

Introduction

I.1 The Mystery of the Right to Property

In two notes found in his desk after his death, the German-speaking Czech Jewish writer Franz Kafka instructed his friend Max Brod to burn his remaining notebooks, manuscripts and letters. Brod did not obey Kafka's instructions. Instead, Kafka's papers came to form part of Brod's own literary estate, which he subsequently bequeathed to his secretary and confidante Esther Hoffe. After Esther Hoffe's death, a long legal process began when the National Library of Israel laid claim to Kafka's papers, citing both their status as cultural assets of national significance and evidence that Brod had intended that they be donated to a public archive. Another party to this legal dispute was the German Literature Archive in Marbach, which was negotiating with one of Esther Hoffe's daughters to purchase those of Kafka's papers that had not already been sold. Like the National Library of Israel, the German Literature Archive cited the papers' status as cultural assets of national significance. This time, however, Kafka's place in the history of German literature was emphasized rather than his Jewishness. Unlike the National Library of Israel, the German Literature Archive did not contest the legal right of Esther Hoffe's daughter to sell Kafka's papers, and so there was no attempt to appropriate these papers from someone who claimed to be their legal owner with the right to dispose of them freely. Eventually, Israel's Supreme Court ruled in favour of the National Library of Israel, which was not required to provide any compensation for the papers of which it became the legal owner.¹

This case illustrates various issues relating to the right to property. To begin with, there is the question of what originally gave Max Brod the legal right to Kafka's papers that his right to dispose of them freely presupposed, when they were neither given to him as a gift by their original owner, who in fact instructed Brod to destroy them, nor formed the object

¹ The details of this case are presented in Balint, *Kafka's Last Trial*.

of any legally binding contract through which they were transferred to him. This legal right appears to derive from the fact that Brod was the first person to gain effective control over the papers after Kafka's death, unless one assumes that Brod's interpretation of Kafka's true intentions was not only correct but also generated a legal right to the papers. Yet why should being the first person to take possession of a thing establish a right to dispose of it freely and the right to deny others access to this thing even though they can make a reasonable moral claim to it, such as the type of claim that scholars wishing to consult Kafka's papers might make? Even if one were to provide a plausible account of how Brod gained a right to these papers, this account would have to be supplemented by an account of how this right was transferred to Esther Hoffe, given that no obvious reason for thinking that Kafka intended this outcome suggests itself. Indeed, Esther Hoffe's right to these papers appears so mysterious that it is reasonable to claim that this right, even if we assume that it has some basis, is so tenuous that it could be easily overridden by other considerations and values. The considerations might include the need to provide certain people with guaranteed regular public access to the papers, as opposed to making access to them dependent on the arbitrary will of their legal owner. The values might include the cultural value that derives from the national significance of the papers, which can be explained in terms of a common language, culture and history.

In this book, I intend to examine the theories of property developed in a philosophical tradition that extends from Immanuel Kant, through Johann Gottlieb Fichte and G. W. F. Hegel, to Karl Marx.² Although my main aim is to reconstruct these philosophers' arguments concerning property and to evaluate these arguments, I hope thereby to show that these theories of property make a significant contribution to the dissolution of the mysteries surrounding property rights, even if they fail to provide definitive answers to the questions identified above. In contrast, the mysterious nature of property rights persists when the question of how goods that include monetary wealth and access to resources such as healthcare should

² The claim that Kant, Fichte and Hegel belong to the same philosophical tradition is uncontroversial, given Kant's influence on the other philosophers and Hegel's direct engagement with key elements of Fichte's philosophy. Although the claim that Marx belongs to the same philosophical tradition may appear less obvious, there are some common concerns and themes, especially freedom, that allow us to situate Marx within this tradition. See Wood, *The Free Development of Each*, if. My account of how Marx adopts a similar concept of property to the one adopted by Kant, Fichte and Hegel and relates it to the common theme of freedom provides an indirect defence of the claim that we should situate him within the relevant philosophical tradition.

be distributed is posed in such a way as to presuppose the legitimacy of one specific form of property to the exclusion of other possible forms of it. For example, redistribution may be justified in terms of some higher good or value, such as equality or justice, at the same time as it is assumed that a person in all other respects enjoys the right to any property of which he or she is the legal owner. As well as the right to exclude others from the use or other benefits of a thing, this right includes the right to do whatever one pleases with one's property, provided that the use of it does not threaten to harm other persons or to violate their property rights and does not otherwise constitute a danger to society.

In order to make clearer why a more critical approach to the concept of property and any specific forms of it is needed, I shall now turn to one example of how this concept in the specific form of private property plays a *structuring* role in debates about distributive justice. Property rights structure human relations by establishing entitlements to parts of the world and objects within it and by generating an obligation on the part of others to respect these entitlements. Property rights can therefore be classed among the general norms that order and regulate human interaction within a society. These norms typically take the form of laws that are enforced by the state. The way in which property rights play this structuring role has social implications, in that the possession and protection of these rights will result in individuals and social groups coming to possess different degrees of economic and social power in relation to one another that may enable one social agent to dominate another social agent. Moreover, different forms of property may structure society in substantially different ways. The example in question concerns a well-known objection to distributive justice that appeals to the value of freedom.

According to Robert Nozick, any pattern of distribution that arises from an existing just pattern of distribution will itself be just. Thus property rights, or 'holdings' as he calls them, would be just if the following conditions were satisfied: a moral right to a thing, to which no one originally enjoyed such a right, has been established by one person and another person, who subsequently acquires this right, does so by means of a voluntary act through which the thing is exchanged for another thing or is transferred to him or her by its original owner in the form of a gift.³ These two conditions can be described as the just appropriation condition and the just transfer condition, respectively. The argument is simple

³ Nozick, *Anarchy, State, and Utopia*, 150ff.

and does not rule out the legitimacy of redistributive acts, for a pattern of distribution may, in fact, fail to satisfy one or both of the relevant conditions, in which case there may be grounds for distributing a thing to another person. This person would presumably be either the first person to have appropriated it or someone to whom the right to the thing had been transferred in the appropriate way but who was then unjustly deprived of this thing by means of force or fraud. Yet the simplicity of this argument conceals certain difficulties and presuppositions relevant to the theme of the right to property. Let us begin with the just appropriation condition.

This condition invites the question as to *how* an exclusive moral right to a thing which everyone originally had the right to use or to benefit from in another way can be established. The obvious answer would consist in an appeal to an act of appropriation of the right moral kind. A classic example of this approach is John Locke's argument that individuals were able to establish rights to things in the state of nature by 'mixing' their labour with them, despite how the world originally belonged to everyone. This argument rests on the claim that each individual is the owner or 'master' of his or her own person and anything immediately connected with it, including his or her capacity to bring about changes in that which is external to him or her through purposive action.⁴ In the following passage, it is assumed that the connection thus established between one's own person and a thing is sufficient to generate an exclusive right to this thing:

[E]very Man has a *Property* in his own *Person*. This no Body has any Right to but himself. The *Labour* of his Body, and the *Work* of his Hands, we may say, are properly his. Whatsoever then he removes out of the State that Nature hath provided, and left it in, he hath mixed his *Labour* with, and joynd to it something that is his own, and thereby makes it his *Property*. It being by him removed from the common state Nature placed it in, it hath by this *labour* something annexed to it, that excludes the common right of other Men.⁵

⁴ Locke includes among this original property animals and servants, so that changes brought about by them may also establish property rights for their owner: 'the Grass my Horse has bit; the Turfs my Servant has cut' (*Two Treatises of Government*, Second Treatise, Ch. V, § 28). Yet even if the truth of the claim that a person's body and associated powers are his or her original property by virtue of the unique, immediate relation in which he or she stands with them is granted, the same reasoning cannot be extended to other human beings or to non-human animals without any further justification. To fill this gap in the argument, Locke would have to show either that there is, in fact, a direct, immediate relation of the relevant kind or that independently of any such relation a person's labour can establish a right to other human beings and non-human animals, in which case there would not be an *original* right to them.

⁵ Locke, *Two Treatises of Government*, Second Treatise, Ch. V, § 27.

A right to a thing is here established by means of a causal relation between a person's original 'property' and a thing that all human beings were originally entitled to use or to benefit from in another way. This transformation of a 'common' right into a 'private' right is not limited to instances of the direct appropriation of nature, such as the consumption or the act of taking physical possession of a thing, both of which necessarily exclude the simultaneous possession or use of the thing by another person. Rather, Locke extends it to land, even though the possession and use of parts of the same piece of land are not self-evidently incompatible with common ownership of it, provided there are collectively agreed-upon rules governing the allocation, possession and use of parts of the relevant piece of land.

Locke introduces a further requirement when he argues that the act of appropriation must also be of a value-enhancing kind.⁶ In this way, the right to property is partly justified in terms of the use of natural resources 'to the best advantage of Life, and convenience',⁷ and how it is '[l]about ... that *puts the difference of value* on every thing'.⁸ Presumably, if the effects were less beneficial and even harmful ones, then the appropriate moral relation between an individual and an external object would not obtain, even if a person had 'mixed' something to which he or she is assumed to possess an original right with a thing to which he or she did not originally possess a right. This additional consideration, however, invites such questions as the following ones. Who is to decide whether the property rights thus established are sufficiently value-enhancing ones, and if they are, whether the relevant benefits could not have been achieved in ways that avoid the harmful effects of property rights? Does society as a whole or only a privileged group within society have the authority to decide such matters? If the latter is the case, is this privileged group made up of people who already possess extensive property rights? If so, could one not then object that those people who benefit most from a state of affairs cannot be expected to be impartial judges of its legitimacy, given their personal interest in the perpetuation of this state of affairs? Moreover, would those people

⁶ In addition, Locke introduces a moral constraint on the right to property in the form of the condition that 'there is enough, and as good left in common for others' (*Two Treatises of Government*, Second Treatise, Ch. V, § 27). Yet he argues that the improved productivity facilitated by the appropriation of nature and the right to property would satisfy this condition by making more things available to consume and to use than was originally the case. See *Two Treatises of Government*, Second Treatise, Ch. V, § 37, §§ 41–2. Locke also appears to view the opportunities that colonies offer to the dispossessed as another way of satisfying the condition in question. See *Two Treatises of Government*, Second Treatise, Ch. V, § 36

⁷ Locke, *Two Treatises of Government*, Second Treatise, Ch. V, § 26.

⁸ Locke, *Two Treatises of Government*, Second Treatise, Ch. V, § 40.

who already benefit from existing property rights not employ the social power that these rights give them to define what is or is not of social utility whenever sufficient consensus concerning this matter is lacking?

We can here already see how there might be a fundamental problem with reducing the right to property to a relation between a person and a thing, namely, that this model cannot accommodate the moment of recognition implied by the claim that a full justification of the right to property must take into consideration social factors.⁹ There is the claim that the ‘mixing’ of a person’s immediate, original property in the form of his or her body and labour with an external object is sufficient to ‘join’ together two things that did not previously belong together in such a way that a moral right to a thing is established. This relation between a person and a thing does not imply a necessary relation to other persons, for a right of the relevant kind could be established by someone living in complete isolation, even though such a right may then be considered unnecessary, given the absence of any threat to a person’s possession and use of things. This right would nevertheless generate an obligation on the part of any imaginary others who might one day be present. Thus the right to property and the obligations that follow from it do not depend on the consent of others or any other signs of their recognition of property rights that are claimed to satisfy the just appropriation condition. Yet there is equally a sense in which the right to property cannot be understood independently of social relations, for this right appears to require sufficient social recognition of its benefits and the claim that these benefits cannot be achieved in potentially less harmful ways. One may therefore argue that a truly adequate account of the right to property must incorporate the moment of social recognition in a more convincing way. We shall see that Kant, Fichte, Hegel and Marx attempt to provide such an account by adopting a model of property that explicitly incorporates a moment of recognition.

⁹ Locke himself implies that the right to property consists in more than a relation between a person and a thing when he connects property rights with an agreement concerning the introduction of money. See *Two Treatises of Government*, Second Treatise, Ch. V, § 36. The introduction of money removes any moral constraints on the accumulation of property rights, for although Locke limits the right of appropriation by making it conditional on whether that which is appropriated can be used ‘before it spoils’ (*Two Treatises of Government*, Second Treatise, Ch. V, § 31), money can be accumulated without decaying and exchanged for objects of consumption and use. See *Two Treatises of Government*, Second Treatise, Ch. V, § 47. One may nevertheless wonder if anyone other than those who already own a significant amount of property could reasonably consent to an arrangement that enables some people to increase their property to such an extent that there is nothing, or at least very little, left for others to appropriate. In Chapter 2, we shall see that Fichte provides a counter-argument to the claim that a rational agent would consent to such an arrangement.

With respect to the just transfer condition, Nozick commits himself to the claim that private property is the only form of property that satisfies this condition when he, in effect, defines this condition in terms of a feature of private property that distinguishes it from other forms of property. This is the right to dispose freely of a thing to which one has established a right. When I speak of 'private' property, I intend *modern* private property. There are features of the right to property that are compatible with different forms of property. For example, although the exclusive right to the possession and use of a thing is a defining feature of private property, this right is compatible with goods and resources being collectively owned and allocated to individuals according to rules to which all the relevant agents have agreed. Moreover, although clearly defined restrictions on the use or neglect of things characterize common or collective forms of ownership, private property is typically understood not to involve an absolute right on the part of the legal owner to do whatever he or she pleases with his or her property. Rather, there is the general prohibition not to cause physical harm to others or to damage *their* property through the use or neglect one's property, as well as restrictions on the right to dispose freely of this property that can be justified in the name of the general well-being of society, such as restrictions aimed at preventing environmental damage. Nevertheless, there is a presumption in favour of minimizing such restrictions on the right to dispose freely of one's property. For example, the fact that one person may find another person's neglect of his or her property or the irrational use of it morally offensive is not sufficient to justify legal constraints on the right to dispose freely of one's property. Any justifiable constraints on the exercise of this right will concern its potential consequences, which are judged in terms of considerations, goals and values that do not relate to the concept of property itself. Ultimately, however, the *absolute* right to dispose freely of property is viewed as an *optimal* condition whose full realization is nevertheless acknowledged to be highly unlikely, and even impossible, within society.

The right to dispose freely of property is a presupposition of certain specific rights associated with private property, including the right to bequeath one's property to whomsoever one pleases and the right to participate in a market economy, the functioning of which depends on the free exchange of items of property. Nozick presupposes this defining feature of private property when he speaks of 'voluntary' acts of exchange or gift-giving, for the permissibility of such acts presupposes a person's entitlement to do whatever he or she pleases with the property of which he or she is the legal owner, provided that he or she does not thereby harm other persons or

damage their property. The exercise of the right to dispose freely of property may be irrational, but this is not an issue. As Pierre-Joseph Proudhon puts it: ‘The proprietor has the power to let his crops rot underfoot, sow his field with salt, milk his cows on the sand, turn his vineyard into a desert, and use his vegetable garden as a park.’¹⁰ Yet does the appropriation of a previously ownerless thing entail the additional right to dispose of it freely?

Nozick assumes that the right to dispose freely of property follows from the right to freedom, which is thereby presupposed. He also presupposes the existence and justifiability of an economic and social condition in which this right can be exercised, namely, a monetized system of exchange in which things are viewed as exchangeable with one another irrespective of their specific nature and qualities. The legitimate exercise of the right in question presupposes both that the just appropriation condition was once satisfied in relation to items of property to which specific persons now enjoy a legal right and that the just transfer condition has been consistently satisfied within the relevant type of economic and social system. Nozick’s argument is here susceptible to an empirically based objection. This is the objection that even if the just appropriation and the just transfer conditions are assumed to be valid ones, the claim that the way in which property has come to be distributed in the course of history satisfies them, or could ever do so, is either naïve or a purely ideological move. We might here speak of the myth of private property’s pure, uncontaminated origins. Marx seeks to undermine this myth with his account of ‘primitive accumulation’. This is the process whereby people were forcibly deprived of access to land and resources that were previously owned in common, thereby creating the division between people who control the means of production and people who own only their labour power that is a historical presupposition of the capitalist mode of production (MEGA II/8: 667–70; Cap. I: 873–76).¹¹

We have now seen that Nozick presupposes the justifiability of private property. We have also seen that Locke’s attempt to explain how property

¹⁰ Proudhon, *What Is Property?*, 35.

¹¹ In response to this objection, one might claim that a situation in which both the just appropriation condition and the just transfer condition are satisfied is treated as a purely hypothetical one that demonstrates the validity of these conditions irrespective of the lack of sufficient historical evidence of the consistent application of them. The idea of a hypothetical situation of this kind may well be attractive to property owners who already enjoy the social power that the institution of private property gives them because it implies that they have a moral right to their property, but this condition can then be viewed as an abstract, ideal picture that is too divorced from history and actual social relations to be of any genuine value.

rights are established implies a model of property that fails to do justice to the moment of social recognition to which he himself alludes. Is a theory of property available that justifies private property in preference to other forms of property in such a way as to incorporate the moment of social recognition more effectively? One candidate is a consequentialist justification of private property, which argues that the right to property is established by convention, so that if the conditions that justify it no longer obtain, this right itself will lack sufficient justification. The fundamental difference between a justification of private property that appeals to an act of original appropriation and a justification of it in terms of human convention is articulated by David Hume in the following passage:

What other reason, indeed, could writers ever give, why this must be *mine* and that *yours*; since uninstructed nature, surely, never made any such distinction? The objects, which receive those appellations, are, of themselves, foreign to us; they are totally disjointed and separated from us; and nothing but the general interests of society can form the connexion.¹²

Hume does not appeal to the type of connection between the object of a property right and the bearer of such a right that we encounter in Locke's account of how a property right can be established by the act of mixing one's labour with a thing. Although Locke also appeals to the social benefits of the right thus established, Hume goes further than this by reducing the justification of private property to a matter of social utility. Thus the right to property is understood in terms of human and social ends, rather than in terms of a mysterious process whereby a right that did not previously exist is established through a specific way of interacting with material objects. Yet the question of what explains the greater social utility of *private* property, which is a specific form of property, then arises. This question needs to be addressed if the possibility of the equal or superior utility of other forms of property is not to be dogmatically excluded.

Hume himself concedes that social and political arrangements that favour equality, which he understands in terms of perfect quantitative equality, can produce certain benefits, whereas arrangements that are incompatible with this equality 'rob the poor of more satisfaction than we add to the rich, and that slight gratification of a frivolous vanity, in one individual, frequently costs more than bread to many families, and even provinces'.¹³ This statement testifies to Hume's recognition of how wealth

¹² *An Enquiry Concerning the Principles of Morals*, Section 3, Part 2, § 30.

¹³ *An Enquiry Concerning the Principles of Morals*, Section 3, Part 2, § 25.

inequality and the property rights on which it is founded favour the desires and interests of some individuals and social groups at the expense of the desires and interests of other individuals and social groups. Nevertheless, Hume asserts that the overall utility of the inequalities generated by private property is greater than their disutility. In his attempt to justify this claim, Hume is, however, reduced to appealing to unnamed historical sources, common sense, practicability and certain beneficial effects on human motivation and psychology together with their social consequences.¹⁴ He is thereby led to introduce a set of claims concerning the greater desirability of certain things relative to other ones and the necessary means of achieving the desired goods that themselves require justification.¹⁵

We shall see that there is, in contrast, an internal connection between the concept of property and that which justifies specific forms of property in the theories of property discussed in this book. The institution of property and the rights connected with it are held to structure social relations in such a way that freedom becomes genuinely possible. By seeking to explain the concept of property and justify specific forms of property in terms of the idea of freedom, these theories of property avoid both the need to demonstrate how certain ends, such as equality, security and the generation of wealth, possess more value relative to other ones and the need to show that specific legal, social and political arrangements that promote these ends ought to be established and maintained in preference to other possible arrangements. Instead, freedom is accorded an overriding value and the necessity of property is explained in terms of how it is a condition of freedom rather than a way of maximizing it. Moreover, none of these theories of property seeks to justify the right to property by appealing to an act of original appropriation, thereby reducing this right to a relation between a person and a thing. Instead, a relation between persons is viewed as a constitutive feature of property rights. To understand not only

¹⁴ See *An Enquiry Concerning the Principles of Morals*, Section 3, Part 2, §§ 26–28.

¹⁵ I have used both Locke's and Hume's arguments for private property with the intention of making explicit the presuppositions of some standard arguments for this form of property. This is not to claim that Kant's, Fichte's, Hegel's and Marx's accounts of the concept of property and the forms of it are directly influenced by these specific attempts to justify private property. There are hybrid or mixed theories of property that appeal to various considerations that include first occupancy or possession, a convention agreed upon by all the relevant parties and matters of utility such as the promotion of peace and industry. This approach is exemplified by the seventeenth-century natural law tradition, whose main representatives are Hugo Grotius and Samuel Pufendorf. See Pierson, *Just Property: A History in the Latin West, Volume 1: Wealth, Virtue, and the Law*, Chapter 8. Given that my focus will be on the arguments and theories themselves, I do not intend to engage with the question of who might have influenced whom, as valuable as such an inquiry may be.

what is common to these theories of property but also what makes them different from one another, we must distinguish between the *concept* of property and the *forms* of property that instantiate this concept. It is therefore to this distinction that I shall now turn.

I.2 The Concept of Property and Forms of Property

In the theories of property constructed by Kant, Fichte, Hegel and Marx, the concept of property is understood in terms of a triadic structure that incorporates a moment of social recognition, in that property rights are held to consist in a relation between persons that is mediated by things, rather than in a relation between a person and a thing from which an obligation then follows. This triadic structure becomes explicit in Fichte's theory of property, but it is already present in Kant's theory of right, and although Hegel's argument for private property may appear to rest on the idea of an act of original appropriation that reduces the right to property to a relation between a person and a thing, I shall show that a proper understanding of this argument reveals the same triadic structure, which becomes explicit at the stage of contract. This triadic structure is for Marx a basic feature of property that does not require any independent justification. In this respect, the concept of property is essentially the same one.

Kant, Fichte, Hegel and Marx also appeal to the same fundamental idea and value, namely freedom, and apply it to the concept of property. Yet freedom is not reduced to the freedom to do what one desires to do with items of property to which one is assumed to possess a moral or legal right. Moreover, the justification or criticism of property rights in each case fundamentally differs from a conventionalist, consequentialist one because there is here no appeal to *external* considerations whose relative value might be contested. Instead, there is a single value that stands in a *necessary* relation to the concept of property, for although property promotes freedom, it is equally a condition of the actualization of freedom, so that in the absence of property, human beings could not be genuinely or fully free. This approach does not reduce the institution of property and the rights associated with it to conventions that serve to promote a good that is logically independent of them. The institution of property and any rights that define it are instead constitutive moments of freedom. Although the value accorded to freedom may itself require justification, the focus on freedom has the advantage that it relates the concept of property to a fundamental idea and value associated with

modernity that is historically bound up with arguments surrounding the right to property.

Although Kant, Fichte, Hegel and Marx work with what is essentially the same *concept* of property, they provide different accounts of the specific *form* in which this concept is best instantiated. Kant and Hegel seek to justify private property, whereas Fichte and Marx seek to justify forms of common or collective property. Yet this distinction between the concept of property and forms of property does not mean that concept and form are separable from one another in so far as property is a social, historical and political phenomenon. Rather, concept and form are inseparable in that property is an institution that is characterized by specific rights or other entitlements and corresponding obligations, and it is the nature and the extent of these rights, entitlements and obligations that distinguish one form of property from another one.

The differing accounts of the form of property invite the question as to whether one of the theories of property examined in this book is more successful than the other ones in arguing for a specific form of property. Answering this question will require analysing and evaluating Kant's, Fichte's, Hegel's and Marx's arguments. I shall show that the way in which Kant appears to favour private property is, in fact, unsupported by his theory of right, that Fichte commits himself to a form of common property that, as his own attempt to 'apply' the concept of property shows, may justify repressive measures that are incompatible with the idea of freedom in terms of which he seeks to justify this form of property and that Hegel's concept of ethical life implies a form of property different from private property, even though the latter occupies a privileged place in his system of right. Like Fichte, Marx argues for a form of common or collective property, which is this time justified in terms of a free but social individuality. Yet explaining how this property can perform the function that Marx assigns to it will be shown to be difficult.

The different arguments and the problems with them may suggest that we should compare these philosophers' theories of property with the aim of deciding which of them is the most coherent or in some other way most convincing one. There is, however, a different conclusion that one might draw from this disagreement concerning the specific form that the same concept of property ought to assume. This is the conclusion that ultimately no single form of property ought to be favoured to the exclusion of other ones. One might then argue that we should therefore favour a pluralist theory of property, by which I mean a theory of property that accepts that different forms of property are justifiable in terms of such considerations

as the type of thing involved and the aspect of freedom at stake.¹⁶ This approach would be consistent with the intersubjective nature of property rights that is made explicit in the concept of property employed by Kant, Fichte, Hegel and Marx, in that this intersubjective element suggests that the precise form that the concept of property assumes within a society must be decided by a complex social and political process in which there is meaningful consideration of different proposals concerning how property rights can structure social relations in ways that secure and promote free agency. This would prevent the dogmatic acceptance of the inherent superiority of one specific form of property. It would require consideration of how to secure and promote not only the personal freedom intended by Nozick, which finds expression in the right to dispose freely of one's property, but also the democratic freedom that enables citizens to shape the fundamental normative structures that govern a society and thus influence their own lives. This type of freedom may well require the introduction of significant constraints on the right to dispose freely of one's property, and thus on the personal freedom of which this right is an expression.

If a philosophical theory cannot settle such questions, and arguably ought not to attempt to do so, it can nevertheless make a substantial contribution to the clarification of them. It can also indicate the types of answers that one might provide. In this book, I hope to show that Kant, Fichte, Hegel and Marx make contributions of precisely this kind and that recognizing this does not require showing that one of the theories of property analysed in this book is right or at least more defensible than the other ones. This approach also does not require an attempt to combine the different theories into a harmonious whole, as if disagreements about the nature of property and the rights associated with it did not reflect how this institution and these rights have been and continue to be sources of social and political conflict even when no direct appeal to the concept of property and specific forms of it is made.

¹⁶ This theory is therefore not a pluralist one in the sense that it accepts different grounds of the right to property, such as desert, utility and justice. For the idea of this type of pluralist theory of property, see Munzer, *A Theory of Property*, 3ff. This type of theory faces the challenge of either showing how the different grounds create no irresolvable conflicts or specifying other grounds that enable us to determine which of these grounds ought to take precedence whenever the different grounds turn out to be incompatible. Although making freedom the ground of the right to property faces similar challenges in that there are competing conceptions of freedom that support different forms of property, the theories of property that I discuss at least provide a framework within which the nature of such challenges becomes clearer.