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The media depiction of people of color is a very important issue. Although comprising almost thirty percent of the U.S. population, the networks either broadcast stereotypical depictions, or insufficient images, of people of color. Borrowing from the housing discrimination jurisprudence, this Article suggests that the F.C.C. analyze cases of minority under-representation or stereotype under an “ordinary viewer test.” The ordinary viewer would be the reasonable person. Pursuant to this test, if there are no representations of a particular racial and ethnic group, the broadcaster would have violated the Communications Act. In addition, if evidence was presented that racial or ethnic groups were disproportionately being portrayed as criminals or villains, then that disparity would also be a violation. Intent to discriminate would be unnecessary in finding a violation. As licensees of spectrum, broadcasters hold it as trustees for all the American people, and they must use it in a way that is nondiscriminatory. As such, the ordinary viewer test would make sure that the public interest is met by avoiding the broadcast of either all-white images or a disproportionate number of negative stereotypes of people of color.

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This Article offers an alternative to twentieth-century theories of property, which have eviscerated the concept of property and thereby undermined the policy foundations of property doctrines ranging from eminent domain to intellectual property. As a solution, this Article advances an “integrated” theory that combines the exclusive rights to acquire, use and dispose of one’s possessions into a broad concept of property. The integrated theory provides a complete descriptive account of past and present property doctrines and also serves to justify or critique the evolution of these doctrines into the twenty-first century.

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