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The Dimensions of Human Action and Property

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CAUTION

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Abstract

This paper attempts to add depth to the question of property theory in the face of recent challenges, including the demise of socialism as a global ideological political force and the rise of recognition of customary property rights. It examines the dynamics of human action using a sociological/anthropological approach to review the appropriate treatment of property within society.

It begins by reviewing the accepted politico/economic categories of Left and Right in the light of historical performance in order to examine their appropriateness and efficacy for human flourishing. While both approaches to the material condition of humanity have been heralded with great promise, it is argued that neither has freed human society from misery.

The shortcoming of the Left/Right approach is located within its dependence on the methodology of modernity that necessarily discourages examination of other dimensions of human action. These are explored using an anthropological approach. It is suggested that concepts of kinship and solidarity, often given potency by cultural and spiritual beliefs, offer more promise in developing a robust theory of action for property.

KEYWORDS

Property; human action; motivation; anthropology; political economy; economic behaviour; altruism, spirituality, metaphysics

INTRODUCTION

Customary people view property in a way that integrates it into their overall culture and spirituality (Small 1997), whereas Western people tend to use it as the basis for the construction of their culture in terms that are primarily economic (Cuff, Sharrock et al. 1990). In the West, property is perceived as a bundle of positive legal rights that are politically based and valued in commercial terms (Macpherson 1978). Customary people understand property as essentially proceeding from their spirituality and valued in relational, almost familial, terms (Ezibalike 1994). When Western people are confronted with customary understandings of property they are forced to grapple with elements of culture that they usually keep quite distinct from property.

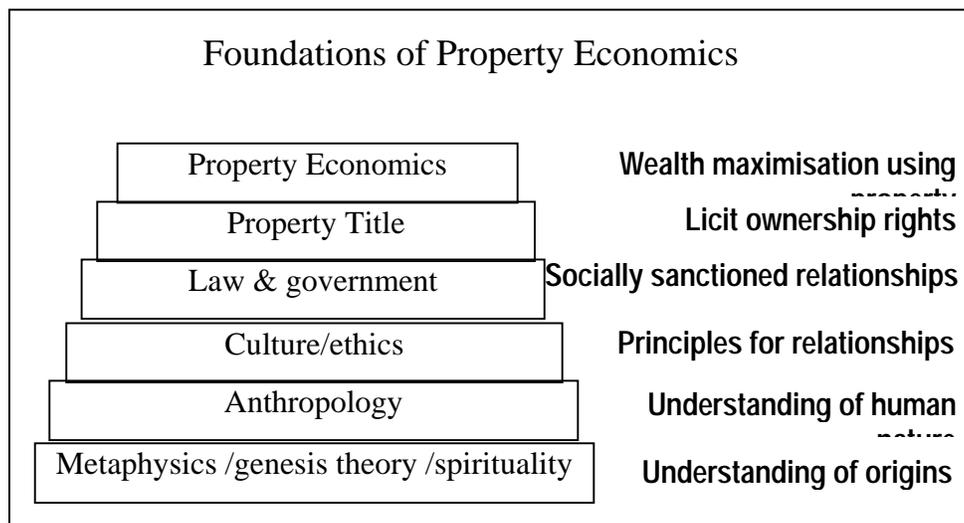
Property, to the Western mind, is the basis of commerce, and commerce is the material support for all the other institutions that comprise culture. Smith established the Western understanding of property as an arbitrary institution visible only as those conventions regarding ownership that are upheld by the power of the state (Smith 1778/1910). On this basis, property has no necessary connection with other cultural forces, beyond the chance historical events that may have contributed to its current form.

The purpose of this paper is to locate property more completely within the realm of human social action. To do this the dominant dimensions of human action will be unpacked and these will be used to develop a framework for understanding property within Western and customary cultures. It is argued that while Western people stress institutional issues regarding property, these only comprise one limited dimension of human action and the position rests on unstated assumptions regarding other critical issues. The paper attempts to demonstrate the importance of these other dimensions of human action that impact on property to provide a better-balanced analytical perspective suitable for exploring property outside of Western modernity.

THE FOUNDATIONS OF PROPERTY ECONOMICS

Property economics can be considered to be the study of how to use property most profitably. Implicit in its parameters is the concept of property. To the Western mind this is a statement of the obvious, but the concept of property becomes problematic when it is exported to other cultures. The positive concept of property is grounded on the set of private rights that the state will uphold regarding property using the force of law. Property therefore has as its foundation the system of law and government that prevails in a particular society. Property, law and government may be considered to comprise the public institutions of a society. While property rests on the legal/governmental framework, the latter is not the ultimate origin of human action.

Figure 1



The primary sources of English law are statute and common law precedent; both have a single origin. Common law is the crystallisation into law of the ethical position of the common person (Devlin 1965). Statute law is the determination of the government enshrined in positive acts that acquire the force of law through the authority of the government. In a democracy, the government takes its authority from the free choice of the people who elect representatives who will legislate in accordance with their opinions regarding management of the society. This means that the people vote for representatives who will act according to their cultural and ethical values. In both

common law and democratic government enacting statute, the ultimate sources of action are the cultural and ethical values of the people.

Cultural and ethical values vary substantially between various societies. Their origins may be traced to many sources, but the dominant immediate foundation is the theory of human nature that dominates in that society. Every person carries an implicit theory of what other people are like, and how they should be related to, this theory is sometimes called an anthropology. A person's theory of what others are like determines whether others should be trusted or not, whether they should be respected or not, even whether they should be exploited or not. An individual's anthropology may include differing categories of others to whom differing approaches are appropriate. In many cultures, the treatment of blood relatives is different to outsiders, in some outsiders are treated in a different way on the basis of religion, physical appearance, or race. Often, outsiders are treated worse than insiders, but in many cases the individual takes licence with insiders while showing greater respect to outsiders. For example in some customary cultures, personal property is only loosely upheld within the tribe or clan, while great respect is shown to Westerners. The point is that culture and ethics, even when they appear to be linked to tradition or other sources, are proximately grounded on the individual's anthropology, especially as this is corporately shared across a society.

An anthropology may be adapted from a society's traditions by the individual, but it is still ultimately grounded on more fundamental issues. Most customary cultures are very conscious that their ways of life are ultimately grounded on their origins. Discussion of property invariably includes discussion of spirituality. Spirituality includes a story of creation, of the origin of the land and the people and a relationship between the creator and the people. The beliefs of a people regarding their origins forms both the basis of their anthropology and the basis of their understanding of property. In philosophy, the study of the origins of existence is metaphysics. In the Western tradition metaphysics does not necessarily include theology, although it often intersects with it (Johnson 1995).

The beliefs of a people, or and individual regarding the origin of things does not have a basis in any other aspect of human understanding. Aristotle held that metaphysics was the first science, the beginnings of understanding upon which all other understanding, all the other sciences, were built. The case of customary people and their relationship to land is no more than a specific illustration of Aristotle's position.

This means that property economics may be considered to stand on an ordered set of foundations that reach back to the very basis of human reason and belief. This may be illustrated as shown in Figure 1. This set of foundations can be seen to influence human action at various levels. It is highly culturally specific. Using it the various dimensions of human action can be examined and the interrelationship between Western and non-Western cultures can be explored.

PROPERTY AND CULTURE

Marx focused on the fundamental nature of economic relations in the construction of a culture and described society as consisting of an economic base upon which all other cultural institutions were built. The economic base/superstructure model of society is probably a fair construction of human society, if existence is assumed to be no more than material. It is consistent with the Enlightenment view of the world and humanity. The Enlightenment viewed all social institutions as arbitrary and lauded human freedom their only licit origin (Hume 1777/ 1975; Smith 1778/1910). The pre-eminence of freedom in Enlightenment thought meant that no appeal could be made to normative ethical values or religious directives in framing social institutions unless they were generally accepted. Community opinion and practice is the ultimate reference point.

While this approach has the capacity to deliver ethically sound and even religiously inspired outcomes, they remain subject to the veto of human opinion. That is, human preference is the highest authority. This position has become a foundation piece of modern democratic thought, though in practice, it means the human preference of those with effective political power.

Following Smith's notion that property is the outcome of a purely positive¹ statutory situation, it is easy to recognise that property in Western thought is closely connected with other manifestations of government, all of which are ultimately the result of arbitrary expressions of human preference. The advantage of this position is that it has the power to accommodate a range of diverse values within a single society on the assumption that public dialogue, common sense and democratic government will combine to bring to the fore the best available choice for government at a particular time.

Implicitly, the Western theory of government also relies on commonly held views regarding a number of other important issues. These include:

- i. The assumption that political power finds its zenith in the democratically elected body of representatives that comprises government.
- ii. The assumption that those who control effective political power will use it for what is best for society when making political decisions.
- iii. The assumption that society is an association of independent free individuals who recognise the benefits of co-operative social organisation.
- iv. The assumption that there does not exist an objective knowable set of principles that could be used as a basis for any society's ethical scheme, or public policy.
- v. The assumption that spiritual/religious beliefs should be relegated to the private forum as a personal subjective influence over the individual of dubious merit for the formation of public policy.
- vi. The assumption that people are primarily responsible for themselves alone and that there are minimal necessary obligations to the *other* in relationship, beyond what is sanctioned by public policy (statute).

These assumptions constitute a theory of human nature and social relationship. Such a theory can be referred to as an *anthropology*. This one is correctly termed the *Enlightenment anthropology*, or more generally, the *modern anthropology*. A person's theory of the nature of those others in society determines in large measure the person's personal choices in dealing with others in society. That is to say, it is sufficient as a basis for an ethic. This is quite independent of the coercive influence of government.

Strictly speaking, property is not necessarily directly influenced by the dominant anthropological theory of a society, though it may well be indirectly affected. A person's anthropological beliefs will influence that person's exercise of political power when it comes to determining the nature of property, just as it influences the direction of other aspects of public policy. Hence, if the person believes that human relations are not governed by spiritual beliefs, that person will not support legislation inspired by the teachings of Christianity, Islam or other religious traditions. On the other hand, if the person believes that humans have an obligation to future generations, who by nature are currently politically powerless, that person may support controls on property, such as environmental limitations.

¹ Positive in this context means *arbitrary*.

A particular anthropology does not necessarily translate into a single system of public policy. Rather, it provides underlying principles that particular policy formulations must embody that may lead to very different institutional outcomes. Nowhere is this more apparent than in the case of religious sentiment and governmental organisation. Historically, both Whig and Tory extremes of British politics espoused Christian foundations. Today the US Republican party tends to be overtly Christian; while in Australia at the other ideological pole the Australian Labor Party has long links with Irish Catholics.

Likewise, the Enlightenment anthropology has given rise to two diametrically opposed property institutions, those of liberal capitalism and communist socialism. Both embody Enlightenment liberalism, though that liberalism itself manifests as foundation of the two polar extremes. British liberalism is associated with liberal capitalism while American liberalism is associated with left wing ideology. As a result, it is common for the Western mind to try to locate others somewhere on a continuum between these commonly accepted extremes. People are usually evaluated as either politically left or right, socialist or free market, big government or small government. The Leftist, socialist, statist person is assumed to be suspicious of private property, while the right wing, liberal capitalist will pursue private property as a vital component of the liberal capitalist panacea for all economic, and most social, problems.

In this way, there are two identifiable dimensions of human action, the more apparent one is the institutional, or political dimension, while the more fundamental is the anthropological dimension. For each choice of a theory of the human person (anthropology), there is a potential range of choices of public institutions. This overcomes the modern limitation of trying to condense political possibilities to the narrow line between the political left and right. Left and right, as understood by Western minds, are not meaningful for people who accept a different anthropology. Likewise, it is improper to attempt to use these categories to interpret the institutions of non-Western people in terms that operate within an entirely different anthropology.

This means that the ideological categories of Left and Right that are familiar in the West are not applicable to societies that are based on a different understanding of the human person, even though they may display empirical resemblances to comparable Western institutions. It is well known that customary people generally hold property on a communal basis, but this definitely does not mean that they are all socialists. Likewise, economic historians have long debated whether property in ancient Greece was private or not. On one hand it belonged to individual families for their private benefit with the family head as the recognised private owner, while on the other, individuals within families had very limited personal rights to it. The correct conclusion is that property in ancient Greece lay outside the range of possibilities available to Western modernity.

Given the number of possible distinct anthropologies, including the various customary peoples, several Christian, a number of other major world religions and their variants, as well as the secular Enlightenment² modern perspective, a plurality of political/economic systems is possible. Comparisons between these may not be straightforward, despite apparent similarities. Since Western people tend to give preference to measurable apparent issues, it is the institutional dimension that is emphasised in Western thought. By contrast, indigenous peoples tend to stress the importance of tribal/community values, that is, their anthropological position. The fact that these two groups tend to give prominence to entirely different dimensions in human action may

² While many Christians may be comfortable with the major tenants of Enlightenment anthropology, strictly speaking, the Christian position cannot accept that spiritual belief is subjective only with no capacity to inform public policy. Other religious positions are more set on the matter.

be one of the important factors that serve to block effective intercultural communication. This is especially apparent in the area of the customary title debate.

Enlightenment anthropology assumes a material, self-interested, individualistic notion of humanity, whereas customary peoples tend to understand humanity in terms of connectedness through family and clan bonds, where the person exists to contribute to the flourishing of the community, be it family, tribe, or nation. Some Western people adopt anthropologies inspired from different sources. The Enlightenment anthropology has spawned a variety of others, such as those of Hegel and Marx, while it was itself largely developed from the Protestant Christian anthropology initiated by Luther and Calvin. (Weber 1974) demonstrated how that position facilitated a particular political/economic outlook that was given a philosophical grounding in the eighteenth century. A distinct concept of the human person, also linked to Christian tradition is found in Catholic social thought. This anthropology has links to the earliest of Christian thought, though it tends to be most accessible within a series of papal encyclicals spanning the last century known as the social teachings of the Church. Contemporary Western culture therefore consists of a plurality of positions regarding the nature of the person. A number of distinct anthropologies may also be identified within non-Western peoples, providing a great variety of possibilities.

The Western dichotomy of capitalist/socialist begins to look very limited when it is recognised that it only strictly applies within the Enlightenment anthropology. The institution of property is intimately connected within this question of the universality of the private/common capitalist/socialist dichotomy of political/economic systems. Within some anthropologies, institutional systems can develop that display superficial similarity to the institutions of property found in modernity. Mainland Australian aboriginal land ownership could be interpreted as communal, or if pressed, socialist. Murray Island customary land ownership could be interpreted as private. Eddie Mabo's claim to his land was on the basis that he could identify its boundaries and demonstrate how his family had continuous connection to it within a socially sanctioned land ownership system. However, Eddie Mabo would be appalled to have his title considered as private property in the capitalist sense and mainland aboriginals would not consider themselves as socialists. Customary property may appear to resemble the private property of capitalism or the collective property of socialism, but to draw those conclusions is to ignore much of the dynamic of customary culture and its institutions. Neither group cited use their property in ways that parallel the respective Western institutions.

European feudalism is another instance of property that does not fit neatly into the modern dichotomy. In one sense it was private property, but only for the king. In another, it was collective property for the king as caretaker. Much depended on the ethical character of the king, but the system itself had qualities of both private and social property, open to the potential benefits and shortcomings of both. European feudalism flourished within a particular version of Christianity and tended to abate as that cultural perspective was superseded. Much depended on the ethical stamina of those in positions of power.

An individual's theory of humanity and society will influence personal behaviour directly. The majority of human action is not determined by government sanction, but by personal choice. The decision to greet someone or not, and the decision to set a tender price as high as the market will bear or as low as will cover normal costs are only two examples of the multitude of human exchanges that are not determined by public policy. Thus, the anthropology adopted impacts on our confidence and comfort in dealing with others and underpins our ethical and social profile. The challenge in sales is to convey an aura of trustworthiness while not neglecting the necessity to close clients and an appropriate price. Trust infers that the person expects that the other will act in a way that holds the person's best interests in high regard even if it is not in the other's self-interest to do so. It means that the other is expected to exercise a degree of self-restraint.

Enlightenment anthropology has had a long history of difficulty with trust. Human history bristles with instances of humans acting in antisocial ways. It led to Hobbes concluding that humans were naturally warlike. He posited a rational calculus made within every person to accept the yoke of civilisation, not due to its latent attraction, but as a strategy for participating in the superior level of welfare that it provided. Rousseau reversed Hobbes's pessimistic appraisal of human nature and laid the blame for human frailty at the feet of society. In his view, people were born virtuous, but quickly learned anti-social traits from social contact. Rousseau's solution was to free people as far as possible from the influence of social traditions and values to let people make their own choices. The result or course was anarchy, but it is a view that is still popularly received.

Three sources appear to be available for trust and related habits. The most obvious is tradition, the most persistent are family bonds, the third is religion and the last is reason. None of these appear to be totally reliable. Zimmerman (1947) demonstrated that the rise and fall of cultures are linked to changes in the nature of the family suggesting that there is a recurrent sociological trajectory that links values pertaining to family and tradition to cultural growth and decline. Some cultures hold traditions, such as cannibalism, that are generally considered faulty. Family bonds usually work well within the family, but say little for the treatment of outsiders. Some religions, such as the Hindu cult of Kali, recommend treatment of others that is suspect. Every anti-social act done by a sane person demonstrates the folly of relying on the human reason of another to cause that person to be trustworthy. This is doubly apparent when the antisocial acts are also illegal. To isolate human reason is difficult since all sane people believe that their actions are the result of reason, even if their premises are dominated by elements of tradition, family, or religion. The only instance of pure reason is philosophy and it is a major first task of philosophy to establish the degree to which it can operate independent of tradition, family and theology. Even within philosophy there are many schools, most built on well-recognised logical or factual flaws and many are transparently little more than instrumental techniques for achieving what would otherwise be unacceptable ethical outcomes. Despite this, Enlightenment thought was over-sensitive to the shortcomings of the first three but over optimistic about reason. It has no formal place for tradition, family, or religion, only human reason.

Each of these four factors could also be taken as further dimensions of human action in their own right. While they inform a person's anthropology, they also directly govern human action in their own realms. For the present purpose, only religion, or spirituality, will be considered. Religion, or spirituality, is distinct in that it relates to transcendent realities and is commonly cited by customary peoples when discussing property. On the other hand, tradition could be considered as no more than a conglomeration of historical forces, and family bonds could be dismissed as moderately self-evident. Finally, reason has been discussed as a common factor in all human deliberation, so it ceases to be an active dimension, given that only rational behaviour is being examined.

The spiritual dimension deals with the non-material in a way that affects human action. It also makes an important contribution to the human understanding of property. A person's spirituality impacts on action regarding property in two ways. Firstly, it informs the problem of the root of title to land and secondly, it informs the question of the nature of humanity and its ethical parameters.

The major problem with the notion of property is that it cannot be attributed to an intelligent producer in the way that personal property (e.g. Intellectual property) is. Most religions include a **genesis story** that attributes the creation of the world to the personal action of some spiritual being. Philosophically this is a necessary conclusion since all material things are contingent, they are the product of other material things and forces, but the regress of causality cannot be infinite amongst material things. There must exist a being whose nature is not contingent and who is

capable of giving being to things that would otherwise be non-beings. That is, there must exist at least one non-material being that is capable of creating the material things that comprise our world. In some traditions there are many such spiritual beings, on others there is only one. The important thing for property is that land property naturally is owned by its creator/s. If the creator/s have some intelligible relationship with human society, then land property will feature as part of that relationship. Most customary peoples adopt spiritualities that explain the origin of their land property and set out principles for its licit administration (Small 1997).

In most spiritualities the relationship between the spiritual beings and humanity is social. The spiritual beings take an interest in human action, usually they offer direction to humanity, hear their supplications, offer support but sometimes also punishment. In terms of direction, the spiritual beings tend to provide both general principles for moral action and in some cases specific guidelines for public policy. Christianity, Islam, Judaism and customary religions all have direction regarding the institution of property. They also convey notions of humanity that contribute to the distinctive anthropologies of the various spiritualities. Thus, in Christianity, humanity is understood to be a single family under a single loving spiritual Father, whereas under Islam the headship relation is more in terms of submission to the will of Allah which includes a moral code that determines relations between Moslems as well as the treatment of non-Moslems. Customary spiritualities often place the creator spirit/s as the head of the tribe in a way that distinguishes between moral duties to tribe members and duties to outsiders.

Many possible spiritualities exist, though three deserve attention. Most religions assert that they exist to serve what could be called a positive deity, or deities. By positive is meant that the deities value goodness as commonly understood and shun evil. Conversely, some deities relate to humanity as angry and vengeful beings that demand sacrifice and rule through fear. Conceptually, the anthropologies, ethics and eventually the institutions pertaining to property will differ between these two. A positive deity could be expected to encourage charitable relations between persons that could be manifest in the responsibilities of property. In Islam, property wealth is expected to be used in part for charitable purposes, such as alms giving (Nomani and Rahnema 1994). Christianity has similar traditions (Ederer 1995)³. Most customary peoples link their cultural commitment to the material welfare of their people through the use of their land property to their spirituality. In this way, the spiritual dimension provides a direct influence on human action, even regarding property.

It must be recognised that not all spiritualities are equal. Some are more or less worthy of serious faith and there are a great variety of precepts for action that flow from them. Some spiritualities are conspicuously negative, at least in a general overall assessment. The Indian Thuggies, who served the Hindu god Kali, practiced murder and violence as religious observance. Other examples include the Ancient people of Carthage and the Aztecs. The point here is that these spiritualities operated on relations between people that are generally repugnant, utilising fear, violence and oppression. The possibility exists that spiritualities such as these, if they included links to property, could be expected to promote the use of property for exploitation and injustice.

The third group within the spirituality dimension is the atheist or materialist spirituality. While this may not be a spirituality strictly speaking, it has the same impact as a spirituality and is what is referred to in sociology as a functional equivalent to religion. The atheist believe that there is a no extra-material cause to the material universe and its existence is simply a given that will eventually be explained using physical laws. This frees the atheist from any essential ethical obligation regarding property and can be seen as underpinning the theories of property from Smith's Enlightenment perspective onwards. Property has been moving in this direction in the

³ See also (Aquinas 1981) on private property.

West for half a millennia and it has given rise to the modern possibilities of both communism and capitalism. Both of these have enjoyed both limited success and failure.

Given that historical choices regarding spirituality have had varied results, conclusions regarding the most useful spirituality for effective administration of property may be appropriate. This may require a revisiting of the objects of economics. If economics is about achieving the best material outcome for a society, then this objective is broadly comparable to the asserted goals of many positive spiritualities. As it is, customary people are being prompted to abandon the material precepts of their spiritualities on the basis that it will return them a superior material outcome. Obviously, these questions require careful consideration of exactly what constitutes optimum material outcomes and what other values should be considered.

CONCLUSION

The way forward in property is to broaden the perspective of analysis beyond the limited perspective of property institutions as lying somewhere on a continuum between ideological the Left and Right. This paper has argued that in addition to the ideological dimension that governs public institutions familiar in Western thought there are several other dimensions to human action that impact on property. In particular, these include the anthropological dimension and the spiritual dimensions that have been discussed here.

It has been shown that the institutional dimension rests on the choice of anthropology that in turn relies on spiritual beliefs, even when these beliefs are that there is no spirituality. To understand property, especially as it exists and is practiced in various cultures requires due recognition of these other dimensions. In particular, in discussions regarding customary title, more emphasis may be warranted on these other dimensions.

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