

Property & Property Rights

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Economic Justifications of Property Rights

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- Incentive to work
- Incentive to maintain and improve the thing
- Incentive to transfer thing
- Avoidance of dispute
- Protection against risk
- Distribution of wealth

Types of Property

- Corporeal & Incorporeal
(Tangible & Intangible)
- Corporeal – Immovable & Movable
- Incorporeal – copyright, trademarks,
securities, debts

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Acquisition of Property

- Possession
- Prescription
- Agreement
- Inheritance

Ownership

- Relation between person and the object
- Complex
- In rem
- It includes
 - Right to possess
 - Right to use & enjoy
 - Right to consume, destroy, alienate
 - Indeterminate in duration
 - Residuary rights

Possession

- In fact & in law
- De facto possession & de jure ownership
- Immediate & Mediate
- Concurrent
- Animus possessionis – mental element
claim
- Corpus possidendi – physical element
control

Actual exercise of the claim

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The Tragedy of the Commons (1968) - Garrett Hardin

- A parable
- Class of Human Problems
 - No technical solution problems (Without change in human values and ideas of morality)
 - Arms race and nuclear war (increasing military power, decreasing national security)

Population Problem

- Exponential/ geometrical increase (Malthus Theory)
- Per capita share decreases
 - Solutions- improved wheat, sea farming
- Bentham's goal – Greatest good of greatest number
 - Cannot be achieved, therefore optimal number

Population Problem Contd.

- Necessity to abandon “Commons in breeding”
- Freedom to breed will bring ruin to all
- No technical solution for overpopulation
- “Freedom is recognition of necessity”
- Education : to reveal all the necessity of abandoning the freedom to breed

Common Pastures

- ▶ Tragedy- Unhappy ending
 - ▶ To highlight inevitableness which one cannot escape
- ▶ Common pastures – open to all
 - ▶ Herds of cattle can graze
 - ▶ Each herdsman interested in his interest
 - ▶ By adding one more animal
 - ▶ Positive component – gets profit + 1
 - ▶ Negative component- shared by all

Common Pastures

- Each man is locked into a system which compels him to increase his herd without limit
- Ruin is the destination
- Freedom in Commons brings ruins to all

Alternative to Commons

- ▶ Institution of private property coupled with inheritance
- ▶ Injustice is preferable to total ruin
- ▶ Status quo or reform
- ▶ Loopholes in reform
- ▶ But we cannot wait till perfect solution

Open Sea

- Removing natural resources
- Unlimited fishing- many species of fish closer to extinction
 - Whales

Pollution

- Putting something in the nature- air/water
 - Chemicals
 - Radioactive material
 - Noxious fumes
- Foiling our own nest ‘
- Cannot be fenced
- Law always behind the times
 - Always requires stitching and fitting to adopt the required changes

Infrastructure Projects

- Public- Private Partnership (PPP)
- Various types
 - BOO- Build Own Operate
 - BOT – Build Operate Transfer
 - BLT- Build Lease Transfer
 - DBFOT- Design Build Finance Operate Transfer
 - OMT- Operate Maintain Transfer
 - EPC- Engineering Procurement Construction

Revisiting & Revitalizing Public-Private Partnership Model on Infrastructure

- ▶ PPP Contracts – Concessions
- ▶ Long Term Contracts
- ▶ Rigidity vs Flexibility
- ▶ Balancing allocation of risk
- ▶ Stakeholders
- ▶ Jobs
- ▶ Risk factors
- ▶ Renegotiation
- ▶ Obsolescing bargain