

Public property



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Public property is property which is owned collectively by the people as a whole. This is in contrast to private property, owned by a individual person or artificial entities that represent the financial interests of persons, such as corporations.

[1] State ownership, also called public ownership, government ownership or state property, are property interests that are vested in the state, rather than an individual or communities. [2] [edit] Crown propertyIn the modern representative democracy, " public property" is synonymous to state property, which is said to be owned by the people as a commons or held in trust by the government for common benefit. In many Commonwealth realms, such property is said to be owned by the Crown. Examples include Crown land, Crown copyright, and Crown Dependencies. Public space From Wikipedia, the free encyclopedia Jump to: navigation, search " In public" redirects here. For the song by Kelis featuring Nas, see In Public. For the film, see In Public (film).

Urban space (Florence) Public shore marker, San Francisco Bay, Burlingame, California A public space is a social space such as a town square that is open and accessible to all, regardless of gender, race, ethnicity, age or socio-economic level. One of the earliest examples of public spaces are commons. For example, no fees or paid tickets are required for entry, nor are the entrants discriminated based on background. Non-government-owned malls are examples of 'private space' with the appearance of being 'public space'. Public space has also become something of a touchstone for critical theory in relation to philosophy, (urban) geography, visual art, cultural studies, social studies and urban design. The term 'Public Space' is also often misconstrued

to mean other things such as 'gathering place', which is an element of the larger concept of social space. Contents[hide] * 1 Definition * 1.

1 Areas of usage * 1. Restrictions on state action in public spaces in the United States * 1. 3 Social norms in public spaces * 1. 4 Controversy and Privatization * 1. 5 'Semi-public' spaces * 2 Footnotes * 3 References * 4 See also * 5 External links | [edit] Definition [edit] Areas of usage Central Park in New York City was designed as a democratic public space in the 19th century. Most streets, including the pavement, are considered public space, as are town squares or parks. Government buildings which are open to the public, such as public libraries are public space.

Although not considered public space, privately owned buildings or property visible from sidewalks and public thoroughfares may affect the public visual landscape, for example, by outdoor advertising. Parks, malls, beaches, waiting rooms, etc, may be closed at night. As this does not exclude any specific group, it is generally not considered a restriction on public use. Entry to public parks may be restricted based upon a user's residence. 1] In Nordic countries like Norway, Sweden and Finland, all nature areas are considered public space, due to a law, the allemansrätten (the right to common passage). [edit] Restrictions on state action in public spaces in the United States “| If Members of the public had no right whatsoever to distribute leaflets or engage in other expressive activity on government-owned property..

. then there would be little if any opportunity to exercise their rights of freedom of expression. ”| —Supreme Court of Canada, defending right to

poster on public utility poles and hand out leaflets in public government-owned buildings[2] In the United States the right of the people to engage in speech and assembly in public places may not be unreasonably restricted by the federal or state government. [3] The government cannot usually limit one's speech beyond what is reasonable in a public space, which is considered to be a public forum (that is, screaming epithets at passers-by can be stopped; proselytizing one's religion probably cannot). In a private—that is, non-public—forum, the government can control one's speech to a much greater degree; for instance, protesting one's objection to medicare reform will not be tolerated in the gallery of the United States Senate. This is not to say that the government can control what you say in your own home or to others; it can only control government property in this way. The concept of a public forum is not limited to physical space or public property, for example, a newspaper might be considered a public forum, but see Forum (legal) as the term has a specific meaning in United States law.

edit] Social norms in public spaces In some cultures, there is no expectation of privacy in a public space. Eating and drinking in an outside public place during Ramadan in an Islamic country is sometimes not appreciated. [edit] Controversy and Privatization Leyton Marshes, London, an example of land with long established rights of access, and equally long-standing restrictions Public space is commonly shared and created for open usage throughout the community, whereas private space is individually or corporately owned. The area is built for a range of various recreation and entertainment. The physical setting is socially constructed which creates a behavior influence. Limitations are imposed in the space to prevent certain actions from

occurring; public behavior that is considered obnoxious or out of character (i.e.

, drug and alcohol consumption, urinating, indecent exposure, etc.) are supported by law or ordinance. Through the landscape and spatial organization of public space, the social construction is considered to be privately ruled: by the implicit and explicit rules and expectations of the space that are enforced. Which is generally considered that everyone has a right to access and use public space, as opposed to private space which may have restrictions, there has been some academic interest in how public spaces are managed to exclude certain groups - specifically homeless[4] people and young[5] people. Measures are taken to make the public space less attractive to them, including the removal or design of benches to restrict their use for sleeping and resting, restricting access to certain times, locking indoor/enclosed areas. Police forces are sometimes involved in moving 'unwanted' members of the public from public spaces. In fact, by not being provided suitable access, disabled people are implicitly excluded from some spaces.

Further, beginning roughly in the 1960s, the wholesale privatization of public space (especially in urban centers) has become a fact of western society, and has faced criticism from citizen groups such as the Open Spaces Society. Private-public partnerships have taken significant control of public parks and playgrounds through conservancy groups set up to manage what is considered unmanageable by public agencies. Corporate sponsorship of public leisure areas is ubiquitous, giving open space to the public in exchange for higher air rights. This facilitates the construction of taller

buildings with private parks; accessible only to those deemed fit. In one of the newer incarnations of the private-public partnership, the business improvement district (BID), private organizations are allowed to tax local businesses and retail establishments so that they might provide special private services such as policing and increased surveillance, trash removal, or street renovation, all of which once fell under the control of public funds. edit] 'Semi-public' spaces A broader meaning of public space or place includes also places where everybody can come if they pay, like a cafe, train, movie theater or brothel. A shop is an example of what is intermediate between the two meanings: everybody can enter and look around without obligation to buy, but activities unrelated to the purpose of the shop are not unlimitedly permitted.

The halls and streets (including skyways) in a shopping center may be declared a public place and may be open when the shops are closed. Similarly for halls, railway platforms and waiting rooms of public transport; sometimes a travelling ticket is required. A public library is a public place. A rest stop or truck stop is a public space. For these semi-public spaces stricter rules may apply than outside, e. g. regarding dress code, trading, begging, advertising, propaganda, riding rollerskates, skateboards, a Segway, etc

Property From Wikipedia, the free encyclopedia Jump to: navigation, search

This article is about the legal or moral ownership rights.

For other uses, see Property (disambiguation). | This article has multiple issues. Please help improve it or discuss these issues on the talk page. * It is missing citations or footnotes. Please help improve it by adding inline

citations. Tagged since July 2007. * It may not present a worldwide view of the subject.

Tagged since February 2010. | | Property law| Part of the common law series| Acquisition| Gift · Adverse possession · Deed Conquest · Discovery · Accession Lost, mislaid, and abandoned property Treasure trove · Bailment · License Alienation| Estates in land| Allodial title · Fee simple · Fee tail Life estate · Defeasible estate Future interest · Concurrent estate Leasehold estate · Condominiums| Conveyancing| Bona fide purchaser Torrens title · Strata title Estoppel by deed · Quitclaim deed Mortgage · Equitable conversion Action to quiet title · Escheat| Future use control| Restraint on alienation Rule against perpetuities Rule in Shelley's Case Doctrine of worthier title| Nonpossessory interest| Easement · Profit Covenant Equitable servitude| Related topics| Fixtures · Waste · PartitionRiparian water rights Prior-appropriation water rights Lateral and subjacent support Assignment · Nemo dat Property and conflict of laws| Other common law areas| Contract law · Tort law Wills, trusts and estates Criminal law · Evidence| v · d · e| Property is any physical or intangible entity that is owned by a person or jointly by a group of people. Depending on the nature of the property, an owner of property has the right to consume, sell, rent, mortgage, transfer, exchange or destroy their property, and/or to exclude others from doing these things. 1][2][3] Important widely recognized types of property include real property (land), personal property (physical possessions belonging to a person), private property (property owned by legal persons or business entities), public property (state owned or publicly owned and available possessions) and intellectual property (exclusive rights over artistic

creations, inventions, etc.), although the latter is not always as widely recognized or enforced. [4] A title, or a right of ownership, establishes the relation between the property and other persons, assuring the owner the right to dispose of the property as they see fit. Some philosophers assert that property rights arise from social convention.

Others find origins for them in morality or natural law. Contents[hide] * 1 Use of the term * 2 General characteristics * 3 Theories of property * 4 Property in philosophy * 4. 1 Ancient philosophy * 4. 2 Pre-industrial English philosophy * 4. 2. 1 Thomas Hobbes (17th century) * 4. 2.

2 James Harrington (17th century) * 4. 2. 3 Robert Filmer (17th century) * 4.

2. 4 John Locke (17th century) * 4. 2. 5 William Blackstone (18th century) * 4.

. 6 David Hume (18th century) * 4. 3 Critique and response * 4. 3. 1 Charles Comte – legitimate origin of property * 4. 3. 2 Pierre Proudhon – property is theft * 4.

3. 3 Frederic Bastiat – property is value * 4. 4 Contemporary views * 5 Types

of property * 6 What can be property? * 6. 1 Rights of use as property * 7

Who can be an owner? * 8 Whether and to what extent the state may

interfere with property * 9 See also * 10 References * 11 Bibliography * 12

External links and references | [edit] Use of the term Various scholarly

disciplines (such as law, economics, anthropology or sociology) may treat the concept more systematically, but definitions vary within and between fields.

Scholars in the social sciences frequently conceive of property as a bundle of rights. They stress that property is not a relationship between people and

things, but a relationship between people with regard to things. Property is usually thought of as being defined and protected by the local sovereignty.

Ownership, however, does not necessarily equate with sovereignty. If ownership gave supreme authority, it would be sovereignty, not ownership. These are two different concepts. Public property is any property that is controlled by a state or by a whole community. Private property is any property that is not public property. Private property may be under the control of a single person or by a group of persons jointly. [5] [edit] General characteristics Modern property rights are based on conceptions of owners and possession as belonging to legal persons, even if the legal person is not a natural person.

In most countries, corporations, for example, have legal rights similar to those of citizens. Therefore, the corporation is a juristic person or artificial legal entity, under a concept that some refer to as "corporate personhood". Property rights are protected in the current laws of most states, usually in their constitution or in a bill of rights. Protection is also prescribed in the United Nations' Universal Declaration of Human Rights, Article 17, and in the European Convention on Human Rights (ECHR), Protocol 1. Traditional principles of property rights include: 1. control of the use of the property 2. the right to any benefit from the property (examples: mining rights and rent) 3.

right to transfer or sell the property 4. a right to exclude others from the property. Traditional property rights do not include: 1. uses that unreasonably interfere with the property rights of another private party (the

right of quiet enjoyment) [See Nuisance] 2. uses that unreasonably interfere with public property rights, including uses that interfere with public health, safety, peace or convenience. [See Public Nuisance, Police Power] Not every person or entity with an interest in a given piece of property may be able to exercise all possible property rights. For example, as a lessee of a particular piece of property, you may not sell the property, because a tenant is only in possession and does not have title to transfer.

Similarly, while you are a lessee, the owner cannot use their right to exclude to keep you from the property, or, if they do, you may be entitled to stop paying rent or sue for access. Further, property may be held in a number of forms, such as through joint ownership, community property, sole ownership or lease. These different types of ownership may complicate an owner's ability to exercise property rights unilaterally. For example, if two people own a single piece of land as joint tenants then, depending on the law in the jurisdiction, each may have limited recourse for the actions of the other. For example, one of the owners might sell their interest in the property to a stranger whom the other owner does not particularly like. Legal systems have evolved to cover transactions and disputes that arise over the possession, use, transfer, and disposal of property, most particularly involving contracts. Positive law defines such rights, and the judiciary is used to adjudicate and to enforce property rights.

According to Adam Smith, the expectation of profit from "improving one's stock of capital" rests on private property rights. It is an assumption central to capitalism that property rights encourage their holders to develop the property, generate wealth, and efficiently allocate resources based on the

operation of markets. From this has evolved the modern conception of property as a right enforced by positive law, in the expectation that this will produce more wealth and better standards of living. In his text *The Common Law*, Oliver Wendell Holmes describes property as having two fundamental aspects. The first is possession, which can be defined as control over a resource based on the practical inability of another to contradict the ends of the possessor. The second is title, which is the expectation that others will recognize rights to control resource, even when it is not in possession. He elaborates the differences between these two concepts, and proposes a history of how they came to be attached to persons, as opposed to families or entities such as the church.

* Classical liberals, Objectivists, and related traditions Most thinkers from these traditions subscribe to the labor theory of property. They hold that you own your own life, and it follows that you must own the products of that life, and that those products can be traded in free exchange with others. " Every man has a property in his own person. This nobody has a right to, but himself. " (John Locke, *Second Treatise on Civil Government*) " The reason why men enter into society is the preservation of their property. " (John Locke, *Second Treatise on Civil Government*) " Life, liberty, and property do not exist because men have made laws. On the contrary, it was the fact that life, liberty, and property existed beforehand that caused men to make laws in the first place.

" (Frederic Bastiat, *The Law*) * Socialism's fundamental principles are centered on a critique of this concept, stating, among other things, that the cost of defending property is higher than the returns from private property

ownership, and that, even when property rights encourage their holders to develop their property or generate wealth, they do so only for their own benefit, which may not coincide with benefit to other people or to society at large. Libertarian socialism generally accepts property rights, but with a short abandonment period. In other words, a person must make (more or less) continuous use of the item or else lose ownership rights. This is usually referred to as "possession property" or "usufruct". Thus, in this usufruct system, absentee ownership is illegitimate and workers own the machines or other equipment that they work with. Communism argues that only collective ownership of the means of production through a polity (though not necessarily a state) will assure the minimization of unequal or unjust outcomes and the maximization of benefits, and that therefore private property (which in communist theory is limited to capital) should be abolished. Both communism and some kinds of socialism have also upheld the notion that private property is inherently illegitimate.

This argument centers mainly on the idea that creation of private property always benefits one class over another, giving rise to domination through the use of this private property. Communists are not opposed to personal property that is "hard-won, self-acquired, self-earned" (Communist Manifesto) by members of the proletariat. [edit] Theories of property There exist many theories. One is the relatively rare first possession theory of property, where ownership of something is seen as justified simply by someone seizing something before someone else does. [6] Perhaps one of the most popular, is the natural rights definition of property rights as advanced by John Locke. Locke advanced the theory that when one mixes

one's labor with nature, one gains a relationship with that part of nature with which the labor is mixed, subject to the limitation that there should be " enough, and as good, left in common for others. "[7] From the RERUM NOVARUM, Pope Leo XIII wrote " It is surely undeniable that, when a man engages in remunerative labor, the impelling reason and motive of his work is to obtain property, and thereafter to hold it as his very own.

" Anthropology studies the diverse systems of ownership, rights of use and transfer, and possession[8] under the term " theories of property. Western legal theory is based, as mentioned, on the owner of property being a legal person. However, not all property systems are founded on this basis. In every culture studied ownership and possession are the subject of custom and regulation, and " law" where the term can meaningfully be applied. Many tribal cultures balance individual ownership with the laws of collective groups: tribes, families, associations and nations. For example the 1839 Cherokee Constitution frames the issue in these terms: Sec. 2.

The lands of the Cherokee Nation shall remain common property; but the improvements made thereon, and in the possession of the citizens respectively who made, or may rightfully be in possession of them: Provided, that the citizens of the Nation possessing exclusive and indefeasible right to their improvements, as expressed in this article, shall possess no right or power to dispose of their improvements, in any manner whatever, to the United States, individual States, or to individual citizens thereof; and that, whenever any citizen shall remove with his effects out of the limits of this Nation, and become a citizen of any other government, all his rights and privileges as a citizen of this Nation shall cease: Provided, nevertheless, That

the National Council shall have power to re-admit, by law, to all the rights of citizenship, any such person or persons who may, at any time, desire to return to the Nation, on memorializing the National Council for such readmission. Communal property systems describe ownership as belonging to the entire social and political unit. Such arrangements can under certain conditions erode to open access resources. This development has been critiqued by the tragedy of the commons. Corporate systems describe ownership as being attached to an identifiable group with an identifiable responsible individual. The Roman property law was based on such a corporate system. Different societies may have different theories of property for differing types of ownership.

Pauline Peters argued that property systems are not isolable from the social fabric, and notions of property may not be stated as such, but instead may be framed in negative terms: for example the taboo system among Polynesian peoples. [9] [edit] Property in philosophy | This section may require cleanup to meet Wikipedia's quality standards. Please improve this section if you can. The talk page may contain suggestions. (July 2007)| In medieval and Renaissance Europe the term "property" essentially referred to land. Much rethinking has come to be regarded as only a special case of the property genus. This rethinking was inspired by at least three broad features of early modern Europe: the surge of commerce, the breakdown of efforts to prohibit interest (then called "usury"), and the development of centralized national monarchies.

[edit] Ancient philosophy Urukagina, the king of the Sumerian city-state Lagash, established the first laws that forbade compelling the sale of

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property. The Ten Commandments shown in Exodus 20: 2-17 and Deuteronomy 5: 6-21 stated that the Israelites were not to steal. These texts, written in approximately 1300 B. C. by modern dating, or 2000 B. C. by traditional dating (assuming Mosaic authorship), were a blanket early protection of private property.

Aristotle, in *Politics*, advocates "private property" He argues that self-interest leads to neglect of the commons. [T]hat which is common to the greatest number has the least care bestowed upon it. Every one thinks chiefly of his own, hardly at all of the common interest; and only when he is himself concerned as an individual. "[10] In addition he says that when property is common, there are natural problems that arise due to differences in labor: " If they do not share equally enjoyments and toils, those who labor much and get little will necessarily complain of those who labor little and receive or consume much. But indeed there is always a difficulty in men living together and having all human relations in common, but especially in their having common property. (*Politics*, 1261b34) [edit] Pre-industrial English philosophy [edit] Thomas Hobbes (17th century) The principal writings of Thomas Hobbes appeared between 1640 and 1651—during and immediately following the war between forces loyal to King Charles I and those loyal to Parliament. In his own words, Hobbes' reflection began with the idea of "giving to every man his own," a phrase he drew from the writings of Cicero.

But he wondered: How can anybody call anything his own? He concluded: My own can only truly be mine if there is one unambiguously strongest power in the realm, and that power treats it as mine, protecting its status as such.

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[edit] James Harrington (17th century) A contemporary of Hobbes, James Harrington, reacted differently to the same tumult; he considered property natural but not inevitable. The author of 'Oceana', he may have been the first political theorist to postulate that political power is a consequence, not the cause, of the distribution of property. He said that the worst possible situation is one in which the commoners have half a nation's property, with crown and nobility holding the other half—a circumstance fraught with instability and violence. A much better situation (a stable republic) will exist once the commoners own most property, he suggested. In later years, the ranks of Harrington's admirers included American revolutionary and founder John Adams. [edit] Robert Filmer (17th century) Another member of the Hobbes/Harrington generation, Sir Robert Filmer, reached conclusions much like Hobbes', but through Biblical exegesis.

Filmer said that the institution of kingship is analogous to that of fatherhood, that subjects are but children, whether obedient or unruly, and that property rights are akin to the household goods that a father may dole out among his children—his to take back and dispose of according to his pleasure. [edit] John Locke (17th century) In the following generation, John Locke sought to answer Filmer, creating a rationale for a balanced constitution in which the monarch had a part to play, but not an overwhelming part. Since Filmer's views essentially require that the Stuart family be uniquely descended from the patriarchs of the Bible, and since even in the late 17th century that was a difficult view to uphold, Locke attacked Filmer's views in his First Treatise on Government, freeing him to set out his own views in the Second Treatise on Civil Government. Therein, Locke imagined a pre-social world, the

unhappy residents of which create a social contract. They would, he allowed, create a monarchy, but its task would be to execute the will of an elected legislature. " To this end" he wrote, meaning the end of their own long life and peace, " it is that men give up all their natural power to the society they enter into, and the community put the legislative power into such hands as they think fit, with this trust, that they shall be governed by declared laws, or else their peace, quiet, and property will still be at the same uncertainty as it was in the state of nature. Even when it keeps to proper legislative form, though, Locke held that there are limits to what a government established by such a contract might rightly do.

" It cannot be supposed that [the hypothetical contractors] they should intend, had they a power so to do, to give any one or more an absolute arbitrary power over their persons and estates, and put a force into the magistrate's hand to execute his unlimited will arbitrarily upon them; this were to put themselves into a worse condition than the state of nature, wherein they had a liberty to defend their right against the injuries of others, and were upon equal terms of force to maintain it, whether invaded by a single man or many in combination. Whereas by supposing they have given up themselves to the absolute arbitrary power and will of a legislator, they have disarmed themselves, and armed him to make a prey of them when he pleases... " Note that both " persons and estates" are to be protected from the arbitrary power of any magistrate, inclusive of the " power and will of a legislator. " In Lockean terms, depredations against an estate are just as plausible a justification for resistance and revolution as are those against

persons. In neither case are subjects required to allow themselves to become prey.

To explain the ownership of property Locke advanced a labor theory of property. [edit] William Blackstone (18th century) In the 1760s, William Blackstone sought to codify the English common law. In his famous Commentaries on the Laws of England he wrote that " every wanton and causeless restraint of the will of the subject, whether produced by a monarch, a nobility, or a popular assembly is a degree of tyranny. " How should such tyranny be prevented or resisted? Through property rights, Blackstone thought, which is why he emphasized that indemnification must be awarded a non-consenting owner whose property is taken by eminent domain, and that a property owner is protected against physical invasion of his property by the laws of trespass and nuisance. Indeed, he wrote that a landowner is free to kill any stranger on his property between dusk and dawn, even an agent of the King, since it isn't reasonable to expect him to recognize the King's agents in the dark. citation needed] [edit] David Hume (18th century) In contrast to the figures discussed in this section thus far, David Hume lived a relatively quiet life that had settled down to a relatively stable social and political structure. He lived the life of a solitary writer until 1763 when, at 52 years of age, he went off to Paris to work at the British embassy.

In contrast, one might think, to his outrage-generating works on religion and his skeptical views in epistemology, Hume's views on law and property were quite conservative. He did not believe in hypothetical contracts, or in the love of mankind in general, and sought to ground politics upon actual human

beings as one knows them. In general," he wrote, " it may be affirmed that there is no such passion in human mind, as the love of mankind, merely as such, independent of personal qualities, or services, or of relation to ourselves. " Existing customs should not lightly be disregarded, because they have come to be what they are as a result of human nature. With this endorsement of custom comes an endorsement of existing governments, because he conceived of the two as complementary: " A regard for liberty, though a laudable passion, ought commonly to be subordinate to a reverence for established government. " These views led to a view on property rights that might today be described as legal positivism. There are property rights because of and to the extent that the existing law, supported by social customs, secure them.

11] He offered some practical home-spun advice on the general subject, though, as when he referred to avarice as " the spur of industry," and expressed concern about excessive levels of taxation, which " destroy industry, by engendering despair. " [edit] Critique and response " Civil government, so far as it is instituted for the security of property, is, in reality, instituted for the defense of the rich against the poor, or of those who have property against those who have none at all. " — Adam Smith, *The Wealth of Nations*, 1776 [12] By the mid 19th century, the industrial revolution had transformed England and had begun in France. The established conception of what constitutes property expanded beyond land to encompass scarce goods in general. In France, the revolution of the 1790s had led to large-scale confiscation of land formerly owned by church and king. The restoration of the monarchy led to claims by those dispossessed to have

their former lands returned. Furthermore, the labor theory of value popularized by classical economists such as Adam Smith[citation needed] and David Ricardo were utilized by a new[citation needed] ideology called socialism to critique the relations of property to other economic issues, such as profit, rent, interest, and wage-labor.

Thus, property was no longer an esoteric philosophical question, but a political issue of substantial concern. [edit] Charles Comte - legitimate origin of property Charles Comte, in *Traite de la propriete* (1834), attempted to justify the legitimacy of private property in response to the Bourbon Restoration. According to David Hart, Comte had three main points: " firstly, that interference by the state over the centuries in property ownership has had dire consequences for justice as well as for economic productivity; secondly, that property is legitimate when it emerges in such a way as not to harm anyone; and thirdly, that historically some, but by no means all, property which has evolved has done so legitimately, with the implication that the present distribution of property is a complex mixture of legitimately and illegitimately held titles. " (The Radical Liberalism of Charles Comte and Charles Dunoyer Comte, as Proudhon later did, rejected Roman legal tradition with its toleration of slavery. He posited a communal " national" property consisting of non-scarce goods, such as land in ancient hunter-gatherer societies. Since agriculture was so much more efficient than hunting and gathering, private property appropriated by someone for farming left remaining hunter-gatherers with more land per person, and hence did not harm them. Thus this type of land appropriation did not violate the Lockean proviso - there was " still enough, and as good left.

" Comte's analysis would be used by later theorists in response to the socialist critique on property. [edit] Pierre Proudhon - property is theft Main articles: What is Property? and Property is theft! In his 1849 treatise What is Property? , Pierre Proudhon answers with " Property is theft! " In natural resources, he sees two types of property, de jure property (legal title) and de facto property (physical possession), and argues that the former is illegitimate. Proudhon's conclusion is that " property, to be just and possible, must necessarily have equality for its condition. His analysis of the product of labor upon natural resources as property (usufruct) is more nuanced. He asserts that land itself cannot be property, yet it should be held by individual possessors as stewards of mankind with the product of labor being the property of the producer. Proudhon reasoned that any wealth gained without labor was stolen from those who labored to create that wealth. Even a voluntary contract to surrender the product of labor to an employer was theft, according to Proudhon, since the controller of natural resources had no moral right to charge others for the use of that which he did not labor to create and therefore did not own.

Proudhon's theory of property greatly influenced the budding socialist movement, inspiring anarchist theorists such as Mikhail Bakunin who modified Proudhon's ideas, as well as antagonizing theorists like Karl Marx. [edit] Frederic Bastiat - property is value Frederic Bastiat's main treatise on property can be found in chapter 8 of his book Economic Harmonies (1850). [13] In a radical departure from traditional property theory, he defines property not as a physical object, but rather as a relationship between people with respect to an object. Thus, saying one owns a glass of water is

merely verbal shorthand for I may justly gift or trade this water to another person. In essence, what one owns is not the object but the value of the object. By "value," Bastiat apparently means market value; he emphasizes that this is quite different from utility. In our relations with one another, we are not owners of the utility of things, but of their value, and value is the appraisal made of reciprocal services.

" Strongly disputing Proudhon's equality-based argument, Bastiat theorizes that, as a result of technological progress and the division of labor, the stock of communal wealth increases over time; that the hours of work an unskilled laborer expends to buy e. g. 100 liters of wheat decreases over time, thus amounting to "gratis" satisfaction. Thus, private property continually destroys itself, becoming transformed into communal wealth. The increasing proportion of communal wealth to private property results in a tendency toward equality of mankind. Since the human race started from the point of greatest poverty, that is, from the point where there were the most obstacles to be overcome, it is clear that all that has been gained from one era to the next has been due to the spirit of property. " This transformation of private property into the communal domain, Bastiat points out, does not imply that private property will ever totally disappear.

This is because man, as he progresses, continually invents new and more sophisticated needs and desires. [edit] Contemporary views Among contemporary political thinkers who believe that natural persons enjoy rights to own property and to enter into contracts, there are two views about John Locke. On the one hand there are ardent Locke admirers, such as W. H. Hutt (1956), who praised Locke for laying down the " quintessence of

individualism. On the other hand, there are those such as Richard Pipes who think that Locke's arguments are weak, and that undue reliance thereon has weakened the cause of individualism in recent times. Pipes has written that Locke's work "marked a regression because it rested on the concept of Natural Law" rather than upon Harrington's sociological framework.

Hernando de Soto has argued that an important characteristic of capitalist market economy is the functioning state protection of property rights in a formal property system where ownership and transactions are clearly recorded. These property rights and the whole formal system of property make possible:

- * Greater independence for individuals from local community arrangements to protect their assets;
- * Clear, provable, and protectable ownership;
- The standardization and integration of property rules and property information in the country as a whole;
- * Increased trust arising from a greater certainty of punishment for cheating in economic transactions;
- * More formal and complex written statements of ownership that permit the easier assumption of shared risk and ownership in companies, and insurance against risk;
- * Greater availability of loans for new projects, since more things could be used as collateral for the loans;
- * Easier access to and more reliable information regarding such things as credit history and the worth of assets;
- * Increased fungibility, standardization and transferability of statements documenting the ownership of property, which paves the way for structures such as national markets for companies and the easy transportation of property through complex networks of individuals and other entities;
- * Greater protection of biodiversity due to minimizing of shifting agriculture practices.

All of the above enhance economic growth. [14] [edit]

Types of property This sign declaring a parking lot to be "private property" illustrates one method of identifying and protecting property. Note the citations to legal statutes. Most legal systems distinguish different types (immovable property, estate in land, real estate, real property) of property, especially between land and all other forms of property—goods and chattels, movable property or personal property. They often distinguish tangible and intangible property (see below).

One categorization scheme specifies three species of property: land, improvements (immovable man-made things), and personal property (movable man-made things). In common law, real property (immovable property) is the combination of interests in land and improvements thereto, and personal property is interest in movable property. Real property rights are rights relating to the land. These rights include ownership and usage. Owners can grant rights to persons and entities in the form of leases, licenses and easements. Later, with the development of more complex forms of non-tangible property, personal property was divided into tangible property (such as cars and clothing) and intangible property (such as financial instruments, including stocks and bonds, and intellectual property, including patents, copyrights, and trademarks). [edit] What can be property? The two major justifications given for original property, or homesteading, are effort and scarcity.

John Locke emphasized effort, "mixing your labor"[citation needed] with an object, or clearing and cultivating virgin land. Benjamin Tucker preferred to look at the telos of property, i. e. What is the purpose of property? His answer: to solve the scarcity problem. Only when items are relatively scarce

with respect to people's desires do they become property. [15] For example, hunter-gatherers did not consider land to be property, since there was no shortage of land. Agrarian societies later made arable land property, as it was scarce.

For something to be economically scarce, it must necessarily have the exclusivity property - that use by one person excludes others from using it. These two justifications lead to different conclusions on what can be property. Intellectual property - non-corporeal things like ideas, plans, orderings and arrangements (musical compositions, novels, computer programs) - are generally considered valid property to those who support an effort justification, but invalid to those who support a scarcity justification, since they don't have the exclusivity property (however they may still support other 'intellectual property'-laws such as Copyright, as long as these are a subject of contract instead of government arbitration). Thus even ardent propertarians may disagree about IP. [16] By either standard, one's body is one's property. From some anarchist points of view, the validity of property depends on whether the "property right" requires enforcement by the state. Different forms of "property" require different amounts of enforcement: intellectual property requires a great deal of state intervention to enforce, ownership of distant physical property requires quite a lot, ownership of carried objects requires very little, while ownership of one's own body requires absolutely no state intervention.

Many things have existed that did not have an owner, sometimes called the commons. The term "commons," however, is also often used to mean something quite different: "general collective ownership" - i. e. common

ownership. Also, the same term is sometimes used by statisticians to mean government-owned property that the general public is allowed to access. Law in all societies has tended to develop towards reducing the number of things not having clear owners. Supporters of property rights argue that this enables better protection of scarce resources, due to the tragedy of the commons, while critics argue that it leads to the 'exploitation' of those resources for personal gain and that it hinders taking advantage of potential network effects.

These arguments have differing validity for different types of "property"—things that are not scarce are, for instance, not subject to the tragedy of the commons. Some apparent critics advocate general collective ownership rather than ownerlessness. Things that do not have owners include: ideas (except for intellectual property), seawater (which is, however, protected by anti-pollution laws), parts of the seafloor (see the United Nations Convention on the Law of the Sea for restrictions), gasses in Earth's atmosphere, animals in the wild (though there may be restrictions on hunting etc. - and in some legal systems, such as that of New York, they are actually treated as government property), celestial bodies and outer space, and land in Antarctica. The nature of children under the age of majority is another contested issue here. In ancient societies children were generally considered the property of their parents. Children in most modern societies theoretically own their own bodies but are not considered competent to exercise their rights, and their parents or guardians are given most of the actual rights of control over them.

Questions regarding the nature of ownership of the body also come up in the issue of abortion, drugs and euthanasia. In many ancient legal systems (e. g. early Roman law), religious sites (e. g. temples) were considered property of the God or gods they were devoted to. However, religious pluralism makes it more convenient to have religious sites owned by the religious body that runs them.

Intellectual property and air (airspace, no-fly zone, pollution laws, which can include tradeable emissions rights) can be property in some senses of the word. [edit] Rights of use as property Ownership of land can be held separately from the ownership of rights over that land, including sporting rights,[17] mineral rights, development rights, air rights, and such other rights as may be worth segregating from simple land ownership. [edit] Who can be an owner? Main article: Ownership Ownership laws may vary widely among countries depending on the nature of the property of interest (e. g. firearms, real property, personal property, animals). Persons can own property directly. In most societies legal entities, such as corporations, trusts and nations (or governments) own property.

In the Inca empire, the dead emperors, who were considered gods, still controlled property after death. [18] [edit] Whether and to what extent the state may interfere with property Under United States law the principal limitations on whether and the extent to which the State may interfere with property rights are set by the Constitution. The " Takings" clause requires that the government (whether state or federal—for the 14th Amendment's due process clause imposes the 5th Amendment's takings clause on state governments) may take private property only for a public purpose, after <https://assignbuster.com/public-property/>

exercising due process of law, and upon making " just compensation. " If an interest is not deemed a " property" right, or the conduct is merely an intentional tort, these limitations do not apply and the doctrine of sovereign immunity precludes relief. [19] Moreover, if the interference does not almost completely make the property valueless, the interference will not be deemed a taking but instead a mere regulation of use. [20] On the other hand, some governmental regulations of property use have been deemed so severe that they have been considered " regulatory takings. [21] Moreover, conduct sometimes deemed only a nuisance or other tort has been held a taking of property where the conduct was sufficiently persistent and severe.

[2 MTR-KCR merger Railway network after merger Ticket gates at key interchange stations have been removed one year after the merger There had been some discussion of merging the Kowloon-Canton Railway Corporation (KCRC), which was also government-owned, and the MTR to make the territory's transport system more efficient. The MTRCL backed such a merge while the KCRC opposed the plan. In March 2004, the Hong Kong Government officially encouraged the two companies to merge. On 11 April 2006, the Hong Kong Government officially announced the details of the proposed merger. Under the non-binding Memorandum of Understanding the Government has signed with KCRC, KCRC would grant a Service Concession to the MTRCL to operate the KCR system, with an initial period of 50 years. The KCRC would receive a one-time upfront payment of HK\$4.25 billion, a fixed annual payment of HK\$750 million and a variable annual payment based on revenues generated from operation of the KCR system.

In addition, MTRCL would make a payment of \$7.79 billion for the acquisition of property and other related commercial interests. [4] The railway lines the KCRC operated were less profitable than the MTRC, and the KCRC was less active in property development. It was widely considered that the Government's choice was to avoid being criticised for selling assets of the KCRC, which it wholly owned to MTRCL at an underpriced level. Leasing the operation right of the KCR system to the MTRCL could avoid actually selling the KCRC. On 2 December 2007, the Chinese name of the MTRCL was changed to 香港鐵路有限公司 [5] (literal translation: Hong Kong Railway Corporation Limited) after being granted the Service Concession while the English name will remain unchanged. [6][7] The KCRC is now a holding company of the KCR system, without actual railway operations.

The merger was approved by shareholders of the MTRCL on 9 October 2007. The merger is effective for 50 years. [edit] Fare reductions All adult Octopus Card holders would be the first to benefit from the merger. [8] Student and Concessionary Octopus holders would also benefit from the merger by further reducing \$0.1 from their 50% off fares. [8] Student Octopus holders would continue to pay the current reduced concessionary fares on the MTR network. Elderly Octopus holders would be introduced to a new fare system which only the elderly can enjoy a \$2 fare to anywhere on the MTR network (excluding Airport Express, Light Rail, and Cross-Boundary Stations).

[9] [edit] Future expansion Main article: Future projects of the MTRThe following railway links are being constructed or planned by MTR currently: * West Island Line (Island Line extended westward to Kennedy Town; under Construction , to be completed in 2014) * South Island Line (East and West)

(Two lines to the south of Island Line, to South Horizons residential area and Wong Chuk Hang; under planning, South Island Line (East) to be completed in 2015) * Kwun Tong Line Extension (to Ho Man Tin and Whampoa; under planning, to be completed in 2015) * Sha Tin to Central Link (extension of Ma On Shan Line to Tsim Sha Tsui, Kwun Tong Line extension to Whampoa, and East Rail Line to Admiralty; under planning;) * Northern Link (New Territories) (Line from Kam Sheung Road to Chau Tau and Lok Ma Chau; under planning) * North Island Line (absorption of Island Line by the Tung Chung and Tseung Kwan O lines; proposal deferred to 2016) [edit] Overseas operations [edit]

United Kingdom On 24 November 2004, it was revealed that the MTRC (together with GNER) is one of the main players in acquiring the South Eastern Trains franchise in the United Kingdom. However, Govia has been selected as the operator. MTR corporation were bidding for the West Midlands Train route in England, but have since withdrawn their bid. The company and Laing Rail established a joint venture for the London Overground franchise. In December 2006, Govia and MTR Laing were selected to submit "best and final offers" for the franchise. On 19 June 2007, MTR Laing successfully won the London Overground franchise. MTR Laing has since changed its name to London Overground Rail Operations Limited (LOROL), as Laing Rail Group has become acquired by Germany's Deutsche Bahn.

LOROL is mainly managed by Laing Rail Group Management moved from their Chiltern Railways division with MTR providing specialists as needed. In February 2009, MTR Corporation were shortlisted as a possible company to run the Tyne and Wear Metro service in Newcastle upon Tyne, UK. [10] [edit]

Sweden and Denmark They are also interested to take over the Oresund trains in Sweden and Denmark together with SJ AB. On 20 January 2009, it was announced that MTR was awarded the contract to operate the Stockholm Metro. The contract is for eight years with an option to extend the agreement for another six years. MTR started operating the metro on 2 November 2009. [11] [edit] Australia In July 2008 there were reports that they are bidding to have the right to operate Melbourne's extensive metropolitan train network, aligned with United Group.

[12] In August 2008 it was confirmed that they had been shortlisted. [13] On 25 June 2009 MTR were awarded the rights to operate Melbourne's train network as part of a joint venture with John Holland Melbourne Rail Franchise and United Group Rail Services. [14] The contract began on 30 November 2009 and it will continue for 8 years, with the option of extending that contract for another 7 years. [14] It is set to operate as a locally themed consortium MTM (Metro Trains Melbourne). MTR took over from Melbourne's existing network operator (French-owned firm Connex) on 30 November 2009. [14][15]