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Property Law Theory
Room 326; Wednesdays 11am-12.50pm
Fall 2026

I. Course overview

This seminar offers an advanced legal-theoretical exploration of property as one of law's foundational institutions. It is divided in three parts, covering a central question: how and why do we relate to people and things through the framework of property?

Part I examines the classical justifications for private property through the writings of Locke, Bentham, and Hegel. We will read these foundational texts alongside contemporary interpretations and critiques to understand how these theories continue to shape modern property discourse.

Part II investigates the nature of property itself. We will consider whether property has a doctrinal “core” (such as the right to exclude) or whether it is better conceptualized as a “bundle of sticks”. This part also introduces modern theories that view property not as a static relation between a person and a thing, but as a dynamic legal relationship or social practice among people.

Part III turns to the limits and critiques of private property. Here, we will examine how property interacts with issues of race, gender, sexuality, colonialism, and ecological justice. Students will assess whether traditional justifications for property remain persuasive when viewed from the perspectives of those historically excluded from property ownership, and explore emerging frameworks that seek to balance private rights with collective and environmental responsibilities.

Across all three parts, the seminar emphasizes how property theory informs both doctrine and daily life. By engaging with diverse approaches, from classical liberalism to critical and socio-legal theory, students will develop the capacity to analyze property law not only as a body of legal rules but as a site of political, moral, and social meaning. The course is designed to cultivate rigorous, reflective, and creative legal thinkers who can situate property debates within larger questions of justice and governance.

In addition to reading and discussion, students will gain practical academic skills such as presenting research in a conference-style setting, offering and receiving constructive feedback, and developing a substantial scholarly paper suitable for publication or for meeting the Upper-Level Writing Requirement.

There are no prerequisites for this seminar.

II. Learning outcomes and assessment forms

This seminar invites students to think deeply about the legal and moral foundations of property while developing the habits of mind and expression essential to thoughtful lawyering and legal scholarship. With this in mind, the seminar provides students the opportunity to:

- *Think critically and creatively* about the foundations, structures, and consequences of property law;
- *Apply theoretical insights to practice*, including to legal cases, policy debates, social issues, and lived experiences;
- *Conduct independent academic research*, identifying, analyzing, and synthesizing diverse scholarly voices;
- *Communicate ideas* with clarity and confidence, in writing and through public presentation;
- *Offer and receive constructive feedback*, learning to refine arguments through dialogue; and
- *Contribute to a respectful, generous classroom conversation*, which values listening, empathy, and difference as central to intellectual growth and to reasoned discussion about complex and sometimes contentious questions of justice and ownership.

These learning objectives are embedded in the structure of the course and reflected in its assessments:

- The *response paper* encourages synthesis and self-reflection, connecting abstract theory to concrete situations and personal insights.
- The *class presentation* cultivates public speaking and synthesis skills, strengthening confidence in sharing and structuring one's intellectual perspective.
- Participation in *group discussions* reinforces collaborative learning, analytical reading, and critical engagement with multiple perspectives.
- The *paper workshop* sessions train students in the art of constructive feedback and collective intellectual development, recognizing that ideas evolve best through attentive exchange, curiosity, and respect for each other's work.
- The *final scholarly writing project* integrates all these skills, demonstrating theoretical understanding, original argumentation, research design, and polished academic writing.

Together, these components aim to cultivate not only critical thinkers, but also thoughtful participants in legal and social life, that is, scholars and practitioners who approach the law with precision, creativity, and empathy.

III. Practicalities concerning deliverables, including deadlines and grading

A) *Structure of the class*

Classes will generally follow the following structure: the first hour is dedicated to student-led presentations of the readings assigned for that week combined with group discussion of the materials; the remainder of time is dedicated to writing component activities, including team brainstorming, discussing abstracts, and refining ideas (see the annex acting as overview for the assigned readings and deliverables at the end of this syllabus for all relevant deadlines).

B) Submission guidelines

All deliverables should be submitted via email by the stated deadline as a Word *and* pdf document titled: “Your Name + Type of Deliverable + Property Theory Seminar” (e.g., Ariel Decoster + Abstract and Preliminary Source List + Property Theory Seminar). Use the same title as the subject line of your email.

C) Final paper and intermediate deliverables

The final assessment for this seminar is a substantial scholarly paper, which we will develop in stages:

- List of 3-sentence potential ideas
- Abstract and preliminary source list
- Outline
- First draft
- Final paper

Class discussions and workshops will provide feedback at each stage, allowing students to refine their work in dialogue with peers. I will provide feedback on outlines by appointment if requested (or deemed necessary), and first drafts will be workshopped during the final weeks of the course.

In addition to these deliverables working towards the final paper, students will submit a written response paper and deliver a class presentation.

D) Deadlines

Your deliverables will be workshopped during class sessions, which requires your classmates to have read them beforehand. Late submissions will be penalized as they affect the collective learning process and because submitting late interferes with the schedules of your peers. It is also in your interest to submit on time so you would receive appropriate feedback. If you cannot submit on time, email me *beforehand*. That way, we can align expectations and schedules.

Hereunder is a list of all deadlines:

- List of ideas: September 4
- Abstract and preliminary source list: September 18
- Outline: October 15
- First draft: November 11
- Final paper: Friday December 11

- Response paper: any time until Friday December 11

E) Assessment components

Hereunder you will find what I expect for each deliverable and how much it counts towards your final grade.

- List of Ideas (5%)

Provide a list of five potential topics, each described in no more than three sentences, demonstrating preliminary focus and intellectual promise.

- Abstract and Preliminary Source List (5%)

The abstract should be between 250 and 750 words, specifying your topic or issue, claim, engagement with existing literature, and contribution.

The preliminary source list should contain at least five scholarly works and, if included, relevant legal cases, each with a one-sentence explanation of its relevance.

Submit as a single document.

- Outline (5%)

The outline is an annotated plan of your article, indicating paragraph-level content, the structure of your thoughts, and progression toward your central claim or argument. Think of it as a detailed, annotated table of contents.

- First Draft (10%)

The first draft should be between 6,000 and 12,000 words, including references. The first draft will be workshopped in class. The assessment criteria for the final paper below should guide you for your first draft.

- Final Paper (35%)

Length: the final paper must between 10,000 and 12,000 words, including references.

Content: The final paper must engage with the reading materials assigned during the seminar. I should be able to identify within your paper the research problem it addresses, the research question it answers, the claim it makes, and the reasoning that supports that claim. Your paper should demonstrate how it responds to and situates itself within existing scholarship, showing awareness of relevant debates and prior literature. It should be internally coherent, well-researched, and clearly written, with all sources properly cited using the Bluebook citation method. Please note that your grade will also reflect stylistic and formal elements, including organization, clarity of language, grammar, spelling, and accurate application of Bluebook format. Include an abstract, table of contents, introduction, and conclusion. No cover page or separate bibliography is required.

Format: single-spaced, Times New Roman 12 pt (body) and 10 pt (footnotes), or similar, with standard margins. Headings should copy this syllabus, that is:

- **Part I, II, III** (bold & underscored)
- *Sections A, B, C* (italicized)
- Subparagraphs 1., 2., 3., etc

Type of scholarship: The course exposes you to a wide range of academic scholarship, from law review articles and peer-reviewed journal articles to book chapters, judgment rewritings, and Socratic dialogues. These materials vary in style, methodology, and jurisdiction, and are authored by scholars with diverse positionalities. Some are highly theoretical, while others are more applied or creative. You may choose the format of your paper (e.g., law review article, peer-reviewed article, book chapter, or essay) depending on your goals. For example, a peer-reviewed article may be suitable if you are considering a PhD program, a law review article may be ideal if you aim for an academic career in law, a book chapter allows for a highly theoretical approach, and an essay offers a more creative outlet. Whatever format you choose, the work must be original, created exclusively for this seminar, and satisfy the Upper-Level Writing Requirement. The goal is to produce a polished, publishable-quality piece while developing rigorous research, analytical, and scholarly writing skills, as well as an appreciation for the diversity of approaches within property law scholarship.

- Response Paper (10%)

The response paper can be up to four pages in length. It must begin with a concise summary of the selected reading, clearly outlining the research issue, the author's main argument, and the structure of their reasoning. You should then reflect on your own takeaways from the reading, explaining what you learned or how it challenged your thinking. Next, apply the reading to a concrete topic, which could include a legal case, a societal issue, a current news event, or a personal experience. Finally, explain whether you agree or disagree with the author, supporting your position with reasoning grounded in both the text and your applied example.

- Class Presentation (15%)

Your group class presentation should last between 10 to 15 minutes. Presentations should clearly identify 1) the research problem or topic, 2) the research question being addressed, 3) the main findings or argument of the assigned reading, 4) the author's reasoning 5) the methodology employed 5) and the relevance of the piece both to the course and to broader scholarship.

- Class Participation (15%)

Active class participation is an ongoing component of your grade, accounting for 15% of the overall assessment. Participation will be evaluated on both quality and consistency. Students are expected to come prepared, having read all assigned materials, and to contribute thoughtfully and respectfully to class discussions (see classroom etiquette below). High-quality participation involves asking insightful questions, responding meaningfully to discussion points, integrating

prior conversations and readings, and connecting ideas across sessions. All students are expected to contribute to a constructive and respectful learning environment, engaging in reasoned debate while valuing diverse perspectives and allowing space for discomfort or differing opinions to be present in the spirit of fair civic discourse.

For more information regarding the academic rules pertaining to grading, please consult <https://law.fsu.edu/academic-rules-policies-and-procedures-jd-program#GradSys>.

IV. Reading practice and technology in the classroom

This seminar is built around a pedagogical agreement. In an age of information overload and constant digital distraction, I have intentionally chosen to assign a relatively modest amount of reading. In return, I ask that students engage with those readings slowly, carefully, and in depth.

For each class, students should bring a printed copy of the assigned reading, annotated by hand. Underlining passages, writing notes in the margins, marking questions, and tracing connections are all part of the reading and learning process. The goal is to enter into a sustained conversation with the text and learning how to integrate its various layers. Because our class sessions rely on students explaining and discussing readings with each other, close engagement is essential.

This expectation is informed by a growing body of research suggesting that reading on paper often supports deeper concentration, comprehension, and retention than reading on screens. While digital technologies are indispensable tools for legal education and practice, this seminar aims to create a different kind of intellectual space, which encourages careful reflection, intellectual exploration and creative engagement with new ideas.

For the same reason, laptops, tablets, and phones are not permitted during class. A device-free classroom fosters greater presence, more discussion, and stronger connections among participants. Exceptions can of course be made for accessibility accommodations or other circumstances if needed.

V. Classroom etiquette and attendance policy

Our seminar relies on the collective energy, curiosity, and care of everyone in the room. Learning occurs when we feel safe and supported to share our points of view, question our assumptions, and consider new or different perspectives. Each student shares the responsibility for maintaining a classroom environment conducive to serious, generous, and honest intellectual growth. This means listening actively, speaking thoughtfully, and engaging with ideas rather than individuals. Disagreement is expected and often valuable. What matters, however, is that debate remains informed, reasoned, and grounded in mutual respect.

Professionalism also extends to punctuality, preparation, and attentiveness during class. Please minimize distractions (yes, I'm talking about your phone and computer, see above), arrive ready to contribute, and be fully present in the conversation.

Some readings and discussions may touch on themes that feel personal or provoke strong reactions because they affect your life or those close to you. These moments can be productive if approached collectively with openness and respect. You are encouraged to share your thoughts and feelings when they help you process and deepen our understanding of the material and each other's perspectives. If something feels uncomfortable or confusing, you are welcome to schedule an appointment with me to discuss it in more detail.

As a limited-enrollment seminar, attendance is required. Per Florida State University College of Law rules implementing ABA policy, students must attend at least 80% of classes to receive credit. Missing three or more classes will result in administrative withdrawal from the course. Attendance is critical not only for compliance but because class discussions form the backbone of learning. Missing class means missing vital dialogue on how to apply the principles explored in the readings, which will likely impact your final grade.

Excused absences include documented illness, deaths in the family, and other documented crises, call to active military duty or jury duty, religious holy days, and official University activities. These absences will be accommodated in a way that does not arbitrarily penalize students who have a valid written excuse. Consideration will also be given to students whose dependent children experience serious illness.

VI. Readings

All readings will be made available on Canvas. I reserve the right to change the order of reading assignments or to add or drop topics, provided you are given at least three days' notice, in which case you will be notified by email. Below, you will find the list of reading materials for each class, along with a brief description of what each text offers, why it matters, and some discussion points to consider as you read.

You can also refer to the annex at the end of this syllabus for a more compact list detailing just the assigned readings per class and the deliverables with their due date.

Class 1
(August 26) ***Introduction***

This introductory session is designed to establish our seminar community, clarify expectations, and immediately plunge into the course's core philosophical debate. We will begin with introductions and a review of the syllabus and administrative details. We will go over the requirements for the final summative assessment (your piece of scholarly writing) and the steps we will take to get there. We will also discuss the first two readings to start our collective reflection on property law as a fundamental philosophical question, not just a set of legal rules, and why this is important for social and political life.

- Felix S. Cohen, *Dialogue on Private Property*, 9 Rutgers L. Rev. 357 (1954).

Significance: This classic essay acts as an easy read yet profound introduction to the course's themes. The piece uses a Socratic dialogue to get us to think about what property is and quickly exposes the contradictory and often circular definitions that plague property law.

Discussion: How does Cohen's "Socratic" character define property, and why is that definition unsatisfying to the other characters? What does Cohen mean when he suggests that the true definition of property must be found, not made? How does this piece immediately set the stage for property as a question of political and moral philosophy?

- Eugene Volokh, *Writing a Student Article*, 48 J. Legal Educ. 247 (1998).

Significance: This reading offers essential, practical guidance on selecting a topic, researching, and writing a successful law review article. Given the course's final assessment, it provides the necessary tools for translating the theory read throughout this seminar into a persuasive, scholarly piece of writing.

Discussion: What are Volokh's key "do's" and "don'ts" for choosing a paper topic in a seminar setting? How might the theoretical focus of this seminar, that is, moving beyond black-letter law, influence your topic selection and the required research methods? What is the difference between a good argument and a good scholarly contribution?

Class 2
(September
2)

I. Justifying private property

In this part of the seminar, we delve into the Western philosophical foundations of private property, which continue to inform legal doctrine. We will analyze the three dominant classical theories (that is, labor, utility, and personality) to understand the claims used to legitimize private property and its inherent power structures. Each theory provides a distinct lens for answering the seminar's core question: why should property exist, and to what extent is it justified?

A. Labor theory

- John Locke, *Two Treatises of Government*, in *PROPERTY: MAINSTREAM AND CRITICAL POSITIONS* 17 (C. B. Macpherson ed., 1978).

Significance: Locke's seminal work establishes the foundational liberal justification for private property: an individual acquires property by "mixing" their own labor with common resources.

Discussion: What are the two fundamental limits or provisos on private property according to Locke? What is the necessary first step and the ultimate source of a person's property according to Locke? How does Locke's comparison between

untilled land in “America” to cultivated land in England support his argument that labor adds almost all value to a resource and hence justifies appropriation and enclosure over common right?

- GREGORY S. ALEXANDER & EDUARDO M. PEÑALVER, *Locke and Libertarian Theories of Property*, in AN INTRODUCTION TO PROPERTY THEORY 35, 35-56 (2012).

Significance: This secondary reading provides a detailed, accessible breakdown of Locke’s arguments, focusing on the nuances often missed in a primary reading. It helps contextualize Locke within the broader, modern tradition of libertarian theories that prioritize the individual right to property as nearly absolute.

Discussion: Alexander and Peñalver detail the complexities of the labor-mixing argument. Does the value created by the labor or the act of mixing better justify the claim? How do modern libertarian thinkers adapt or discard Locke’s provisos to justify unlimited accumulation of wealth? Can a purely libertarian theory account for the basic social goods necessary for a functioning democracy?

- Margaret Davies, PROPERTY: MEANINGS, HISTORIES, THEORIES, 85-96 (2007).

Significance: Davies offers a critical perspective, particularly on how the Lockean narrative of individual acquisition elides the historical reality of property being acquired through dispossession and violence. It forces us to confront the foundational “dirty hands” problem of Western property history.

Discussion: How does Davies reframe the story of property acquisition as one of enclosure and power, rather than just industrious labor? How did Locke’s theory provide a philosophical justification for the colonization of North America and the disregard for Indigenous property systems? Does the “original sin” of property history undermine the legitimacy of all subsequent property claims?

Class 3
(September
9)

B. Personality Theory

- Gregory S. Alexander & Eduardo M. Peñalver, *Hegelian Property Theory*, in AN INTRODUCTION TO PROPERTY THEORY 57, 57-69 (2012).

Significance: This reading clearly lays out the personality or “personhood” justification for property, rooted in Hegel’s philosophy and revisited by Margaret Radin. Property is here understood as the externalization of the will, a necessary institution through which the self recognizes and asserts its freedom and identity in the world.

Discussion: For Hegel and the personhood theorists, why is it necessary to acquire property to become a fully realized person? How does this theory distinguish

between types of property? What are the implications of this theory for objects that are intrinsically tied to one's identity (e.g., body parts, genetic data, artistic creations)?

- MARGARET DAVIES, *PROPERTY: MEANINGS, HISTORIES, THEORIES* 96-103 (Routledge-Cavendish 2007).

Significance: Davies provides a post-structuralist feminist lens on the personality theory, highlighting its historical tendency to equate personhood with specific forms of (male) ownership and control. It challenges the idea that property is a prerequisite for identity, especially for marginalized groups.

Discussion: How does the concept of "self-ownership" both empower and constrain the individual, particularly women, in a society structured by property? In what ways have women's historical exclusion from property ownership been tied to their exclusion from full personhood? Can a property theory built on "will" and "individual freedom" adequately account for interconnectedness and relationality?

Class 4
(September
16)

C. *Utilitarianism*

- Jeremy Bentham, *Principles of the Civil Code*, in *PROPERTY: MAINSTREAM AND CRITICAL POSITIONS* 41 39-46 and 49-58 (C. B. Macpherson ed., 1978).

Significance: Bentham's text is the core of the utilitarian justification, arguing that property is a purely legal construct, necessary because it promotes the public good by creating stable expectations.

Discussion: For Bentham, why is property "entirely the work of law"? When stability and security conflict with the pursuit of equality or redistribution, which does Bentham's framework prioritize, and why? Does the utilitarian justification treat property owners simply as means to an end (societal wealth) rather than as individuals with moral claims?

- Carol M. Rose, *Crystals and Mud in Property Law*, 40 STAN. L. REV. 577 (1988). **Page numbers tbd.**

Significance: In a direct response to the pure efficiency narrative, Carol Rose introduces a more nuanced and accurate theory of legal evolution. This piece demonstrates that property law is not a simple linear progression toward perfect clarity and efficiency. Instead, it oscillates between hard-edged "crystal" rules, which provide certainty, and fuzzy, ambiguous "mud" rules, which allow for fairness and equity.

Discussion: Does the existence of "mud" rules indicate a failure of law? When are "muddy" rules preferable, and what risks do they pose to the utilitarian goal of

Class 5
(September
23)

security? Is the tension between crystal and mud in property law ultimately a debate over social justice?

II. Defining property

The second part of the seminar shifts from justifying property to examining what property is. We begin by reviewing doctrinal and theoretical debates over whether property has a singular core, as Blackstone argued through the primacy of exclusion, or whether it is better understood as a flexible “bundle of sticks”, a framework developed by the American Legal Realists and later adopted by the American Law Institute in the first *Restatement of Property* between 1936 and 1944. From there, we trace how more recent theorists have moved beyond the traditional “person-to-thing” model toward a “person-to-person” conception of property, emphasizing property as a legal relationship among people rather than simply a right over objects. This strand of thought, often framed as “property as social relations”, opens onto broader socio-legal approaches that treat property not merely as a legal construct but as a dynamic social practice and a manifestation of shifting social power. As we will see, depending on one’s understanding of property, views on the appropriate level of regulation of property rights shift.

A. Property: core right to exclude or bundle of sticks?

- Henry E. Smith, *Property Is Not Just a Bundle of Rights*, 8 ECON J. WATCH 279 (2011).

Significance: Smith is a leading voice in the *neo-Blackstonian* movement, arguing that the “bundle of sticks” metaphor obscures the structural function of property as a boundary-setting device. He advocates for the return of a structural “core”, like the right to exclude, to reduce complexity and information costs.

Discussion: What does Smith mean when he argues the bundle of rights is a “private law fallacy” that leads to confusion? How does a “modular” or “architectural” view of property (which Smith favors) differ from a simple bundle of distinct rights? If property has an exclusionary core, how should law integrate social duties and regulations without destroying the core right?

- Larissa Katz, *Exclusion and Exclusivity in Property Law*, 58 UNI. TORONTO. L. J. 275 (2008)

Significance: Katz’s text introduces a pivotal shift in property theory by challenging both the traditional “bundle of rights” and boundary-exclusion models. This reading forces us to reconsider the relational nature of property, shifting our focus to the structural hierarchy between owners and non-owners.

Discussion: How does Katz's concept of the owner as an "exclusive agenda setter" differ from the traditional view that ownership is simply the right to physically exclude others?

Class 6
(September
30)

B. Property as social relations

- GREGORY S. ALEXANDER & EDUARDO M. PEÑALVER, *The Right to Exclude and Its Limits*, in AN INTRODUCTION TO PROPERTY THEORY 130, 130-149 (2012).

Significance: This secondary reading explores the right to exclude, and the necessary doctrinal limitations imposed on it (e.g., necessity, public policy). It uses the right to exclude as a window into the perpetual tension in property law between individual autonomy and social responsibility.

Discussion: Why is the right to exclude often referred to as the essential condition of property? What are the justifications for limiting the right to exclude, and what does this reveal about property's role in a democratic society? Are limits on exclusion simply exceptions to a rule, or do they fundamentally redefine the nature of the right itself?

- Stephen R. Munzer, *Property as Social Relations*, in NEW ESSAYS IN THE LEGAL AND POLITICAL THEORY OF PROPERTY 36 (Stephen R. Munzer ed. 2001).

Significance: Munzer argues that property is best understood as a network of legal relations *among people* concerning the control of valuable resources, rather than a physical relation between a person and a thing. This shift in focus is central to American Legal Realism and modern critical theory, which he summarizes and draws from.

Discussion: How does viewing property as "social relations" change the focus of legal analysis from the owner's subjective intent to the state's enforcement power? If property is merely a bundle of legal relations, can any stick be removed without destroying property? Which theoretical justification (Locke, Bentham, Hegel) is most compatible with the "social relations" view, and which is least?

Class 7
(September
30)

C. Property and Regulation

- JOSEPH WILLIAM SINGER, *The Paradoxes of Property*, in ENTITLEMENT 19 (2000).

Significance: Singer's work highlights the inherent contradiction between property rights and political democracy. It argues that property rights are not only entitlements but also sources of power that can be used to dominate and constrain the freedom of others, posing a threat to the liberal ideal of equality.

Discussion: What are the central “paradoxes” Singer identifies regarding property and political power in a democratic society? How does the right of property owners to exclude affect the speech, association, and political rights of non-owners? Can liberal property theory overcome these paradoxes, or do they necessitate a fundamental redesign of property institutions?

- Charles A. Reich, *The New Property*, 73 Yale L.J. 733 (1964). **Page numbers tbd.**

Significance: Reich’s hugely influential article argues that the modern state has created a “new property” in government largess (e.g., licenses, social welfare benefits, public employment). His work marks a crucial shift: property is now seen as a relation between the individual and the state, rather than between private individuals, making constitutional protection against the state necessary to safeguard the citizen’s status, dignity, and independence.

Discussion: Reich argues that government largess should not be revocable at the state’s discretion. How does classifying these interests as “property” limit state power and enhance individual liberty? What is the key distinction Reich draws between the power to exclude (classic property) and the power to receive and power to rely (new property)?

Class 8
(October 14)

III. The limits and critiques of property

ONLINE

The final part of the seminar turns to the limitations and critiques of the private property. We consider how property law shapes, and is shaped by, broader social contexts and systems. Drawing on interdisciplinary perspectives, we examine whose interests are advanced or constrained by existing property regimes and whether traditional justifications for private property remain convincing in light of these realities.

A. Property, inequality and capitalism

- Karl Marx, *Capital*, in PROPERTY: MAINSTREAM AND CRITICAL POSITIONS 61 (C. B. Macpherson ed., 1978).

Significance: Marx’s analysis as a philosopher of property provides the most foundational critique of capitalist private property, arguing it is an instrument for the exploitation of labor and the alienation of the worker. This text is essential for understanding property’s role in creating and maintaining class hierarchies and economic inequality.

Discussion: For Marx, how is “private property” fundamentally different from “personal property” (the fruits of one’s own labor)? What does Marx mean by the

“fetishism of commodities”, and how does private property obscure the social relations (exploitation) that produce wealth? Does a system of property rights inherently require a class division between owners of capital and owners of labor?

- Shelley Cavalieri & Lua Kamal Yuille, *The White Androcentric Disposition of Capitalist Property*, 2 J. L. & Pol. Eco. 252 (2022)

Significance: Shelley Cavalieri and Lua Kamál Yuille challenge the presumed neutrality of property by arguing that the institution itself is inherently structured by deeply embedded racialized and gendered hierarchies, which are themselves the foundation of capitalism.

Discussion: The authors claim that simply adding women or people of color to the existing property system cannot eradicate inequality because discrimination is “baked into the property itself”. Do you agree with this skepticism, and what would a non-extractive framework of property look like?

Class 9
(October 21)

B. Property and race

- Patricia J. Williams, *On Being the Object of Property*, 14 SIGNS 5 (1988).

Significance: This highly personal and powerful essay, foundational to law and race scholarship, explores the trauma and alienation of Black individuals being defined as objects of property under slavery. Williams uses her own life experiences to reveal the enduring psychological and legal legacy of being excluded from the category of “subject” or “owner”.

Discussion: How does the historical status of Black individuals as chattel property continue to shape contemporary legal and social perspectives on Black identity and ownership? How does the law’s attempt to commodify or assign value to human life conflict with the personhood justification of property? Williams argues property is a “form of government”. What are the implications of this statement for contemporary governance?

- Brenna Bhandar, *Introduction: Property, Law, and Race in the Colony*, in COLONIAL LIVES OF PROPERTY: LAW, LAND, AND RACIAL REGIMES OF OWNERSHIP 1 (Brenna Bhandar ed., 2018)

Significance: This text examines the intertwined histories of property law and settler colonialism, relying on the notion of “racial regimes of ownership” to demonstrate how modern property laws and racial hierarchies are co-constitutive. It asks us to confront the colonial roots of contemporary property law and invites us to conceptualize a different property system rooted in community rather than individual possession.

Discussion: What does Bhandar mean when she argues that modern property law and racial subjectivities “mutually produce one another”? How does this alter our view of property law as a supposedly neutral framework?

Class 10
(October 28)

C. Property, gender and sexuality

- Carol Rose, *Women and Property: Gaining and Losing Ground*, 78 VA. L. REV. 421 (1992). **Page numbers tbd.**

Significance: In this article, Rose explores the persistent imbalance in why women systematically acquire and own less property than men. Instead of relying solely on traditional explanations like “exploitation, sociobiology, or historical accident”, she applies game theory to examine how gender differences shape property.

Discussion: According to Rose, how do cultural expectations and stereotypes create a self-fulfilling prophecy and collective action problem for women who attempt to negotiate for a larger share of property or wages? From a property theory perspective, why is a fair distribution of entitlements across gender lines essential for maximizing public goods and achieving macroeconomic efficiency?

- Margaret Davies, *Queer Property, Queer Persons: Self-Ownership and Beyond*, 8 SOC. & LEGAL STUD. 327 (1999).

Significance: Davies brings a queer-theoretical lens to the property debate, thereby fundamentally questioning what property is. By emphasizing relationality, interdependence, and chosen community structures, she questions the inherent logic of exclusion and individual autonomy that underpins conventional property law.

Discussion: How would moving *beyond* the idea of owning one’s self change our understanding of labor, bodily autonomy, and resource distribution? What future does Davies see for property?

Class 11
(November 4)

D. Property as metaphor for social identities

- Cheryl I. Harris, *Whiteness as Property*, 106 Harv. L. Rev. 1707 (1993).

Significance: This foundational text argues that whiteness has historically and functionally operated as a form of property. It grants status, privilege, and the right to exclude, thereby merging race and property into a powerful, legally recognized asset that has shaped American history and continues to affect modern doctrine.

Discussion: How did whiteness evolve into a form of property? What are the legal “sticks” that comprise “whiteness as property”? How does the legal protection of

expectations related to white privilege frustrate efforts at racial equity (e.g., in the debate over affirmative action)?

- Ariël Decoster, *Masculinity as Resource: Bridging Identity and Structural Gender Inequality through Property Theory*, Men & Masculinities (2026).

Significance: This forthcoming article extends the identity-as-property metaphor by analyzing masculinity as a social and economic “resource”, which individuals can use to structure interpersonal interaction in line with structural gender power dynamics.

Discussion: In what areas of life does masculinity as property play out? How does the author’s conceptualization of masculinity as property differ from Harris’s analogy between whiteness and property?

Class 12
(November
18)

Paper workshop: your peers’ papers

VII. Policy on Students with Disabilities, pursuant to the American with Disabilities Act

FSU is committed to providing reasonable accommodation for all persons with disabilities in a manner that is consistent with the academic standards of the course while empowering the student to meet the integral requirements of the course. Students with disabilities needing academic accommodation should: (1) register with and provide documentation to the Office of Accessibility Services; and (2) request a letter from the Office of Accessibility Services to be sent to Student Advancement indicating the need for accommodation and what type. Following initial registration with the Office of Accessibility Services and submission of eligibility letters to Student Advancement, each student will meet with Student Advancement to review approved accommodations. Please note that instructors are not allowed to provide classroom accommodations to a student until appropriate verification from the Office of Accessibility Services has been provided. This syllabus and other class materials are available in an alternative format upon request. For the latest version of this statement and more information about services available to FSU students with disabilities, contact the:

Office of Accessibility Services
874 Traditions Way
108 Student Services Building
Florida State University
Tallahassee, FL 32306-4167
(850) 644-9566 (voice)
(850) 644-8504 (TDD)
oas@fsu.edu
<https://dsst.fsu.edu/oa>

VIII. Policy on Honor Code and Other Ethical Violations

The Florida State University Academic Honor Policy outlines the University's expectations for the integrity of student's academic work, the procedures for resolving alleged violations of those expectations, and the rights and responsibilities of students and faculty members throughout the process. Students are responsible for reading the Academic Honor Policy and for living up to their pledge to ". . . be honest and truthful and . . . [to] strive for personal and institutional integrity at Florida State University." (Florida State University Academic Honor Policy, found at <http://fda.fsu.edu/academic-resources/academic-integrity-and-grievances/academic-honor-policy>).

IX. Academic success

Your academic success is a top priority for Florida State University. University resources to help you succeed include tutoring centers, computer labs, counseling and health services, and services for designated groups, such as veterans and students with disabilities. The following information is not exhaustive, so please check with your advisor or the Department of Student Support and Transitions to learn more.

Confidential campus resources:

Various centers and programs are available to assist students with navigating stressors that might impact academic success. These include the following:

Victim Advocate Program

University Center A, Rm. 4100

(850) 644-7161

Available 24/7/365

Office Hours: M-F 8-5

<https://dsst.fsu.edu/vap>

Counseling and Psychological Services (CAPS)

Florida State University's Counseling and Psychological Services (CAPS) primary mission is to address psychological needs and personal concerns, which may interfere with students' academic progress, social development, and emotional well-being. The following in-person and virtual (tele-mental health) services are available to all enrolled students residing in the state of Florida:

1. Individual therapy
2. Group therapy
3. Crisis Intervention
4. Psychoeducational and outreach programming
5. After hours crisis-hotline
6. Access to community providers for specialized treatment

Call 850-644-TALK (8255) for more information on how to initiate services.

Counseling and Psychological Services

250 Askew Student Life Center

942 Learning Way

(850) 644-TALK (8255)

Walk-in and Appointment Hours:

M-F 8 am – 4 pm

<https://counseling.fsu.edu/>

Services at UHS are available to all enrolled students residing in Florida:

The mission of University Health Services (UHS) is to promote and improve the overall health and well-being of FSU students. UHS provides a coordinated continuum of care through prevention, intervention, and treatment. Services include general medical care, priority care, gynecological services, physicals, allergy injection clinic, immunizations, diagnostic imaging, physical therapy, and a medical response unit. The Center for Health Advocacy and Wellness (CHAW) assists students in their academic success through individual, group, and population-

based health and wellness initiatives. Topics include wellness, alcohol and other drugs, hazing prevention, nutrition and body image, sexual health, and power based personal violence prevention. For more information, go to uhs.fsu.edu.

University Health Services
Health and Wellness Center
960 Learning Way
Tallahassee, FL 32306
Hours: M-F, 8 am – 4 pm
(850) 644-6230
<https://uhs.fsu.edu/>