
The Political Economy of Property Rights: A view from Adam Smith and Henry Maine

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Résumé

In modern economics, the idea of property rights has become one of the most important pillars of the idea of economics as a natural order. In the presence of missing markets, decentralised decision making based on competitive interactions could yield a solution to the economic problem only if property rights have been allocated. Moreover, in a world of uncertainty, these rights have to be allocated in a specific (optimal) manner to ensure the smooth working of laissez-faire. This, of course, should have created immense difficulty for the Robbinsian claim about the ethical neutrality of economics and subsequently, its universality. But this has not been the case. As is common to most of modern economics, property rights are analysed from a utilitarian perspective and in a totally a-historical fashion. Moreover, there seems to be an implicit general agreement that property rights are some form of natural rights and therefore, do not interfere with the morality of the system. By contrast, both Adam Smith and Henry Maine (who was also a great influence on Hayek), examine the question of spontaneous or natural order by treating property rights in a clear historical– and anthropological– manner. As a result, the evolution of property rights imposes conditions on the organisation of society that restrict rather than facilitate the efficiency of natural economic order. The restriction comes from the fact that the existence of property rights and their distribution is a result of an evolution over various stages of society while the idea of efficiency through natural liberty is the apparent recipe for a particular stage in social evolution. Both Smith and Maine see the evolution of private property as a natural process. In Smith, this is the result of the same drive that lies behind the division of labour. In Maine, it is the disentanglement of collective ownership due to the shift in the cement of society from blood-kinship to property in land. But while Maine—a legal historian—is not directly interested in the question of whether such moves correspond to the evolution of an ethical system which would support it, in Smith, the two are closely intertwined. Maine is only focused on the fact that the social move from blood-kinship to land-based kinship changed the terms of social relationship from status based to contract based. Though he is very clear that there is nothing obviously natural about the acquisition and holding of anything, he accepts the fact that there was a process which made the private ownership of what used to be owned collectively and therefore, property rights are the outcome of a natural process. Not surprisingly, this was very much in line with Hayek and the Austrian view. However, in Smith, he is not only interested in the evolution of ownership but also in the question of how they were perceived morally and how they became law. I will show that in Smith, the spontaneous order which allowed property rights to be sanctioned by law was a result of politics rather than its ethical universality.

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