FESER ON ROTHBARD AS A PHILOSOPHER

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Introduction

In an article entitled “Rothbard as a Philosopher” (Feser 2006) Edward Feser harshly criticises the philosophical abilities of Murray Rothbard. According to Feser, Rothbard “seems incapable of producing even a minimally respectable philosophical argument, by which I mean an argument that doesn’t commit any obvious fallacies or fail to address certain obvious objections.” (Feser 2006) He makes it clear that he is not necessarily disagreeing with Rothbard’s conclusions—rather, “the problem is just that Rothbard seems incapable of giving a philosophically interesting argument for his claims.”

To illustrate this criticism, Feser takes what he regards as a typical piece of Rothbardian philosophical analysis, namely, Rothbard’s argument for self-ownership. This argument is taken to be typical by Feser in three respects: 1. it is central to Rothbard’s moral and political philosophy; 2. it is maintained virtually unchanged by Rothbard over many years, and 3. it is a fair example of Rothbard’s philosophical acumen. He writes: “If Rothbard was capable of giving an interesting philosophical argument, then, we would naturally expect to find one here, and yet (as we will see) we don’t. While I do not claim that

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this one example decisively establishes Rothbard’s philosophical mediocrity all by itself, I do think it provides a pretty strong indication.” (Feser 2006)

In fact, it is not all that difficult to find examples of fallacious, contentious or less-than-perfectly articulated arguments in the works of philosophers who, by general consensus, are far from being mediocre. One could instance David Hume’s treatment of infinite divisibility in A Treatise on Human Understanding, or cite J. S. Mills’ erstwhile proof of the principle of utility in Chapter IV of his Utilitarianism, or select Aquinas’s Third Way in the Summa Theologiae which, according to some critics, exhibits modal, quantifier shift, and scope fallacies! Even if Feser were to be able to show that Rothbard’s argument for self-ownership wasn’t “minimally respectable,” this by itself not only wouldn’t “decisively establish” Rothbard’s philosophical mediocrity (as Feser very fairly concedes), but it wouldn’t necessarily be a “pretty strong indication” of his philosophical mediocrity either.

Feser on Rothbard on Self-ownership

According to Feser, Rothbard’s self-ownership argument can be found in For a New Liberty (Rothbard 1973, 34), in “Justice and Property Rights” in Egalitarianism as a Revolt against Nature (Rothbard 1974, 97–98), and in The Ethics of Liberty (Rothbard 1982, 45–47). The versions in For a New Liberty and “Justice and Property Rights” appeared within a year of each other and are virtually identical to each other; the version in The Ethics of Liberty appeared some eight years later and is slightly different from the other two.

Here is part of the relevant passage in its For a New Liberty formulation:

The most viable method of elaborating the natural-rights statement of the libertarian position is to divide it into parts, and to begin with the basic axiom of the “right to self-ownership.” The right to self-ownership asserts the absolute right of each man, by virtue his (or her) being a human being, to “own” his or her own body; that is, to control that body free of coercive interference. Since each individual must think, learn, value, and choose his or her ends and means in order to survive and flourish, the right to self-ownership gives man the right to perform these vital activities without being hampered and restricted by coercive molestation. (Rothbard 1973, 33–34)

And here is part of the relevant passage in its “Justice and Property Rights” formulation:

Let us consider the first principle: the right to self-ownership. This principle asserts the absolute right of each man, by virtue of his (or her) being a human being, to “own” his own body; that is, to control that body free of coercive interference. Since the nature of man is
such that each individual must use his mind to learn about himself and the world, to select values, and to choose ends and means in order to survive and flourish, the right to self-ownership gives each man the right to perform these vital activities without being hampered and restricted by coercive molestation. (Rothbard 1974, 97)

I think most would agree that apart from some minor linguistic differences, these passages are essentially the same. One difference that should be noted is that in the For a New Liberty passage the right to self-ownership is characterised as a “basic axiom” whereas in the “Justice and Property Rights” passage it is termed a “first principle;” however, it is doubtful that Rothbard intended this terminological difference to reflect any theoretical significance.

Feser’s First Criticism

Feser’s first criticism is this: “Even if it were true that ‘each individual must think, learn, value, and choose his or her ends and means in order to survive and flourish’ and that ‘the right to self-ownership gives man the right to perform these vital activities without being hampered and restricted by coercive molestation,’ it just doesn’t follow that anyone has a right to self ownership.” (Feser 2006)

Feser is right—it doesn’t follow. But then, Rothbard doesn’t claim that it does. Feser has omitted to cite the opening lines of this section in which Rothbard makes it abundantly clear that the right to self-ownership is a basic axiom. “The most viable method of elaborating the natural-rights statement of the libertarian position is to divide it into parts, and to begin with the basic axiom of the ‘right to self-ownership’” [emphasis added]. In both For a New Liberty and “Justice and Property Rights,” Rothbard characterises the right to self-ownership as a basic axiom or first principle and it is a logical solecism to argue for basic axioms/first principles—axioms and principles are that from which argument proceeds, not that towards which it advances. The argument as presented by Feser may be good or bad; but it’s not one made by Rothbard. By misidentifying the nature of the self-ownership axiom, Feser’s criticism is simply inapplicable. Of course, someone may want to deny Rothbard’s claim that the self-ownership axiom really is an axiom, but Rothbard cannot be faulted logically for not arguing for a proposition he takes to be axiomatic. (The remainder of the material in Feser’s first criticism, though raising issues and concerns of more than passing interest, are also all wide of the mark as logical critique.)
Feser’s Second Criticism

Now, while it is true that the thesis of self-ownership is an axiom or first principle (for Rothbard) and therefore is the point of departure rather than the terminus of argument, it is nonetheless the case that while such axioms or first principles cannot be directly or positively justified, they can receive a form of indirect or negative justification if it can be shown that their denial involves the denier in a substantive or in a performative self-contradiction.

The locus classicus for this strategy is Aristotle’s account of the principle of non-contradiction—the principle that something cannot both be and not be at the same time and in the same respect. (This principle is available in three varieties: metaphysical [as above], epistemic, and linguistic). As a first principle, this is incapable of direct demonstration; however, Aristotle believes it can be indirectly (or negatively) demonstrated in the following way:

We can, however, demonstrate negatively even that this view [i.e. the rejection of the principle of non-contradiction] is impossible, if our opponent will only say something; and if he says nothing, it is absurd to seek to give an account of our views to one who cannot give an account of anything ... for such a man is ... no better than a vegetable ... The starting point ... is not the demand that our opponent shall say that something either is or is not ... but that he shall say something which is significant both for himself and for another; for this is necessary if he really is to say anything. For, if he means nothing, such a man will not be capable of reasoning, either with himself or with another. But if any one grants this, demonstration will be possible; for we shall already have something definite. The person responsible for the proof, however, is not he who demonstrates but he who listens; for while disowning reason he listens to reason ... (Aristotle Metaphysics, 1006a11–28)

This mode of “negative” argumentation has had a chequered history, with some philosophers seeing it as a kind of universal key to unlock the mysteries of a host of philosophical problems with other philosophers regarding it as little more than an annoying linguistic trick. (See Eabrasu 2009 for an exhaustive discussion of this topic.)

Rothbard attempts to provide an indirect or negative demonstration of the truth of the self-ownership axiom by exhibiting the absurdities that result from its denial. Here is the first part of his negative demonstration as it occurs in For a New Liberty:

Consider, too, the consequences of denying each man the right to own his own person. There are then only two alternatives: either (1) a certain class of people, $A$, have the right to own another class, $B$;
or (2) everyone has the right to own his own equal quotal share of everyone else. The first alternative implies that while Class A deserves the rights of being human, Class B is in reality subhuman and therefore deserves no such rights. But since they are indeed human beings, the first alternative contradicts itself in denying natural human rights to one set of humans. Moreover, as we shall see, allowing Class A to own Class B means that the former is allowed to exploit, and therefore to live parasitically, at the expense of the latter. But this parasitism itself violates the basic economic requirement for life: production and exchange. (Rothbard 1973, 34)

Feser’s specific criticism of this passage is as follows: “The claim that there are ‘only two alternatives’ to denying the thesis of self-ownership is just obviously false.” (Feser 2006) He then proceeds to list other alternatives that, in his opinion, Rothbard should have considered but didn’t. These are: (a) that no one owns anybody; (b) that God owns everyone; (c) that one class of people has a right to partial ownership of another class; (d) that everyone has partial or unequal ownership of everyone else.

Feser’s criticism is partly procedural, partly substantive. Let’s take the procedural point—that Rothbard failed to consider all the relevant alternatives—before moving on to consider the substantive points.

If I were standing outside University College Dublin, and someone were to drive up in a car and ask for directions to the city centre, I might well tell them that there are only two ways to go—either take the N11 to St Stephen’s Green, or take the Rock Road to Merrion Square. But, strictly speaking, what I have just told my erstwhile enquirer is not true. There are dozens of ways into town; some are reasonably obvious if odd, such as driving up side streets, back alleys, or rat runs; others are more exotic, such as turning around and driving to Cork, then going to Galway and finally approaching Dublin city centre from there. And why should I assume that my enquirer want to drive into Dublin? Perhaps he would like to abandon his car and walk up streets not available to car traffic or, even more bizarrely, but still possible albeit improbable, he might have an inexplicable desire to clamber over the roof tops as the crow flies.

The point of my geographical excursus is simply to demonstrate that the consideration of this or that alternative is a matter of judgement in context. It would simply be ridiculous to consider every possible situation when most are simply irrelevant. Rothbard could have given Feser’s procedural criticism little or no purchase if he had opted to include the words “relevant” or “important” or “significant” before “alternatives.” So much for the procedural point. Now let’s look at the substantive ones.
a. No one owns anybody

As Feser concedes, Rothbard did eventually consider and respond to this point in *The Ethics of Liberty*. Rothbard wrote there,

Professor George Mavrodes … objects that there is another logical alternative: namely, “that no one owns anybody, either himself or anyone else, nor any share of anybody.” However, since ownership signifies range of control, this would mean that no one would be able to do anything, and the human race would quickly vanish. (Rothbard 1982, n45)

Feser, however, is unhappy with Rothbard’s treatment of this point, and he objects:

While having ownership of something does imply having a range of control over it, having a range of control over it doesn’t imply ownership … Animals having a range of control over their environment, but since ownership is a moral category implying the having of certain rights … it follows that they have no ownership of anything. And of course, their lack of ownership of anything hasn’t caused animals as a whole to “vanish,” “quickly” or otherwise, which makes evident the absurdity of Rothbard’s claim that alternative (a) (viz. that no one owns anyone, including himself) would entail the extinction of the human race. (Feser 2006)

It would appear that Feser is accusing Rothbard of committing a formal logical fallacy, the fallacy of affirming the consequent. From the fact that A implies B, and A’s also being the case, B follows. However, if A implies B, and B is the case, A does not follow.

Let’s take an example. Suppose the proposition “If it is raining, the ground is wet” is true, and suppose it is also true that “It is raining”, then the proposition “The ground is wet” has to be true as well. However, given the truth of the same conditional, namely “If it is raining, the ground is wet” and, this time, the truth of the proposition “The ground is wet”, it does not have to be true that “It is raining”. While its being raining is a sufficient condition of the ground’s being wet, it’s not a necessary condition. After all, the mad street-water of Old London Town might have been on the rampage again with a hosepipe, intending to lead us all astray logically, causing us to remark, fallaciously, over our breakfast cereal: “My gosh, it must have rained heavily last night!”

What Feser appears to be saying, applying the foregoing analysis to Rothbard’s response to Mavrodes, is that it doesn’t follow from “If I own x, then I have a range of control over x” and “I have a range of control over x” that “I own x”—and this is correct. But what Rothbard actually says in the
passage is not “If I own x, then I have a range of control over x” but “Ownership signifies range of control” which is capable of being read either as a single conditional (“If I own x, then I have a range of control over x”) or as a biconditional (“If I own x, then I have a range of control over x AND if I have a range of control over x, then I own x”). Now the principle of charity in critical analysis is that if it is possible to interpret a passage in a plausible way and an implausible way, then one should opt for the plausible. Let us assume that Feser is correct in his claim that reading “Ownership signifies range of control” as a single conditional leads to a logical fallacy; would reading “Ownership signifies range of control” as a biconditional also lead to a fallacy? The answer to this question is no.

Is there any reason other than exercising some critical charity to read “ownership signifies range of control” biconditionally? Yes, I believe so, and the clue is to be found in a closer examination of some parts of the Rothbard passage not cited by Feser. What Rothbard does here is to tell us what the right to self-ownership means: “the right to self-ownership asserts the absolute right of each man, by virtue of his (or her) being a human being, to ‘own’ his own body; that is, to control that body free of coercive interference.” (Rothbard 1973, 33–34) Meaning is definitional and definitions are bi-directional: if a “triangle” is defined as “a plane figure bounded by three straight lines” then a “plane figure bounded by three straight lines” can be defined as a “triangle.”

Note also the scare-quotes around the word “own” in Rothbard’s passage. One can only speculate as to why they are there. Here’s my guess. One common use of such quotes is to indicate to the reader that a term is being used in an unusual way. Whereas our paradigmatic use of the term “own” relates to material tangible goods, all of which are intrinsically alienable from us, to use the term “own” in connection with our own bodies can seem somewhat idiosyncratic. After all, we can acquire and dispose of CD players and ballpoint pens, but it is difficult to conceive of alienating one’s own body. Hence, Rothbard is anxious to inform us that the application of the term “own” in the context of one’s body doesn’t imply alienability but simply the right to control one’s body free of coercive interference.

Now, Rothbard has already made clear what owning one’s own body means; it means to be able to control it, free of coercive interference. If I do not own my own body then, on this understanding of what self-ownership means, I am not able to control it, free of coercive interference; if I cannot control my own body appropriately, then I cannot act; and if I cannot act, then (given that all other human beings are in the same situation) I will die.
b. God owns us all

This alternative, according to Feser, was
defended by Locke ... and it would also have been endorsed by
natural law theorists in the Thomistic tradition. Rothbard explicitly
cites both Locke on self-ownership and the Thomistic natural law
tradition, so this alternative should have been obvious to him, and
yet he fails even to consider it.

The Christian Scriptures seem clearly to assert that we do not own
ourselves. “You are not your own property; you have been bought and paid
for.” (1 Corinthians 6:13–15, 17–20) Of course, this assertion won’t be a
problem for anyone except those for whom these Scriptures have a
normative function, but, for those who do attribute such a normative status
to the Christian Scriptures (or other religiously authoritative sources with
similar import) and who are also inclined to adopt a libertarian position in
general, the libertarian concept of self-ownership may become problematic.
Of course, even here, it is open to a libertarian theist to argue that the self-
ownership axiom is confined to the realm of human interpersonal
relationships and as such can happily co-exist with the admission of God’s
ownership of us unless one also holds the additional belief (as, notoriously,
some believers have held) that someone or other has the right to act as God’s
agent in delimiting the range of human freedom of action in a non-libertarian
way. Feser himself once wrote “… someone might respond that God owns
us, so that we cannot own ourselves ... But self-ownership is no more
inconsistent with belief in God than private property is.” (Feser 2003, 53) Of
course, Professor Feser is entirely within his rights to change his mind on the
matter of self-ownership, if that is what he has in fact done, but he would
surely not wish to have it held against his competence as a philosopher that
he once endorsed a position that is substantially the same as that put forward
by Rothbard.

That being said, what are the possibilities here? Either the libertarian
and Christian accounts concern themselves with the same matter in precisely
the same respect, in which case they are either contradictory or contrary and
so cannot both be true; or the accounts are merely apparently contrary or
contradictory and so there must be some level of analysis that will reveal a
distinction or set of distinctions that will allow us to discriminate between
them in such a way as to affirm the truth of both positions. There is a long
tradition, dating back to Peter Abelard’s Sic et Non (and exemplified in the
scholastic method as applied to law, philosophy, and theology) of reconciling
apparently contrary texts. It would have been interesting if Rothbard had
devoted some pages to an analysis of this problem but he wasn’t a scriptural
subscriber and so presumably saw no need to deal with it. May I refer to a
point I made earlier, that the consideration of this or that alternative is a matter of judgement in context and that it is neither possible nor desirable to consider every possible situation when most are simply irrelevant. It is not a failure of logic or an exhibition of a lack of philosophical acumen not to discuss possibilities that one considers, in context, not to be relevant.

c. One class of people has a right to partial ownership of another class, and
d. Everyone has partial and/or unequal ownership of everyone else

In these objections, Feser envisages a variety of possibilities, all of them less than the “equal quotal share” adduced by Rothbard. According to Feser, alternative (c) “was the standard view taken by defenders of slavery, most of whom would not have endorsed the unqualified ownership of other people implied by Rothbard’s alternative (1). One would think that Rothbard, who fancied himself a historian of ideas, would be aware of this, and yet here again he simply ignores what should have been another possible alternative” (Feser 2006) and “alternative (d) is arguably implicit in the views of many leftists, very few of whom (if any) would really claim that all of use have equal quotal ownership of each other.” (Feser 2006)

Putting ownership of one’s self to one side, ownership implies the right to dispose of one’s possessions in any way one chooses, subject to the limitations of not infringing upon the rights of others. To the extent that one cannot so dispose, to that extent one is not an owner. So, for example, owners of property subject to planning laws or listed buildings notices are, to that extent, no longer the owners of their property, whatever the legal situation may be. Feser didn’t deal with Rothbard’s attempt to dispose of alternative (2) (“everyone has the right to own his own equal quotal share of everyone else”)—which is unfortunate, since this passage contains the key to answering objections (c) and (d). Rothbard notes the absurdity of “proclaiming that every man is entitled to own a part of everyone else, yet is not entitled to own himself.” It is absurd whether the amount owned of others is some equal “quotal share” or, as per Feser in scenarios (c) and (d), something less because we would, in either case, have the peculiar situation of people being able to own all or some of other people but not able to own themselves.

**Feser’s Third Criticism**

In his consideration of the consequences of denying each man the right to own his own person, Rothbard presented two alternatives, the first of which was that “a certain class of people, A, have the right to own another class, B…” (Rothbard 1973, 34) Rothbard believes this entails that while class
A deserves the rights of being human, class B is in reality subhuman and does not deserve those rights. But, since manifestly class B are, in fact, human beings, this is a self-contradictory position.

Feser objects to this argument as follows: one class of people, A, having the right to own another class, B,

just obviously doesn’t imply that the members of class B are “subhuman.” Not all defenders of slavery have denied that slaves are fully human; their view is just that some human beings can justly be owned by other ones. Rothbard’s assertion that this “contradicts itself in denying natural human rights to one set of humans” is just blatantly question-begging, since what is at issue is precisely whether there are any natural human rights that might rule out slavery. (Feser 2006)

On what basis, could one group of human beings claim to have the right to own another group of human beings? If there is indeed such a right to own others, and we are not countenancing a simple brute-factual possession, that right has to be grounded in some significant difference between the two groups. Accidental differences of height or weight, or hair colour or language will obviously not suffice to ground such a right in one group of human beings as against another. If there is to be a right to the ownership of others then there has to be either an explicit or an implicit judgement that the members of the group that may legitimately be owned are not, in fact, fully human. Rothbard’s argument could be put this way: either the enslaved group are fully human or they are not fully human: if they are fully human, they may not rightfully be owned; or they may rightfully be owned, in which case they are not fully human.

Feser’s Fourth Criticism

Rothbard wrote: “…allowing Class A to own Class B means that the former is allowed to exploit, and therefore to live parasitically, at the expense of the latter. But this parasitism itself violates the basic economic requirements for life: production and exchange.” (Rothbard 1973, 34) Feser believes this to be “obviously false” since “[a]nimals do not engage in ‘production and exchange,’ certainly not in the laissez-faire economics sense intended by Rothbard, but they are obviously alive.” (Feser 2006)

I am somewhat at a loss to understand the point of Feser’s objection. Rothbard is clearly not saying that those who do not engage in production and exchange are not alive. If he had claimed this, there would be some point to Feser’s animal counterexample. Rothbard’s point, if I understand it correctly, is an economic one to the effect that production and exchange are
substantive human activities that are essential to human survival, whereas the parasitism of one group’s owning another is an adjectival mode of existence that requires that others produce and exchange, while implicitly rejecting the necessity for oneself to produce and exchange when there is no justifiable distinction between oneself and others in this economic respect.

**Conclusion**

Hans-Herman Hoppe comments:

Rothbard developed a system of ethics based on the principles of self-ownership and the original appropriation of unowned natural resources through homesteading. Any other proposal, he demonstrated, either does not qualify as an ethical system applicable to everyone qua human being, or it is not viable, for following it would literally imply death while it requires a surviving proponent, and thus leads to performative contradictions. The former is the case with all proposals which imply granting A ownership over B and resources homesteaded by B, but not giving B the same right with respect to A. The latter is the case with all proposals advocating universal (communal) co-ownership of everyone and everything by all, for then no one would be allowed to do anything with anything before he had everyone’s consent to do whatever he wanted to do. And how could anyone consent to anything if he were not the exclusive (private) owner of his body? (Hoppe 1999, 238)

Hoppe’s links his own “argumentation ethics” with a passage from the _Ethics of Liberty_ in which Rothbard states that “a proposition rises to the status of an axiom when he who denies it may be shown to be using it in the very course of the supposed refutation.” (Rothbard 1984, 32; cf. Hoppe 2002, xxxiv–xxxv) Rothbard, in turn, was hugely impressed by Hoppe’s work and wrote that “[Hoppe] has managed to transcend the famous is/ought, fact/value dichotomy that has plagued philosophy since the days of the scholastics …” (Rothbard 1988, 44; cf. Rothbard 1990) Despite claims to the contrary, it would appear that Rothbard retained his high opinion of Hoppe’s work to the end of his life. (Yeager 1996, 185; but cf. Kinsella 1996, 316 n7)

The relevance of Hoppe’s work to Rothbard’s self-ownership axiom can be seen in Rothbard’s comment that “Hoppe is interested … in demonstrating that any argument whatsoever … must imply self-ownership of the body of both the arguer and the listeners …” (Rothbard 1988, 45) and sees no contradiction between his own natural rights position and Hoppe’s “genuinely new theory”: “As a natural rightser, I don’t see any real contradiction here, or why one cannot hold to both the natural rights and the Hoppean rights ethic at the same time.” (Rothbard 1988, 45) Whatever the
ultimate value of Hoppe’s argumentation ethics and whatever the strength of Rothbard’s allegiance to it, this clearly demonstrates that Rothbard’s thoughts on the matter of self-ownership did not come to a grinding halt in 1984 and that his later work should have been considered in any evaluation of his competence as a philosopher.

Feser concludes his essay by remarking that “In this one brief passage, then, Rothbard commits a host of fallacies and fails even to acknowledge, such less answer, a number of obvious objections that might be raised against his argument.” (Feser 2006) I hope that the foregoing analysis has shown this claim to be ungrounded, and that the reader will come to appreciate that Rothbard, while presenting controversial and challenging positions, is very far from being the epitome of philosophical ineptitude that Feser takes him to be.

Bibliography


Eabrasu, Marian. 2009. “A Reply to the Current Critiques Formulated Against Hoppe’s Argumentation Ethics”, Libertarian Papers 1, 20 (online at libertarianpapers.org).


