

Revaluating the Challenges of Property Ownership and Its Ethical Implications

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Abstract

Property ownership remains a major ethical issue in our world today, as it has continued to occupy the minds of scholars and academic players. Its controversial nature can be seen in the many principles the concept embodies. Governments however are key players as it lies within their capacity to maintain and regulate the means of property acquisition and ownership and in extension develop policies that regulate the process. Scholars have noted that one of the major challenges involved in property ownership has remained the false roles played by the Government and some privileged few leading to injustice and lack of respect for individual properties and mismanagement of collective properties. Hence, this article focuses on those issues that govern properties, given to its relevance in our contemporary society; it pays particular attention to those ethical principles that regulate the means of ownership of properties in a given society.

Keywords: Properties and Ownership of properties

INTRODUCTION

The question of life is very fundamental to human existence, not just life per say, but a meaningful and well fulfilled life. Hence in the quest for a meaningful and happy life, man continuously seeks the acquisition of certain possessions which could be tangible or intangible. This possession which could be termed property is very important in the life of man. This is evident in the fact that the quality of life is further improved by the certain property or acquisition of an individual, a group or a society. In the modern society, the way in which roles, status, duties are assigned is determined by the amount of property possessed be it tangible or intangible. It is dependent on what you achieve, your status and roles in the society is dependent on your effectiveness and abilities more than who you are and where you come from, so leadership, recognition and respect in the modern society is driven by wealth than determined age. This is the sole reason why the struggle for property possession especially private property is stronger in the modern times than in the ancient era.

The bid to acquire property has posed numerous challenges and ethical issues in the society. The desire for excessive wealth or property possession have triggered many anomalies in the society such as stealing, coercion, murder, rape, bribery and corruption etc. also, in the quest to acquire property, many have produced properties that is very unhealthy to human race, not minding the health implications, but is sole interested in the profit maximization. Different theories of property has its own shortcomings which has in one way or the other affected the common good which is the basis of the societal formation.

Thus the work shall fish out some of these crimes as caused by the excessive yearning to acquire property, consequently giving commendation for a way forward.

PROPERTY

From its etymological stand point, the term property is derived from the Latin *proprietas*, from *proprius* 'own': that is, something that is owned. Cambridge Advanced Learners Dictionary (third edition), property refers to "1: an object or objects that belong to someone or 2: a building or area of land or both together 3: the legal right to own and use something." According to online Stanford Encyclopedia of Philosophy, 'property' is a general term for the rules that govern people's access to and control of things like land, natural resources, the means of production, manufactured goods and (on some account), texts, inventions, and other intellectual products. Property is anything one has exclusive on it. They includes shoes, sandals, cloths, house, car, and mental property like books written by an author, poem, drama folktale etc. although such things like the air, river, sea or ocean, mountains, hill, sun, moon etc are not regarded as property because they are there for the common use alone. Consequently, Austin Fagothey (1958:399) defines property as that which is owned or that which one has the exclusive right of control and disposal at will. The exclusivity of ownership here means that, the owner can do whatever he or she wishes with it such like, renting, selling, giving as a gift, leasing, exchange etc.

American property law defines property as a "bundle of rights" or collection of interests with respect to

the thing owned- interests protected by the state. These interests include exclusive possession or enjoyment, control over use, disposal, alienability, and divisibility. According to Bentham, property is altogether a conception of the mind. It is nothing more than an expectation to derive certain advantages from the object according to one's capacity. In general sense, property is any physical or virtual entity that is owned by individual or jointly by a group of individuals. An owner of property has the right attached to it by the Law. Human life is not possible without property. It has economic, socio-political, sometime religious and legal implications. It is the legal domain which institutes the idea of ownership. The basic postulate of the idea is the exclusive control that which he owns. Here the most important aspect of the concept of ownership of property is the word 'thing' on which a person has control for use. To consume, sell, rent, mortgage, transfer and exchange his property, or to exclude others from accessing them. Consequently, we can deduce four traditional principles relating to property rights

Control over the use of the property
Right to take any benefit from the property
Right to transfer or sell the property
Right to exclude others from the property

OWNERSHIP OF PROPERTY

To speak of property is to speak of the ownership of the property. Every particular property is explained or fully described in relation to the owner. Hence, in every property discussion, ownership is inevitable. From the dictionary definition, ownership is the act of something. Ownership of property could be private, common or collective. Determining ownership in law involves determining who has the certain rights and over the property. One can again transfer and loose ownership of property in a number of ways. To acquire property one can purchase it with money, trade it for other property, win it in a bet, receive it as a gift, discover it at first time, receive it as damages, earn it by rendering a service or by work, receive it as an inheritance. On the other hand one can loose ownership of a property by selling it for money, exchanging it for other property, giving it as a gift, misplacing it, or having it striped from one's ownership through legal means.

BRIEF HISTORICAL DEVELOPMENT OF MAN AND EFFORT TO ACQUIRE PROPERTY.

During the very primitive era of man's appearance on earth, food, as is now, was indispensable for his survival. Thus, he moved from one place to another in search of food. This hunting stage led him to shepherding and farming stages respectively. It was at the farming stage that man began to settle by construction of shelters. George Guest (1979) writes: "*Man's first and greatest need is food. For centuries, early man wandered from one place to place in search of the wild fruits, grains, and small creatures on which he relied for food. As soon as he had consumed all the available food in one area, he passed on to another. It will be seen, therefore, that he was at first merely a hunter- a food gatherer, wishing to satisfy his natural cravings. As his thinking powers developed, man began to make crude weapons and tools. Thus he arrived at a stage far above the level of brute creation. Although he was still a hunter, he did not always kill the creatures he chased. He tamed some of them, and thus entered on the shepherded stage of existence. But he was still unable to settle in any one area; for both he and his flocks and herds were compelled to wander from pasture to pasture.*

At last there came a time when early man was able to till the soil and to grow crops year after year. No longer was he compelled to wander from place in search of food. He had become a food producer-a farmer. Then was he free to construct permanent shelters, and to devote more time to the making of better tools, weapons and other useful articles. He had, in fact, passed from barbarism to the early stages of civilization.

From the above elaborations by George Guest, the following sequence can be deduced as early man's effort to acquire property: food, crude weapons, livestock, landed property and shelters, better weapons, tools and other articles. The above deduction and elaboration by George guest reflects the first possession theory which led to primitive collectivism; followed by socialism, private ownership, among others.

THEORIES OF PROPERTY

Many theories of property have been developed over the years. A selected few of them would be briefly discussed here:

THE FIRST POSSESSION THEORY

Here ownership of something is seen as justified simply by someone seizing something before someone else does. (Graham, 2005: 858) This system is relatively rare. An example of this is the Natural Rights definition of property rights as advanced by John Locke. Locke advanced the theory that God granted dominion over nature to man through Adam in the book of Genesis. Therefore, he theorized that when one mixes one's labour 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".

SOCIALISM:

In socialism, the means of production are socially-owned with the surplus value produced accruing to either all the society (in public-ownership models) or to all the employee-members of the enterprise (in cooperative-ownership models). Thus, this theory or system of social organization is based on the holding of property in common, with actual ownership ascribed to the workers. That is, from each according to his ability and to each according to his contribution. Emphasis on profit being distributed among the society or workforce is to complement individual wages/ salaries.

COMMUNISM

This is an economic system where means of production are controlled and managed by a central Authority, and there is also a restriction on the ownership of property. Hence, communism is a form of socialism- a higher and more advanced form, according to its advocates. However, in communism, personal belongings such as clothing, watches, and shoes are allowed to be owned by individuals but the houses are owned by the state. In communism, individuals are assigned work by the state and are given a bit remuneration of their service normally in kind. People get ration government department. People do not have choice of their own. They have to be content with whatever is prescribed for them. State provides all social services such as educational, recreational and hospital facilities. Plato as one of the proponents of communism argues that “collective ownership was necessary to promote common pursuit of the common good or interest, and to avoid the social divisiveness that would occur when some grieve exceedingly and others rejoice at the same happenings”.

CAPITALISM

This theory or system of social organization is based around a free market and privatization in which ownership is ascribed to the individual persons. Voluntary co-ownership is also permitted. Here the means of production are privately owned and operated for private profit. This drives incentives for producers to engage in economic activity. Firms can be owned by individuals, workers co-operatives, or shareholders. Aristotle argued in favor of capitalism or private ownership when he says: private ownership promotes virtues like prudence and responsibility; when everyone has a distinct interest, men will not complain of one another, and they will make more progress, because everyone will be attending to his own business. Even Altruism, say Aristotle, might be better promoted by focusing ethical attention on the way a person exercises his rights of private property rather than questioning the institution itself. He also reflect on the relation between property and freedom, and the contribution that ownership makes to a person’s being a free man and thus, a suitable citizen. Aquinas agreed with regards to private consumption of property, but modified patristic theory in favor of private possession of properties. He concludes that given certain detailed provisions, it is natural for man to possess external things; it is lawful for man to possess a thing as his own.

KINDS OF OWNERSHIP

STATE OWNERSHIP: This refers to all assets that a state or certain state agency has jurisdiction over in terms of use. In this kind ownership, the state owns virtually all means of production, distribution etc. their profits are shared to all their constituencies.

PUBLIC OWNERSHIP: This has to do with the assets owned by the public. An example is Karl Marx communist society. It has its slogan like ‘from each according to his ability to each according to his need.

PRIVATE OWNERSHIP: This concerns itself with assets and property belonging to an individual known as individual property. An example of this kind of ownership is seen in the Capitalist system of ownership. Contemporary western understanding of property rights is often traced to the seventeenth-century English philosopher John Locke; Locke’s political theory or philosophy begins by speculating about a “state of nature”, a condition in which humans would exist were there no government. In this original natural state, all a land is unowned by anybody but God. This unowned land becomes owned, a private property, when an individual “mixes labor” with the unowned land .in essence , Locke arguments in support of private property is as follows person has exclusive rights over, ‘own’ his own body and its labor:

- Land, in its natural state is unowned; that is, no one individual can rightly claim exclusive control of it.
- Therefore, when someone’s labor, which is owned, comes to be ‘mixed’ with the land that is unowned, the exclusive rights over his or her labor are transferred to the land. That person comes to own the land

For instance, if a man travels into the wilderness, clears some lands, builds a home, tills the soil, and grows crops on this land, he Locke never would have thought this individual a ‘she’ comes to have a legitimate claim to this land.

CHALLENGES IN PROPERTY ACQUISITION

The bid to acquire property has caused a lot of havoc in one way or the other in the society. People tend to acquire property outside the prescriptions of the law. Majority of the social vices that happen daily in the world today are as a result of the greed and lust for wealth or property acquisition. Some of these challenges are as follows:

EMBEZZLEMENT OF PUBLIC FUND: This is a situation where a person uses his office to divert public fund or property for his selfish interest, at the expense of the public at large. This effect is seen in countries that practice mixed-economy like Nigeria where leaders take joy in looting the public fund and economy for their selfish use and aggrandizement.

TRAVESTY OF JUSTICE: In the bid to acquire wealth, some legal practitioners of the 21st century have thrown away justice in the pursuit of wealth. In the law court, the poor is denied justice at the expense of the unjust rich who will always bribe his way through his crimes against the innocent. This is ethically wrong and must be frowned at in the society. For instance, there was news of a politician who consumed about 1.2 billion naira that was given to him to pay pensioners. At the law court, the judge told him to pay 800 thousand naira and be free; what an injustice of the highest order. In various sectors of the economy, justice is pervaded. What is meant for all is now reserved for the few, what is meant to be free is paid for before getting it and it steal bears the name or inscription of 'given free'. In the education system, especially those owned by the government, admission is no longer by meritocracy but by bribe. Employment, promotion are no longer shared by merits but by sorting-a situation where a civil servant in level-8 will be leading the one in level 15 etc.

MURDER: it is still no longer news of the imminent crimes of murder, kidnapping, stealing etc in the modern society all in the name of wealth creation. All sort or means of acquiring property at the expense of the human life should be abhorred entirely.

These evils accrue due to the quest to possess it all privately. This is the major reason why some philosophers like Plato reject private ownership. Thus, history confirms that private ownership of productive industries has always resulted in deprivation for the most, luxury for a few. The system of private ownership encourages, even demands, selfishness at every turn. Thus, to limit the injustices done in the name of private enterprise, some have tried to adjust the rules of the game. Fair business practice codes, anti-trust legislation, minimum wage laws, and the like, do restrain some of the excesses of private ownership.

STEALING/THEFT: This is a criminal act in which a property or a possession of another is forcefully taken without his free will. It could involve other deceitful forms of acquiring property such as swindling, embezzlement bribery and corruption etc.

HAZARDOUS PROPERTY: In the process of acquiring property, many individuals, groups have invented harmful products which they sell to the society in the name of profit making. For instance, some people go about buying fake drugs, inferior goods and sell them to the society in the name of original. Such people have no interest and well being of the society at heart but their selfish interest of profit maximization. Also, government build inferior structures in schools, hospitals etc; such that children from rich families will not attend them, but rather they would be sent overseas for a better education. While they get sick, the politician fly abroad to receive treatment while the poor masses die here in Nigeria. It is not that the money to build the quality ones is not there, but their selfish interest would not allow them release the money, but rather prefer keeping them for their private use. Such means of acquiring property is ethically wrong and should be avoided for the common good. Other means of acquiring property which is ethically not acceptable are as follows:

Prostitution: Prostitution means engaging in sexual activities with another person or people in exchange for compensation, such as money or other valuable goods. This is another unhealthy way people acquire property or wealth in the modern society. Prostitution involves both male and female (fornication), female and female(lesbianism) male and male(homo sexual). All are ethically and naturally evil and should be avoided.

Kidnapping/Abduction: This is the crime of taking or seizing and detaining of person unlawfully, against their will, sometimes for ransom. This is also another malicious way people acquire a lot of properties and wealth. It is unethical and should be abhorred.

Money Ritual: This is a process of using demonic ways to acquire wealth or property. At times it requires the shading of blood-killing of a human being or making such a person useless for life, that is, either taking of the such of the person's brain, inflicting madness or other diseases that will make the one vulnerable for life. Life is very precious and should not be exchanged with money. It is a gift and as such should be cherished and not destroyed. Other unethical ways include, pick-pocketing, fraud, money doubling, 419, yahoo etc

Commendation

Amidst all property ownership controversies, ethics as a discipline curbs the immoral practices with regards to property acquisition. Acquisition or accumulation of any property either by use of force or coercion is morally not acceptable especially when people in a higher or revered position use force and coercion this is clearly seen in Nigeria and political offices. Acquisition of wealth or material goods contrary to ready approved titles of

ownership of property jeopardized the ethical aims for common good and as such deserves punishment. Any form of theft, religious, governmental, group e.t.c is inconsiderable and deserve severe punishment.

Property that is hazardous to people ought to be jettisoned. Excessive thirst for material goods is unethical for it can mislead and hurt the common good of the society which ethics propagate. As noted earlier that no man is an island, one should therefore consider his/her possessions not merely as owned but common property- in hope that they can be also beneficial to him/her and others. It is advisable also for one to share his possessions with the less privileged. Most importantly all superfluous goods should be geared towards social benefits. It is not a work of an individual alone but somewhat governmental since the wealthy are morally expected to assist the less privileged.

Also, conflict of interest should be avoided; this is because it is a barriers to national development. When policy makers and government officials abuse their power for private gains it affect public interest. This demolishes potentials and destroys opportunities for long-term development, which is ethically wrong. So public, government officials on their own should avoid conflict of interest and focus on the common good which they represent. On the part of private ownership, there should be laws guiding the acquisition of properties, limits to acquiring properties, importation and exportation, distribution of goods and services etc.

The Government should provide job opportunities to the less privileged, provide youth empowerment schemes etc. They should also established agencies that will fight corrupt ways of getting private properties like, prostitution, money doubling, money ritual etc. The government should adopt the principle of checks and balances to both the public and private sectors of the economy. They should also adopt the method of reward and punishment, equality before the law, justice and equity. The church also on their own, should teach her members of the need to maintain the common good, be just and not greedy in the pursuit of private property.

However, no society is totally free from all these unethical means of acquiring property, but it should be minimized in such a way that the greater happiness of the greater number of the people will be promoted.

EVALUATION AND CONCLUSION

Irrespective of any consideration, there is an essential need for private ownership of property. Private ownership encourages professionalism (perfectionism), commitment as biblical record of Christ's assertion; I am the good shepherd, who is willing to die for his sheep...hired men leaves his master's sheep when attacked by wolf (Jn 10; 11-15). That is communal or collective ownership don't encourage fast development unlike personal ownership as Igbo adage continues to prevail *Ewu adi igwe azu nri, aguu na-egbu ya* (a sheep that its feeding is business of many dies of hunger).

Government, community head on their part should take all necessary caution to uphold and maintain all social properties entrusted to their care for the common good of all and not using them for their personal wellness. To private ownership, it should be in check as not to be of harm to both the owner and potherers.

Succinctly, as Ubuntu adage holds *Umuntu ngumuntu ngabantu* (I exist because you exist). Property ownership is mostly enjoyed where people resides i.e., in a society, with people and for the people.

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