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Property Law in G. W. F. Hegel's Legal Theory: An Appraisal

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Abstract

For Hegel, property is crucial for a person to have firsthand knowledge of freedom as an individual and for the existence of ethical life within a society. This study's objective is to examine property law in Hegel's legal theory. The problem that warrants this study is that Hegel's theory of property law is very sturdy, hardy, and strong against fellow citizens but flinches, recoils, and withers away at the level of the state. The method of this study is analysis. Research findings reveal that for Hegel, the significant end of the state does not consist flatly and unconditionally in the protection of property. For him, the end of the state is the state. Therefore, private property may be subservient to or subdued by a higher domain of right – the state. Finally, this study submits that Hegel's fundamental conception of the state should be discarded and chucked out because it does not fully protect an institution of private property, it claims to do, which, in order to protect the property right against fellow citizens, should also protect the same right against the government of the state. This is the only way to make individual rights to private property worth the name. The primary aim of the judiciary is to protect the individual rights of those who come to court for justice from any intruder, interloper, or trespasser, including the state government.

Keywords: Law, Individuality, Personhood, Property, Recognition, Rights, Subjectivity

Introduction

The concept of property and its ownership has been a recurring topic since ancient times. Pythagoras and Plato advocate and encourage communalistic property ownership, based on the idea that private property claims are considered divisive socially and against the transcendental development of individuals in society. Plato argues that communal ownership of

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property engenders the best social order (Rudmin, "Property," in *Philosophy of Law: An Encyclopedia* 695). On the other hand, Aristotle puts forth an acute argument in defense of private property, having been influenced by the private property arguments of Democritus. According to him, private property is natural to man, arising from unconditioned self-interest; it promotes economic activities, moral development, and social/societal harmony. For Hobbes, the assailable and insecure condition of human beings in the state of nature caused them to give up common property rights to everything and to embrace private property made safe by the state's power.

For Hegel, property is a *sine qua non* for the self-realization of personhood. It is fundamental for the development of humans as rational and sensible beings. Property is the least possible condition for every individual person to recognize himself or herself as free. To make a claim of something as one's own is simply to make evident one's will in the objective world. This will need not only to acknowledge itself in this manner, but also needs to be acknowledged or recognized by others in order to authenticate its freedom (Hegel, *Philosophy of Rights* §44). In owning or possessing something, an individual realizes the capacity of his or her will in making positive changes in the world's circumstances. This action, as demonstrated in the utilizations/usages one makes of one's property/possession, individualizes or personalizes the will, and distinguishes oneself as a clearly defined rational being in the world of possibilities and potentialities (Blumenfeld 79-80).

The Concept of Property Law in General

Property is any object of value that a person may lawfully acquire and hold. It is anything that may be owned, such as stuck, land, buildings, and so on. It is the legal right to possess, use, enjoy, and dispose of a thing. Property has to do with ownership or dominion (*The New International Webster's Comprehensive Dictionary of the English Language: The Encyclopedic Edition*). Therefore, Property law is the law that regulates the rights and ownership associated with property of any kind. Property law is fashioned to regulate the relationship between persons and property, thereby providing a secure foundation for the acquisition, enjoyment, and disposal of property. Property law practice is dynamic; it deals with the transfer of interests in land. This is otherwise known as conveyance (Duru 1). It involves various forms of property ownership, including sole ownership, joint tenancy, community property, and so on. The fundamental rights in property law include the right to use, exclude others, possess, and transfer property. Property law is crucial in resolving conflicts and disagreements over property-related matters. The aim of property law is to provide security in the acquisition, enjoyment, and disposal of property.

There are two types of property: *real property* and *personal property.* Many of the legal concepts and rules associated with both types of property are derived from English Common Law. Modern law has integrated many of these concepts and rules into statutes, which now define the types and rights of ownership in real and personal property.

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Personal property, also called movable property, is anything except land that can be subjected to ownership, including money, notes, patents, stocks, and copyrights, as well as intangible property. *Real property,* from another point of view, is land and normally anything erected on, firmly attached to, or growing on it, including buildings and crops. Real property is also used to state categorically any rights that emanate from the ownership of land ("Property Law," *Gale Encyclopedia of American Law* 160). In addition, property may be classified as either *private* or *public*. Private property belongs to one or more persons. On the other hand, Public property is owned by the whole nation, state, or political subdivision. Again, personal property can be further divided into two major categories: *tangible* and *intangible.* Tangible property includes such items like animals, jewelry, and merchandise. Intangible property includes such entities as bonds, patents, stocks, and copyrights (*Gale Encyclopedia of American Law* 161).

Hegel's Abstract Right as Foundation to Property Right

Hegel adopts and applies the concept of abstract right to determine the category of human actions that are necessary for freedom. He maintains that human freedom is only possible if individual persons can possess and transfer property completely free from unnecessary restrictions. For the reason that abstract right must become specific and placed in a particular context by custom and social life, the abstract property and contract rights are then shaped by morality and ethical life, neither of which wholly contain or include Hegel's insistence that freedom is substantiated in the right to satisfy the human will through agreeable/free ownership and transfer of property. Peter G. Stillman affirms that the abstract property right functions as a kind of idealized property right, where individuals have equal capacity for property ownership, and where full and absolute ownership is dependent strictly on their personhood, irrespective of social status or hierarchy (Stillman 206). This *idealized,* abstract right is the way to transfer property to others free from any social domination or coercion. The transfer of property under abstract right is performed freely by the persons involved, and the right to freely and successfully complete these actions is vital to any conception of social freedom (206).

In its most concise explanation, abstract property right is the basic right that remains after all other social and cultural contingencies have been "taken away" or "removed". It is the right that must remain or persist in order to keep or uphold an individual's freedom. It has to be in place if society is to promote the people's freedom. Understood from this point of view, property rights are the logical upshot of an ethical society inhabited by moral beings who are rights holders, self-sufficient, and living together in a community. So, abstract property right presupposes institutions for its own realization, and can equally be limited by those institutions, basically by the state's own capacity for action (Siep 278). It should always be remembered that, for Hegel, the institutions that regulate and shield abstract right are still bound by the laws of the civil society – the abstract individuals live and operate within the ethical and moral lives of the civil society. In this regard, morality and ethical life then support personality in its effort to

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become real, existent, or concrete. So, in the absence of moral consideration and an ethical community, the abstract right is empty, vacuous and devoid of any significance or force, that is, holding or containing nothing (Quante 278).

Hence, in Hegel's conception of abstract right, free will is a kind of freedom devoid of its fullness if the free will does not function/operate within a real world defined by morality, how the will regards itself, ethical life, how others perceive the will and other individual persons. Hegel maintains that abstract right is circumscribed to *not violating* personality and what results from personality. There is no doubt that property is what results from personality, so abstract right at first constitutes a duty not to interfere with the property of others. The Hegelian right to property not only validates the duty not to interfere with the property of other people, but also formalizes the right to try to acquire property without any interference or impediment (Wilson 83; Quante 278). For Hegel, humans have the capacity to possess rights, and abstract right helps establish personhood, which is a necessary foundation for human freedom.

Personhood as Essential in Hegel's Philosophy of Property Law

Hegel's concept of property law is founded on the idea of personhood. It developed in an underlying form with Immanuel Kant. According to Kant, everyone is invested with the faculty of having as his/her own any external object upon which he/she has wielded or exerted his/her will. Anything is rightfully mine when I am so connected with it that anyone who uses it without my consent does me an injury (Kant, *Philosophy of Law*, 62; Cairns, *Legal Philosophy from Plato to Hegel*, 1949, 413). These principles necessitate that everything external and capable of being put to a practical and profitable use has an owner; for if any usable thing were to remain without an owner, freedom to that extent would deprive itself of the use of its voluntary activity, and thus putting usable and profitable objects out of all possibility of use (Glockner 79; Cairns 517). Fichte transforms Hegel's idea into the doctrine that beings are free entirely without qualification in their self-determination to have causality; that since they are free causes in the sensuous or aesthetic world, they inevitably expect and wish to have an effect in the sensuous world to match or fit the conception. Hence, they have colligated certain objects of the sensuous world, which must be reciprocally incapable of being violated or infringed, to their end (Fichte 176; Cairns 517-518).

However, with Hegel, the philosophical theory of property reached its supreme level of edification and optimistic enlightenment. In order to subsist as an idea, the freedom of a person should have to be substantiated and confirmed in an external sphere. Therefore, everyone should oppose to his/her free mind the idea of "thing", which is the external, pure and simple, something not free, impersonal and without rights. Owing to the fact that things have no end in themselves and receive their destiny and soul from the will, persons have as their essential end the right to place their will into things, thereby making the object theirs (Hegel, *Philosophy of Rights,* §41). In contrast to Locke, who simplifies ownership as the blending or coalescing of self-ownership and labour upon antecedently un-owned things (Locke, *Second Treatise of*

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Government, Sec. 4), Hegel offers a deeply refined approach to property ownership which cautiously integrates many cardinal concepts that define the Idealist philosophy of his day. He writes: "The rationale of property is to be found not in the satisfaction of needs, but in the supersession of the pure subjectivity of personality. In his property, a person exists for the first time as reason. Even if my freedom is here realized first of all in an external thing, and so falsely realized, nevertheless, abstract personality in its immediacy can have no other embodiment save one characterized by immediacy" (Hegel §41).

Analyzing Hegel's philosophy of property law, which is founded on the idea of personhood, Alan Patten carefully observes that Hegel initially takes to be the case that persons occupy the social world, and then queries the type of institutions that should exist in such a world. The social world cannot be composed of only individuals and institutions. For Patten, this is the liberal perceptiveness of the relationship between the individual and the community, and really the one Hegel attempts to resist strongly. *Subjectivity* for all individuals is a *sine qua non*; in the absence of it, there is no contract, no property, no rights, no reasonable claims and no lawful penalty or punishment. Human persons as *subjects,* and not just as individuals, can make contracts, have legal rights, and can equally face the consequences of their actions. All these phenomena need at least two people for their accomplishment. When they are nonexistent, there is no social world for persons to reside in the first place (Patten 144; Wilson 72). Subjectivity is a person's independence from, and knowledge of, their desires, situations, and wants. It is the cornerstone, basis, and foundation of individual personality and personality itself is the distance between oneself and one's condition. It affords to persons the capacity to appraise, ponder on, or think over their ends.

Therefore, for Hegel, property is directly bound or tied to personality and its development because the property right, the will of the thing, is the cornerstone for the rights of the person to both life and liberty. The individual person strongly asserts, affirms or claims himself as he asserts or claims a property, through his will to occupy, to own, to possess and to transform himself: "it is only through the development of his own body and mind, essentially through his self-consciousness's apprehension of itself as free, that he takes possession of himself and become his own property and no one else's" (Hegel §57). Once an individual acquires property in himself, his rights are inalienable, not subject to forfeiture. Since a person can alienate only "single external things" (Hegel §65 &§75). According to him, "therefore, those goods, or rather substantive characteristics, which constitute my own private personality and the universal essence of my self-consciousness are inalienable and my right to them is not forfeitable. Such characteristics are my personality as such, my universal freedom of will, my ethical life, my religion" (Hegel §66).

Just as buildings are constructed by the social experiences of culture and education, it is the institution of private property, Hegel avers, that unambiguously and uniquely permits persons to properly make use of their culture and education as stuff or material with which they

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build up their personalities as free subjects. Therefore, from this perspective, according to Hegel, personality is neither innate nor congenital. It is not given *a priori.* It is not based on a hypothesis or a theory. It must be practically developed. To develop a person in this regard, a human being must, at a minimum, take full possession of his/her body – the inner being first, and then acquire property in external things. Every individual, according to Hegel, has the capacity to develop into a person; however, this is only accomplishable when we first of all *will* our possession over our own lives and bodies, and then over other external things (Hegel §47).

Therefore, Hegel deduces or infers the institution of private property from the idea of personhood by way of four formal propositions: (I) The person must give himself/herself an external sphere of freedom. (II) The sphere of freedom must consist of entities that are "immediately different and separable" from the person. (III) The human body, human capacities, and external things can be said to meet Hegel's criterion of difference and separation; however, they do so in different ways. (IV) The person can only give himself/herself a "sphere of its freedom" in private property (Schmidt am Busch 579; Wilson 73). So, for Hegel, there is a link between personhood and man's domination of nature because human freedom is realized through externalization of the human will upon the physical world.

Hegel's Perspective on Property as Man's Domination of Nature

For Hegel, in property, the individual person formally affirms and establishes man's domination over nature. By owning property, man asserts solemnly and formally as true "the absolute right of appropriation which he has over all things (Hegel §44). Expatiating on this, Joachim Ritter points out that behind the apparent immobility of property as a thing is hidden, for Hegel, the historical activities of work and interaction that have domesticated nature by demystifying it (Ritter §6), purging it of its natural gods, proving that natural objects exist not for themselves, but only for man, and transforming the natural world into "things" lacking reason or purpose in themselves, and turning them into that which can be appropriated by man (Hegel §42). Therefore, property is a continuous materialization and voluntary substantiation and validation of man's domination, as the individual relentlessly affirms in property that nature and natural objects exist for man and that man, by owning property, upholds and substantiates his free mastery of nature. In making this assertion, the individual also widens the limits of his will with regard to his action and, thereby, exerts influence on his environment. The number of properties a person possesses is his means of controlling and shaping nature to affect, evolve, and express his own character and his style/manner of living and working (Stillman 138).

In Hegel's idealist concept of property, man as will transforms a thing that confronts him into a property, that is, an existent that substantiates a free will (Hegel §29). The entire Hegel's idealist philosophy attempts to transform all things confronting it into materializations of its own knowledge and activity. When Hegel affirms that "to comprehend what is, this is the task of philosophy, because what is, is reason" (Hegel §11), he can accept that "what is, is

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reason" because the will and spirit have richly permeated the world, in property and in other means and, therefore, made the world rational, demolished its strangeness or foreignness and made it comprehensible (Stillman 139). So, man's domination and comprehension of nature is equally the liberation of the human and the spiritual from the natural and the pre-spiritual; man is distinctly and understandably distinguished from nature. With this distinction, slavery becomes a thing of the past because "all historical views of the justice and lordship … depend on regarding man as a natural entity pure and simple" (Hegel §57), an entity who is not free without rights. These rights, no doubt, are very indispensable and crucial for man to live his social life as a social being. It is through man's domination of nature that he transforms himself from mere natural being into self-conscious and free subject for the proper recognition of his subjectivity.

The Mediation and Recognition of Subjectivity in Hegel's Philosophy of Property Law

Property ownership offers a tangible expression of independence, which is the primary part of being a person. In an actual sense, personality calls for property in order to showcase its particularity to all. By actually possessing the desired or intensely wanted things, persons affirm themselves as free individuals. By obtaining material things, the rational feeling that accompanies an unsatisfied state, that is, desire, becomes concrete in the actual ownership of things, and the will becomes substantiated and realized in the world. The most essential of these feelings that accompany an unsatisfied state is the desire for recognition, and this recognition calls for physical things for it to become actual or objectivized. Recognition is fundamental for the creation of self-consciousness. This, in turn, is vital for the objectification of the will through the medium of private property. Mindful of this, Hegel accentuates that "a person, in distinguishing himself from himself, relates himself to *another person,* and surely it is only as owners of property that the two have existence (*Dasein*) for each other (Wilson 74).

Therefore, "identity *in themselves* takes on existence (*Existenz*) through the transference of the property of one person to the other by common will and with due respect of the rights of both, that is, by contract" (Hegel §40). To will to obtain or own a material thing and then to take earlier possession of it is never sufficient: the material thing must have been without an owner, which considers as possibility the expected relation to others (§51), whereby the inner act of the willing person that says something is mine must equally become recognizable/acceptable by other people (§51), Hegel singles out as very important the fact that ownership can only be attained by acting in the social world in the presence of other persons, and it is recognition that makes this a possibility. In contrast to Locke's property theory, which allots ownership based on a strictly individualized relationship, for instance, the blending of labour, between person and thing, Hegel accents that ownership, the act of possessing and controlling property, can only be accomplished by performing the possessive actions in the social world in the presence of other people, and it is recognition that makes this a possibility. Elaborating on this, Dudley Knowles acknowledges that property is a vital constituent of self-consciousness (Knowles 49);

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"if I am to determine myself, make something of myself, the self that is operated on must be recognizable by me in just the same way that it is recognized by others. If, therefore, we recognize the grasping of an object as taking possession, we do so precisely because we identify the will of the property holder in his grasp" (Wilson 75).

Above all, every person desires to be treated with respect and decency. This is equally so when each person's property is handled with respect. Therefore, the right to recognition is the right to civility, dignity, and respect; and it is through contract and exchange that happen in the community of human beings that property becomes the thing that mediates between two individuals, and by that means produces a *shared community of will* in that the two parties *will* the upkeep of the institution of property and of their own rights. The final upshot of this mediation is the moment of mutual recognition between subjects that can only be attained through the mediating object of property, contract and abstract law (Wilson 76). As soon as individual persons engage in a community of mutual and interactive recognition, the object of property functions as a medium in and through which such recognition is demonstrated, apparently and given presence as a public sign (Benhabib 172). The crime of larceny or theft, for instance, is the crackdown on the recognition of another's will in their property. Crime is abnegation or denial of right because it neglects to employ or engage in any reciprocal recognition with others (Brooks 81). So, the object of property is not a solitary or unsocial one, but a social one because another individual accredits and acknowledges the will of others in it. As Renato Cristi precisely puts it: "I am a proprietor in the presence of the will of another person" (Cristi 340). Meanwhile, as already pointed out, Hegel's philosophy of property law formalizes the right to try to acquire property without any meddling except by the state that has a higher sphere of right.

The State Power and Property Right in Hegel's Philosophy of Property Law

Despite the fact that Hegel supposes a liberal conception of the precedence of subjective rights and private property, these rights do not stretch into the political domain. With regard to private law, the status and common law jurisprudence that govern ownership claims between individuals, his conception seems modern and liberal. However, this is no longer the case when the liberal conception of private property rights borders property law, which is obliged to acknowledge the ethical precedence of the state and its unstructured and amorphous sovereign authority over property. It is very necessary to point out that Hegel's philosophy of property law aims to shield individuals from one another, but not really from the state (Siep 287; Wilson 87). The existence of momentous conflict between individual persons in the state notwithstanding, there is neither tautness nor possible/potential hostility between individual rights and the ruling power of the state, and hence, according to Siep, no shielding of individual freedoms against the state's monopoly of power. This is a determining limitation in Hegel's liberal idea. According to him, the primary inadequacy intrinsic in Hegel's *Philosophy of Right* is

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simply this failure to lay down a defense or vindication of fundamental individual rights against the state (Siep 287).

Hegel is defiant and reluctant to create the types of protections in public law that he considers essential and incumbent in the private law. The reason for this is that he finds it difficult to formally and explicitly endorse the notion that an individual property right, even the property right of a community, can trump or supersede the superior right of the monarchic state that he assumes is necessary. He believes that because there is no *exchange of equivalents* between citizens and the state, there is no contract with the state; therefore, states cannot infringe on property and property rights (Wilson, 88). Hegel unambiguously denies that a contractual relationship, the type recommended by Hobbes, Locke, Rousseau, and Fichte, exists between the citizen within a state, a kind of contract of all by all, between the citizens, individually or as a unity of different wills, and the state (Hegel §75).

In addition, Hegel refuses to accept that the state came into existence for the purpose of protecting private property, in direct opposition to the right of the sovereign and the state, where the sovereign's and the state's rights are considered as articles of contract and established on contract. He maintains this view because the last-ditch reason for the state coming into existence is not the security and the protection of property and of personal freedom (Hegel §258). The state is only assigned as a task to maintain, in unaltered condition, these rights when they are infringed by citizens to the detriment of their fellow citizens. Then again, the state is not obliged to uphold property rights. Simply put, states are not obliged to hold in high esteem this category of property rights, in Hegel's conceptual schemes.

Elaborating on this, Avineri opines that "under no condition should the state be conceived as an instrument for the preservation and defence of property, and, furthermore, the state cannot be mere executor of private, economic interests of citizens" (Avineri 85; Wilson 88). That is not the supreme end of the state. Unlike property, the existence of the state is not left to personal choice. In contrast to Locke's view that a state exists solely for the protection of property, that is not the goal of the state for Hegel, because, unlike property, the state is not optional. Resultantly, Hegel's state cannot be the product of a contract between citizens or between citizens as a collective whole and the sovereign and the government because contracts and property arise from the discretionary will of persons, as something optional, and the state cannot plunge itself into a contract with any individual because it does not possess an arbitrary will. So, the Hegelian property owner does not need to fight for acknowledgement against the state because the end of the state cannot always be as it is for Locke – the protection of property; the end of the state is the state (Dallmayr 106; Wilson 89).

Critique of Hegel's Philosophy of Property Law: Responses from Philosophers

Hegel, by incurring the rights to liberty and life from right to property, expresses his interest and anxious feeling for "bildung" – a German word which means education or formation of the individual. Some philosophers hold views that do not align exactly with Hegel.

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John Locke regards the individual's property in himself as fundamental, primary and original. He says: "Every man has a property in his own person … The labour of his body, and the work of his hands, we may say, are properly his" (Locke, *Second Treatise,* Sec. 27). Locke presumes and takes to be the case that every individual owns himself/herself as property; hence, derive property in things from property in self. Since Locke starts with the logical assertion that all individuals own their minds and bodies, he considers property as a given – it is neither a real task for the individual nor an actual problem for his legal and political philosophy. This is contrary to Hegel, who maintains that the individual's appropriation of himself, that is, his self-conscious discernment or understanding of himself as free, is neither automatic nor reflexive. It is not achieved without great effort. Consequently, much of Hegel's philosophy of property law is geared towards an effortful and laborious building-up, considering and examining the ways through which the individual can gain possession of, and property in, himself/herself. As distinct from Hegel, who stresses the contractual elements of ownership in which parties to a property transaction are, for a short time, unified in a common *will,* Locke assigns a priority to the acquisition aspect of ownership (Wilson 77).

It is actually on this note that Baruch de Spinoza affirms that reason is as much a part of natural psychology as passion, and private property is legitimized by reasonableness (Rudmin 695). For Hegel, property is the factual evidence that helps to establish the truth of man's domination of and liberation from nature and his affirmation and averment of himself as a spiritual being. From another point of view, for Karl Marx, capitalism apparently involves the domination or supremacy of nature on a historically revolutionary and progressive scale (Marx, *Communist Manifesto* 1). However, capitalism's mastery of nature also impedes liberation. It binds human beings to nature and to things. The working class, in their work, are lessened and reduced to their animal functions, their human dignity suppressed or even completely obviated (Marx, "Estranged Labour" 292; Stillman 151). Labour itself is nothing more than a means to enable the workers to "exist," never a liberating life activity of self-fulfillment. Social interactions and communications suffer the loss of their human characteristics and take on the ludicrously odd form of a relation between things (Marx, *Capital* 72). For Marx, only a few human beings liberated themselves from nature. That is why societies are determined or shaped by the play of natural forces, not made by intended or willful human action. For Hegel, the property right is the basis for the rights of the individual to life and liberty (Hegel, *Philosophy of Right* §65-66).

In contrast to Hegel, but in line with Locke, David Hume agrees that the exclusive aim of civil society is the preservation of private property. Despite anything to the contrary, Hume's arguments for this view are clearly non-Lockean. Hume's philosophical perspective on private property is more of Hobbes. For Hobbes and Hume, the human need for societal and civil life reaches its fullness with the institution of private property. This human need ensues because human beings are inclined to act and interact in reasonably predictable ways (Panichas,

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"Hume's Theory of Property", 391). David Hume recognizes the general rule that possession must be stable. So, he proposes to find a method by which human beings can distinguish what particular goods are to be ascribed to each person, while the rest are excluded from their possession and enjoyment to ensure social order and cooperation. He maintained that when society is first established, property is assigned to its first possessor. However, the real challenge, according to him, is about the rules which control the disposition of property after the society is once constituted or established. The most important of these he found in the idea of occupation, prescription, accession and succession. Here, the real influence of the Roman law on his thought is very obvious (Cairns 385). Hume defines property as a relation between a person and an object which allows him, but disallows others, the free use and possession of it, without the laws of justice and moral equity (*A Treatise on Human Nature,* 310). For him, human beings are always unwilling to leave property in suspense, even for the shortest period of time, because it can easily open doors to violence and disorder.

Hume believes in the rule that property belongs to the person who occupies or possesses it first. According to Hume, this is because if this rule is not acknowledged, there will be no good reason to ascribe or impute property to any succeeding possession. However, he quickly asks: "If property belongs to him who first possesses it, what do we mean by possession?" He immediately responds: "We are said to be in possession of anything not only when we immediately touch it, but also when we are so situated with respect to it, as to have it in our power to use it; and may move, alter, or destroy it, according to our pleasure and advantage" (Cairns 386). According to Hume, if we in any way hypothesize a condition of natural abundance and altruism – true selflessness, then the concept of ownership relations cannot arise. In other words, if Hume's hypothetical condition were real, then there would be nothing like social need for a system of property (Hume 486-487).

J. G. Fichte understands property to be, broadly speaking, something external to a person which constitutes a condition of that person being able to act freely and effectively in the sensible world (Fichte, *Foundations of Natural Right* 184; James 32). For both Fichte and Hegel, the private property system revolves around the way in which private property provides the property-holder with a concrete perception of his/her own agency, and in this manner helps him/her to establish himself/herself as a free person. Non-interference, as a fundamental element of private property, equally plays a crucial role in self-understanding whereby the individuals define, determine or specify the essential quality of themselves in relation, and in contrast, with others (Wilson 80). Fichte considers property as a right/claim stuck to labour and social equality with boundaries on ownership in order to protect and safeguard freedom; unlike Hegel, who regards property as a social institution that is essential for freedom through common and reciprocal recognition within ethical life and society.

Conclusion and Recommendation(s)

The real target of philosophers of property law should be how to strike a balance between the individual's self-interest and the common good. In *An Inquiry into the Nature and Causes of the Wealth of Nations,* the Scottish philosopher and economist, Adam Smith, who was markedly influenced by Locke, argues that human beings, in seeking their own private interests, achievements, and well-being, are often 'led by an invisible hand' to simultaneously benefit the society as a whole (Noble *et al,* 748). In other words, an individual's drive for profit benefits the entire society. This 'invisible hand' that Adam Smith considers as working through the market system operates when selling: human beings require the highest price, and when buying, they choose the lowest. Between these conflicting interests, provided that free competition exists, the 'invisible hand' finds a balance (Workman, *The New Caxton Encyclopedia,* Vol. 17, 5421). Undoubtedly, he became recognized as the champion of *laissez-faire* policy. Unlike Marx, who proposes the abolition of private property and the establishment of socialized property, Hegel links property to individuality.

Unfortunately, Hegel's theory of property law is very feeble and weak. It blenches and shrinks at the level of the state. The fact that the individual right to private property withers away at the state level indicates that such a theory is incapable of offering robust *political* rights. Hegel's fundamental conception of the state should be spurned because it is not the kind of state that adequately protects an institution of private property, as it claims to do, which, in order to protect the abstract property right against fellow citizens, should equally protect the same right against the government of the state. Finally, the individual right to private property enhances not just the development of the individual but also that of society and the state at large. The Hegelians should consider a true capitalist, democratic, and liberal type of state as an alternative to what Hegel has provided.

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