhile, in his opinion, it is indeed possible to formulate a theory of just state borders. Rothbard's proposed solution is as follows:

"In short, every group, every nationality, should be allowed to secede from any nation-state and join another, provided that the latter agrees ^{to accept} it."⁸⁰ This obviously also means the right to establish one's own independent state, if that is the will of the group concerned. This should be expressed in referendums, which would also decide on the details of the ^{state} borders. Importantly, Rothbard does not thereby join the camp of liberal or national democrats. On the contrary, he emphasizes the anti-democratic nature of the right to secession. In his view, it contradicts the cornerstone of democracy—the principle of majority rule. Libertarian secessionism, on the other hand, postulates that every minority should be able to oppose the verdicts of the majority by leaving ^{the state} controlled by it. It should also be emphasized that Rothbard does not reserve the right to secession for nationalist groups. It can be exercised by any group of citizens regardless of their size, even if they only comprise the residents of a single street. What is more,

⁷⁷ *Ibid.*, *The Nationalities Question*, p. 234.

⁷⁸ *Ibid.*, *Nations by Consent*, p. 83.

⁷⁹ *Ibid.*, *The Nationalities Question*, p. 234.

⁸⁰ *Ibid.*, *Nations by Consent*, p. 83.

⁸¹ *Ibid.*, *The Nationalities Question*, p. 232.

⁸² *Ibid.*, p. 227.

The minimum size of separatist states is even preferred in the concept of the American anarcho-capitalist, for at least two reasons. The ethical argument is related to Rothbard's anarchism. Ultimately, no one can be forced to submit to the state, and everyone is free to refuse ^{obedience to} it. According to Rothbard, economics also argues in favor of the smallest possible size of political units. The smaller the territory, the further the state moves away from economic autarky, being forced—due to a lack of its own resources—to engage in international exchange. It would be much more difficult, the economist notes, to implement the slogan "Buy South Dakota" than "Buy American"; the US government can persuade its citizens to block imports from Japan, but a similar measure would be unlikely to succeed for the authorities of a microstate ruling over a single street in relation to producers from another street. In conditions of political fragmentation, the absurdity of ideas about economic self-sufficiency would become ^{evident}.

Rothbard's concept of peaceful separation immediately raises an objection: what about the rights of the existing majority, which, after the secession of the land they inhabit from the nation-state they recognize as their own, becomes a minority? What about the rights of those who were a minority in the old state and will remain so in the new one? Anticipating this objection, Rothbard proposes the creation of extraterritorial enclaves/exclaves in areas dominated by minorities. For example, the dispute over the nationality of Northern Ireland should therefore be resolved in such a way that, after its annexation to the Republic of Ireland, the areas inhabited mainly by pro-British Protestants remain a British exclave with the right of its citizens to a "corridor" – free movement between the contiguous territory of Great Britain and its exclave. Similarly – another illustration used by Rothbard – Górski

⁸³ Rothbard follows Mises here, who in his seminal treatise *Liberalism in the Classical Tradition* had this to say about the right to self-determination: "The right to self-determination in relation to the question of state membership means, therefore, that whenever the inhabitants of a given territory, be it a single village, a whole district, or a number of contiguous districts, declare in a freely conducted plebiscite that they no longer wish to remain within the state to which they currently belong, but wish to form an independent state or join some other state, their wish should be respected and satisfied. [...] To call this right of self-determination the "right of nations to self-determination" is a misunderstanding. [...] If it were somehow possible to grant this right of self-determination to every single person, it would have to be done. L. von Mises, *Liberalism in the Classical Tradition*, trans. S. Czarnik, Kraków 2015, pp. 150–151. Being a liberal rather than a libertarian anarcho-capitalist, Mises immediately added that "this is impracticable only for compelling technical reasons, which necessarily require that the region be administered as a single administrative unit." *Ibid.*, p. 151.

⁸⁴ M.N. Rothbard, *Nations by Consent*, pp. 83–84.

Karabakh should be granted to Armenia as an exclave surrounded by Azerbaijani territory and connected to the ^{Armenian} state by a corridor.

2.2. Europe of a Thousand Liechtensteins and stateless secession

Like Rothbard, Hoppe developed his libertarian theory of secession in the early 1990s, thereby developing the conservative-communitarian component of his philosophy and responding to the decomposition of states such as the Soviet Union, Yugoslavia, and ^{Czechoslovakia}. However, as Hoppe notes, their collapse—like that of Austria-Hungary and the Ottoman Empire after World War I—is merely a deviation from the general historical trend pushing the world toward ever greater centralization. Hoppe enumerates:

For example, at the beginning of this millennium, Europe consisted of thousands of independent political entities. Today, there are only a few left. [...]. For example, in the second half of the 18th century, Germany consisted of 234 principalities, 51 free cities, and 1,500 independent knightly estates. By the beginning of the 19th century, the total number of these independent entities had fallen to less than 50, and in 1871, complete unification was achieved. Events unfolded in a similar scenario in Italy. Even small states have a history of expansion and centralization. An example of this is Switzerland, which was founded in 1291 as a confederation of three independent cantons, and by 1848 was already a federal state composed of twelve ^{cantons}.

Let us recall that, in Hoppe's view, these facts are by no means accidental. Rather, they are the result of the state's inherent lust for power and exploitation. The larger the territory, the greater, *ceteris paribus*, the economic base that the ruling class can exploit through taxation and other interventions. Furthermore, the close presence of neighboring monopolies of violence creates barriers to the expansion of power—fearing the emigration of the ruled to more liberal neighbors, it must mitigate its aggressive actions. Hence, it is in the interest of every state to maximize ^{the area} under its control. This pursuit does not necessarily take the form of overt territorial expansion through the official incorporation of smaller centers of power. Even

⁸⁵ *Ibid.*, pp. 85–86.

⁸⁶ H.-H. Hoppe, *Nationalism and Secession*, Chronicles, November 1993, p. 23.

⁸⁷ *Ibid.*, Democracy..., p. 108, Polish edition: p. 162. Golo Mann writes somewhat anecdotally on this subject: “At the moment our story begins, let us say in 1789, there were 1,789 territorial authorities in the Reich; some of them were in fact independent state entities, European powers, while the majority consisted of a few castles and villages.” G. Mann, *German History in the 19th and 20th Centuries*, trans. A. Kopacki, Olsztyn 2007, p. 13.

⁸⁸ See chapter III of this book.

If the number of countries has increased since World War I, the process of centralization is proceeding in a different way—by reducing the number of countries enjoying real sovereignty. The culmination of the trend that began during the conflict of 1914–1918, which resulted in the collapse of European centers of power and the rise of the US to the rank of a world power, came after the end of the Cold War, when the US gained the status of the sole global superpower. Centralization tendencies are also manifested in the creation of international and supranational organizations such as the European Union, whose main goal, according to Hoppe, is to implement harmonization in fiscal and ^{monetary} policy. Both Hoppe's academic and journalistic statements on contemporary international relations are therefore full of critical remarks about the policies of the EU and, in particular, the US. The thinker frequently attacks American neoconservatives and the doctrine of democratic peace, which formed the basis of US foreign interventions, especially during the presidency of George W. ^{Bush}. Although Hoppe refers to his anti-democratic theses in his criticism, arguing that the idea of democracy as a more peaceful system than others can only be regarded as ^{an intellectual scandal}, his position also reveals a more universal feature of libertarian state theory: it is not liberal institutions such as representative government, the rule of law, or the balance and division of powers that allow the expansive tendencies of the state to be curbed. Only restrictions resulting from external competition and the size of the territory can be effective in this regard. The monopoly of power is inherently evil; expanding it on an international scale can therefore only exacerbate its harmful effects. Hoppe writes:

Since the Spanish-American War, through the culmination of World War I and World War II, and ending in recent times, the US government has been involved in hundreds of international conflicts and has transformed its country into the world's largest imperialist superpower. Almost every president in office in the 20th century was

⁸⁹ H.-H. Hoppe, *The Economics and Ethics of Private Property. Studies in Political Economy and Philosophy*, Auburn 2006, pp. 77–116, Polish edition: *Ekonomia i etyka własności prywatnej. Studia z zakresu ekonomii politycznej i filozofii*, trans. K. Nowacki, Warsaw 2006, pp. 85–125.

⁹⁰ *Idem*, *The Great Fiction*, pp. 232–237, Polish edition: *Krótką historią człowieka. Libertariańska rekonstrukcja postępu i upadku* [A Short History of Man: A Libertarian Reconstruction of Progress and Decline], trans. Ł. Dominiak, Warsaw 2015, pp. 163–170. The German theme is also important in Hoppe's critique of American imperialism – the philosopher believes that since the end of World War II, his country has been *de facto* under American occupation, which it should get rid of as soon as possible. *Idem*, *Vorwort zur deutscher Ausgabe*, [in:] *Demokratie – der Gott, der keiner ist. Monarchie, Demokratie und natürliche Ordnung*, trans. R. Grözinger, Waltrop-Leipzig 2003. On the Bush doctrine, see W. Szymborski, *Doktryna Busha*, Bydgoszcz 2004.

⁹¹ H.-H. Hoppe, *The Great Fiction*..., p. 235, Polish edition: p. 166.

also responsible for the murder, killing or starvation of huge numbers of people in other countries. While our situation was constantly deteriorating, we were becoming poorer and exposed to ever greater dangers, the US government was becoming increasingly brazen and aggressive. In the name of "national" security, the government defends us with huge stocks of offensive weapons and weapons of mass destruction, hunting down more and more small and large "Hitlers" around the world [...]⁹².

According to Hoppe, the common belief that the political centralization that has been growing since the Middle Ages should be seen as a step forward for civilization needs to be rethought. It's based on a simple mistake.

⁹² *Idem*, *Democracy...*, p. 244, Polish edition: p. 318. There is no space in this work to present in detail Hoppe's views on specific episodes in US history, on which he has spoken on numerous occasions. For illustrative purposes, however, it is worth mentioning that he believes, for example, that the attack on the World Trade Center was provoked by American involvement in the Middle East, and that the attacks on the Lusitania and Pearl Harbor were deliberately provoked pretexts for war. In his opinion, World War I could have ended sooner if the US had not entered the war in 1917, which would have saved the Habsburg, Hohenzollern, and Romanov monarchies from collapse, and Russia and the later satellites of the USSR from communism. Furthermore, according to Hoppe, the turning point of 1918 separates the old world of European monarchies from the "American century, the century of Pax Americana," or the "democratic-republican era," which, as we know, Hoppe considers a period of historical decline. America, therefore, in his view, is the global center of the diseases afflicting humanity, which spread from there throughout the world: democracy and democratic socialism, egalitarianism, moral progressivism, and militarism underpinned by democratic messianism, which Hoppe collectively calls "American ideology" (*die Amerikanische Ideologie*). In this context, it is easier to understand Hoppe's views on the Russian-Ukrainian war that began in February 2022. Although he calls Russia's policy "thuggish," he shares the interpretation that NATO's eastward expansion and the prospect of Ukraine's accession to the Alliance posed a threat to Russia. According to Hoppe, Russia responded with a preemptive strike, following the logic of a "gang war over territory." By attacking Ukraine, the Russians also opposed the "centralization and imperialism" represented by the US and its allies. It is doubtful whether Hoppe's view is consistent with what his political theory says about international relations. In short, it follows from his theory that the tendency toward military aggression is inherent in the very nature of states. Moreover, the fundamental motive here is not only concern for one's own security, as in neorealist theories, but also the expansion of power and exploitation. Hoppe's arguments about the war in Ukraine suggest, however, that although all states strive for conquest *ceteris paribus*, Russia is the only one among them that desires only security. Another inconsistency is that Hoppe is clearly interested only in centralization at the global level, in the context of which he prefers a multipolar international order to a unipolar one. Hoppe thus overlooks the problem of centralization at the regional level, which is linked to Russia's dominance and expansion in the post-Soviet space. See *ibid.*, pp. XIII-XIV, Polish edition: pp. 13-14; *idem*, *Introduction*, [in:] *The Myth of National Defense. Essays on the Theory and History of Security Production*, ed. H.-H. Hoppe, Auburn 2003, pp. 2-3; *idem*, *The Great Fiction*, section IV, Polish edition: p. 172; *idem*, *Die Amerikanische Ideologie*, lecture given on December 3, 2016, at the Austrian National Library in Vienna, <https://www.youtube.com/watch?v=U6F-KQcFAGl8> [accessed on June 1, 2023]; *idem*, *Growing to Understand Contemporary Germany and Weep: Part II*, lecture delivered during the PFS conference on September 15-20, 2022, <https://www.youtube.com/watch?v=muzL7fMm6yM&list=PLPsGN9FqHc8EbMddcqBEzE-w4B9W13QRx&index=16> [accessed on 1 June 2023]; *idem*, *Dezentral und Neutral*, <https://www.misesde.org/2022/03/dezentral-und-neutral/> [accessed on 1 June 2023].

post hoc ergo propter hoc – from the fact that there is a correlation between centralization and the historical increase in wealth that has taken place over the last millennium, a mistaken conclusion is drawn about a causal link between these two phenomena. In fact, Hoppe argues, such a relationship does exist, but it runs in the opposite direction to what is generally ^{assumed}. In this context, the philosopher formulates his famous "imperialism paradox" theorem. It states that the more liberal a state's internal policy, especially its economic policy, the more likely it is to pursue an expansionist foreign policy. Hoppe argues:

All other things being equal, the lower the tax burden on the domestic economy and the fewer regulations there are, the larger the population and the amount of wealth produced in the country will be, which the state can then use to wage conflicts with its neighbors. This means that countries that impose low taxes and introduce few regulations on economic activity, i.e., liberal countries, will tend to prevail in conflicts with less liberal countries and to expand their territory and hegemonic control. This explains why Western Europe dominated the rest of the world, and not the other way around, and specifically why first the Netherlands, then Great Britain, and finally, in the 20th century, the United States became the dominant powers [...]⁹⁴.

In turn, having absorbed or subjugated their competitors and achieved hegemonic status, empires free themselves from their pressure, as a result of which the incentives for them to pursue liberal policies weaken. Relations within the hegemonic state then slide from liberalism to statism, so that it eventually loses its dominant ^{position}. In other words, it is economic freedom and the prosperity it brings that cause centralization, not the other way around. The prevailing views on the optimal size of political units, shared by a number of classical liberals, are therefore based on illusory ^{foundations}. For the triumph of the ideals of freedom and property, however, a radical reversal of centralization processes is needed—the overthrow of the international order based on the domination of large states, with the United States at the forefront. What arguments does Hoppe put forward in favor of such a strategy?

First, like Rothbard, Hoppe emphasizes the contradiction between the right to secession and democracy. Secession allows minorities to secede from the state, thereby depriving the majority of the right to secede.

⁹³ H.-H. Hoppe, *Nationalism and Secession*, p. 24.

⁹⁴ *Ibid.*, *The Great Fiction...*, pp. 228–229, Polish edition: p. 157.

⁹⁵ *Ibid.*

⁹⁶ *Idem*, *The Economic and Political Rationale for European Secessionism*, [in:] *Secession, State, and Liberty*, p. 212.

obedience to the majority. The latter, however, entails forced integration. Secession does not completely eliminate the latter—it will continue to exist as long as the state and public property exist. Secession significantly limits it, however, allowing separatists to secede from their unwelcome fellow citizens.

Secondly, according to Hoppe, limiting forced integration through secession will release social energy that was previously suppressed in a state seen by secessionists as foreign. Separatist aspirations are often motivated by a minority group's sense of being exploited by the majority. This was the case, for example, with the Baltic nations in the USSR or the Slovenes who felt robbed by ^{the Serbs} who dominated the former Yugoslavia:

Thirdly, which is also related to limiting forced integration, smaller political units will allow for stricter segregation of individual cultures. In opposition to the ideology of multiculturalism, Hoppe argues that diversity reveals its advantages not in the mixing of cultures, but in their territorial separation. According to this philosopher, cultures are not equal—some are more conducive to freedom and prosperity than others. When they are integrated from above, the differences in their perfection become obscured—the lower culture can reap a kind of rent, benefiting from the achievements of the higher culture or blaming it for its own failures. Division, on the other hand, leads to beneficial intercultural competition. “Secession does not promote cultural uniformity and the accompanying decline in cultural standards, but rather stimulates and supports a cooperative process of cultural exchange, selection, and progress,” argues ^{Hoppe}.

Fourthly, although secession means disintegration in political terms, from an economic point of view it favors integration. As we have already mentioned, according to Hoppe, the smaller geographical size of states corresponds to greater opportunities for migration between regions. The fear of losing part of their productive population will force smaller states to compete for the favor of citizens who are more mobile. However, unlike democratic competition between political parties for votes, which results in maximizing redistribution and depreciating private property, competition between states will contribute to the liberalization of the economic policies of individual governments. In the long run, it is free-market-oriented states that will achieve higher

⁹⁷ *Ibid.*, Democracy..., p. 113, Polish edition: p. 168.

⁹⁸ *Ibid.*, p. 114, Polish edition: p. 169.

level of prosperity, prompting citizens of neighboring countries to immigrate to them.⁹⁹ Moreover, as Rothbard also wrote, the division of states limits the possibilities of applying ^{protectionist} policies.¹⁰⁰ Finally, according to Hoppe, the result of secessionist decentralization would be a deepening of monetary integration. The Austrian school of economics is the strand of contemporary economic theory that most strongly calls for the restoration of the international gold standard (or, more broadly, commodity money), which it sees as the only effective tool for curbing inflation and cyclical economic crises. Moreover, in the light of Austrian theory, money is defined not in a legal-positivist manner as a legal means of payment, but as a universal medium of exchange, which means that any variant other than a single global currency implies partial barter – the impairment of economic exchange due to the lack of a collectively accepted unit of exchange and calculation. The system of liquid national paper currencies, whose most vocal proponent was Milton Friedman, was able to survive without causing economic catastrophe solely because of the relatively large size of the countries involved.

"From the point of view of economic theory, the shape and course of national borders are of no significance. If we imagine a division into increasingly numerous and smaller national territories, until each farm becomes a separate country, Friedman's proposal turns into what it is: pure absurdity," attacks the famous liberal economist Hoppe.

Contrary to the orthodox view of history, the historical sources of the West's greatness do not lie in increasing centralization, but in political fragmentation dating back to the Middle Ages. This explains the emergence of a free market economy long before the industrial revolution in the Netherlands, southern Germany, and ^{the} Italian city-states. Even today, "secessionism and the development of separatist and regionalist movements in Eastern and Western Europe represent not an anachronism, but potentially the most progressive ^{historical} forces."¹⁰³ The vision dubbed by commentators as the Europe of a Thousand Liechtensteins is as follows:

The world would then consist of tens of thousands of different countries, regions, cantons, and hundreds of thousands of independent free cities, such as the modern-day "oddities" of Andorra, San Marino, Liechtenstein, Hong Kong, and Singapore. As a result, opportunities for economic migration would increase significantly, and the world

⁹⁹ *Ibid.*, p. 115, Polish edition: pp. 170–171.

¹⁰⁰ *Ibid.*, p. 115, Polish edition: p. 171.

¹⁰¹ *Ibid.*, p. 116, Polish edition: p. 172.

¹⁰² *Ibid.*, pp. 110–111, Polish edition: pp. 165–166.

¹⁰³ *Idem*, *Nationalism and Secession*, p. 25.

it would become a land of small, liberal states linked by free markets and international commodity money. It would be a world of unprecedented prosperity, economic growth, and ^{civilizational} progress.

Hoppe does not attribute the right to secession exclusively to nations and ethnic groups, as we have seen. He also goes beyond Rothbard's tactical proposals and his own project of a Europe of a Thousand Liechtensteins, arguing that the most desirable form of secession from a libertarian point of view should not lead to the constitution of new, smaller states, but to independent stateless territories. This vision is based on two premises. First, Hoppe, while generally enthusiastic about the independence aspirations of small nations, recognizes the dangers associated with their implementation. New nation states can bring new forms of oppression, only this time directed against minorities other than those that existed before. The danger of such a turn of events is particularly likely in a democracy, which, according to Hoppe, is an inherently defective system that constantly threatens freedom and property. To make matters worse, according to Hoppe, democracy is a system particularly unsuitable for governing multi-ethnic and multicultural societies, where the application of the democratic principle of majority rule will entail more or less intense persecution of ^{minority} groups:

Secondly, let us recall that Hoppe maintains that secessionists, by creating a stateless territory, have better prospects for success than they would otherwise. This view is based on the argument we are already familiar with: politics is ultimately governed by public opinion. Just as it would be difficult for Italians today to justify an invasion of the Vatican to their own citizens, and for Germany or Switzerland to invade Liechtenstein, so it would be more difficult for any state to justify an attack on a free territory than on a smaller, secessionist state—the former being much harder to accuse of aggressive intentions or human rights violations.

¹⁰⁴ *Idem, Democracy...*, p. 118, Polish edition pp. 174–175. The consistency Hoppe shows in his support for political fragmentation is worth noting. As a declared German patriot, he questions the legitimacy of both German reunifications (in 1871 and 1990). Referring to his country's history in the 19th century, he quotes a little-known letter from Johann Wolfgang Goethe to his friend Johann Eckermann, in which the great poet stated: "I am not afraid that Germany will not be united; our excellent roads and future railways will do that themselves. Germany is united by its patriotism and resistance to external enemies. It is united because German thalers and pennies have the same value throughout the Reich and because my suitcase can pass through all thirty-six states without having to be opened. [...] Moreover, Germans are united in weights and measures, trade and migration, as well as a thousand other things [...]". *Idem, The Politics of Johann Wolfgang Goethe*, <https://mises.org/library/politics-johann-wolfgang-goethe> [accessed on 1 June 2023].

¹⁰⁵ *Idem, The Great Fiction*, p. 236, Polish edition: pp. 168–169.

In a secessionist democracy, however, any opposition by a minority to the policies of the new state could be used as a pretext for invading it¹⁰⁶.

However, if an attack on a free territory were to occur, it would, as Hoppe argues, have a good chance of successful defense thanks to widespread access to weapons and the advantages of guerrilla warfare. Nevertheless, the anarcho-capitalist theorist admits that in the face of overwhelming enemy superiority, defense could be ineffective. The best solution might simply be to surrender. This would at least ensure that the invaders who attacked a non-aggressive and peace-loving population could no longer gain support as defenders of freedom and peace¹⁰⁷.

2.3. Libertarian secessionism – systematization and criticism

The above presentation shows that there is not one, but three libertarian doctrines of secession. The first is Rothbard's concept of consent-based nations. It is a tactical proposal that addresses existing national conflicts and offers a libertarian solution to them. Namely, it is to be absolute support for national (and not only) secession and enclaves/exclaves. In this regard, one can agree with Przemysław Hankus's terminological suggestion to refer to Rothbard's project not as "secessionism" but as "enclaving." This should be distinguished from Hoppe's strategy of dividing existing states into the smallest possible units, which is supposed to reduce state power and expand individual freedom based on property rights. As further analysis shows, this strategy branches into two variants. The first is the project of the so-called Europe of a Thousand Liechtensteins, which is, in a sense, a minimalist variant. Under this model, states are preserved, but in a formula limited in terms of territory and competence. The second, maximalist strategy of Hoppe envisages the establishment of free, stateless territories inhabited by a libertarian society governed by private law. It is also worth noting that – which has been overlooked

¹⁰⁶ *Ibid.*, pp. 238–239, Polish edition: pp. 172–174.

¹⁰⁷ *Ibid.*, pp. 240–241, Polish edition: pp. 175–177.

¹⁰⁸ *Ibid.*, p. 240, Polish edition: p. 174.

¹⁰⁹ P. Hankus, *Hans-Hermann Hoppe's "Europe of a Thousand Liechtensteins." A critical analysis*, "Dialogi Polityczne" 2016, 20, p. 37.

¹¹⁰ Hoppe himself uses the somewhat vague term "very small districts". It should probably be clarified as "as small as possible". H.-H. Hoppe: *What must be done* – lecture given in Newport Beach, California, January 25, 1997, https://mises.org/system/tdf/What%20Must%20Be%20Done_7.pdf?file=1&type=document, p. 12 [accessed on June 1, 2023].

In the existing literature, there is one fundamental difference between Rothbard's approach and both of Hoppe's concepts. Rothbard supports all secessionist movements, regardless of whether they seek independence for the separatist area itself or irredentism (annexation to another state). Rothbard recommended the latter solution in the aforementioned cases of Northern Ireland and Nagorno-Karabakh, but also Cyprus, opting for the division of the island between Greece and Turkey. Hoppe, on the other hand, focuses on the benefits of reducing the size of states, which is why irredentist movements play no role in his concepts.

How should the proposals of both authors be assessed? Let us consider them one by one, starting with Rothbard's consent-based nations.

Rothbard's undoubted merit lies in introducing the issue of nationality into the libertarian debate and pointing out its significance, which had long been ignored by libertarians. Although one must agree with Olgierd Sroczyński that the principle of nationality as one of the possible concepts for legitimizing power is in clear *prima facie* conflict with libertarian individualism,¹¹¹ one must also take into account the impact of its application on the redistributive and oppressive activities of the state. In other words, we must recognize who the payers (victims) are and who the beneficiaries of the policies inherent in the very essence of the nation state are. As Karol Zdybel rightly points out, the primary target group in such a state is always the members of the predominant nation. It is they who benefit from elements that are constitutive of the nation state, such as symbolic politics (street names, monuments, state anniversary celebrations, etc.), historical politics, and above all, educational politics, whose key task in a nation state is to integrate the general population into the dominant national group. While, in accordance with the ethical and political assumptions constitutive of libertarianism, any act of expropriation by the state must be considered unacceptable, it is also clear that when nationalist policies are financed at the expense of taxpayers, some groups are more disadvantaged than others. Those who are less disadvantaged are people who identify with the nation organized in a given state, while those who are more disadvantaged are national and ethnic minorities. Not only are they forced to participate in financing national goals that are not their own, but they also bear higher costs as a result of national social engineering.

¹¹¹ P. Hankus, *The Secessionist Processes from a Libertarian Perspective*, Res Publica. Revista de Historia de las Ideas Políticas, 2016, 2 (19), p. 422.

¹¹² M.N. Rothbard, *The Cyprus Question*, [in:] *The Irrepressible Rothbard*, pp. 241-242.

¹¹³ O. Sroczyński, *Democracy and Secession. The Right to Self-Determination of Nations from the Perspective of Libertarian State Theory*, [in:] *State within a State? Autonomous Territories, Unrecognized States, and Separatist Movements in the International Arena*, ed. M. Rączkiewicz, Łódź 2016, p. 223.

cultivating their own identity. In addition to the activities they would have to undertake in other circumstances, they must devote themselves to reversing the effects of national propaganda to which they are subjected, for example, through their children's education in public schools. Therefore, although the national principle – understood, among other things, as the unification of political entities with national entities – is based on ethical foundations that are completely different from those of libertarianism, its strict application may sometimes be compatible with libertarianism.

However, this does not free Rothbard's theory from certain significant shortcomings. "Sometimes" does not mean "always." Hoppe anticipates certain limitations of the concept of nations based on consent when he writes about the evil, even "potentially genocidal" tendencies of ^{democratic} states: How can we guarantee that a formerly oppressed minority will not itself become a tyrannical majority once it establishes its own state? The libertarian answer to this question is, of course, enclaving. This is a very appealing proposition, but generally unrealistic. Political doctrine is required to provide a framework for action in specific circumstances of time and place. These circumstances are such that, in the present day, it is nationalism, not libertarianism, that provides the ideological justification for secessionist ventures. Consequently, it is difficult to expect stateless nationalists to agree to a policy of enclaving once they have achieved statehood. Rothbard was aware of this, which is why he argued that even if enclaving or further partitioning of the state does not occur, at least the degree of coercion in mixed territories will be ^{reduced} thanks to secession.¹¹⁷ But where does this assumption come from? It seems that it does not stand up to confrontation with either theory or empirical facts. In libertarian philosophy, the very concept of the degree of coercion is highly vague, as Rothbard himself pointed out in his polemic with Hayek's concept of freedom and coercion. "But coercion is not really a quantity that can be added up. For how can one compare quantitatively different 'degrees' of coercion, especially when they require comparisons between different people?" Rothbard argued aptly. It seems that on the issue of mixed secessionist territories, the philosopher refers to the common-sense belief that a smaller population of an oppressed minority equals less oppression. Such a prejudice may correspond to common thinking, but not to the political philosophy of libertarianism. At least, therefore,

¹¹⁴ K. Zdybel, *Nationalism from the perspective of political economy*, Eryda, 2015, 1, pp. 31–52.

¹¹⁵ E. Gellner, *Nations and Nationalism*, trans. T. Hołówka, Warsaw 2006, p. 75.

¹¹⁶ H.-H. Hoppe: *The Great Fiction*, p. 236, Polish edition: p. 169.

¹¹⁷ M.N. Rothbard, *The Nationalities Question*, p. 233.

¹¹⁸ *Idem*, *Ethics of Liberty*, trans. J. Fijor, J. Wozinski, Warsaw 2010, p. 338.

In some cases, libertarian politics would consist more in seeking rights for minorities within the existing state than in fighting for independence for them, regardless of the foreseeable consequences in the form of nationalist coercion by the newly formed state.

Let us now turn to Hoppe's theory. From a libertarian point of view, is every decomposition of the state worthy of unconditional support? This is the view of Block, for example, who derives the right to secession directly from the right to free association, which is part of the right to self-ownership. However, secession that does not aim to establish a free territory, but rather a state with a smaller territorial scope, is not carried out by individuals, but by political collectives. In addition to what we have said on this subject in relation to Rothbard's theory, further objections can be added. First, the moral and economic benefits of secession described by Hoppe may be significantly limited by the statist policies of separatists. The two most recognizable Western European secessionist movements today—Catalan and Scottish—are, as is well known, led by groups with a clearly ^{left-wing} profile. Hoppe, obviously dissatisfied with this state of affairs, dismisses the problem by stating that the Catalans and Scots do not represent secessionism *par excellence*, since their political elites intend to remain in the European Union, a large centralist structure on a ^{continental} scale. His theory also implies that, regardless of their plans, socialist secessionists will be forced to change course in the long run by objective circumstances. However, even if we take this prediction at face value, we are again faced with the issue of the incomparability of different forms and acts of coercion. Why should we assume that long-term liberalization will more than compensate for today's intensification of statist practices? It seems that libertarianism is, in a sense, a victim of its own methodological and ^{moral} rigor. The latter is not necessary, however, to raise doubts as to whether, for example, the existence of two Korean states is, from a libertarian perspective, a more favorable circumstance than their possible unification through the incorporation of the Korean People's Republic.

¹¹⁹ W. Block, *Secession*, Dialogue 2007, 4, pp. 1–14.

¹²⁰ P. Hankus, *Economic aspects of secession. Comments on the economic effects of secession in Hans-Hermann Hoppe's concept*. *Ekonomia – Wrocław Economic Review* 2016, 4 (22), p. 30.

¹²¹ *Hoppe on the secession of Scotland and Catalonia – Przemysław Hankus talks to Hans-Hermann Hoppe*, <http://libertarianin.org/hoppe-o-secesji-szkocji-i-katalonii/> [accessed on June 1, 2023].

¹²² From the perspective of the Austrian school of economics, it is also worth noting the importance of time preference: compensating for initial pain with later liberalization may conflict with the subjective level of present orientation exhibited by citizens.

-Democratic Republic of Korea. It is therefore necessary to agree with Scott Boykin that any support given by libertarians to secessionists cannot be unconditional; it must take into account an evaluation of the political plans (in particular, constitutional plans) of the leaders of the future state. To put it succinctly, one could say that a Europe of a thousand Liechtensteins is definitely not the same as a Europe of dozens of Catalonias, Scotlands, or Basque countries. For the sake of intellectual honesty, it should also be mentioned that Hoppe's secessionist position has undergone a noticeable evolution. While in the last decade of the previous century he linked libertarianism mainly to the aspirations of small nations, he now clearly declares that his preferred model is secession on a smaller scale, preferably in a stateless form. This brings us to the final point of our discussion: Hoppe's strategy of a direct, secessionist transition from *the status quo* to anarcho-capitalism.

The scenario outlined by Hoppe cannot be considered impossible: recent history abounds with examples of successful acts of peaceful secession, which owed their success to the reluctance of the center to stop the fragmentation process by force. This is how the British Empire, the Soviet Union, and Czechoslovakia collapsed, and in 2014, the government in London allowed an independence referendum in Scotland. However, this scenario is fraught with numerous difficulties, of which Hoppe is largely aware. Nevertheless, he seems to underestimate the risks involved in implementing his concept. Contrary to Hoppe, the defeat of secessionists and the subjugation of free territory by the state does not seem particularly difficult to justify on the basis of today's ideology of nationalism. The very attack on the territorial integrity of the homeland could serve this purpose, as we saw in 2017 in Spain, where the government in Madrid pacified Catalan independence aspirations without fear of delegitimization. A purely libertarian secessionist movement could face a similar fate in any other country, although its chances of success would undoubtedly vary depending on the political culture of the country in question. All the more so because, in the event of public reluctance to subdue secessionists by physical force, the government could also try – which would be facilitated by the small size of the free territories postulated by Hoppe –

¹²³ S. Boykin, *The Ethics of Secession*, [in:] *Secession, State, and Liberty*, p. 73.

¹²⁴ Hoppe on secession...

¹²⁵ When writing about "nationalism," we use the term in the sense characteristic of Anglo-Saxon social sciences, which understand nationalism as an ideology that recognizes the nation as a central political value and postulates the alignment of national entities with political entities, and in the broadest sense, as any national movement. E. Gellner, *op. cit.*, p. 75 et seq. Cf. A.D. Smith, *Nationalism: Theory, Ideology, History*, trans. E. Chomicka, Warsaw 2007, pp. 16-22.

gain support for their isolation through trade blockades and the suspension of population flows. It can therefore be concluded that it is precisely the ideological force that Hoppe wishes to harness in the service of libertarianism—nationalism—that constitutes the fundamental obstacle to gaining public recognition for it. From the perspective of a stateless secession strategy, it is therefore clearly necessary to counteract the tendencies that were supposed to drive change in the Europe of a Thousand Liechtensteins.

Summary

In this chapter, we have dealt with Hoppe's libertarianism as a political doctrine. We presented two of the philosopher's key proposals in this area: the idea of a right-wing social movement based, on the one hand, on an elite libertarian-conservative counterculture and, on the other, on an alliance with the populist right, in particular the *Alt-Right* movement, and the concept of libertarian secessionism. In the case of the latter, we pointed to the existence of two different approaches in Hoppe's work: a vision of a Europe of a Thousand Liechtensteins, based on the dismemberment of existing states without the abolition of the state as such, and a more maximalist scenario of the secession of stateless territories. We also highlighted the tensions between these two versions of the secessionist idea, as well as the difference between Hoppe's concepts and the enclaving/exclaving proposed by Rothbard. As we have tried to show, all of Hoppe's doctrinal theories are part of an attempt to place libertarianism on the right side of the political spectrum. In the critical section, we pointed out the significant limitations of his proposals. On the question of an alliance with the forces of the radical right, we concluded that both sides are indeed united by common anti-establishment demands. At the same time, this convergence sometimes involves becoming familiar with some of the implications of libertarian ethics. We take a more favorable view of secessionism: freed from one-sidedness and blind automatism in granting support to secessionist movements, it can contribute to greater respect for the principles of private property. In its more ambitious variant, involving the secession of free territories, it requires, however, a significant shift in public opinion towards a more favorable attitude towards self-determination of individuals. The prospects for libertarianism therefore ultimately depend on whether its advocates manage to convince a significant part of society of their views. They do not need to win over the whole world or even the entire population of a given country. However, they must convince at least enough people for secession to take place on a village scale, so that the state cannot suppress the rebels' aspirations by force or even isolate them economically without risking

means of delegitimization. Although there are no indications of this at present, and it is very possible that anarcho-capitalism will share the fate of many earlier, untried utopias, it is by no means impossible that such a moment will come. Ultimately, as Hoppe rightly says, it is ideas that determine the course of history. And ideas are subject to change, often sudden and unexpected.

Conclusion

In this book, we have undertaken a critical analysis of the political philosophy of Hans-Hermann Hoppe as a systemic whole. We examined the epistemological, ethical, political, economic, historiosophical, sociological, cultural, and doctrinal (strategic) foundations of libertarianism as he understands it. The image of Hoppe's system that emerges from these analyses includes: an aprioristic, transcendentalist, fundamentalist, yet activist, communicative, and anti-naturalistic epistemology and philosophy of science; an absolutist and deontological argumentative ethics; an antagonistic conception of the state (libertarian class struggle theory); principled anti-democracy, which sees democracy as the apogee and most perfect tool of statist exploitation, a philosophy of history combining elements of a negative assessment of historical trends (in political history) with elements of optimism (in economic history and the history of science, **a n d** above all in connection with the existence of hope for a better future), and finally cultural (but not philosophical) conservatism. From this philosophy, a political doctrine is derived, intended to bridge the gap between what is a *priori* right and what exists empirically. This doctrine includes elements of populist right-wing politics and secessionism.

In examining Hoppe's philosophical system, we demonstrated that, taken as a whole, it is based on the idea of *a priori* knowledge. The book was guided by strictly critical objectives, i.e., those related to a substantive assessment of Hoppe's philosophy. Agreeing with Hoppe himself, the most valuable element of his work is his argumentative ethics. This is partly due to the special significance attributed to ethics—or, more precisely, to the theory of justice—in libertarianism. It is also ethics that constitutes Hoppe's most brilliant and original contribution to libertarian philosophy and political philosophy as such. Drawing on the achievements of Kant, Habermas, and above all Aple, it offers a theoretically ambitious theory characterized by logical rigor and depth of content.

establishing a libertarian theory of justice, the core of which is the absolute right of private ownership of one's own body and those external goods that have been acquired through original appropriation, voluntary agreement, production, or compensation/restitution. As we have attempted to show here, Hoppe's argumentative ethics is a much more thoughtful, sophisticated, and convincing theory than many of its critics believe. Their objections, as we have shown, are misguided and mostly stem from a misunderstanding of Hoppe's concept. This concept, provided that its epistemological background is accepted, should be considered valid, at least until a logical analysis of the theory of entitlements contained therein shows that it fails to achieve its goal, i.e., a principled solution to all interpersonal conflicts over scarce goods. Our defense of argumentative ethics was therefore a conditional defense, which means that the validity of the theory in question remains—to express it in the spirit of the consensus theory of truth—open to challenges from the infinite community of researchers.

However, as we have seen in the course of our discussion, libertarianism, and especially Hoppe's libertarianism, is not solely composed of ethics. According to the definition of libertarianism adopted by Stephan Kinsella, this philosophy includes one more component: political anarchism. In addition, Hoppe, as a “*thick*” libertarian, brings many political, historiosophical, and cultural themes to his theory. The assessment of his achievements in these fields must be differentiated. On issues fundamental to libertarian philosophy—the critique of the state and the idea of a stateless society—the grade is high. Although not everyone will agree with the first premises of libertarianism, it can at least be considered proven that the rejection of statism in any, even the most minimalist form, does indeed follow from these premises. This means that Hoppean libertarianism provides a coherent answer to Kant's question about what we are allowed to do in the political sphere. Hoppe's thought also contains a penetrating, critical diagnosis of the (dis)order of statism as incompatible with the requirements of morality and economic efficiency, which is hidden behind a veil woven from superficial justifications, sophistry, and propaganda. From this point of view, Hoppe's philosophy is both fundamentally realistic and inspiring. These qualities are its merits, despite the fact that some of Hoppe's more detailed theses – such as his conditional defense of monarchical rule – turn out to be somewhat simplistic. Even in this respect, however, the German libertarian's thinking has a critical charge that is difficult to overestimate, allowing him to effectively cast suspicion on what is now considered the pinnacle of human achievement and the boundary condition for rational political debate. The same is true of the conservative elements of Hoppe's philosophy. Conservative libertarianism

is admittedly a highly one-sided construct, encompassing theses that are much stronger than those that can actually be reconciled with libertarianism, such as the "libertarian" doctrine of state-restricted migration. Here, too, however, we encounter ideas that are noteworthy and intellectually stimulating: the recognition of aspects of libertarianism that are conducive to community and the threats that state hypertrophy poses to the community.

In sum, at the level of the proposed ideal of social life, Hoppean libertarianism is an idea that is at least worthy of attention—certainly more than it has received so far in mainstream academic philosophy and political science, to which Hoppe does not belong. His arguments contribute a great deal to political philosophy in general and libertarianism in particular. They therefore definitely deserve not to be rejected out of hand because of their radicalism, but to be taken seriously as a substantive alternative to democracy, contemporary liberalism, socialism, conservatism, and nationalism. This does not mean that all elements of Hoppe's contribution to libertarianism and political thought should be considered equally significant. According to the arguments presented in this book, the rationalist epistemology, argumentative ethics, and analytical argument against the state are of a different—and much higher—order than doctrinal concepts such as limited migration or alliance with the anti-systemic right. Two elements are clearly evident here: the systematic nature of his thought and its chronology. The most valuable aspects of Hoppe's legacy belong to the field of philosophy and were developed at a relatively early stage of his intellectual development, by the end of the 1980s, when the thinker was only in his forties. The most questionable aspects, on the other hand, concern doctrinal issues, which were formulated over the next two decades. In recent years, Hoppe has not proposed any original concepts or arguments, instead contenting himself with statements on current topics and repeating his earlier ideas, usually in the form of popular lectures and essays. Over time, his reflections lose their academic value, critical philosophy, and political theory, becoming an erudite, interdisciplinary, and inspiring, but undeveloped political doctrine. It seems that the intellectual sources of this tendency can be found in Hoppe's adoption of Rothbard's postulate of reaching wider social circles by bypassing academia, which, according to these authors, is thoroughly imbued with statism and incapable of revising its worldview. In light of these assumptions, it is hardly surprising that in Hoppe's writings and public speeches, sophisticated philosophical, political, and economic arguments give way to journalistic simplifications. In our opinion, this should prompt those who continue his work to consider whether the strategy of distancing oneself from academia is not leading to

into a dead end and whether it should be abandoned. All the more so because it reinforces the isolation in which heterodox positions find themselves in the academic world anyway. In their recently published (2023) comprehensive history of libertarianism, Matt Zwolinski and John Tomasi, authors with left-libertarian views (of the *heart-bleeding libertarian* variety), devote a great deal of space to Rothbard, despite their critical attitude towards him. Hoppe, his most prominent living follower, is discussed only in the context of his position on immigration and culture wars. It would be unfortunate if the controversies surrounding these issues were to permanently cloud the reception of Hoppe's thought. As we have tried to demonstrate in this book, it offers much, much more.

¹ M. Zwolinski, J. Tomasi, *The Individualists. Radicals, Reactionaries, and the Struggle for the Soul of Libertarianism*, Princeton-Oxford 2023, chapter 8.

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Summary

The Political Philosophy of Hans-Hermann Hoppe. A Critical Study

Keywords: libertarianism, rationalism, justice theory, property rights, liberty, anarcho-capitalism

This book offers a critical examination of the political philosophy of Hans-Hermann Hoppe (born 1949), a leading libertarian thinker. In addition to expounding upon Hoppe's philosophy, we also engage in assessing its truth value. This evaluation involves reinterpreting, reformulating, or even rejecting Hoppe's arguments when necessary to refine and defend his overarching system. Indeed, it is exactly the book's main thesis that Hoppean philosophy constitutes a full-fledged system. As is shown, that system springs up from epistemological rationalism (apriorism) conceived along the lines of Kantian transcendentalism and pragmatism, as reconstructed and integrated with one another by Karl-Otto Apel's transcendental pragmatics of language, the Erlangen constructivist school, and Austrian school praxeology. This epistemological position underpins Hoppe's greatest intellectual achievement: his argumentation ethics, which aims to establish the ultimate grounding for libertarian justice theory, centered around self-ownership and original acquisition. With epistemology and ethics as its pillars, Hoppe's system extends to the core domains of political theory: anarchy and the state, philosophy of history, questions of culture and civilization, and the practical problems of political strategy.

The structure of the book corresponds to its scope. It consists of an introduction, seven chapters, and conclusions.

Chapter one ("Knowledge") probes the epistemological basis of Hoppe's libertarianism. It highlights its constituent ingredients: apriorism, transcendentalism, foundationalism, criticism, linguisticism, pragmatism, realism, antinaturalism, and antipositivism. The chapter also introduces the two underlying axioms of Hoppe's system: the *a priori* of argumentation and the *a priori* of action. Additionally, it adumbrates potential lines of defense against common charges directed at these theorems.

Chapter two (“Ethics”) deals with Hoppean argumentation ethics. It argues that the theory has been often misunderstood by its critics, who failed to grasp the role played therein by Hoppe’s epistemology and a tenet referred to as conflict-avoidance principle. Next, these elements are deployed not only to debunk misguided objections against argumentation ethics but also in order to reformulate the libertarian conceptions of liberty and non-aggression in a manner avoiding logical circularity. In essence, the chapter provides a conditional defense of argumentation ethics: it maintains that if Hoppean epistemology and the contention that the libertarian theory of just property rights is the sole means to resolve interpersonal conflicts over scarce resources are valid, then argumentation ethics holds true as well.

In chapter three (“The State”), Hoppe’s libertarian-anarchist theory of the state as an expropriating property protector is presented. Special focus is given to the notion of class struggle as a crucial building block of Hoppean state theory. Despite pinpointing certain tensions within Hoppe’s conception, the chapter nonetheless supports it contra those libertarians who dismiss theories of class conflict altogether.

Chapter four (“Anarchy”) recounts Hoppe’s positive vision of a stateless, free-market society called anarcho-capitalism or private law society. This libertarian-anarchist stance is juxtaposed with the arguments of leading minarchists (proponents of a minimal state) such as Robert Nozick and Ayn Rand, the upshot being that anarchism is the only political position compatible with libertarianism. This claim is further backed by an original anti-statist argument termed an “analytic case against the state.” In brief, with the aid of Hoppe’s concept of fiat property and the will (choice) theory of rights, it is demonstrated that under statism, individuals are perforce deprived of any rights, all constitutions and human rights declarations to the contrary notwithstanding.

In chapter five (“History”), the focus shifts to Hoppe’s views on the history of Western civilization. In particular, his claims regarding the evolution of dominant political systems—aristocracy (feudalism), monarchy, and democracy—are scrutinized. A large portion of the chapter is dedicated to examining Hoppe’s account of monarchy, which he deems more conducive to liberty and property protection than democracy. As we show, this relatively positive assessment of monarchy is undue on both methodological and substantive grounds.

Chapter six (“Culture”) discusses Hoppe’s belief in the conservative cultural implications of libertarianism. It is argued that the core of this proposition, namely that anarcho-capitalism would foster favorable conditions for bottom-up communities, is largely correct. However, the chapter simultaneously raises arguments for seeing libertarianism as liberal rather than conservative. Furthermore, some of these arguments can be inferred directly from Hoppean argumentation ethics. This chapter also addresses Hoppe’s libertarian justification of restricted immigration. While espousing Hoppe’s assertion that private property entails the power to discriminate, and thus, in a private law society, there would be no room for the concept of free migration, it is demonstrated, pace Hoppe, that as long as states exist, most areas they control are lawfully owned by nobody. Hence, no entity possesses the power of exclusion over them, which renders the vast majority of anti-immigration laws illegitimate.

Finally, chapter seven (“Doctrine”) concerns Hoppe’s efforts to bridge the gulf between what is and what ought to be, i.e., his political doctrine. It comprises two key components: right-wing populism and libertarian secessionism. The latter idea encompasses two distinct propositions: the concept of a “Europe of Thousand Liechtensteins,” advocating for the disintegration of nation-states into smaller, preferably micro-states, and the notion of stateless secession. The chapter evaluates both the merits and the potential risks associated with these strategies.

In the concluding section, the major points of the book are summarized, and hints at future perspectives for the development of Hoppean philosophy are provided.

