



# Baikurina IES Seminar 2008

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# Property and Liberty

- Property is one of the basic institutions of a free society
- = right to decide freely on use, proceeds, transfer and destruction of a good
- This right is defined within a set of general rules (property order) and protected by an independent judiciary

# Functions of Property in a Free Society

- Moral : allows different moral conceptions of life to coexist
- Political : limit on government power; allows people to build up wealth independent from government
- Economic: avoids costly conflicts over scarce means, allows rational management of resources; allows certainty in market transfers

# Some historical notions

- European Legal History: the legacy of Roman law
- Ancient Rome: dominium=tribal rule; revendicatio and actio negatoria
- Roman Empire: these actions extended to all citizens of the Empire
- Middle Ages: Italian commentators: dominium is a right (use, enjoy, 'abuse')
- Middle Ages: Pope accepts property as a 'natural right'
- French Revolution and Code Civil :  
property = basic principle of legal order

# Some Historical Notions

- The legacy of the common law
- England: 11th century 'perfect feudalism'
- Alliance king-middle classes: strengthening position of free tenants (Quia Emptores, Free Will)
- 1925 : Property Act; fee simple is similar to continental property



# Tragedy of the commons

- Free access goods ≠ common property
- Tragedy is with FA-goods
- Problems:
  - Overuse
  - Premature use
  - Underinvestment
  - Examples: air, open sea, resources in LDC

# Common Property

- Optimal Commons : when sum of governance costs and exclusion costs are the lowest
- Governance costs : information costs, negotiation costs; monitoring costs
- Exclusion costs: marking, registration, adjudication
- Examples: settlers in US, lobster fishing on East US coast, land reform in India

# Tragedy the anticommmons

- Fragmentation of property rights: frontstores in Moscow
- Rebundling= very costly (complementarity, dragging with feet, Cournot duopoly prices)
- Important for privatisation in transition economies
- Reason to regulate?



# Possession and Registration

- Signalling rule: signal of property
  - Possession : to protect acquirer 'a non domino'; good for low value goods, for non-durable goods, for frequently transferred goods( money)
  - Registration: for durable,high value, unique goods
  - Capital function of registration: Hernando de Soto; formalisation of property allows decrease of monitoring, use of goods as a collateral



# Burning Questions

- Voluntary slavery: can you sell yourself?  
What about soccer players
- Property rights on babies and baby markets
- Takings; can the government expropriate and when (Kelo-case)
- Who owns the moon ???