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Property Rights Theory - A Survey
of Recent Literature

by

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PROPERTY RIGHTS THEORY: A SURVEY OF RECENT LITERATURE

INTRODUCTION

'Property' in a legal sense, consists not of objects but rather of "man's rights with respect to material objects". (Reinold Noyes 1936 p 353). The nature of property ownership and what have come to known as property rights has long been both a practical and theoretical issue. Theorists and philosophers suggest variations in property rights create "better societies". Claims or rights to property, especially private property, have variously been conceived historically; as theft or bounty, as a reward for mixing one's labour with soil, as source of economic power or repression, as a vehicle for transgenerational retention of status and rank, as a natural institution waiting autogenetically to appear, as the sin-quo-non institution to permit efficient allocation of scarce means among alternative ends, as an indicator whose interest really matter, and as a legally specified range of choices over the use of an item.

The crucial difference among various schools of thought is the way in which they justify and structure property rights. The approaches range from various forms of anarchism to strict state ownership, from the property rights held in common to private property rights. The nature of this system of property rights influences the relationships between individuals and between individuals and social groups.

Property rights as a theme of research has enjoyed a reemergence particularly in the hands of main-stream economists

from the early sixties of this century. The main thrust of this group of economists is to extend the scope of the conventional theory of production and exchange. The founding fathers of this approach especially Alchian, focussed the property rights problem, as the root cause of a range of economic problems. To him, the economic system in any society is defined by its property rights (Steven Cheung 1987, p.76). The term **property** and has been equated with private property /competition for the scarce resources is implied and the use of price as a criterion is inherent in private property rights. But the role of price as criterion is secondary to that of allocation of property rights in this scheme of analysis. Cheung, quotes Alchian that, "[i]n essence.....economics is the study of property rights over scarce resources..... The allocation of resources in a society is the assignment of property rights over scarce resources.....the question of economics, or of how prices should be determined, is the question of how property rights should be determined and exchanged and on what terms." (Cheung 1987. p76). On this line of argument a significant body of literature has grown, suggesting that 'property rights analysis' is to be incorporated into main-stream economic analysis and given serious attention. In a series of papers, Buchchanan, J.M; Coase, R.H; and Stubblebine, W.C; focussed on property rights as the root cause of a range of economic problems [Buchchanan, J.M (1959), Coase, R.H (1960), Buchchanan and Stubblebine (1962)]. The body of literature developed in this area is quite diverse in style and content. All the same the thrust is to supplement the classical marginalism towards developing a single analytical

framework to the theory of production and exchange. The property rights theory begins with the presumption that modifications must be made in the conventional analytical framework if economic models of wider applicability are to be developed. To solve the problem of resource allocation and the related goals for instance, efficiency; the common emphasis is on the interconnectedness of ownership rights, incentives and economic behaviour. Alan Ryan (1987) points out that 'property rights are as fundamental to economics as rationality and scarcity to this school of thought (Alan Ryan 1987. p1029). To sum up in the words of Hans Nutzinger the new property rights school claims that the economics of property rights is:

- "one of the most important advances in economic thinking that has occurred in the post-war period" (Furubotn/Pejovich, 1974 XV), but it also provides in particular the following improvement in knowledge:

- the standard model of production and exchange is generalised by considering the interrelationship between legal ownership rights, incentive systems and economic behaviour.

- in doing so, the property rights analysis does not only explain human behaviour under given alternative structures of property rights, but moreover their development of property rights itself.

- finally, the economics of property rights provides a general foundation of organisation theory by explaining structure and performance of enterprises (and other type of organisations) from the interactions among the utility-maximising members of those organisations.

Nutzinger (1982, p 81)

To sum up, the standard theory of production and exchange is generalised by considering the interrelationship between legal

rights of ownership, incentive system and economic behaviour.

This paper attempts to make a critique of the method and approach of the main-stream economic analysis of property rights and its claim while doing so.

THE CONCEPT OF PROPERTY

Andrew Reev (1986) while ^{quoting} Frank Snare's article 'The Concept of Property' (1972), sets out to tell us what is involved in the ordinary language of the term. He claims that in ordinary language 'property and ownership' are interchangeable. For this claim, Snare is correct in the sense that in many cases a contemporary statement about ownership can be translated into a statement of property and vice versa, without confusion. But Snare's claim that property and ownership are interchangeable in ordinary talk does not entail that they are interchangeable in legal thinking, even if they are synonymous. One reason used in this context is that rights in rem and in personam. Rights in rem and in personam are respectively rights conceived primarily as existing because of a relation between a person or thing, and rights conceived primarily as existing because of a relation between persons. Obviously, all rights refer to relations between persons. The distinction lawyers have in mind is often illustrated by contrasting the result of my owning something with result of my making a contract with another person. In the first case, taken simply, everyone else has to respect my ownership. In the second case, the only person I can enforce my claims is the other contractor. Although my rights in both cases are rights

against other persons, the rights arise in the first case because of my legal relations with a thing (my property) and in the second case because of my legal relation with a person (the other contractor). It soon appears, however, that the distinction can be broken down, and different judgements about the extent to which rights in personam, atleast in some cases, reproduce the features of rights in rem (Dias, 1976, pp. 396- 406, esp. p. 399n.3). The relationship between 'property' and 'ownership' is more complicated in legal usage than it is in ordinary language, as analysed by Snare. Honroe' points out that ownership is equivalent to property in one of its senses. Dias, listing meanings of property, confirms this judgement, showing that 'property' can refer to things, both physical and incorporeal, and to legal relations; and that the sort of legal relations it encompasses is a matter over which analysts disagree.

Honroe' A.M. (1961) made a helpful analysis of ownership by making it clear that he is talking about the standard case of ownership as recognised by a matured legal system. His claim is that there are some things which are capable of being owned in the same way in all mature legal systems (Honroe' p. 108). The category of things owned in this way be greater or smaller in various systems: for example, some societies do not recognise private property in the means of production. Honroe's claim is that all mature legal systems recognise ownership (as he describes it) in some things, not all societies recognise it in all things or even in the same things. He calls the particular concept as liberal concept of ownership.

As to ask why does Honroe' call the concept of ownership he describes, the 'liberal one? The answer is that the general character of rights over property is that they bestow on individuals the power to decide what should happen to particular resources or 'things'. On one view of rights, it confers a sort of freedom. On one view of rights, their central logical characteristic is that they distribute freedom between individuals. Property rights share this characteristic, and to the extent that ownership of the kind described by Honroe' embraces such rights, it accords freedom to individual owners. The liberal concept of ownership, then, is one which is concerned with the freedom of individual owners.

BASIC NOTIONS AND IDEAS OF THE MODERN CONCEPT

When a theory of property is examined, historically and logically, it can be observed that the concept of 'property' has changed more than once, and in more than one way, in the past centuries (Macpherson 1973, p 122). A theory of property, in this context, is a theory which both explains and justifies the institution in terms of purpose served or the need filled. Macpherson claimed, first that the contemporary concept of property emerged in the twentieth century; secondly, that it is a peculiarly capitalist concept; and thirdly that it has begun to change; and finally it needs to change further. To him the contemporary concept of property is:

- (a) identical with private property- a on individual (or corporate) right to exclude others from the use or benefit of something.

(b) a right in or to material things rather than a right in revenue.

(c) having as its main function to provide an incentive to labour, as well as or (or rather than) being an instrument for the exercise of human capacities.

Macpherson(1973.p.122).

At the core of this modern approach is the extended notion of property rights which goes beyond legal ownership rights and comprehends 'the sanctioned behavioural relations among men that arise from the existence of goods and pertain to their uses' (Furubotn/Pejovich,p.3). The underlying idea is that society comprises of voluntarily contracting individuals who seek to maximise their utilities. The notion of property rights is aimed at stressing the actual discretion of the agents, but the concept of the legal ownership is the starting point and an essential element of the generalised notion of property rights. Following the tradition of Roman law, the rights in property is split up into different components, namely.,

- the right to use the asset (usus)
- the right to appropriate returns from the asset (usus fructus)
- the right to change the asset's form and /or substance (abusus), which refers to both to the physical and economic characteristics of a good (eg, processing, transport, destruction) and to the allocation of property rights (for instance by sale, inheritance or donation),.

In this third component, the central problems of economics- production, exchange and transfer- are contained.

[Furubotn/Pejovich (1974,4)].

Whereas the property rights approach remains quite traditional in this decomposition, it goes beyond the

traditional definition of goods. Here, not only material goods, services and tradable rights are included but also human and civil rights are taken into account which leads to the consequence: 'The prevailing system of property rights is then the sum of economic and social relations with respect to scarce resources in which individuals stand to each other' (Furubotn/Pejovich, 1974, p.3). The extended notion of goods is inherent in the notion of an exchange society that even "inalienable rights" could possibly be traded and that a trade in those assets would perhaps increase social welfare. Here it is right to point it out that the difference between other inalienable rights, of assembly, speech, worship, voting etc., and other property rights stems from the fact that the other rights are "inefficient" in the economist's sense of and are 'DELIBERATELY PERMITTED TO BE INEFFICIENT,' whereas property rights could be efficient and the exchange mechanism actually allows optimum efficiency to prevail (Arthur M. Okun 1975).

The fundamental institutions of capitalism are the right of ownership in the productive assets, the freedom of contract and the limited government. The ultimate aim of the contractarian organisation of society is in the as-complete-as possible specification of property rights and their allocation to individual agents by means of voluntary contracts. Further, limitations of property rights are typically caused by the state, which plays a central role for the non-achievement of the maximal level of satisfaction in an exchange society. Such restrictions imposed by State are labelled as attenuated property rights and

they appear in two elementary forms, namely, first that certain property rights are not defined or at least not protected by law, and the second, that the bearer of right is restricted in exercising certain parts, for instance by limitations of the right of succession, of purchase and of use. Hence the right of ownership means changes in the value of asset are borne by the owner. The right of ownership (as a means of dispersion of power) means that the mode of entry into decision making with regard to the use of the scarce resources is the prerogative of ownership (directly or through hired managers). The right of ownership then provides the link between decision making and cost bearing. A behavioural implication is that the owner has strong incentives to seek the highest valued use for the asset. This leads to the conclusion that restrictions of property rights, as reflected in the underlying legal structure, bear the necessary consequence that economic value of an asset is reduced to the extent of attenuation by the State. To highlight, in the scheme of "property rights theory", every thing of value has an owner, and that owner's powers of control will correspond to motivational assumptions of the orthodox theory.

PROPERTY RIGHTS PARADIGM

Economic text-books invariably describe the importance of economic choices that all societies are supposed to make. Capitalism relies heavily on markets and private property rights to resolve conflicts that arises in the society. The fundamental institutions of capitalism are the right of ownership in the

productive assets, the freedom of contract and the limited Government. They generate specific and predictable behaviour that are consistent with efficiency and individual liberty. The theory attempts to establish the interconnectedness of ownership right, incentives and economic behaviour. Every society must have a social system and the system provides the rules or criteria to resolve the economic problem in the society. Such rules or criteria may be embedded in the custom, rules and the mores of the society (Renolds 1985.pp.941). Economists stress on the relation between property rights and efficiency, makes transferability central, and this is primarily a matter of exchange for value (Andrew Reev 1986). The economic approach to property rights which provides the greatest incentive to use the resources efficiently (Andrew Reev 1986. pp 24). A causal connection between the set of property rights which are enforceable in any society and its level of economic performance is visualised (Posner 1973). The function of property rights , is to create incentives to use resources efficiently. Further he stresses three characteristics that are essential for an 'efficient set' of property rights:

it is universal, in the sense that all resources are owned, by someone;

it is exclusive, in the sense that other persons may be excluded from the enjoyment of object of the property right; and

the property rights are themselves transferable

(Posner 1973. p 11-13).

Further Demsetz (1967), one of the founding fathers of the school advocates that "Property rights are an instrument of

society and derives their significance from the fact that they help a man form those expectations which he can reasonably hold in his dealing with others" (Demsetz 1967, p347). To him, all transactions can be treated as transferring property rights. "When a transaction is concluded in a market place, two bundles of property rights are exchanged.....Economists usually take the bundle of rights as a datum and ask for an explanation of the forces determining the price and the number of units of the good to which these rights attach".

here

The underlying notion/is highlighted by Pryor (1973):

"property is a bundle of rights or set of relations between people with regard to some good, service or "thing", such rights must have an economic value and must be enforced in some societally recognised manner (Pryor 1973, p375). The same set of relationship between 'property rights' and efficiency provides the basis for the study by North and Thomas viz., 'THE RISE OF THE WESTERN WORLD (1973), in which they relate different levels of property rights to different sets of property rights structures. Changes in property rights are basically accounted for by seeing them as 'rational', since they go further to reduce the discrepancy between individual activity and the social costs and benefits of it. The property rights theory attempts to build a single analytical framework to deal with the resource allocation problem. The theory admits that there can be more than a single property rights structure.

Harold Demsetz (1979) testifies that he does "not believe it is possible to defend effectively a particular property rights structure....." and consequently he stress the "instrumentalism" of property rights systems. According to the proponents of this new approach the scope and content of property rights assignments over resources affect the way that people behave in a world of scarcity. In other words, individuals respond to economic incentives, and the pattern incentives present at any time is influenced by the prevailing property rights structure. On this logic, it is clear that careful specification of the institutional arrangement of an economic problem is essential. The private property has been visualised here and the enforcement of property rights on the resource is assumed. Having schemed to support the private property and market logic, the property rights theory goes beyond the legal ownership rights and comprehends "the sanctioned behavioural relations among men that arise from the existence of goods and pertain to their use" (Furubotn & Pejovich, 1974, p.3)

Alchian's approach is to analyse property rights in terms of pricing and competition. This is being complemented with Coasian scheme in terms of delimiting and enforcement of rights in their attempt to nail the emergence of paradigm in its place in the literature.

Property rights theory argues that property rights assignments affect the allocation of resources, composition of output and distribution of income in specific ways. The individual's behaviour in the realm of economic activity is always

predictable. This is because the prevailing property relations offers a penalty-reward structure. Property rights structure refers to the behavioural relations between the individual agents and specify the norms of behaviour. The individual's behaviour is controlled by bearing the cost of non-observance of the expected behaviour. The expected behaviour is guided by the choices of alternative uses of the scarce resource in question. That there is a systematic relationship between property rights and economic choices is the essential assumption in the background.

In doing so, the property rights analysis does not only explain human behaviour under given alternative structures of property rights, but also the development of property rights themselves.

THE RIGHT IN PROPERTY

The relations in property is seen as the right in use of that property, asset or a thing as reflected in the juridical realm of the term. To explain, the right in the thing allows the owner of the thing to use it himself and thereby excluding others from using the same, unless otherwise, it is specified by the owner of the thing. The owner can change the form and substance of the right in his holding, by assigning it fully to others or to part with few of the rights on the property. With this, it is clear that the right in a property or thing is not a single aspect in terms of its components. It is actually a bundle of rights. This bundle of rights conveys the extent of the power of the owner in a property. The bundle of rights or simply, rights conveys three

main characteristics: the extent of the right can be understood by the degree of exclusivity, the degree of enforcement and the transferability of the asset. The analysis relies on the legal entitlements of the society for solving the economic problems that arises in social relations. The power of the owner of the thing is seen as the ability to exclude others from using the right legally. The competition for the use of scarce resources will ensure the allocation of scarce resources to the most valued use among alternative uses opted for. To this end, the property rights theory argues that property rights affect the economic life via contractual arrangements or simply exchange. The underlying idea is that society comprises of voluntarily contracting individuals who seek to maximise their utilities. Then, the purpose of the exchange is independent of the institutional structure in the community. But it is to be noted that the terms of contract are not independent of institutional structure. The terms or the permission to do things are at issue to this school of economists. The assignment of property rights is to permit the exchange of right between the individuals. The property rights structure serves as a controlling mechanism of the society, given the rational behaviour and norms of interaction.

One can observe in line with Ryan " The liberal conception of private ownership and free market implies one another. This allows most of the economists to feel free to leave the nature of ownership to others while they prefer to address the intricacies of market interaction(1987, p1029).

OWNERSHIP QUESTION

In the scheme of property rights analysis the ownership always refers to the rights that are recognised or sanctioned by the society. To explain, the right in a thing should be socially recognisable right in the sense, the unlawful effect of using the right is curtailed by the State or similar authority. For example, a person may be permitted to pick up apples from a tree but not allowed to prune it. Then naturally, the next question is to look into the claim of ownership of the demarcated use of the asset. The demarcated use may be partitioned among several people. i.e, more than one person can claim some interest or other in that resource. To cite another example in land, one party may own an easement right to till the soil, while the another perhaps the State may have the right to traverse or use the land for some specific purpose. Then what is owned is not the resource itself by the person or persons, but it is the right in the use of the object in question. To be precise, The right in that asset is owned in bundle and the power or the extent of the bundle of rights determines the extent of the use of that object.

In short, property in an object is solely the right, title or interest. To criticise the idea, that property refers solely to rights and similar entitlements in asset, it is to be understood that the crucial question in the case of ownership of a property object is not the permission or sanction of what "law allows" but the ultimate power of disposal. To explain, The permission of the law in conferring on some persons or institutions the right of

disposal is crucial.

In the view of proponents of this theory, ownership might rest with a person, but many of the "attributes" might spill over to the public domain and others might exercise their right in it.

In contrast an opposing view is that the property rights theory simply ignored the fact that taking decision in the use of the asset is not the same as ownership in the asset. In any case, the ultimate power of ownership in the asset is not the one and the same as exercising the right, but more than that. The owner may a different person and at the same time the 'user' may be another person with the permission of the owner to use so. The problem of looking ownership on these lines arises because of the simplistic notion of the society. What we mean here by simplistic notion of the society is the view that the individuals in the society regulate their entire conditions of life on the basis of mutual profitability through voluntary and basically bilateral contracts. This idealised contracts are motivated by the maximising behaviour of the individuals concerned. They further claim that being guided by the contractual activities of the individuals, the solution for the resource allocation lies in the as-far-as complete specification of property rights in the resources that are being traded. The property rights theory, with its liberal conception of ownership and free market visualises a market society where the traded objects are assigned with property rights for the benefit of potential users of the objects.

MARKET MECHANISM AND PROPERTY RIGHTS

introduction

With the / and allocation of property rights into the market mechanism, the theoretical use of property, the specific social implementation of property are all important in understanding the purpose of creating such a system of property rights. The enforcement of property rights is to seek the ultimate social goal viz, efficiency, equity and equality. To address the question of efficiency, is to achieve a state of equilibrium outcome through market mechanism. The market as an efficient allocator is a silent assumption here. Whether market can be an silent allocator on all occasions is a question to be answered. It was pointed out by Marshall and Pigou, that a competitive equilibrium whether efficient or not, could not persist in just any technological environment. In particular, in industries where returns to scale continue to increase even at levels comparable to the size of the market, competition over time, will "destroy itself".

Our next instance of market failure is the presence of public goods. To explain, no one can be excluded from the use of the public good. Hence the use and the welfare from the use the public good cannot be accrued to any individual user of the asset or good. Because of their character, all public goods share a common difficulty, viz, their provision cannot be entrusted to the decision making mechanism of the individual and hence the market.

The next instance of market failure, is closely connected with the attributes of public goods. It is the problem of allowing for

externalities of production. To explain, it is the problem of allowing the effects of output of private goods and services on persons other than those who are directly buying and selling or using the goods in question. Further to the question of externality the economic answer calls another aspect of the problem, viz, externalities refer to the fact that output of the by-products (of negative values) does not pass through the market system.

The property rights theory attempts to address these questions.

EXTERNALITIES: A PROPERTY RIGHTS APPROACH

The externalities situation can be defined by the divergence between the private cost and benefits and the social cost and benefits. To this problem, the Pigovian solution is to impose a tax on the generator of externality (the famous pollution problem) as corrective measure to ensure maximum social welfare. Pigou used economics to defend Common Law principle that a party who causes a nuisance should be enjoined or required to pay damages. According to Pigou, the Common Law rules tend to promote economic efficiency by internalising social cost. In some cases, he found gaps in the Common Law which required supplementary legislations, such as, imposing a tax upon polluters equal to social cost of pollution. To explain, the smoke emanating from the factory creates pollution problem to those who are residing in the vicinity of the factory and hence a reduction in their welfare. This can be corrected by imposing a

pollution tax imposed on the factory owner and thereby adjusting the social welfare. But this Pigovian analysis of externality based on the Law of Nuisance was attacked by Coase (1960) in his seminal paper "The Problem of Social Cost". Coase disagreed with the conclusion that Government action, through nuisance taxation is typically required to achieve efficiency. The Coase theorem suggests that the externalities represented by nuisance may sometimes, ^{be} self correcting. In the event of that Government action is required to correct nuisance, Coase denied Pigou's claim that Common Law concept of causality is a useful guide to a assigning of responsibility. In Coasian view, the fact that someone 'causes' a nuisance, as judged by Common Law principle, does not imply that holding him liable or enjoining him to desist is efficient. For Coase, the question of efficiency is to be decided by balancing of cost and benefits in which the role of causality is not decisive. The Coasian suggestion is that causality should have little bearing upon legal responsibility. (Robert Cooter 1987).

'Externalities', in the words of Demsetz a leading advocate of the school, is that "... includes external cost, external benefits and pecuniary as well as non-pecuniary externalities". (Demsetz 1967 p348). He further explains that no harmful or beneficial effect is external to the world. Some persons always suffer or enjoy these effects. What converts a harmful or beneficial effect into an externality is that the cost of bringing the effect to bear on the decisions of one or more interacting persons is too high to make it worthwhile and this is

what this term shall mean here. "internalising" such effects often refers to a process, usually a change in the property rights, that enables these effects to bear (in a greater degree) on all interacting persons. He also maintains that the primary function of property rights is that of guiding incentives to achieve a greater internalisation of externalities. Every cost and benefit is potential externality in terms of social interdependencies. One condition is necessary to make cost and benefits into externalities: The transaction cost in the rights between the parties (internalisation) must exceed the gains from internalisation. We shall discuss the transaction cost in the succeeding section.

In the above presentation, it is maintained that the decision as to whether externalities should be internalised completely cannot be taken without considering the cost of internalising. Given the fact, sometimes no improvement will be possible by further internalising. The Coasian theorem established that in the zero transaction cost world the output of the economy is independent of institutional structure other than changes in the distribution of wealth.

Assuming that the objective is to reduce the difference between privately perceived gains and cost, to social cost and gains the implication of the offered solution is as follows: The analysis of various forms of externalities suggests that either a reduction, or increase in the value of the good will result in fuller specification of property rights in that good, and hence, an improvement in the accuracy of private accounting, relative

reduction in transactioncost inter alia on the technical progress. At the same time it is difficult to predict whether future technological developments will make the establishment of property rights easier. But the logic of the theory suggests that, *ceteris paribus*, old externalities have diminishing importance in the dynamic economy though the new ones may be allowed to develop.

Further, the property rights approach calls attention to the question of how far an individual or a community should go on in correcting the externalities. Given the fact that, ^{and} /of course the very existence of large class of externalities can be explained by the high transaction cost, it is not wise to go on further internalising such costs. This is because this would further cost resources. It follows that, any indiscriminate attempt to do something about externalities, either through market mechanism or the political process may very well result in a net social cost over social gains. Then what the theory implies is that the market should not be faulted for the existence of externalities nor should be eliminated. The optimal solution in the short run always lies in the careful balancing of the cost and benefits for reducing the transaction cost.

TRANSACTION COST ANALYSIS

A central insight in micro economics is that free exchange tends to move resources to their highest valued use, in which case the allocation of resources is said to be *Pareto* efficient. When "property rights" are exchanged, extension to classical

optimisation principle is made possible in several directions.

(a) What is exchanged is not "things" but "contracts". (b)

Whereas exchange of things is instantaneous, i.e., the supply and demand are equated at the same instant, the exchange of

"contracts" may span over time. (c) "property rights" covers all the 'attributes' of things. So exchange theory is linked to the

information theory, and the cost acquiring information could be equated at the margin with the benefits for optimal solution.

(d) As information becomes crucial, asymmetry of information, especially, between principal and agents, alters the equilibrium

solution. Thus property rights theory is extended to cover 'agency theory'. (e) When exchange is understood as exchange

of "rights", the specification, monitoring, policing and enforcement costs of such rights, collectively termed as

"transaction cost" which were ignored in the classical theory, get an extended coverage. (f) Coase theorized that with

perfect specification of rights and zero transaction cost assumed by the classical theory, society always would, reach

equilibrium solution. The fact that it does not establish that (i) the rights are imperfectly specified (ii) that

institutions very much matter and matter very much in exchange and that (iii) the externality problem at least in principle

could be solved by bargain and specification. Besides ownership of resources the law creates many other entitlements, such as

the right to use one's own land in a certain way, the right to be free from a nuisance, the right to compensation for tortuous

accidents, or right to perform a contract. The Coase theorem

suggests that " the initial allocation of legal entitlements does not matter from an efficiency perspective so long as they can be freely exchanged." In other words, misallocation of legal entitlements by law will be cured in the market by free exchange. One important extension of the Coase theorem states that, if all cost of transactions are zero, the use of resources will be similar, no matter how production and exchange activities are arranged. This implies that in the absence of transactions cost, alternative institutional or organisational arrangements would provide no basis for choice and hence could not be interpreted by economic theory. But organisations or various institutional arrangements do exist, and to interpret both their presence and their variation, they must be treated as the results of choice, subject to the constraints of transaction cost.

In the broadest sense of the term transaction cost encompasses all those costs that cannot be conceived to exist in a Robinson Crusoe economy. In such an economy, there will neither be property rights nor any kind of economic organisation. In contrast, in an economic organisation/ institutional arrangement where the cost of the composing of physical production involves costs, such as costs of information, of negotiation, or drawing up and enforcement of contracts, of delineating and policing property rights, of monitoring performances and of changing institutional arrangements, transaction costs are unavoidable. The literature on property rights dealing with externalities is explicit in showing the effect of transaction cost on the utilisation of resources. The point that is explicit in the

literature is that there are numerous situations where contractual stipulations do not capture all social cost and benefits. Here, the property rights theory claims to move in the direction of unification as against the divergence of the literature in this area. The suggestion is to go in for a careful analysis in the content of the property rights conveyed in any transaction, to effect a minimal transaction.

TRANSACTION COST AND TRANSFER OF OWNERSHIP

Jurg Niehans argues that transaction cost arises from the transfer of ownership or more generally, the property rights. He maintains that transfer of ownership is concomitant to decentralisation of ownership, private property and exchange. Compared to the imaginary state of costless transactions, ^{the presence} / transaction costs reduce welfare. The more interesting question is whether transaction cost reduce welfare. It is shown that except in the case of increasing returns to scale transaction cost does not in itself cause any efficiency problems (Nutzinger 1976 pp 217-237). But in the absence of scale of economics, the discussion has produced no reason why, in this sense, transaction cost should cause inefficiency. Moreover, efficiency problems arise in more general context also. With increasing complexity the transaction costs tend to increase rapidly, in the exchanges made in the society. To explain, the society may have complex transactions in contrast to the assumed simple bilateral contracts in the model of the property rights theory. The property rights theorists attempt hard to retain the efficiency claim

TRANSFERABILITY AND APPROPRIABILITY

Alchian has argued that possibility of transferability encourages specialisation in ownership and economic efficiency. If rights can be transferred, owners will find their own highest valued use as option to their resources. He emphasised that only under a system of private ownership, where the rights are transferable, the rewards and the cost of an activity are more directly concentrated on the decision maker. The greater the amount of his own wealth an entrepreneur invests in an activity, the larger the stake and greater his care in making decisions. It is conceived that, competition for and transferability in the market place perform two main functions of contracting in the allocation of the asset:

first, competition conglomerates knowledge of alternative arrangements and the use of resources. Transferability ensures that the most valued use will be opted for.

Second, competition among the potential contract participants and a resource owner's ability to transfer the right to use his resource reduce the cost of enforcing the stipulated contract (because competing parties will stand by to offer or accept similar terms). The logic of competition i.e, the heeding to alternative uses suggests that a more complete specification of property rights diminishes uncertainty and promote efficient allocation of resources.

(Cheung 1970, p64).

But the existing externality situations sometimes, cannot be adequately discussed by the private property rights. The reason is that the specification of the property rights in terms of its characteristics viz, exclusiveness, enforcement and the transferability cannot be adequately demarcated in certain resource situations. As mentioned in the beginning of this

paper, the property rights theory, being wedded to private property structure attempts to deny an alternative structure viz, the common property structure. Instead, it argues that property structures other than private property would be inefficient because of the free-rider problem. But what is misunderstood is that the 'open access' being taken as common property system. Let us see what actually the term common property shall mean and how it is handled in the literature.

COMMON PROPERTY AND PRIVATE PROPERTY DICHOTOMY

The attempts by the economists to analyze the economic problems in the property rights framework as pointed out by Furubotn/Pejovich (1972 p.1142), is in its initial stages of development. The earliest and most notable is Frank Knight's discussion of social cost (1924). In his analysis of the use of roads he clearly demonstrated the role of ownership. Several decades later, Scott Gordon (1954) analysed in a similar vein the common-property problem of fishing in international waters. Both Knight and Gordon assumed in their analyses that property rights are either present and perfectly well defined or they are totally absent. To point out, economists have tended to classify ownership status into categories all and none, the latter being termed as "common property"- property that has no restrictions placed on its use. The term originates from English villagers practice of using certain areas for, among other things, collectively grazing their animals and cutting firewood. The current meaning of the term "common property" certainly does not fit the English villager's actual practice, as shown by

Dahlman(1980). Dahlman's description argues that the village common was open only to the villagers, not to outsiders, and that villagers own right were stinted: They did not have the right to add livestock to the herd at will or to cut whatever amount of wood they wanted. All were allowed to place only a set of animals and all were restricted in the amount of wood they cut. Whereas that land was held in common, its use was directly controlled by the villagers, partly through voting.

But the meaning of the word "common property" is well established in the formal institutions such as Anglo-Saxon Common Law, the German Law and their successors. It is also well established in the formal institutional arrangements based on custom, tradition, kinship and the mores of the society. Hence the economists are not free to use the concept of "common property" or "commons" under conditions where no institutional arrangements exist.

By examining historically and contemporary examples of common property institutions, Ciriacy-Wantrup and Bishop (1975) refute the idea, summed up in Hardin's catch-phrase "the tragedy of commons" (Hardin 1968). Ciriacy-Wantrup and Bishop provide a very clear differentiation between the usual economic sense of the term (res nullius or unowned resources) and the res communes concept, presenting a valuable discussion of historically successful management of institutions under res communes. The common property institutions are not merely of historical importance and of interest. Common property systems in India and

Sri Lanka have received a good deal of attention (Farmer 1957, Jodha 1984, Neale 1985, Wade 1987). The dangers in applying an analysis based on the assumption that "common property is no property" are obvious, and have led, in practice to significant policy errors (Jodha 1984, Neale 1985).

Similarly, the assumption that the free-rider problem render groups of people incapable of combining for their collective gains has been refuted in this modern context, just it has been shown as incorrect in relation to medieval common property (Wade 1987).

Given the smoothly operating decision making process and appropriate enforcement mechanism, common property systems can react more flexibly to changing circumstances than private property systems. Hence the balance between collective flexibility associated with common property and individual flexibility associated with private and free exchange is indeed a complex one.

THE METHODOLOGICAL INDIVIDUALISM AND TRANSACTION COST

At the outset, it is to be noted that, to achieve the important objective of generalisation, the property rights analysis introduced many important changes into the standard theory of production and exchange. But at the same time, Furubotn and Pejovich (1972) pointed out that formal equilibrium conditions for many cases have yet to be worked out. They maintain that in some cases they have attained equilibrium conditions with general implications of alternative property

rights assignments and their effect on resources have been developed. It is to be noted then, this claim, strictly speaking has to be confined to models of partial equilibrium in the tradition of Marshall and cannot be easily extended to general equilibrium situations in the sense of Walras. To explain, Walras achieves his general equilibrium by asserting that firms exist till equilibrium is reached, but disappear when equilibrium is arrived at. In the Walrasian model, where prices are sufficient for allocation, institutions are superfluous; firms, clubs, tribes, or families cannot enhance efficiency. But when equilibrium is disturbed in a positive transaction cost world, price adjustment is not expected to be instantaneous (On the other hand, in the Walrasian, perfectly competitive model, rights are perfectly delineated and transaction cost are zero). The transactions cost model in the literature explores the effects of positive information cost on behaviour and an organisation. Further, the shortcomings of the property rights theory is also pointed out by Nutzinger as follows: The transaction cost are not subjectively a priori, but they depend upon the initial endowment or, on initial property rights distribution. Any change in the distribution implies a change in the relative prices and therefore, generally the value of all possible transactions. Whether markets or specified markets emerge and to what extent the trade in those rights will be compared with the size and structure of non-market mechanisms, cannot be determined without an implicit value judgement concerning the underlying distribution of property rights among the economic actors.

Yoram Barzel(1989), in his "ECONOMIC ANALYSIS OF PROPERTY RIGHTS"- Political Economy of Institutions and Decisions argues that transactors adopt non-market constraints in order to lower the cost of exchange. (To him, individuals organise the use of resources in order to maximise the value of those resources. A person's property right over an asset, variously economic and legal literature, is defined by Barzel as the person's ability to gain from the asset by direct consumption or exchange.) Further he argues that the implementation and policing of these constraints require organisation.

But the property rights theory tends to assume the initial distribution of property rights as given. Governmental regulations and interventions have to be considered as attenuations of property rights dangerous to social welfare. Here, the "strict methodological individualism" of the property rights theory falls into methodological dead-lock: the theory attempts to compare instead, the different situations based on "objective" (transaction) cost; but this type of comparison presupposes, a special type of social welfare function based on the value judgement that one has to start with the respective initial distribution of property rights in comparing alternative situations.

PRACTICAL APPLICATION OF PROPERTY RIGHTS ECONOMICS

The more fundamental aspect of this approach is the presumption of efficiency clearly formulated by Coase (1937): It is the conjecture that the choice of organisation is guided by

the principle of cost minimisation, however, dominates only in the neo-classical environment. That environment is characterised by the usual assumptions about perfect competition and there is no room for inefficient outcome and hence the presumption of minimal transaction cost is justified. This simple conjecture of efficiency however, is generally not applicable to real economics. In fact, mitigated pressure of competition still increase the entrepreneurial profits: but the reduced effort in search, information and adoption activities will lead to higher than minimal transaction cost.

Coase's contribution in the literature can be regarded as offering a generalised proposition about exchanges of resources to cover the claim of exchange entitlements. Under this interpretation, the Coase theorem states that, the initial allocation of legal entitlements does not matter from an efficiency point of view so long as they can be freely exchanged at zero transaction costs. In other words misallocation of legal entitlements by law will be cured in the market by free exchange. This interpretation suggests that insuring the efficiency of law is a matter of removing the impediments to the free exchange of legal entitlements. Consequently, under free exchange interpretation, the efficiency of law is to be secured by defining entitlements and enforcing private contracts for their exchange. But, besides freedom of exchange there are other conditions which economists usually regard as necessary for market to allocate resources efficiently. One such condition is answering to the question of transaction cost. The transaction

cost approach of Coase theorem is that the "initial allocation of legal entitlements does not matter from an efficiency perspective so long as the transaction cost of exchange are nil. This interpretation focusses attention on some obstacles to exchanging legal entitlements in private exchange. Further, in stressing the theory of regulation, the market failure interpretation is that, "the initial allocation of legal entitlements does not matter from an efficiency perspective so long as they can be exchanged in a perfectly competitive market". But it is recognised that initial allocation of rights always matters from the perspective of income distribution. The property rights theorists take for granted the initial distribution question and in that sense become supporters of the status quo. As the Pigovian tradition looks at externalities, as a form of market failure which requires government intervention, the property rights theory argue for a solution in the opposite direction, viz., by extending market relations and through further specification of property rights. In the case of existence of transaction cost still then, the optimal solution is to minimise the transaction cost. Cheung (1970) rightly observes that "the question is whether, given the same effects of action, actual market contracts or realisable Governmental regulations involve lower transaction cost so that a higher net gain or a lower net loss will result". The property rights theory opens up the issues relating to that of legal entitlements in the market mechanism by pointing out the choice in the decision making process in the given property structure. One cannot deny the fact that property rights theory do throw some

do throw some important insights into the mainstream economic theory insuring efficiency by referring to the choice of decision making within the given structure of property rights in the society. Fuller specification of property rights is recommended for effecting efficiency. When it is not possible the minimisation of transaction cost is suggested which is highly a practical and a significant contribution to the literature. (Cooter.R. 1982 pp225-52.)

A CRITIQUE OF THE BASIC NOTIONS OF PROPERTY RIGHTS THEORY

Towards providing a theory of production and exchange the property rights theory goes beyond ownership and comprehends all possibilities of relationship with respect to all goods and services. This remains doubtful because, given the ownership *de facto*, without specific regard to its juridical legitimation by law, is itself a generalisation in terms of social science. The root of the problem lies in the notion of the society: viz., the notion that the society is reducible to a collection of individuals who regulate their entire conditions of life on the basis of mutual profitability through voluntary and basically bilateral contracts. Then and only then, one has no difficulty in accepting this demand of property rights theory as a basic notion of a new integrated and unifying social science.

One can also find in the literature the argument that property rights theory explicitly recognises that "institutions" are capable of altering transactions cost and hence exchanges. Hence it cannot form the basis of unifying social science WITHOUT

A THEORY OF STATE of INSTITUTIONS and A THEORY OF STATE. North (1981) examines the structure of economic systems, outlines an economic theory of the State and the ideologies that undergird various modes of economic organisation, and then explores the dynamic forces such as new technologies that cause institutions to adopt in order to survive. At the core of North's investigation is the question of property rights, the arrangements of individuals and groups have made through history to deal with the fundamental economic problem of scarce resources.

According to North, the neo-classical theory conceived as a theory of choice has provided at the very least a disciplined and logically consistent approach to the study of the State. The theory offers the promise of developing refutable propositions about non-market decision making. A satisfactory theory of the firm would contribute immensely to the development of the State. (North.C. 1981. p20-21).

To the question of defining what a State is, North observes, ".... an organisation with a comparative advantage in violence, extending over a geographic area whose boundaries are determined by its power to tax constituents. The essence of property rights is the right to exclude, and an organisation which has a comparative advantage in violence is in the position to specify and enforce property rights. In contrast to the theories frequently advanced in the literature of political science, sociology, and anthropology, the key to understanding the State involves the potential use of violence to gain control over

resources. He argues further that, one can not develop a useful analysis of the State divorced from property rights".

He proceeds by saying that two general types of explanation for the State exist: a contract theory and a predatory theory or exploitation theory. In the contract theory, the State plays the role of wealth maximiser for the society. Because a contract limiting each individuals activity relative to others is essential for there to economic growth, the contract theory approach offers an explanation for the development of efficient property rights that would promote economic growth.

The predatory/ exploitation theory considers the State to be the agency of a group or class; its function, is to extract income from the rest of the constituents in the intrests of that group or class. The predatory State would specify a set of property rights that maximise the revenue of the group in power regardless of its impact on the wealth of the society as a whole.

While the contract theory explains the initial gains of contracting and focusses on the extraction of rents for constituents by those who gain control of the State. It is the "violence potential" that reconciles them. The contract theory assumes equal distribution of violence potential amongst the principles. The predatory theory assumes an unequal distribution.

In his perception of economic history North identifies two fundamental aspects: the wide spread tendency of the States to

produce inefficient property rights and fail to achieve sustained growth; and the inherent instability of all States, which leads to economic change and ultimately to economic decline. To explain, the State trades a group of services such as protection and justice for revenue. It devices a set of property rights, developes a body of law and enforces them using its violence potential. Efficient property rights may lead to higher income for the people of the State but may result in lower tax revenues for the rulers because the higher the transaction cost (monitoring, measuring and collecting of taxes) compared to those of a more efficient set of property rights. So the fiscal needs of the rulers may thrust inefficient set of property rights on the people with the result the economic growth fall or becomes negative. North believes that " the existence of a State is essential for economic growth; the State, however, is the source of man-made economic decline" (North C. Douglass 1981. p 2023).

In consequence with the starting point that production as a specific form of exchange, and in accordance with the classical production is viewed as of playing a minor role in the economic activity. And the neglect of production side becomes more evident in its dealings with the problem of scarcity: Not production of goods to be distributed, but distribution of produced goods by exchange is seen as the primary solution. Exchange, and not the production of goods, is seen as the central mechanism for solving the problem of economic scarcity. This view is lopsided and incomplete in the analytical content of the approach. But it is obvious that distribution of goods precludes the existence of

such goods as ready-made in the society. Hence the availability of such goods and hence the right on the same requires the existence of a precondition of the initial production of the property object. To high light, exchange presupposes production and lends itself as a starting point for solving the problem of scarcity. Thus it is obvious that the social conditions of production are not taken into account in this line of thought.

Another consequence of this starting point is with regard to Governmental regulations. Here every limitation of possibilities of exchange, called attenuation of property rights, appears as a limitation of the society's capacity to satisfy wants. Consequently, historical progress, it is argued, should manifest itself in the development towards a more and more complete specification of property rights. But here, the idealising notion of the society conflicts with its own claim to represent and explain real developments in societies. They are characterised by the Governmental limitations of property rights and by the growth functions and organisations of the State. Again there are many possibilities of modifying the basic model in order to deal with these tendencies such as Niskamen's model of budget maximising bureaucrat. But all these implies nothing but to give up the complete information implicit in the pure property rights approach.

In fact, this line of approach faces quite considerable difficulties in dealing with social phenomenon and institutions which goes beyond the individual actor to his role as voluntarily contracting individual. In conformity with the idealising notion

of the society, the emphasis is on the right of ownership and exchange, which allow each individual, the freedom of choice and obligation to bear the cost of pursuing his own preferences. It comes out clearly then, the capitalistic community has no predetermined outcome. Whatever outcome emerges from the interaction of the utility-seeking transactions of the individuals, is then clearly, a undetermined outcome.

Further, it is clear that the process of social stratification, be it in terms of classes, or even social roles are very alien to this view.

ON THE HISTORY OF PROPERTY

A general account of property needs to embrace property in one form and its variants: This is a normative requirement because, anyone concerned with history of property needs to explain what it is, while any particular history of property will suggest connections between property and the various aspects of social life. One can identify problems from the recognition that property is not invariable namely, first since property may refer to both material resources and legal relations, to ideas and concrete arrangements, how are these to be brought together in the historical account? Secondly, if property can take various forms, or to embodied in different property-systems, what general characteristics does it have? Finally, how have arguments about the history of property been conceived to affect the legitimacy of particular property institutions? The answer to this questions can be seen as arising out of the conceptual issues and the

themes that are found in the literature.

Paul Lafargue tells us that property 'is not immutable and always the same, but, on the contrary, it take all material and intellectual phenomena, incessantly evolves and passes through a series of forms which differ, but are derived, from one another'(1975.p3). Lafargue went on to provide an account of the way in which this phenomenon had, in his view, altered, and he called it THE EVOLUTION OF PROPERTY FROM SAVAGERY TO CIVILISATION. He wrote with a commitment to particular understanding of history. Lafargue wanted to write the history of property before it had adopted its contemporary form, /^(i.e.) capital. In fact, he used a quotation from CAPITAL as scene-setter for his essay. The economic structure of the society is the real basis on which the juridical and political super structure is raised, and to which definite social forms of thought correspond: in short the mode of production determines the character of the social, political and intellectual life generally (Lafargue.P.1975pp.1).

MARXIAN VIEWPOINT

The content of property, and hence the analysis of property attracted many philosophers as well as economists and all of them realised that the state of society is depended on property. But except Marx and Engels, all of them invariably identified property with appropriation of material values, and with the property relations as reflected in the laws of ownership, and hence reduced the content of property to the right in property.

But Marxism maintains that actual economic relations among people concerning the production and distribution of material values constitute the content of property. In that sense, property is a relation to a thing as expressed in the power of that person (the subject) over a thing or asset (the object). Nor can property be identified as man's ability to appropriate objects of external world. On these lines of reasoning the attempts of the capitalist economists to derive the property from Robinson Crusoe's economy and from his relations to things around him, are scientifically invalid. As a social being, man is engendered by the society and always carries on his economic activity within the frame-work of this or that society. Hence, property should be derived from the conditions of material life rather than from the life of an individual.

Given the fact, what is property and its content is, to look into the origin of property and why it changes. This being understood, its relevance in the analysis of actual relations among people in the social processes of production of material values, relations which are independent of human will and consciousness, becomes evident. This being said, Marxism admits that the problem of property is multi-faceted and complicated. To explain the same, property has its objective basis in physical production, and that is crucial to an understanding of its content. Property also has an external, or outward manifestation, one of which is the right in property, i.e. it is secondary to and derivative of property as a social relation. Moreover being a nominal reflection, in the human consciousness of real economic

relations among people, that right very often distorts as well as reflects, the economic content of property. So the property is an objective phenomenon, independent of human will and consciousness, and a subjective, superficial phenomenon expressed in various legal forms. Thus the content of property can be distinguished between property in the juridical, or legal and property in the economic sense of the term. In the economic sense of the term, the owner of the factor is one to whom the income of this flows. In other words, the property structure is reflected in the distribution structure. But, the point worth noting here is that property in the legal sense of the word has something to do, and particularly had to do historically, with the property in the economic sense of the word, but the legal structure of property does not reflect necessarily its economic counterpart. Since the relations of productions themselves depend on the development of productive forces and are determined by these, the inevitable conclusion is that as the society develops, one form of property is superseded by another in a law-governed process: primitive communal property gives way to slave-holding, slave-holding to feudal, feudal to capitalist, and capitalist to socialist social property. That is why the scientific view of property is incompatible with the notion that private property is natural property corresponding to man's immutable nature and so is equally immutable and eternal.

Marxism transfers the concept of property to the sphere of objective production relations. One has to bear in mind that property is an objective as well as subjective phenomenon. But

property is primarily an economic phenomenon and not a sum-total of objects or other material values in someone's possession. The subjective motivations of human activity (economic) alone is not sufficient to understand economic relations because, production distribution, exchange and consumption are interconnected-phases of one and the same reproduction process. And the relations among the people in their distribution, exchange and consumption of material values depend on their relations of production.

At every stage of economic relation mentioned above, these relations involve the appropriation of material values, and the property is the mode and form in which people appropriate material values.

The capitalistic economics fails to examine the underlying objective causes of these economic activities in the mode and form of appropriation of material values viz., property.

PROPERTY IN THE SCIENTIFIC SENSE

Property is a relation among people concerning the appropriation by individuals, groups of people, classes or society as a whole. Moreover, property as appropriation is not just a nominal and juridical act alone although it always has a juridical expression and in that sense constitutes the right in property.

Appropriation of material values is primarily a real economic process, in the course of which the property owner(ie., the subject who appropriates material values) has the power of

disposal of these values and can use them in various economic processes. To be precise, property in appropriation (in the economic sense) is expressed in the power of the owner of the thing, who makes arrangement for the use of the thing in one or other production process. Whereas the non-owner cannot make arrangements for that thing or can use it. Hence the question is who is the subject of appropriation of the means of production and the resultant products, or in other words, WHO is the MASTER? is pivotal to economic theory and political economy.

PROPERTY RELATIONS

In the Marxian scheme, political economy is not interested in the attributes of the object of appropriation, but the analysis of the social types of property is important. Property relations include two groups of relations, differing by the object of appropriation. Things and other material values are always the subject of appropriation, but economically they are divided into the means of production which are conditions of production, and the products of labour, which are the result of production. Relations of appropriation involving the means of production and those of the results of production are not equivalent. This is because of that appropriation in the means of production is of decisive importance, to make it elaborate, the property relations or appropriation in the means of production determines the mode of productive force- the means of production and labour.

Property in the means of production determines the social goal, the motive for the development of productive force: then,

the following questions arise, because the means of production are used to meet the economic interests of their owners.

What is the purpose of the owner in the productive force in a given system of production relation?

What is the goal of the owner in the means of production who arranges for their use?

So, property in the means of production is the basic production relation as compared with the other group of appropriation relations, i.e., of those concerning with the appropriation of products. The latter group is the derivative, dependent of the on production relation, for the mode of distribution of the labour products and the nature of their exchange and consumption are determined by the relation in property in the means of production. Thus, the appropriation of the products depend on the property in the means of production, with the product always belonging to the OWNER OF MEANS OF PRODUCTION.

Marx pointed out that,

"political economy (of his time) proceeds from the fact of private property, but does not explain it to us. We have presupposed private property, the separation of labour, capital and land..... Political economy expresses in general, the abstract formulae the material process through which private property actually passes; and these formulae then take for granted what is supposed to evolve. Private property is explained from external circumstances. As to how far these external circumstances are but

the expression of a necessary course of human development, political economy teaches us nothing".

(Karl Marx, EPM of 1844 pp 68-69)

To highlight, political economy studies property as as objective relation manifesting itself in social production, in

relations among people, that is, in their relations of production. As the society develops, one form of property is superseded by another in law-governed process. Property as the relations of production has not been immutable throughout mankind's history, but is always historically distinct; assuming various concrete forms at different stages of development. Further the Marxian scheme points out that to study the economic activities of man, one has to see the objective causes of economic activities. The actual relations among people in the social process of production of material values, relations which are independent of their will and consciousness. Hence property should be derived from the material conditions of life, rather than from the life of an individual, nor property can be considered as something extraneous to the society.

MARXIAN VIEW ON THE STATE

'STATE' is a concept of crucial importance in the Marxist thought, for Marxist regard the 'State' as the institution beyond all others whose function it is to maintain and defend class domination and exploitation. Marx himself never attempted a systematic analysis of the State. But Marx, in his CRITIQUE OF HEGEL'S PHILOSOPHY OF THE STATE (1843) rejects the claims: that the State as a embodiment of society's general interest, as standing above particular interests, and as being therefore able to overcome the division between CIVIL STATE and THE STATE and the split between the individual as private person and as CITIZEN. The rejection is the ground that the State, in real life, does not stand for the general interest but defends the

interest of PROPERTY. (Ralph Miliband 1983 p 464)

The view that the State as the instrument of a ruling class, so designated by virtue of its ownership and control of the means of production, remained fundamental throughout for Marx and Engels. Engels wrote, 'as a rule, the State of the most powerful, economically dominant class, which, through the medium of the State, becomes also the politically the dominant class, and thus acquires new means of holding down and exploiting the oppressed class' (Origin of the Family, ch 9).

Juxtaposing the views on State put forth by the neo-classical school and that of the Property rights school, the contractarian and predatory theories, the superiority of the concept of 'State' as the institution beyond all others whose function it is to maintain and defend class domination and exploitation is clearly established. To this end, a thorough reorganisation of the society alone can be a remedy to bring about "human emancipation" in making the State to defend the general interest, namely the achievement of democracy. And the main feature of any such reorganisation logically is the abolition of private property for the reason that Marxist view is expressed in the famous formulation of the COMMUNIST MANIFESTO: "The executive of the modern State is but a committee for managing the common affairs of the whole bourgeoisie" (Ralph Miliband 1983 p465)

CONCLUSION

The analysis of property cannot be said as complete and scientific, unless it is seen as production relations, and not

just as exchange relations alone. In any case, the analysis of social relation cannot be done in isolation in terms of legal entitlements and the exchanges thereon among the individuals alone, as in done in the NEW PROPERTY RIGHTS THEORY. Instead, property analysis should be done as relation among people concerning the appropriation in their social stratifications, then and only then, the claim that the new theory emerged and developing to offer a scheme of analysis of social relation is valid. As we have mentioned elsewhere it is clear that the process of social stratification be it in terms of classes, or even social roles are very alien to this new property rights theory. Further, property being essentially an economic phenomenon and as such the juridical expression of the same is but the nominal expression and not the sole criterion, that can be taken for granted as the phenomenon for a fullfledged analysis of property. The subjective motivations of human activity, which are reflected in the legal form do not explain why people have these tendencies and where the motivations lies. Then to understand the underlying objective causes of economic acitivity, property analysis should be done in the objective sphere of the concept of property.

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