

The Concept of Property Law in G. W. F. Hegel's Legal Theory

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Abstract

For Hegel, property is essential for an individual to experience freedom as a person and for the existence of ethical life within a society. The objective of this study is to examine the concept of property law in Hegel's legal theory. The problem that warrants this investigation is that Hegel's property right theory is very robust and strong against fellow citizens but shrinks and fades away at the level of the state. The method of this study is analysis. Research findings reveal that for Hegel, unlike Locke, the significant end of the state does not consist categorically in the protection of property: the end of the state is the state. So, private property may be subordinated by a higher domain of right – the state. In conclusion, this study submits that Hegel's fundamental conception of the state should be cast aside because it is not the kind of state that fully preserves 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; heedful of the fact that the main purpose of the judiciary is to protect individual rights of those who come before the court against whosoever, including the government/state.

Keywords: Right; Individuality; Personhood; Property; Recognition; Subjectivity.

Introduction

Philosophical perspectives on property date back to the ancient times. Pythagoras and Plato recommend communalistic property rights because private ownership of property is regarded to be socially divisive and against the transcendental development of the individual. For Plato particularly, communal ownership of property engenders the best social order (Rudmin, "Property," in *Philosophy of Law: An Encyclopedia* 695). For Aristotle, private property is natural to man, arising from unconditioned self-interest; it boosts economic activities, moral development, and social concord. Thomas Hobbes maintains that the condition of human

beings in the state of nature must have caused them to abandon common property right to everything and to admit private property safeguarded by civil power. For Hegel, "property is to be regarded not simply as an economic category or the outcome of utilitarian calculus; not only as a result of labour or convention; not purely as a necessity for social stability or diversity" (Stillman, "Property, Freedom, and Individuality in Hegel's and Political Thought" 133). It is really more than all these.

For him, property is a *sine qua non* for the self-realization of personality. It is a philosophical and political requisite, fundamental for the development of humans as rational beings. Property is the minimal condition for every individual person to recognise himself or herself as free. To claim something as one's own is simply to make evident of one's will in the objective world. This will needs 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 producing positive changes in the world's circumstances. This action, as shown in the uses one makes of one's property/possession, individualizes the will, and sets oneself apart as a distinctly rational being in the world of possibilities (Blumenfeld 79-80).

The Concept of Property Law in General

Property law is the law that governs the rights and ownership associated with property of whatever kind. Property law is fashioned with the intention to regulate the relation of persons to property, thereby, offering 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 or conveyancing (Duru 1). It involves various forms of property ownership, including sole ownership; joint tenancy; community property; and so on. The cardinal rights with regard to property law include the right to utilise, exclude others, possess, and transfer property. Property law is very vital in bringing to an end or deciding conflicts and disagreements over property related issues. The purpose of property law is to offer security in acquisition, enjoyment, and disposal of property.

There are two types of property: *real property* and *personal property*. A good number of the legal concepts and rules associated with both types of property are deduced from English Common Law. Modern law has integrated many of these concepts and rules into statutes, which now give definitions to the types and rights of ownership in real and personal property. *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*, on the other hand, is land and normally anything erected on, affixed to, or growing on it, including buildings and crops. Real property is equally used to state emphatically and authoritatively any rights that come forth from the ownership of land. The term *real estate* and *real property* more often than not has to do with land. The term *land*, in its encompassing parlance, involves not only the face of the earth, but also all things of a perpetual, permanent and enduring nature over or under it, not excluding oil, gases, and minerals. Also, the word *premises*, in modern utilization, has come to connote the land itself or the land with all constructions/structures being joined in close association. Even residential buildings and yards are normally regarded as premises ("Property Law," *Gale Encyclopedia of American Law* 160).

The difference that exists between real property and personal property is normally not difficult to detect. However, the character of property can be changed in order to improve or make fitter for a particular purpose. Property that is *ab initio* personal in nature becomes part of realty by being annexed to it, for instance, when rails are turned into a fence on land. However, in certain circumstances, the intention or agreement of the parties involved determines whether property already annexed keeps on its character as personal property. For instance, a landlord and tenant may agree that the new lighting fixture the tenant attaches to the wall of the corridor of his dwelling stays on as the tenant's property even after the expiry or termination of the lease (*Gale Encyclopedia of American Law* 160-161). Furthermore, property may be classified as either *private* or *public*. Private property belongs to one or more persons. Public property, on the other hand, is owned by the entire nation, state, or political subdivision. In addition, personal property can be divided into two main categories: *tangible* and *intangible*. Tangible property includes such items as animals, jewelry, and merchandise. Intangible property includes such entities as bonds, patents, stocks, and copyrights (*Gale Encyclopedia of American Law* 161).

Property for Personhood in Hegel's Philosophy of Property Law

Hegel's philosophy of property law, which is founded on the notion of personhood/personality, sprang up 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 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. These principles necessitate that everything external and capable of being put to a practical and profitable use have 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 in thus putting usable and profitable objects out of all possibility of use (Glockner 79; Cairns 517). Fichte transmutes this Hegel's idea into the doctrine that beings are free completely 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 attained its supreme level of edification and uplifting enlightenment. In order to subsist as an idea, the freedom of a person should have to be substantiated 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). Unlike Locke, who simplifies ownership as the "mixing" of self-ownership and labour upon antecedently un-owned things, 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 based on the idea of personhood, Alan Patten points out 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 actually 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, 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 resultant effects of their actions. All these phenomena need at least two persons for their accomplishment. When they are lacking, 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 circumstances, desires, and situations. It is the 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.

So, for Hegel, property is directly bound or trussed 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 imprescriptible. 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 opines, that unambiguously and uniquely permits persons to properly make use of their culture and education as stuff or material with which they build up their personalities as free subjects. Therefore, from this perspective, according to Hegel, personality is not innate. It is not given *a priori*. It is not based on hypothesis or 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 attainable when we first of all will our possession over our own lives and bodies, and then over other external things (Hegel §47). Hegel 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).

Subjectivity: Its Mediation and Recognition

In its real sense, personality calls for property in order to show-case its particularity to all. By coming into possession of the desired 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 materialised 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. With this in mind, Hegel stresses that "a person, in distinguishing himself from himself, relates himself to *another person*, and indeed it is only as owners of property that the two have existence (*Dasein*) for each other.

Therefore, "*identity in themselves* takes on existence (*Existenz*) though the transference of the property of the one 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 to then 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 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. As distinct from Locke's, 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 crucial constituent of self-consciousness (Knowles 49); "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 and beyond all other considerations, every person desires to be treated with respect. This is equally so when each person's property is handled with respect. Therefore, the right to recognition is the right to civility – the act of showing regard to others, 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 particular point in time of mutual recognition between subjects that can only be attained through the mediating

object of property, contract and abstract law (Schroeder, 1998, 19). 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, made apparent 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 disaffirmation or abnegation of right because it neglects to employ any reciprocal recognition with others (Brooks 81). So, the object of property is a social one because another individual accredits and acknowledges the will of others in it. As Renato Cristi succinctly put it: "I am a proprietor in the presence of the will of another person" ("Hegel on Property and Recognition" 340).

Property as Man's Domination of Nature: Hegel's Arguments

For Hegel, in property, the individual person asserts and proves the domination of man over nature. By owning property, man declares or affirms 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 thus, as things, into that which can be appropriated by man (Hegel §42). Therefore, property is a ceaselessly 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 averment, the individual equally extends the limits of his will with regard to his action and, thereby, exerts influence on his environments. The number of property a person possesses are his means of controlling and shaping nature in order to affect, develop, 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 transmutes 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, not excluding human will in objective spirit, transmutes 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 reason" because the will and spirit have amply permeated the world, in property and in other means and, therefore, made the world rational, demolished its strangeness/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 essential for man to live his social life as a social being.

Hegel's Abstract Right as Emanating from Social Life

Hegel employs the concept of abstract right to ascertain the category of human actions that are essential for freedom. He reasons out that human freedom is only possible if individual persons can own and transpose property devoid of substantial limitations. For the reason that abstract right must be concretized, specific, and contextualized by custom and social life, the abstract property and contract right is then formed by morality and ethical life, neither of which entirely contain or include Hegel's persistence that freedom is embodied in the right to gratify the human will through accordant, agreeable and free ownership/transfer of property. In "Property, Freedom, and Individuality in Hegel and Marx Political Thought," Peter G. Stillman argues 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 without any social control by domination or compulsion. The transfer of property under abstract right is done freely by the individuals involved, and the right to freely carry out these particular actions is crucial to any conception of social freedom (206).

In its simplest definition, abstract property right is the basic or primary rights that remains after all other socio-cultural contingencies have been "taken away". It is the right that must remain in order to maintain an individual's freedom. It has to be in place if the society is to advance and encourage freedom. Seen from this perspective, property rights are the logical upshot of an ethical society inhabited by moral beings who are rights holders and self-insufficient gregariously living together. So, abstract property right presupposes institutions for its own realization, and can equally be circumscribed by those institutions, basically by the state's own capacity for action (Siep 278). It should always be borne in mind that the institutions which regulates and shields 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 render support to abstract personality in its effort to become real, existent or something concrete. Therefore, in the absence of moral thoughtfulness and an ethical community, the abstract right is hollow, vacuous and devoid of significance or force – holding or containing nothing (Quante 278).

Therefore, in Hegel's concept of abstract right, free will is a kind of freedom lacking completeness if the free will does not 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 points out that abstract right is limited to the negative – *not to violate* personality and what results from personality. There is no doubt that property is what results from personality, hence, abstract right at first constitutes a duty not to interpose 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 it validates the right to try to acquire property without any interference (Wilson 83; Quante 278); except the higher sphere of right – the state.

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

In spite of the fact that Hegel conjectures a liberal conception of the precedence of subjective rights and private property, these rights do not stretch out 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 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 latent hostility between individual right and the ruling power of the state, and hence, for Siep, no shielding of individual freedoms against the state's monopoly of power. This is a determinant limitation in Hegel's liberal idea. According to him, the primary inadequacy intrinsic in Hegel's *Philosophy of Right* is simply this inability 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 a 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 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 infract property and property rights (Wilson, 88). Hegel, in an explicit manner, 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 founded on contract. He upholds 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. On the other hand, the state is not obliged to maintain property rights. Simply put, states are not obliged to hold in high esteem this category of property right, in Hegel's conceptual schemes.

Lucubrating on this, Avineri avers 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. The state is not something 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 needs not to fight

for acknowledgement against the state because the end of the state is state, not the protection of property (Dallmayr 106; Wilson 89).

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

Hegel, by obtaining the rights to liberty and life from right to property, he expresses his interest and anxious feeling for "bildung" – a German word which means education or formation - of the individual. John Locke maintains the individual's property in himself as primary, underived and original. According to him, "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, not really as a task for the individual nor as a problem to 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 achieved hands-down, without great effort. Consequently, much of Hegel's philosophy of property law is geared towards a laborious building-up, considering and examining the ways through which the individual can gain possession of, and property in, himself/herself.

It is actually on this note that Baruch de Spinoza insists 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. For Karl Marx, on the other hand, capitalism apparently involves the domination or supremacy of nature on a historically revolutionary and progressive scale (Marx, *Communist Manifesto* 1). However, capitalism mastery of nature also hinders 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 entirely eliminated (Marx, "Estranged Labour" 292; Stillman 151). Labour itself is nothing more than a means to enable the workers to exit, 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). Surely, for Marx, so little have human beings freed themselves from nature that all existing societies are ascertained 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).

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 of violence and disorder.

Therefore, 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).

J. G. Fichte conceives 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 offers the individual 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 an essential element of private property, equally plays a crucial role in self-understanding whereby the individuals define 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 very crucial for freedom through common and reciprocal acknowledgement within ethical life and the society.

Conclusion and Recommendation (s)

Where does this really take us to? Are property relations laws for preserving the total societal economic output or are they norms for guaranteeing individual coexistence according autonomy and non-interference? The target of philosophers of property law should be how to strike an equipoise between the individual's self-interest and the common good. The Scottish philosopher and economist, Adam Smith, who was greatly influenced by John Locke, argues that “human beings, in seeking their own achievements and well-being, are often 'led by an invincible hand' to simultaneously benefit the society as a whole” (Smith, *Enquiry into the Nature and Causes of Wealth of Nations* 17-18; Noble et al, *Western Civilization: The Continuing Experiment* 748). Unlike Marx, who proposes the abolition of private property and establishment of socialized ones; Hegel ties property to individuality. Very regrettably, Hegel's theory of property law is weak. It melts at the level of the state. The fact that individual right to private property fades away at the state level implies that such theory cannot offer strong *political* rights. Hegel's fundamental conception of the state should be jilted because it is not the kind of state that fully preserves an institution of private property 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, individual right should trump every other goal to which it is in conflict, including that of the state and government. The Hegelians should consider a true liberal, democratic, and capitalist type of state as an alternate or substitute to what Hegel has offered.

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