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978-0-521-59389-2 - Property Relations: Renewing the Anthropological Tradition

Edited by C. M. Hann

Excerpt

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# 1 Introduction: the embeddedness of property

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‘With regard to external things, a man ought to possess them not as his own but as common, and always be ready to put them at the disposal of others who are in need’ (St Thomas Aquinas; cited in Gill 1983: 126).

‘In every society there are men who control more of the food, clothing and other forms of wealth produced in the society than do other men. The word *control* is used deliberately: from many points of view the control of wealth is more important than its mere possession’ (Homans 1942: 339).

## **People, things, words**

New forms of property relations have come and gone as long as human societies have existed, but one particular cluster has achieved world dominance in the last two centuries. The rigorous specification of private property rights is nowadays almost everywhere thought to be a necessary condition not only for improved economic performance but also for healthy societies founded on civil and political liberties. The other key ideas in what I term the dominant liberal paradigm are free individuals, competitive markets, pluralistic civil societies and the ‘rule of law’. Most of these have attracted more scholarly attention of late than property *per se*. The liberal paradigm is often traced back to Adam Smith. It is attractive to many, and it has certainly proved more powerful than its Marxist-Leninist challenger. A standardized model of private, exclusive ownership has now been disseminated to most societies, including in recent years to the former communist societies of Eastern Europe and Asia by their Western advisers. Liberals advocate this model as more efficient and more just than rival models in which, they allege, ownership is a matter of arbitrary dictate by powerholders. Liberals also frequently allege that communal forms necessarily give rise to the overexploitation of scarce natural resources. Following global dissemination of the model, private ownership has also been vigorously revived as an ideological principle in some of the countries where it originated.

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For example, in Britain major industries that had been taken into state ownership in earlier generations have been privatized, and centuries-old principles of mutuality have been abandoned as building societies have rushed to convert themselves to commercial banks.

Yet the actual preeminence of private property and of the liberal paradigm of which it forms a central element has never been as complete as either its proponents or its critics like to claim. To a large extent it is a myth. There are powerful countercurrents, in Britain no less than in post-communist Russia, since in all societies the property rights of individuals are subject to political as well as legal regulation. In many parts of the world the private property model has been resisted by indigenous peoples, sometimes covertly when any form of overt opposition seemed impossible, but sometimes through well-organized campaigns. The 1992 Mabo Judgement in Australia was a landmark which overturned the legal edifice that had hitherto denied the Aborigines title to their land. The universality of the liberal model is called into question by some of the most advanced capitalist economies themselves, notably East Asian states which have given greater priority to careful governmental support and regulation than to the pursuit of 'pure competition', and to collectivities (starting with the family) rather than the individual. The private property component of the liberal model looks increasingly suspect throughout the capitalist world, as ownership of large enterprises continues to shift away from persons to institutions, and is increasingly detached from issues of control and management.

To speak of property, then, is to engage with a range of issues of global political economy in the contemporary world. However, other aspects of property may be more significant for anthropologists. Mrs Thatcher's governments did not restrict themselves to privatizing industries (what Marxists call the 'means of production') and the promotion of shareholding by individuals. They also cut back on public housing investment, initiated the large-scale sale of council houses to their tenants, and achieved a substantial increase in the number of households which own the property in which they live. Evidently many people in Britain support these policies. Most of the academics I know also gain pleasure and fulfilment from being 'owner occupiers', just as they do from the ownership of other objects and 'personal effects'. More generally, it is evident that the ways in which people relate to the objects in their environment play a vital role in forming their social identities. Here, too, the private property model seems to have become pervasive, at least in countries like Britain. If I ask my ten-year-old son to explain the meaning of the word 'property', he answers promptly that it has to do with owning things. If a thing is your property, it belongs to you. Others cannot take it

from you. Assuming his response to be fairly typical of British children, what do his phrases reveal about property as an institution in British society and property in general? Does my son display an instinct to acquire objects and own them exclusively that is universal among humans? Or is he articulating a notion of possessive individualism that is the specific product of modern Western societies? How does a Trobriand Islander who seeks to possess items of value exchanged ceremonially in the complex system known as *kula* differ from a British entrepreneur who puts his personalized numberplates on to his new Mercedes, and aspires to own his town's football team and to pass it on in due course to his eldest son or grandson? If you have bought this book, do you write your name in it, to establish a relationship and maintain possession? Do you treat it differently if it is a library copy you have borrowed, or if you are just browsing in the bookstore? How does ownership of a book differ from the ownership of other kinds of objects, and from the relationship that is expressed when I speak of *my* son?

Most anthropologists will take it for granted that people's attitudes towards objects and the ways in which they are used to create meaning are culturally and historically variable. For example, slaves are by definition human beings who form the property of others, but they are marked off from other forms of property and although they are widely distributed in time and space it is rather difficult to make any further universal statements about this property relation (Watson 1980). At any one time within each culture concepts of ownership and possession, control and disposal, are likely to vary greatly for different categories of object. The identifications people have with the land on which a sacred shrine is located differ from their identifications with land that is just another parcel of suburban real estate – and when one enquires further into the market for this commodity, as every estate agent knows, a tremendous variety of sentiments is uncovered. Some items of personal hygiene were not taken into communal ownership in even the most extreme socialist systems, while even the most dedicated apostles of privatization generally refrain from applying their model to the national army. This point brings us back at once to questions of political economy. At the micro level, property relations form the myriad ways in which people build up their social identities through holding and using a variety of 'things' in their environment. At the macro level the anthropologist also needs to address issues of political power and control over the distribution of 'things' in society. These levels can be connected in analysis. For example, most Western countries are currently having to review their levels of welfare provision. In Britain the entitlement of single-parent families to claim welfare benefits has been called into

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question by some politicians. The high costs of terminal care have left some people with no choice but to sell the greater part of the personal property they have accumulated, which they had hoped to be able to pass on to their children. Such problems show that property distribution and transmission within families are in fact intimately connected to the policies of states – which seem increasingly unable to sustain the obligations they have assumed. When British politicians talk about the need for greater social ‘inclusion’ and a ‘stakeholder society’ they are raising explicit issues about property, just as surely as academics who moan in their common-room about the local housing market and the undermining of tenure, or their students who complain about their rents and the withdrawal of their state grants. Of course our ‘nation-states’ are themselves based on an extension of the principle of exclusive ownership. Some descendants of Adam Smith today support the cause of Scots nationalism, on the grounds that oil assets which belong to Scotland should not be appropriated for the benefit of a larger British public. In other parts of the world struggles for territory and other forms of property have been more violently contested. Often these struggles focus on the language spoken by a group, and the purity of its ‘culture’, which is considered to be its exclusive property.

Although anthropologists are likely to emphasize the cultural diversity and historical contingency of property relations, it is nonetheless helpful to retain some core definition. This is more difficult than might be supposed, since neither lawyers nor philosophers have come up with conclusive, universally accepted definitions. In contemporary ordinary language usage, property commonly refers to the ‘thing’ over which a person claims more or less exclusive rights of ownership. Sometimes this thing is in fact an activity, as in statements like ‘he made his fortune from (buying and selling) property’. However, in established Western theoretical and academic usage property is not an activity or a thing at all, but the rights that people hold over things which guarantee them a future ‘income stream’. They ‘own’ only incorporeal rights, not the thing itself. Property *relations* are consequently better seen as social relations between people. A textbook anthropological definition runs as follows:

The essential nature of property is to be found in social relations rather than in any inherent attributes of the thing or object that we call *property*. Property, in other words, is not a thing, but a network of social relations that governs the conduct of people with respect to the use and disposition of things (Hoebel 1966: 424).

According to this definition, it would be incorrect to see the culturally variable ways in which people relate to ‘things’ as in themselves con-

stituting property relations.<sup>1</sup> Property relations can only exist between people: as John Davis has put the point, ‘you cannot sue an acre; a boundary dispute is not a dispute with a boundary. The study of property rules in general, and of land tenure in particular, is the study of relationships between people’ (1973a: 157). In any case, the things to which Hoebel refers in his definition are by no means restricted to the material objects that a society produces. Things are construed much more broadly by anthropologists to include such intangibles as names, reputation and knowledge, personal and collective identities, not to mention intangibles such as currency holdings and shares in joint-stock companies. The liberal paradigm was formed in an age when the archetypal form of property was private land ownership, but it is important to question this paradigm in a world in which most quantifiable wealth items are not material things at all, and intellectual property rights attract more legal attention than land.

Useful though it is to be warned against generalization from the ordinary language usage of modern Western society, this anthropological definition in terms of social relations versus ‘things’ may be too restrictive. Apart from the special case of slavery, people have rights in other persons, such as those shared by a married couple in each other, which are not directly connected to ‘things’. Moreover, since people everywhere do talk about the ties that bind them to all sorts of non-human entities, and since these are often crucial to social identities, these relationships need to be included in our definition. The boundaries between people and things, between human and non-human (even inanimate) persons, are not always sharply drawn. Even in Western societies people are often considered to have a special relationship with the objects they produce, and this has been the basis of many justifications for private ownership. It therefore seems desirable to stretch the definition of property beyond the conventional anthropological formula, which proclaims simply that property relations *are* social relations. The word ‘property’ is best seen as directing attention to a vast field of cultural as well as social relations, to the symbolic as well as the material contexts within which things are recognized and personal as well as collective identities made. This usage may seem abstruse and at variance with both ordinary language and academic usages. It might seem too loose and open-ended, making the study of property relations coextensive with the entire field of social anthropology. However, the main advantage of approaching property relations in this way is that it carries minimal ethnocentric baggage. It can therefore be used to facilitate comparative analysis in fields of social organization where economics, politics and law intersect.

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Obviously I am here advocating the use of property as an analytic term at a high level of abstraction. It may not be readily translatable into other cultures and other eras. Nuances such as the distinction between 'own' and 'possess' are notoriously difficult to render in other languages; there may be significant difficulties even in translating between related European languages. The word 'property' itself is nowadays often used synonymously with exclusive ownership; but it seems preferable to specify ownership more precisely as 'the greatest possible interest in a thing which a mature system of law recognizes' (Honore 1961: 108; cited in Reeve 1986: 17–18). The contributors to this volume are concerned with both property and ownership. Their broad aim is to investigate both inequalities in the distribution of 'things' and historical and cultural variation in the ways that people 'hold' them and thereby create their social identities.

Some recent theoretical work in law has deconstructed the concept of property to the point where it vanishes altogether (Gray 1991). This conclusion can be averted if, parallel with cultural investigations, equal importance is attached to investigations of the realities of economic and political power and to the development of a general analytic framework. As Maurice Godelier has emphasized, 'a form of property only exists when it serves as a rule for the concrete appropriation of reality. Property only really exists when it is rendered effective in and through a process of concrete appropriation' (1986: 81). It is desirable, in the pursuit of this concreteness, to be alert to the similarities as well as the differences which exist between cultures, including the presence in most human communities of instrumental and exclusive ways of holding things that have some affinity with the dominant modern Western notions of property. Many pre-capitalist societies have allowed substantial forms of private property and ways of transferring it that resemble those used in modern market economies. Sometimes the things thus possessed are impersonal – objects that can be transacted as commodities in a market, without moral evaluation. In other cases, however, these things are treated as valuables or heirlooms, and their exchange is strictly circumscribed. Most societies provide many examples of both types of 'thing'; rather than forming two sharply opposed categories, they may be joined on a continuum.

All societies have property relations that transcend their individual members, i.e. they imply some sort of integrated collectivity. It is conventional for analysts to construct a continuum, from 'individual' (private) to 'communal' (public); again, this may be a continuum of many gradations, running from individual to family and on through various forms of cooperative or corporation to culminate in the state. A

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clear distinction is sometimes drawn between that which is the property of an entire people or their state and that which belongs to the members of a specified group, such as a collective farm. Despite the importance of many 'intermediate' forms of property-holding, the dichotomy between individual and communal has acquired particular salience in the context of the dominant Western liberal paradigm. This does not mean that these are the best terms with which to capture the actual realities of modern Western societies, and many anthropologists have urged caution in the application of this dichotomy to other forms of society.

Another striking feature of the liberal paradigm of property is the degree to which it requires that the holding of things be rendered formal and explicit. In most pre-capitalist societies property relations seem to be inchoate, only vaguely defined in law, and leaving much scope for interpretation and manipulation in concrete cases. For example, E. P. Thompson has commented on the 'petty and particular rights and usages which were transmitted in custom as the *properties* of the poor' (1991: 184). He also reminds us of Marx's comments on the '*indeterminate* aspect of property' for German peasants (Thompson 1977: 241). It is this aspect which, according to the liberal critique, is emulated in the 'property vacuum' of socialism. According to this view, the efficient organization of modern industrial economies is incompatible with such indeterminacy. I shall suggest below that the evidence on this point is less than conclusive. More generally, I argue that the focus on property must not be restricted to the formal legal codes which play a major role in our own society, but must be broadened to include the institutional and cultural contexts within which such codes operate. The concept of property has greater salience in capitalist society, but it can never be disembedded from these contexts. There is no anachronism in studying property relations in other forms of society where the economic and legal systems are very different. If we adopt a broad analytic concept of property in terms of *the distribution of social entitlements*, then it can be investigated anywhere in time and space. This usage will necessarily differ from specific local understandings of what constitutes property. For example, the right to a future stream of social security benefits may not be thought of as a property right in modern Britain, because it does not have sufficient 'thinginess'; but under the broad usage this should indeed be viewed as a property right, analogous to the rights of members of a hunting society to a share in the meat brought home by a successful hunter.

The intellectual origins of the currently hegemonic liberal paradigm of property have been the subject of many studies. Political theorists such as Macpherson (1962) have dated the rise of 'possessive individualism'

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to seventeenth-century England, and specifically to the writings of Thomas Hobbes and John Locke. But Western political theory and jurisprudential traditions are themselves rich and diverse. Locke did not follow the more restrictive Roman law definition of property, in terms of absolute and exclusive rights. Both his and later justifications for private ownership in terms of the work invested in land, and the improvements thereby accomplished, may be seen as reflecting powerful popular sentiments at the same time as they modify an evolving scholarly discourse. For centuries the discourse had ultimate roots in ideas of Divine Will, and private property in land was considered to be sacred. The ground for the later anthropological usages was laid in a more secular Victorian era by lawyers, notably Sir Henry Maine, who represented property as a 'bundle of rights' and understood that it defied 'exact circumscription'. For example, the right to use a particular thing might not coincide with the right to bequeath it to others, or to sell it to a stranger. When anthropologists emphasize social relations and criticize the tacit assumptions of possessive individualism that these rights should coincide, they should realize that they are in fact continuing to weave one of the enduring threads of the Western tradition.

The liberal (neo-classical) paradigm in economics draws selectively on several traditions, including those of the Physiocrats and the classical political economists, in adapting the logic of private property arguments for land to private ownership of the means of production more generally. This paradigm tends to emphasize the 'thinginess' of property. Yet the first country to complete the transition to capitalism and allow the liberal property paradigm to achieve its apogee was England, where the common law tradition emphasized the essentially relational, social character of property ownership. It was the continental systems which seemed to place greater weight on relationships with the *things*, rather than on the social webs within which they were held. This puzzle is explored further by Alan Macfarlane in chapter 5: it would seem that the sophisticated theory of the relational character of property expressed in the common law and upheld by intellectual elites had the flexibility that was required for the development of a uniquely individualist society, in which the dominant popular understanding of property relations came to be expressed in terms of exclusive private relations between people and things.

Of course anthropologists, like other scholars, have to be careful in distinguishing between the history of words and ideas and the history of the societies in which the ideas develop. The connections between private property as discussed by political theorists and the actual evolution of property relations in Britain, the world's first industrial



nation, are by no means self-evident. Anthropologists need to be aware that they are themselves part of an evolving intellectual tradition; but through their work with other people in other places they are well placed to mount a critique of the dominant Western intellectual tradition. They are able to explore how people outside the modern West deploy quite different ideas and concepts to explain and legitimate distribution. There are many who believe that the main currents of global political economy are leading ever more certainly to crises of poverty, inequality and unsustainability, and that modern concepts of private property are at the heart of these crises. Anthropologists may play a vital role in demonstrating that property relations do not *have* to follow the presently dominant model. They can point to alternative ways of organizing social life based on ideas of sharing, mutuality and inclusion that have prevailed in most forms of social organization in the past – and which survive in shadowy, attenuated forms in our own societies, and rather more vigorously in some others. Analyses of other cultures can help anthropologists to point out the inadequacies of the dominant private property model as a description of how their own societies are organized, and to ask about the purposes that are served by such misleading rhetoric.

My goal in this introduction is to approach property as a key category in cross-cultural analysis with a view to restoring it to its nineteenth-century role as a fundamental concept in anthropology. I suggest that it can serve to integrate the separate disciplinary traditions in Western scholarship, and also to expose the deepest problems posed by forms of social organization rooted in misleading ideas about *separability*. In the following section I review some of the ways in which property relations have changed with the spread of capitalism, a mode of production which promotes exclusive privately owned property in previously unprecedented ways. I then move on to consider the history of discussions of property in the anthropological literature and some recent developments in economic anthropology. Here I try to show that closer attention to property could reinvigorate an area which has lately been swinging between the poles of political economy and cultural studies. Karl Polanyi was one of the founders of this sub-discipline. He was also a giant among modern historians, whose mid-century assessment of ‘the origins of our time’ remains a classic (Polanyi 1944). Polanyi adapted the concept of ‘embeddedness’ to draw attention to ways in which pre-industrial economics differed from those of market capitalism: the latter had escaped from their political and social constraints. I find this metaphor of embeddedness useful in a reappraisal of property relations. The ‘substantivist’ school that Polanyi founded has

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now faded, and his conception of industrial economies as ‘disembedded’ was exaggerated and perhaps largely illusory. Many historians no longer accept his view that in the course of the eighteenth century ‘older, multiple use-rights to property were simply supplanted by a rise of absolute property rights’ (Brewer and Staves 1995: 17). However, I shall suggest that Polanyi’s notions of ‘embeddedness’ and a ‘Great Transformation’ may still prove fruitful. The modern welfare state, far from resolving the crisis that Polanyi identified, as some commentators have argued, seems to entail a new and more radical disjunction in property relations than anything witnessed in the emergence and heyday of market capitalism. In pursuing this line of thought, for us as for our predecessors a further goal in the analysis of property relations is to shed light on our own societies and the directions in which they are changing.

### **Property in time and space**

‘belonging, private property in land, is itself a concept which has had a historical evolution. The central concept of feudal custom was not that of property but of reciprocal obligations’ (Thompson 1991: 127).

Most of the contributions to this volume reflect the bias of modern anthropology toward detailed studies of specific social institutions observed synchronically through fieldwork. The emphasis on fieldwork enables the anthropologist to provide fine-grained analyses of the social consequences of different property systems, and of how exclusions and inequalities are legitimated. However, the anthropologist can also draw on a range of other sources – a body of past ethnographic work, a long tradition of theorizing about property in the context of human social evolution, and the contributions of archaeologists and historians to understanding how property relations have changed in the past. The difficulty with much of this work is that it proceeds either squarely within the liberal paradigm or within some sort of anti-liberal critique which is no less completely a product of the Western intellectual tradition. Despite the consequent difficulties of interpretation, it is worth attempting to sketch some of the large-scale changes that have taken place over time in the ways in which things have been held in human societies.

Arguments about the nature of property relations in early human societies are bound to be inconclusive. It is not possible to do fieldwork in the palaeolithic, and it is now recognized that accounts of the simplest societies known to anthropologists in the nineteenth and twentieth centuries cannot be assumed to have general validity for societies of