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***Rethinking Private Property through Zimbabwe's Land Reform
Programme***

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Name: Edward Murambwa

Student number: 2059079

Supervisor: Prof. Lawrence Hamilton

DECLARATION

I.....**Edward Murambwa**..... know that plagiarism is to use another's work and present it as my own, and that this is a criminal offence. Each significant contribution to and quotation in this essay from the work(s) of other people has been attributed and has been cited as such. This research report is my own work. I have not allowed, and will not allow, anyone to copy my work with the intention of passing it off as their own.

Signature

A handwritten signature in blue ink, appearing to be 'E. Murambwa', written in a cursive style.

Date **31 May 2019**

DEDICATION

To my father who departed from this earth before he could read this paper, this is for you!

ACKNOWLEDGEMENTS

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To my family, friends and all people of goodwill, thank you for your constant support and encouragement.

ABSTRACT

This MA research report analyses the nature of private property using the backdrop of Zimbabwean land reform and a series of political theoretical arguments on private property. This research report analyses if (and if so, how) the fast track land reform process in Zimbabwe provides the basis or ground-spring for rethinking private property. It would have been quite easy to mount a defence of land reform in Zimbabwe based upon Marxist principles or those found amongst some versions of communal land ownership as espoused in various parts of Africa and beyond. What marks out this research report's approach is that it takes two doyens of liberal political philosophy – John Locke and Robert Nozick – and shows that the refined position of the latter, most often used to defend private property, amongst other rights, constitutes in fact a basis for justifying land reform in Zimbabwe.

By examining the knowledge and being sensitive to the way land reform has been politicised and corrupted on the ground in Zimbabwe, this liberal justification for land reform ends up producing a much more forceful justification for land reform, by means of rethinking private property than an 'external' justification may have produced. Somewhat amazingly, there even seems to be evidence that versions of Nozick's position were in fact mobilised by ZANU PF. Considering the consequences produced by the Fast Track Land Reform Programme in Zimbabwe, this paper adopts the position that discussions around private property needs to be determined not by natural rights, human rights or by things that are above politics but by a consequentialism informed analysis of needs. This position offers a holistic account of property and in a way, progressive.

Key words: *Private Property, Fast Track Land Reform*

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ABBREVIATIONS

FTLRP	Fast Track Land Reform Programme
CAMPFIRE	Communal Areas Management Programme for Indigenous Resources
LHA	Lancaster House Agreement
ZANU PF	Zimbabwe African National Union - Patriotic Front
MDC	Movement for Democratic Change

Chapter 1 : Historical Background

1.1 Introduction

In this age of liberal democracy, free markets, freedom of speech, the right to vote and respect for private property are some of the ideals ascribed to in a progressive society. Anything contrary to these ideals is usually seen as backward, barbaric or primitive. With such an outlook on how private property should be respected and upheld in “progressive” societies, programmes such as the Fast Track Land Reform Programme in Zimbabwe seem to threaten this ‘sacred’ institution of private property. Every society has some sort of understanding and rules or regulations governing private property. How this is conceptualised is usually manifested in different legislation within that society. Thus, from a Zimbabwean context, like many other once-colonised African nations, Magaisa¹ (2012) highlights the controversy. Such a debacle arises from the rights enshrined in Part II, Sections 71 and 72 (a – c) of the Constitution of Zimbabwe Amendment (20). These two sections entitled, *Property Rights* and *Rights to Agricultural Land* might be the epitome of the discourse from which rethinking private property rightly emanates. Moyo (2005:2) points out that much of the discourse on land reform has focused on policy, public action and the not so distant longer-term effects such as poverty reduction, development and the processes of democratisation.

It is important to remain cognisant of the fact that there are different property regimes in Zimbabwe. However, for methodological and feasibility purposes of the project, this study will look only at the Fast Track Land Reform Programme (hereafter FTLRP). Given the size limitation of this research report, focusing on the FTLRP will allow a much deeper analysis of the subject matter at hand. It would be an overly ambitious project to look at the issue of private property from a generalised view of the land reform landscape in Zimbabwe dating back to the earlier postcolonial period. In the next section, some background information will be given but it might also be crucial to highlight that the time frame that this study investigates are the events between 2000 and 2018. Also, focusing on the FTLRP helps one to focus on a particular property regime and, in this study, I intend to look at agricultural land. It is my hope that by looking at the FTLRP, I will gain a deeper understanding of how land redistribution can still happen even within the libertarian framework.

¹ http://archive.kubatana.net/docs/demgg/crisis_zimbabwe_briefing_issue_86_120808.pdf

Although the focus is on Zimbabwe, the issue of land is not limited to Zimbabwe, in the case of Africa, it might be plausible to argue that the land issue is central to all nations that were once colonised. This is why Berry (2001:xix) is confident in saying that, “Land has been a key focus of the economic and political struggle in Africa throughout the twentieth century and shows no signs of diminishing in importance or contentiousness at the beginning of the twenty-first.” The ever-persistent debates about land in Zimbabwe, and the highly contentious, controversial and heated debates currently happening in South Africa reinforces Berry’s view that the importance of this topic is not likely to diminish anytime soon. Lund has looked at *Law, power and politics in Niger: Land Struggles and the Rural Code*; in Tanzania, Izumi investigates “Economic liberalisation and the land question in Tanzania”; while Adams and So looks at *A Claim to Land by the River: A Household in Senegal, 1720-1994*. In Swaziland, Rose’s work on *The Politics of Harmony: Land Dispute Strategies in Swaziland*, offers some insight into this contentious topic and in his PhD thesis, Katinga analyses “The land question in Kenya: Struggles, accumulation and changing politics.” At the global stage, Sam Moyo and Walter Chambati (2013:1) assert that in its social and political dynamics, Zimbabwe’s FTLRP must be compared to other leading land reforms of the twentieth century such as those in Mexico, Japan, China, South Korea, Taiwan, Cuba, Mozambique and Ireland. This is then an indication that the land question is not solely a Zimbabwean issue. While the issue might be spread across the continent, how it is addressed differs from context to context, nation to nation, because constitutions and the degrees of respect for rule of law vary.

The central argument that I seek to advance in this paper is to investigate the different ways in which property is conceived and establish whether these do justice to the Zimbabwean case. Adopting the Nozickian approach, I will argue that the respect and protection of private property must not be viewed as a threat to redistribution of landed property. In other words, redistribution of land can still happen without violating the basic tenets of private property. If properly handled, property redistribution should not cause untold economic suffering – Zimbabwe being the perfect example of how not to approach the issue of redistribution. The research question that seeks to be answered in this paper is whether libertarianism is entirely against redistribution of landed property. In other words, can redistribution of private landed property happen within the libertarian framework?

Although there are many ways of understanding property – the liberal approach, the African Communal approach, and the Marxian approach, to name the main ones – for the sake of the

argument to be advanced in this paper, I look at the two great competing approaches namely, the Lockean (liberal) approach² and the Nozickian approach. In the last chapter, I shall look at the African communal ownership to see whether or not it gives an alternative to these competing views. In Marx's opening sentence in his manuscript, "Summary of Fredrick Engels" article, the concept of private property comes to the fore. Marx immediately links private property with trade and argues that its immediate consequence is a direct source of gain for the trader (Marx [1834] 2010:375-376). As Terrell Carver (2018:6) puts it, "For Marx private property – the starting point – is a form of monopoly control over some things in the first place, privileging some while excluding others." Arguing from a Marxist viewpoint might not appear to be challenging because the basic understanding is that private property excludes others thereby creating domination. As Kleven (1997:1) notes, "Marx ... viewed private property as alienating and exploitative, and vigorously advocated its abolition." In other words, Marx views the institution of private property as an impediment to achieving freedom. I shall expand on this Marxian view in the last chapter of this paper.

Due to the liberal wave, most people do not find Marx's position sufficiently convincing and cogent. If anything, Marx is accused of having propounded ideas that have hampered economic development in most parts of the world where his ideas have been implemented. As a result of such antipathy to Marx's ideas, most people have resorted to liberalism and have used the tenets of this doctrine to oppose land redistribution (reform). Because people own themselves³, if they mix their labour with something, the product of that mixing is rightly theirs and taking anything from them without their consent is violating their rights. Unlike Marx, who thinks that private property excludes and alienates others, John Locke argues that massive production and full utilisation of property can only happen when it is appropriated individually. In the paper, "They Stole Our Land": debating the expropriation of white farms in Zimbabwe, Shaw writes (2003:80) "...in defending party policy, several writers in the government-controlled press have cribbed straight from pages 150–3 of Nozick's *Anarchy, State, and Utopia*, where he sets out the basic principles of his entitlement theory of justice." In order to substantiate this view, Shaw quotes an article by Ngoro in the *Herald Newspaper*⁴ of 2000 entitled "Land unjustly acquired cannot be freely transferred."

² Chapter 2 explains the Lockean or Liberal conception of property in detail.

³ This is what is referred to as the self-ownership thesis.

⁴ The Herald newspaper is considered to be a state paper in Zimbabwe.

Instead of arguing from a Marxist view, I am starting from *the* book, at least in the second half of the 20th century, that offers the greatest attempt to defend a set of natural rights and one of these rights is property. One of the reasons for adopting Nozick's formulation is that unlike other theorists, Nozick is more nuanced when he analyses the property question. This is the case because Nozick is also concerned about issues of justice in acquisition, justice in transfer and rectifying any injustices that might have occurred in the past. In so doing I can then show that even those who argue from a liberal point of view, do not have a leg to stand on because, in the logic of a Nozickian argument, land reform is justified in Zimbabwe. Instead of working in their favour, Nozick's argument shows that land reform – even from a liberal point of view – is necessary and justified. Making the argument from a Nozickian perspective is a strong argument because most people argue from a liberal perspective. Nozick was a committed libertarian and he still thought that despite such inalienable rights, justice had to be taken into consideration. If one were to argue from a Marxist perspective, their argument would be easily dismissed because it would be considered to have failed in the states that this has been practiced. The communal type of ownership is also shunned because it is “dead capital” as de Soto would have it. Also, communal ownership is looked down upon because it does not give the individuals the rights they deserve – rights that afford them to borrow from lending institutions. With these and other regimes of property holdings, the liberal view is held in high esteem. Such a view is one that has been used to denounce any form of expropriation of land without compensation. Yet, a critical thorough reading of Nozick proves otherwise. By adopting Nozick's formulation, I show that land reform can actually be justified even on Nozickian terms. It is for these reasons that I show the relevance and importance of Nozick's argument for the thesis to be advanced in this paper.

Although I agree that Nozick's entitlement theory offers the justification that might be needed, particularly in instances of land reform, I do not think that such a position is the best. For Nozick, it is justice and rights that matter and if inequalities were to exist when these have been met, then nothing should be done. I also note that as far as Nozick is concerned, justice is the most important thing to the extent that I am forced to think that on Nozickian terms, consequences do not matter. Indeed, Nozick was a deontologist. Because I think need-consequentialism analysis is important, the last chapter of this paper adopts Hamilton's view that focusing on needs and consequences is equally important. It should be noted that Hamilton's position does not take it to the extreme on either side of the argument. His argument is a holistic one in that while acknowledging the exploitative nature of capital

(Marx), and realising that history, justice and rights are important (Nozick), he also thinks that the future matters. The consequences that will be analysed in chapter four are influenced by Hamilton's understanding that the future matters. It might be argued that on Marx's terms, he is only thinking of the impoverished whereas in Hamilton, it is not only the impoverished, but the needs of the nation that are also considered. In my view, Hamilton's position is worth paving the way forward because his analysis is focused on a whole range of contemporary needs.

1.2 Understanding Property

Defining private property to a commonly shared conception has remained a major challenge in most debates around the institution of private property. It might be asserted that one reason why there has been silence in Zimbabwe with regard to private property comes from the conceived difficulty in defining this concept⁵. As Hamilton (2003:74) puts it: "The institution of private property is too complicated and fraught with ideological division..." Even though there is this difficulty, Hamilton is of the idea that private property is fundamental to our interpretation of everyday needs and that the very same institution of "private property has tangential importance in that it is one of the institutions that could be said to legitimate the contemporary belief that healthy competition generated by incentives, and advanced by the tendency to seek incentives, is destroyed when and where individuals are prevented from generating profit in commodity production" (Hamilton 2003:74). While the mainstream understanding of private property is simply that it is an alienable right and is valued for what it enables individuals to do, Hamilton's formulation makes one to think even further about the importance of private property. Although the literature on the FTLRP point otherwise, a genuine programme would have been to implement this programme in relation to need and agency.

Private property has been defined by Jeremy Waldron (1985:327) as "the rules governing access to and control of material resources are organized around the idea that resources on the whole are separate objects each assigned and therefore belonging to some particular individual." Similarly, Heller cites Frank Michelman's definition of private property to mean "[t]he rules must allow that at least some objects of utility or desire can be fully owned by

⁵ This same challenge is also highlighted by. Also, ⁵ Zamoshkin, Iu. A., argues that private property can be understood as neither state or public property and the decisions as to what will happen to that property rests solely on the proprietor of such a property (1992:71).

just one person," and freedom of transfer to mean "[o]wners are both immune from involuntary deprivation or modification of their ownership rights and empowered to transfer their rights to others at will, in whole or in part" (Heller 2000:419). Perhaps these definitions all share in Blackstone's definition that private property can be understood as: "that sole and despotic dominion which one man claims and exercises over the external things of the world, in total exclusion of the right of any other individual in the universe" Heller (2000:419). Although there might be variations, understanding private property as enunciated by these scholars shares the common tenet that for something to be privately held, one person claims the totality of rights towards that object. As such, no one should interfere with that holding.

One useful distinction which I think is helpful is one that has been offered by Ribot and Peluso in their 2003 paper, "A Theory of Access." Ribot and Peluso emphasise that there is a difference between property and access. The two define access as "the ability to benefit from – including material objects, persons, institutions and symbols" (Ribot and Peluso 2003:153). It is further posited that "the key distinction" "between property and access lies in the difference between ability and right" (Ribot and Peluso 2003:156). While access is about "all" the possible means by which a person is able to benefit from things, it is argued that property evokes a certain kind of socially acknowledged right or claim. Although this is a dense paper full of meaning, it is possible to see the challenge that comes with trying to understand property. These authors have discussed issues of access control and access maintenance and these are seen to be parallel with Marx's notions of the relationship between capital and labour (Ribot and Peluso 2003:159). Given the complexity of the regimes governing access to land in Zimbabwe, this theorisation will be important to keep in mind.

For the purposes of this study, I will adopt Blackstone's conception of private property as the working definition for this study. The reason for this is because Blackstone's definition chimes well with the rights that landowners had prior to the FTLRP. Although I adopt this definition, it is important to highlight one limitation which I think holds strong against such a formulation. The idea of "sole and despotic dominion" remains, in my view, an overly ambitious claim. In the real world of property ownership, sole and despotic dominion seems not to completely capture property ownership because there is always some external interference with one's property. This then renders the idea of private property to be an unsolvable puzzle – perhaps therefore most scholars argue that it is difficult to capture what private property exactly means. Despite these conceptual difficulties in defining private property, a working definition seems indispensable. A violation of these 'rights' under the

FTLRP attacked or undermined the institution of private property. Under private property ownership, most of the prime agricultural land in Zimbabwe belonged to (white) farmers. Through the dictates contained in the Lancaster House Constitution, these farmers were protected, and it was through such an understanding of private property that this was an inalienable right – one that was not to be tampered with.

1.3 Background Information: Land Tenure in Zimbabwe

The central focus of this study is to look at the FTLRP and how such a programme challenges or debunks the ‘sacred’ institution of private property. However, to put everything into perspective, I begin by giving a detailed account of how the “infamous” FTLRP came about by looking at the history of land tenure systems since 1930. It is argued that from 1890, under the British South Africa Company (BSAC), dispossessions of the right to own prime agricultural land and water – two very important resources – became the order of the day for Africans (Nyandoro 2012:305). As Van Onselen puts it, the loss of land was also accompanied by a heavy burden of forced taxation ranging from dog, hut, and cattle taxes⁶. It is then posited that the situation was made worse in the 1920s when those Africans who were in dire need of land were barred from purchasing land by the director of Land Settlement because if Africans were to own land adjacent or in the same proximity of European land, it was feared the value of European land would depreciate⁷. With all such controversies, the year 1925 saw the appointment of the Morris Carter Commission⁸, commonly referred to as the Lands Commission of 1925 (Nyandoro 2012:306). The main objective of this commission was to test the opinions on the question of land segregation in the then Southern Rhodesia⁹. The land segregation policy was to be adopted in all haste as Europeans feared the possibility of inevitable racial conflict. Out of the Carter commission, the Land Apportionment Bill came out and became law in April 1930 as the “infamous” Land Apportionment Act of 1930¹⁰. Because of the outcomes of this act, Africans or natives as they were referred to in

⁶ See van Onselen (1976:104-108).

⁷ See National Archives of Zimbabwe, “NAS S924/GI/1, Director of Land Settlement”, BSAC, 18 July 1921.

⁸ So named because the commission “was appointed under the chairmanship of Sir William Morris Carter”

⁹ See Moyana, (1984:58).

¹⁰ For an in-depth analysis of the Land Apportionment act, see Jennings and Huggins (1935:296-312). Also refer to Floyd (1972); Palmer (1977); Rifkind (1972); and Gann (1963).

the document, were no longer able to hold land. Put differently, the rights of Africans to own land were rescinded.

Evicting Africans from their land is said to have been intensified by the legitimisation of the Land Tenure Act in 1969. As Africans were being dispossessed off their land, racial discrimination and other colonial related injustices resulted in the outbreak of the Second Chimurenga (1969–1979) (Nyandoro 2012:308). After a ten-year protracted war, it ended with the Lancaster House Agreement where all the parties concerned agreed to the terms contained in the Lancaster House Constitution. As Nyawo (2014:37) puts it, “The LHA [Lancaster House Agreement] was an effort to more equitably distribute land between the historically disenfranchised blacks and the minority whites who ruled Zimbabwe from 1890 to 1979.” It is said that during the conference, the issue of land is one that almost brought the conference to a standstill without any prospects of moving forward. The Lancaster House Agreement included a section titled “Declaration of Rights” and as Richardson (2005:25) puts it, this section could not be changed for the next ten years and the elected government was supposed to wait for such a period until ten years had elapsed. Amongst the rights enshrined in this Constitution was “Freedom from Deprivation of Property.” Some of the principles included in this section include:

Compensation paid in respect of loss of land to anyone who is a citizen of or ordinarily resident in Zimbabwe (or to a company the majority of whose shareholders are such persons) will, within a reasonable time, be remittable to any country outside Zimbabwe, free from any deduction, tax or charge in respect of its remission, but subject always to – (a.) its attachment, by order of a court, in connection with civil proceedings; and (b.) reasonable restrictions as to the manner in which the payment is to be remitted (Lancaster House Agreement, 1979).

As Nyawo (2014:37) observes, the Lancaster House Agreement had a carefully worded section that sought to protect the rights of those who owned land and points out that although the government of Zimbabwe never used this clause, they however complied with the ten-year grace period. From the conference proceedings, Nyawo (2014:37) also points out that “the issue of British aid for land reform was not discussed at Lancaster House. Although the representatives of the main political party, the Patriotic Front claimed to have received satisfactory assurances, no evidence of any secret deals is available.” Without concrete

information on the deal that was struck between the British and the concerned partners, it is difficult to understand who is telling the truth and who is not.

When Zimbabwe gained its independence in 1980, it was time for the new government to address the land disparities that characterised land holdings. The government then embarked on resettlement programmes across the country to attend to the needs of the landless. However, as Chitsike (2003:2) notes in his paper, “at independence in 1980 Zimbabwe inherited a highly skewed pattern of land distribution. A small minority of white large-scale commercial farmers owned and farmed most of the better agricultural land.” This somehow indicated the challenge that the newly elected government had to face, and it is this skewed pattern that has been a source of conflict over the years. As De Villiers (2003:16) puts it: “the expiry of the Lancaster House Constitution gave the post-independence government the first real opportunity to deal with the land issue and other constitutional matters in its own way.” With the Lancaster House Agreement out of the way, the Mugabe led government treated the issue of land as it saw fit. In a document prepared by the Zimbabwe Institute entitled *Zimbabwe Land Policy Study* (undated), the document notes that at independence, Zimbabwe inherited four types of land tenure and these were: Large Scale Commercial Farms and urban areas, Freehold Tenure of Small-Scale Commercial Farms, Communal Areas, and State Land. In these early stages of land reform, the government acquired 65 percent of the 3.6 million¹¹ hectares of land and this was transferred to poor families by 1997 (Moyo 2006:145). Succinctly put, Chilunjika and Uwizeyimana (2015:133) put forward the view that there are four phases that were and still remain in the Zimbabwe land reform trajectory. The phases include: “the Lancaster House (willing buyer willing seller) 1980–1990, compulsory acquisition with fair compensation (1990–2000), fast track land reform (2000–2002 and beyond) and the phase for partnerships between landholders and former white commercial farmers (2014 to date)” (Chilunjika and Uwizeyimana 2015:133). This study is situated in the third phase, that is, the fast track land reform and how this phase challenged the institution of private property.

¹¹ It is important to clarify that there is a debate on the actual figures on land reform literature in Zimbabwe. In, *Zimbabwe Takes Back its Land*, Hanlon *et al* points out that the numbers are hard to establish. Colonial records were inaccurate with other white farmers having multiple farms. This challenge can be seen when the Utete Committee cited the most commonly used figures, that “6 000 white farmers owned 15.5 million hectares.” However, in the same vein, the same committee went on to note “that Ministry of Lands, Agriculture and Rural Resettlement officials said there were 8, 758 white farms while the Committee’s own District Data Collection Teams found 9, 135” (Hanlon *et al* 2013:7). These authors even go further to point out that the figure of 6 000 is not agreed upon.

The phase of compulsory acquisition with fair compensation (1990-2000) was one in which new amendments to the Constitution were put in place to allow for land acquisition. Thus, during this period, there was the Constitution of Zimbabwe Amendment Act 30 of 1990 and the Constitution of Zimbabwe Amendment of Act of 1993. There was also the introduction of the new legislation such as the Land Acquisition Act 3 of 1992. This Act gave the Government the powers compulsorily to acquire land, either commercial or unutilised, for resettlement purposes and a fair compensation was to be paid in reasonable time (De Villiers 2003:16-18). Two important things should be specified regarding LAA 3 of 1992. The Act gave the president the powers compulsorily to acquire rural land and the way this acquisition was to take place. In the same vein, a written notice was given to those farmers whose farms might have been targeted for acquisition and it has been pointed out that after receiving such notice, the landholders were not allowed to dispose the land or make improvements to the property (De Villiers 2003:18).

In addition to the above, the LAA 3 of 1992 also saw parliament having the powers to determine through legislation the principles upon which compensation could be calculated. By giving parliament these powers, the government moved away from the market-value principle and the period within which compensation had to be paid (De Villiers 2003:17). Thus the LAA 3 of 1992 saw the establishment of a Compensation Committee whose mandate was to determine the price tag for the acquired land. As a result, farmers no longer had the powers to determine the price for their land – a huge shift from what was set in the Lancaster House Constitution whereby landowners had the liberty to set the price for their land.

The above developments during the phase of compulsory acquisition with fair compensation (1990-2000) was met with its own challenges. The antagonism between the government and the landowners saw these landowners challenging the prices set by the Compensation Committee in courts. Also, another huge setback during this period was the lack of funding. Masiwa (2004:3) and (De Villiers 2003:7) both point out that the government of Britain promised £75 million and the United States of America promised US\$500 million as assistance for land reform but there were no written guarantees to enforce payment commitments. How this was not a written agreement remains problematic. De Villiers (2003:7) points out that by 2000, the government of Zimbabwe “had only received approximately £30 million, in contrast to Kenya where in its land restoration and resettlement process £500 million was provided”. Other international institutions such as the IMF, World

Bank and EU were willing to support this programme only on condition that a sound policy and resettlement methodology was in place (Masiwa 2004:12). It is also alleged that donor organisations stopped funding the work of the Zimbabwean government due to corruption. The Mugabe led government could not account for the £30 million pounds that they had received. Such irregularities hampered the prospects of securing funding for land reform purposes.

The period of the fast track land reform programme – one which forms the central focus of this study – was marred by violence, lawlessness and acquisition of land without compensation. It might be argued that the amendments that characterised the period of compulsory acquisition with fair compensation set the tone for the fast track land reform programme. A very good example that made international headlines is the case heard in the SADC tribunal court in Namibia between Mugabe and the Mike Campbell family leading to the production of a documentary titled: *Mugabe and The White African*¹². In a document prepared by the Zimbabwe Lawyers for Human Rights:

The compulsory acquisition of land was added as a derogation from the right to hold property in various amendments including **Amendment 11** (Act 30 of 1990) which ousted the jurisdiction of the courts in deciding whether compensation for land thus acquired was fair or not. **Amendment No. 16** further limited such ‘unjusticiable’ compensation to improvements on land. Ultimately, **Amendment No. 17** was promulgated to oust entirely the jurisdiction of the courts over cases of acquisition of land by the state, thus rendering impotent national and international protections of the fundamental right to protection of the law, a fair hearing, and the independence of the judiciary (Zimbabwe Lawyers for Human Rights (undated), emphasis in the original).

There have been debates as to what really motivated this fast track land reform programme. Although there were some restrictions set by the Lancaster House Constitution, the government still tried to act within the dictates of the law by amending the Constitution and those with grievances had the opportunity to approach the courts¹³. Chilunjika and Uwizeyimana (2015:133) put forward the view that “The analysis of available literature suggests that the Zimbabwe Government has been motivated by the political climate that prevailed in this period (2000–2002) rather than its genuine willingness to fast track land reforms.” Thus, far from being a genuine act of distributive justice, it seems to have been

¹² For a heart wrenching documentary entitled *Mugabe and the White African*, and the developments of this antagonism, watch on YouTube: <https://www.youtube.com/watch?v=RQCMFoXuws>

¹³ At least this was before the courts were stripped off their powers in deciding whether compensation for land acquired was fair or not.

nothing but a political endeavour to gain power. In a bid to legalise expropriation without compensation, the constitution of Zimbabwe was once again amended. Thus, the Constitution of Zimbabwe Amendment Act 5 of 2000 and the introduction of the LAA 15 of 2000 paved a “legal” way to expropriate land without compensation (Africa Focus Bulletin 2013). The amendments in the LAA 15 of 2000 explicitly state: “should Britain not establish a compensation fund, compensation would only be payable for improvements to the land and not the value of the land itself” (Section 29 of LAA 15 of 2000 cited in De Villiers 2003:21). As Britain could not fund the fast track land reform programme, land invasions became the order of the day, thus marking the first wave of farm invasions where a total of 110 000sq.km of land was seized (Human Rights Watch 2002:1). So, many amendments to the LAA and the constitution were made during this time. As De Villiers (2003:64) argues: “these amendments were aimed at legalising the ultravires expropriation of land without compensation in the hope that the land reform process could be faster, cheaper, less complicated and less legalistic”. It is the question of expropriation without compensation that remains a thorn in the flesh. The outcome of the FTLRP was that the 99-year leases were given to the newly settled farmers. Arguments against this set up have been offered and I will delve into some of these arguments at a later stage in this report.

Ever since this programme came into place, numerous studies have been carried out to understand this phenomenon (Thomas 2003; Moyo 2005; Juana 2006; Dekker & Kinsey 2011; Mutopo 2011; Scoones et al 2011). These studies have been developed from different angles. Thus, researchers like Tom and Mutswangwa (2015) have looked at the land reform process from a transformative social policy approach. A historical study by Chitsike (2003) narrates how land ownership has played out in the history of Zimbabwe, especially after the post-colonial rule, whereas Mutopo (2011) offers a feminist approach to the land reform. Scoones *et al* (2011) challenges the myths that land reform in Zimbabwe has been a total failure thereby offering an analysis that there are cases of success involved. In a study by Moyo (2004), he notes: “A clear assessment of the acquisition process is essential to gauge what needs to be done to complete the process as well as to identify potential areas of conflict over ownership, since the current information is unclear.” Such a lacuna, as identified by Moyo (2004) and Masitera’s (2016) recommendation, highlights my motivations towards this topic. Seventeen years after the land reform programme was implemented in Zimbabwe, one would think that the topic would have been relegated to the periphery. Contrary to that intuition, understanding property rights in this context remains uncertain and contested.

1.4 Conclusion

This chapter has looked at some of the motivations as to why this study is important. Given that most studies have looked at this question of land reform from either a policy approach or historical perspective, a political theoretical approach is seen to be a valuable contribution to the debate. I then tried to give a brief understanding of private property, thereby adopting a working definition for the purposes of this study. Although a working definition has been adopted, I remain mindful of the ideological divisions and difficulties in coming up with an exhaustive definition of private property. This chapter has also tried to give the political history of what has transpired, particularly as far as agricultural land in Zimbabwe. The histories of acquisition and dispossession will illuminate the argument to be proffered in this paper. In the following chapter, I investigate the question of acquisition of property. I interrogate John Locke's understanding of acquisition and argue that although most of the literature on private property rights draws much of its inspiration from John Locke, this chapter will try to show that such an understanding is not cognisant of African realities – especially some of the realities highlighted above.

In chapter 3, I try to investigate the notion that the land belongs to “us.” I am aware that trying to understand the “us” remains problematic. Is it the elite or those who belong to ZANU PF? Is it the Shona's or the Ndebele's? I do not venture into these arguments but for the sake of the argument, I take it that it is the blacks that are being referred to. I also look at the motivations for FTLRP. It is in this chapter that I use Robert Nozick (1938-2002) and argue that although the ZANU-PF led government does not profess to be right libertarians, their argumentation seems to fit well under the entitlement theory. I also use Nozick to demonstrate that even under the liberal view, Zimbabwean appropriation of land was necessary and just. By so doing, I seek to show that the wave of liberal theorists who have been against appropriation do not have a leg to stand on.

Chapter 4 of this paper investigates some of the consequences that came as a result of the FTLRP. The purpose of this chapter is to try and show that even though expropriation of land might be justified in cases where there have been injustices in acquisition and injustices in transfer, this does not exonerate Mugabe and his comrades for the evils that followed. Some of the consequences that I look at include the beneficiaries of land reform and human rights violations. I offer what I consider to be a balanced view by looking at some of the successes of the land reform as propounded by Scoones. In chapter 5, I offer a conclusion on what

seems to be a topical issue in some countries, particularly in the case of Zimbabwe. I offer four different ways of looking at property: the Marxian view, the Nozickian view, the African communal ownership view and a needs-consequentialist view. In so doing, I argue that each of these four ways end up pointing us in different directions. I end up by offering reasons why I think a needs-consequentialist view as advanced by Hamilton is viable for it tries to offer a holistic approach to the question of property. It does not look at private property as this exploitative regime only or from simply a natural right perspective; instead, the contemporary needs, both of the impoverished and the country, should also be factored in and considered when thinking about property regimes.

Chapter 2: Justice in Initial Acquisition

2.1 Introduction

With a strong focus on rights and property ownership, much emphasis is put on the one who has the title deeds for that holding. Private property bestows certain rights on the proprietor of the property; thus, in the case of agricultural land in Zimbabwe, it was the exclusive rights to use, dispose and transfer as one wishes. Ever since the FTLRP, there have been a plethora of views and most of these have taken a liberal view of private property. In this chapter, I interrogate John Locke's theory of acquisition and conclude that such an understanding of property cannot be applied to the African case – particularly in once-colonised nations. I begin by offering a summary of his theory and from there I will offer a critique of the theory. The argument to be proffered in this chapter is that the Lockean Proviso does not offer a convincing ground for initial acquisition especially in the case of agricultural land in Zimbabwe.

2.2. Locke on Initial Acquisition

John Locke has been commonly known as the “Father of Liberalism” and through his work on property, most of the discussion on private property uses his formulation as a point of reference. Right from the ancients, with philosophers such as Aristotle and Plato, the question of property remains one contentious topic. Grotius (2005 [1625]) also had a theory of appropriation in the form of first possession and such a theory has been recognised in the common law tradition with roots as far back as ancient Rome (Widerquist 2010:3). Other luminaries like Pufendorf offer the view that when it comes to the acquisition of property, the central idea is that of “uniting an object with one's personality” and “...the transference of the right of property ... stresses that the concurrence of the will of both parties is necessary” (quoted in Olivecrona 1974:215). As Widerquist (2010:4) notes: “His [Locke's] argument has had enormous influence ever since, and therefore, it has become the starting point for almost any discussion of the appropriation-based justification of property rights.” Thus, this study begins with Locke simply because this is where most conversations about property begin and, most importantly, the arguments that have been offered by some of those against the land reform programme in Zimbabwe. Despite such a starting point, making “full sense of Locke's theory of property remains one of the big challenges in the history of political thought” (Nicholson 1998: 153). Although this theory is regarded as one of the big challenges in the

history of political thought, others are of the view that this theory remains unclear and is to some extent inconsistent (Poole 1980; and Wootton 1992).

The challenges that surround Locke's theory have produced so many varied interpretations. As Widerquist (2010:5) argues, "those who have tried to clarify Locke's property theory have produced inconsistent interpretations." Such varied interpretations are then seen when Richard Ashcraft (1986) views Locke's theory of property as a revolutionary theory whereas Macpherson (1962), Poole (1980), and Wootton (1992) are of the view that such a theory forms a strong basis for class-based capitalism. In a rather different reading, Barbara Arneil (1996; 1996b) argues that Locke's theorisation is a justification for British imperialism in America. Although Arneil's analysis looks at this from an American perspective, one can also apply this justification for British imperialism to those once-conquered nations. Locke's property theory justifies land invasions by settlers simply because the land was unused, settlers mixed their labour, and what they appropriated did not go to waste and they also left enough, and as good¹⁴ left in common for others. This line of argument, as advanced by Arneil, is highly disputed by Paul Corcoran who argues that most of the critics of Locke have only read up to chapter 5 of his work and they avoid the surprises lurking in the later chapters of the work particularly on tyranny, conquest and usurpation (Corcoran 2017:228). In order to consolidate his argument, Corcoran (2017:228) quotes this line of thought from Locke:

[t]he inhabitants of any country, who are descended, and derive a title to their estates from those who are subdued, and had a government forced upon them against their free consents, retain a right to the possession of their ancestors... for the first conqueror *never having had a title to the land of that country*, the people who are the descendants of, or claim under those who were forced to submit to the yoke of a government by constraint, have always a right to shake it off, and free themselves from the usurpation or tyranny which the sword has brought in upon them. ... *Their persons are free by a native right, and their properties, be they more or less, are their own*, and at their own dispose, and not at his (§§192, 194; emphasis added by Corcoran).

From this, Corcoran defends Locke's views arguing that "it is important to place Locke's account of property and native right in the context of Britain's actual experience of colonial property acquisition, including its documented modes of representation and justification." This study seeks not to engage in this debate of whether or not Locke was in support of

¹⁴ While this might sound strange to the modern or contemporary reader, I have decided to use Locke's exact formulation.

colonialism but establishes that some scholars view the Lockean theory of property as a mechanism to justify British imperialism while others like Corcoran are of the view that such is a misreading of a man who so valued native rights.

For libertarians such as Nozick (1974:167-82) and Rothbard (1982:21-24), Locke's theory offers liberal individualism induced with strong natural property rights. Moreover, John Dunn (1991 [1968]; 1969) argues that these property rights are tempered by a strong duty of charity whereas Gough (1950); Ryan (1984); Waldron (1988, 137-252); Freeman (2001) see limited or rather regulated property rights. Sreenivasan (1995) asserts that these are limited, egalitarian property rights. Although most scholars argue that Locke's theory is grounded in natural law, Straus (1991[1952]) begs to differ by arguing that there is no appeal to natural law at all. On the other hand, Matthew Kramer (2004) argues that the theory propounded by Locke is a thoroughgoing communitarianism. With all these differences and debates, "One cannot but be wary before trespassing on the bitter and protracted debate on Locke's theory of property" (Clark 1998:256). All these different debates point to the continued endurance and popularity of Locke's theory. Thus, according to Simmons:

[T]hose who innocently work to discover, make, or usefully employ some unowned good ought to be allowed to keep it (if in so doing they harm no others)... It is the strength of this intuition that keeps alive the interest in Locke's labour theory of property acquisition... However badly he defends his views, we might say, surely Locke is on to something (1992: 223).

Controversies aside then, this study seeks to establish whether Locke's ideas can be used as a solid ground for theorising about private property and such a theory can be applicable to the Zimbabwean case in terms of acquisition and property rights.

A good summary of John Locke's theory on property – a chapter that has generated so much controversy as highlighted above – is one that has been offered by Widerquist (2010). Widerquist points out that there are five justifications for labour-based appropriation contained in the chapter on property. First, the idea of self-ownership implies that a person owns his labour and any unowned thing s/he mixes it with (§27-28). The second justification points to the fact that labour improves resources thereby accounting for most of the value that the property carries (§28). Arneil (1994:602), Olivecrona (1991 [1974]: 341) and Cohen (1995) read this second justification as an argument that natural resources are of little or no value at all until mixed with labour. As Arneil (1994:602) puts it, "Locke believes... that it is industry, or in Locke's terms, labour, rather than quantity of land or its richness which

determines the value of property.” The third justification points to the view that the improvement of resource value through the pains of the labourer can be read as some kind of desert claim (Becker 1977: 35-36; and Buckle 1991:149-61). The fourth justification for this labour-based appropriation is that by improving resources through labour mixing, one effectively makes more resources available to others (Becker 1977: 35-36; and Buckle 1991:149-61). Lastly, “appropriators are entitled to something like an unconditional right to produce their own subsistence” (§28-29) which then translates to Locke’s insistence that appropriations are justified for the convenience of life. Perhaps in a more defined way, Sreenivasan (1995:28-29) developed this last justification or reasoning by calling it the “paradox of plenty.” Having given the heated debates that surround this theory and a brief summary of the tenets central to Locke’s theory, I now turn to Locke’s theory in detail.

The theory of property as propounded by Locke is heavily theological: he believes that God gave the world to human beings in common and all that is therein is for the support and comfort of their being (Locke 1690:413). Although the fruits of this earth belong to all humankind in common because they are produced by the spontaneous hand of nature and no one has “originally” a private dominion exclusive of the rest of human kind in their natural state, Locke argues that there must be a way to appropriate these fruits. The idea of “in common” as employed by Locke might suggest communal ownership. However, on Locke’s terms, ‘in common’ simply meant the absence of ownership. Given that it was God’s will that humankind should prosper, it is Locke’s conviction that such appropriation of the fruits of the earth can be of any use or will be beneficial if appropriated to an individual person.

In order to strengthen the above argument on private property, Locke introduces the labour theory. It is within this reasoning that God, having given each person his body, each person has a just claim to the labours of that body. Towards this end, Locke writes:

Though the earth and all inferior creatures be common to all men, yet every man has a property of his own person; thus nobody 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 joined 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. For this labour being the unquestionable property of the labourer, no man but he can have a right to what that is once joined to... (Locke 1690: 414).

Locke seems to be of the idea that humankind can only prosper as individuals and these individuals can only prosper if they have access to the God-given means of survival bestowed by nature. The labour that individuals possess gives them access to the fruits of the earth and when individuals mix their labour with the natural resources in nature, they generate a “just claim to the product and it is a *just* claim because it is in accord with God’s will to preserve mankind” (Sanders 1987:370). In other words, when the person labours on nature, the proceeds are properly his and no one has a right to interfere and if you take the resulting product without man’s consent, you have violated his ownership right over his labour.

The labour mixing principle described above helps one better to understand the Lockean qualification famously described as the Lockean Proviso. The proviso as contained in the Second Treatise states that: “...labour being the unquestionable property of the labourer, no man but he can have a right to what that is once joined to, at least where *there is enough, and as good left in common for others*” (Locke 1690:414; emphasis added). Sanders (1987:373) points out that Locke places a restriction on the whole notion of private property in the sense that there is a need for others and such a restriction is paramount to initial acquisition. Sanders (1987:373) then interprets the view that all unowned natural resources are God’s gift to human kind and should be shared as such. As Sanders puts it, Locke’s reasoning is that “to take more than your share is unfair, and a frustration to God’s will. If there is anyone who is substantially more impoverished than you, then there is *prima facie* evidence that the gift has not been divided properly” (Sanders 1987:373). This might be said to be the central tenets of Locke’s theory of property. Before I begin to critically analyse some of the substantive issues raised by this theory, I seek to shed some light on the relevance of this theory to the topic at hand.

The idea of initial acquisition in thinking about private property and the challenges associated with it highlights the issues surrounding debates about land reform programmes. A charitable view would be to argue that this issue of initial acquisition might be applicable in all places that have tried to deal with this issue of land reform. Thus, both the issue of initial acquisition and the Lockean proviso are met with serious challenges when applied to the Zimbabwean case. I now turn to some of the problems that Locke’s theory of property encounters and how these amounts to calls for rethinking private property. That Locke’s theory is too theological is an argument that has been proffered by some critiques. I do not intend to enter that debate, but I would argue that the theological arguments as enunciated by Locke do not make his theory lose its philosophical relevance.

2.3 A critique of John Locke

Although Locke's theory of property remains a reference point in liberal thinking, it also has a fair share of conceptual problems and contradictions. In this section, I invite the reader to read these evaluations in close analysis with the historical background given in chapter one. The idea of the labour mixing principle – which forms part of the central thesis of the Lockean theory – leaves a lot to be desired. As set out in the Land Acquisition Act of 1930, natives or indigenous people were dispossessed off their land. Thus already, the proviso as a ground for appropriation does not do justice to the people of Zimbabwe. Those who argue against expropriation of land without compensation on the grounds of the proviso have a lot of work and thinking to do. Even if there were unowned land in Zimbabwe, appropriation based on the proviso is still met with challenges. Those who appropriated the land would have known that in order to acquire this land “justly” all we need to do is mix our labour, maybe through tilling of the soil and fencing it from the rest, and then leave enough and as good in common for others. Still, conceptual difficulties abound. The question that looms is what exactly must you leave and what is the measure of *enough*?

In response to the above questions, sympathisers of Lockean thinking might argue that Locke had an answer for this challenge of establishing the amount of property that one could acquire and how this was to be measured. It could be argued that Locke answers this question when he writes that the, “measure of property nature has well set by the extent of men's labour and the convenience of life” (Locke 1690:416). While this might seem to be a laudable response, I think the same conceptual problem remains unsolved. If one is to buy this argument of convenience, the question worth wrestling with is whether there is some “natural” way of measuring convenience. One might further ask does the stipulated convenience vary from person to person, place to place and time to time? If it happens to vary in all these circumstances, should there be any limitations to it? In other words, how is it possible to establish the level of convenience for the other? These are some questions that, in my view, remains unanswered by Locke's theory of property. If “convenience of life” is to be regarded as something important in relation to appropriation of property, it remains to be seen how one can acquire so much for their convenience without prejudice for others. Surely, in the acquisitions or attainments by the settlers, convenience of life might have been established but one is forced to think that such convenience was not factored in as regards the lives of ‘natives’.

Apart from considering what is enough and using the convenience of life as the measurement, one is also forced to ask the question of who count as the “other” in the proviso. In other words, when choosing what to appropriate, who must one regard as the other? Sanders (1987:377) captures this critique by asking:

Is it just the presently living in your society? All presently living people? Why one choice rather than another? What about future generations? Perhaps there is no need to consider the unborn in making decisions about what to acquire, but this position requires some defence if justice demands that other people be left “enough” land after you have mixed your labour with some of it. What possible argument could at the same time require that the present generation have scruples about leaving enough for one another, while shrugging off such concern for future generations?

In the case of Zimbabwe, the natives who might be rightly considered as the other were not even factored in the equation. Thus, even though one considers the current generation, extending the proviso to future generations just shows how difficult it is to apply the proviso.

The proviso poses many challenges rather than solutions. Widerquist (2010:7) has identified what he calls three provisos in one under Lockean appropriation and these are: “(A) the no-waste proviso or spoliation limitation, (B) the charity or subsistence proviso, and (C) the enough-and-as-good proviso or the sufficiency limitation.” Given the emphasis on the no-waste proviso or spoliation limitation, Widerquist points out that it is difficult to understand why so much emphasis is placed on this proviso. Perhaps the only reasonable answer, Widerquist suggests, is that if people spoil or were to waste that which they have appropriated, there would not be sufficient resources for everyone. However, Widerquist argues: “Rather than protection for the propertyless from a wasteful upper class, several authors read this proviso as support for the expansion of upper-class property rights through the enclosure movement in Britain and colonization abroad¹⁵.” The implicit argument that one is forced to deduce from all this is that natives, peasants and those considered technologically primitive are in breach of the no-waste proviso because of their continued failure to use land to the fullest. Given the view that land in Zimbabwe might have been idle – although all the literature points to the contrary – industrious British settlers who appropriated what nature had placed before them were justified in seizing the land¹⁶. Arneson (1991:42-43) captures this view when he argues that:

¹⁵ For more on this see, Arneil (1996, 1994). Also see, Lebovics, (1991 [1986]); Olivecrona, (1974).

¹⁶ See, Glausser, (1990).

... in a regime of private ownership with land in abundance inequalities will arise that would not have arisen under a free use system, and those who get the short end of the stick under private ownership may find themselves worse off than they would have been under free use. Aggressive energetic persons, productive entrepreneurs, may amass stocks of resources that enable them to outbid less productive non-entrepreneurial persons in competition for positional goods.... According to the Lockean, these losses due to fair competition do not count as harms.

Thus, if this interpretation is rendered correct, this aspect of Locke's theory is rather unattractive. Most of the people in colonised regions were rendered less productive thus on Lockean terms, whatever white farmers amassed was rightly theirs and taking these farms back is considered a violation of their rights – particularly the self-ownership thesis. In an attempt to challenge the myths and mysteries surrounding land reform in Zimbabwe, Hanlon *et al* (2013:10) point out that the newly resettled farmers have been having “turning over more than \$100,000 per year and A1 commercial farmers with a few hectares but who are making a profit of more than \$10,000 per year and who are more productive than the white farmers they replaced.” These authors further add that, “to be sure, we have also seen both A1 and A2 farms that are unused or underused. Just as there was a spectrum of white farmers, some good, some bad, and most in the middle, there is also a spectrum of resettlement farmers” (Hanlon *et al* 2013:10). Although these findings by Hanlon, Manjengwa and Smart may be disputed because the Zimbabwe agrarian-based economy still struggles, the point I am driving at is that even though the white settlers were generally good, there was also a group that did not perform well and such a group would fail the no-waste proviso.

Moreover, the charity proviso as one of the limitations identified by Widerquist (2010:8) seeks to establish that “Locke... believed in a strong duty of charity by which everyone is entitled to maintain subsistence.” Despite this assertion, Widerquist acknowledges that scholars do not agree whether there is any reference of this sort to this proviso. Thus, Robert Lamb and Benjamin Thompson (2009) assert that the concept of charity was not consistent and can only be enforced minimally. It could be argued that even though charity might assist those in need of resources, reference to charity comes across as paternal responsibility for the property-owning class rather than a challenge to the status quo. As a result, the ones without property will have to rely on the mess of the property-owning class.

The argument around the issue of initial acquisition has been argued on the basis that there were infinite unoccupied vast tracts of land in the past. This line of argument has been

particularly advanced in debates surrounding expropriation of land without compensation particularly in Zimbabwe and South Africa. As such, certain defenders of private property now vehemently argue that there was infinite land in common for everyone. Those who acquired the land appropriated as much as they needed, for their convenience of life, and left as much in common and as good for others. If Locke is to be read charitably, it might be the case that in his theorisation, there were vast lands in America and basing his thinking on that would have clouded his thinking on the fact that there will not always be infinite land waiting to be “removed” from common ownership. Therefore, Locke writes: “I dare boldly affirm, ... every man should have as much as he could make use of ... since there is land enough in the world to suffice double the inhabitants” (Locke 1690:417). This might be true in the case of America, though many have argued otherwise, but clearly, this line of thought cannot be extended to Africa, especially in the case of Zimbabwe and South Africa as well as many once-colonised nations. The very fact that dispossessions took place is enough to argue that there was never enough for everyone to appropriate for the convenience of life and nothing enough and as good was left in common for others to appropriate. The reliance on infinite resources on the part of Locke is something that cannot be taken for granted. Such questions were not theoretically moot back then and neither are they theoretically or practically moot now. Besides power dynamics and other factors such as race, the idea of dispossessions clearly indicates that there is not enough for everyone to appropriate as they may wish. Thus, a theory of initial acquisition relying on some dubious belief that there are abundant resources – when in fact there are not – cannot be taken to be *the* theory guiding our understanding of property now.

Another worthwhile critique is the labour mixing principle as advanced by Locke. Indeed, mainstream defenders of private property find this principle appealing. Locke (1690:414) asserts: “That labour put a distinction between them and common; that added something to them more than nature, the common mother of all, had done, and so they became his private.” This clearly shows the value that labour plays in Locke’s theory. One might also be inclined to argue that the government of Zimbabwe implicitly recognised this principle to a certain extent when they were ready and willing to pay the farmers for the developments that had taken place on the farm. Whatever the motivations, labour is not a tangible thing that we can own, and such an observation begins to highlight the challenges of this principle. Thus, the very idea that labour is mixed with something is bizarre. In other words, if labouring consists in mixing, but in mixing what? Perhaps one argument that seems to dismantle this principle is

one forwarded by Matisonn (2016) who puts forward the view that “even if it makes sense to say that we own our labour and that we mix it with objects and resources, it is unclear that we retain an entitlement to our labour once it is mixed.” Does the labour principle factor monetary value? The people who have been on the farms were mostly natives. Should they lay a claim to the land, the produce or the money? Why one and not the other?

In relation to the above, Simmons point to what he calls the boundary problem. In *The Lockean Theory of Rights*, Simmons (1992:268) wrote:

Locke’s mixing argument also faces what we can call “the boundary problem.” It is not obvious that labour can ground a clear right to anything if it is not possible to specify the boundaries of what is acquired by labour. But exactly what does labour get mixed with when one labours on what is common? When I enclose and grow a field of corn, I seem to acquire property in the fence and the enclosed land. Yet I actually touch or work on only some of the enclosed land. The ground between the furrows and between the field and the fence seems not to have my labour mixed with it. Can others rightfully come and use (or cart away) what my labour is not mixed with?

This critique by Simmons highlights the challenge that one faces when trying to understand the labour mixing principle. Inasmuch as the labour mixing principle establishes a legitimate claim to unowned holding, the question of precision to determine the correct boundaries of the property to be acquired remains a mystery that, on the grounds of the principle, is difficult to resolve.

2.4 Conclusion

Liberalism has become the norm and private property is one of the “rights¹⁷” that must be protected. In this chapter, I have given an account of acquisition as propounded by John Locke. Amidst the debates and challenges trying to understand what Locke meant as far as his theory is concerned, I have argued that this theory fails on several conditions and cannot be used as the basis for arguing for private property in the context of Zimbabwe. Some of the arguments that I have advanced include the idea that if not properly checked, this theory will offer justifications for those who have an insatiable appetite for appropriation. I have also shown that there are a number of conceptual limitations that pertain to the theory.

¹⁷ I put this in quotes for later on in this work, I seek to dedicate much time on this notion of rights in relation to property.

Chapter 3: The Land Belongs to “Us”

3.1 Introduction

Much of the discourse on land reform surrounds the question of who the rightful owner of the land is and who is entitled to it. Of course, in a country divided on racial and ethnic or tribal lines, the question of who is included in the “us” becomes another challenge. However, the Zimbabwean government has maintained that the land belongs to all blacks. Following from Locke, this chapter looks at Robert Nozick’s entitlement theory and seeks to establish whether such a theory provides a good ground for challenging property rights in Zimbabwe. In an article entitled: “‘They Stole Our Land’: Debating the Expropriation of White Farms in Zimbabwe” Shaw (2003a:80) writes: “...in defending party policy, several writers in the government-controlled press have cribbed straight from pages 150-3 of Nozick’s *Anarchy, State, and Utopia*, where he sets out the basic principles of his entitlement theory of justice.” Though the government of Zimbabwe might not have explicitly referred to Nozick, the line of thought that has been used to defend appropriation and redistribution of land treads on the path of a Nozickean framework. This chapter will begin by looking at some of the motivations that have been put forward by the government of Zimbabwe as the factors that resulted in the FTLRP. I will then look at these motivations in close analysis with the entitlement theory and lastly offer a critique of both the motivations and the theory itself.

3.2. Motivating Factors to Reclaim the Land

Although there is no direct reference to Nozick’s entitlement theory, “It is curious ... to find Mugabe and other party functionaries arguing for the expropriation of farms in terms that are surprisingly reminiscent of the entitlement theory of Robert Nozick” (Shaw 2003:216). One striking factor in most cases about land reform is that almost everyone agrees that land redistribution is necessary especially in the case of Zimbabwe. Both the Movement for Democratic Change (as a single entity back then) and the Commercial Farmers Union of Zimbabwe which was predominantly an association of white farmers agreed that land reform was necessary (Shaw 2003a:77). Although such central agreements exist, how to carry out and implement such a contentious programme becomes a difficult path to tread. Despite the antagonism and the resulting dire consequences of the programme, “...many commentators, domestic and foreign, take it for granted that, whatever Mugabe’s excesses and however counterproductive his policies, there is justice in his course” (Shaw 2003a:77). This section

seeks to investigate why Zimbabwe's leaders continue to claim the moral high ground as to why such a programme was necessary and the justifications that they have provided.

One of the arguments that has been advanced by the Zimbabwean Government is that in order to alleviate poverty and inequality, the landless masses should be given land. It is alleged that by 1999, about 4 500 white-owned commercial farms provided for and supported close to a million people in Zimbabwe (Shaw 2003a:77-78). At the very same time, about 6 million people were overcrowded into Zimbabwe's communal lands (then known as tribal trust lands or native reserves) and most of these areas were unfit for agricultural production. As the British Deputy Commissioner, Sir Richard Martin observed, these areas were 'badly watered, sandy and unfit for settlement' (Ndlovu-Gatsheni 2008, 65). As Choto (2014:58) notes: "By 1905, the BSAC had presided over the creation of sixty reserves covering 22 per cent of the new colony [and] the bulk of the land was set aside for the white settlers." With such a skewed pattern, the majority of the black population was landless thereby providing the government of Zimbabwe with the much-needed ammunition to implement the land reform programme.

In disagreement with the above, Shaw (2003a:78) argues that it is not only the unavailability of land that is making it impossible for peasants to succeed and escape the yoke of poverty. Instead, in his view, it is poor infrastructure and insufficient capital investment (Shaw 2003a:78). Shaw then argues that the root problem is that communal ownership does not provide peasants with the ability to borrow capital from banks as commercial farmers do. With this line of argument, it is argued that the real reason for not empowering villagers/peasants is because if the ruling party does so, then it would cease to have control over these people. As such, "schemes to establish the village as an effective economic unit that would manage its own resources and enter the land market have not – with the limited exception of the CAMPFIRE programme – gone very far, largely because of the government's reluctance to empower the countryside economically and thus weaken its political control over it" (Shaw 2003a:78)¹⁸. This argument as presented by Shaw seeks to undermine the argument put forward by the Zimbabwean government. In Shaw's view, it was never about the peasants because government has failed them by not improving infrastructure and capital investment. The issue of land is just used as a scapegoat.

¹⁸ For more on this, see Reynolds (2001); Meredith (2002: 84–5). Reynolds was chief government economist in Zimbabwe, 1981–86.

One of the strongest arguments that have been put forward by the government of Zimbabwe is that the liberation struggle was all about regaining the land such that this precious resource could be returned to its rightful owners. As many commentators have argued, the land issue in Zimbabwe has controlled or has been part of the political discourse for more than a century. It is the very same land issue that is said to have dragged the Lancaster House Conference for months. As Choto (2014:60) puts it: “The 1979 Lancaster House Conference almost failed owing to the emotive land question.” The reason why the Second Chimurenga war was fought was primarily to get the land back. In the same vein, Choto (2010:60) asserts that “another point that serves to emphasise the centrality of the land issue in Zimbabwe’s liberation war is the historical fact that various initiatives and negotiations such as the 1976 Geneva Conference and the Malta conference in 1978 collapsed due partly to the unresolved land question.” From all this, the mantra that has been sung by the government of Zimbabwe is that there can be no true independence without getting the land back – more or less, the same argument that is being employed by the Economic Freedom Fighters in neighbouring South Africa today. Scoones *et al* (2010:2) asserts: “The liberation war of 1970’s was fought over land, and ZANU PF, the nationalist ruling party since 1980, always emphasised the continued racialised pattern of land-ownership, especially at election time.¹⁹” It is for this reason that fighting against the Smith regime was equated to regaining the land²⁰. Knowing how the land pattern had been, Palmer wrote in 1977: “the most acute and difficult question confronting the first ... Government of ... Zimbabwe, whatever its ideological hue, will be that of land, bedevilled by its past use as a political and economic weapon by the whites, and by the consequent mythologies to which this has given rise. The problem will not be an easy one to resolve” (quoted in Palmer, 1994:164). Thus, besides the motivation, the question of land itself was something so difficult and resolving it required much care.

Despite the plethora of views supporting this view that the liberation struggle was all about land, Shaw argues that this is not the case. In order to substantiate his view, Shaw quotes Edson Zvobgo, a long-time leader within ZANU PF who is said to have rebuked Mugabe by arguing “that the independence struggle was not ‘some agrarian racist enterprise’” (Shaw 2003a:80). Shaw (2003a:80) then argues that this remark by Zvobgo implies that, “that the desire of blacks to establish majority rule and self-determination, to end discrimination and the injustices of Rhodesian-style apartheid, to promote black social and economic

¹⁹ For more on this, also see Alexander (2006).

²⁰ Also see Hanlon *et al* (2013:3) who are of the view that “regaining the land had been central to the liberation war, but the new government had so many issues on its plate ... that land reform was not a priority.”

advancement, and to enhance generally the welfare of the population, were more significant causes and goals of the struggle than was the desire to seize white farmland.” Shaw’s remark is problematic because it is one that seeks to defend the “private property” of white-owned farms at all cost despite most evidence pointing to the contrary. Perhaps more disturbing is Shaw’s assertion that certain causes and goals *were more significant* than was the desire to seize white farmland. One question worth probing is: more significant by whose standards? Surely those who fought the liberation struggle know exactly why they fought this war and although they might have used the land issue for political power, it remains mind-boggling that Shaw thinks that other causes such as majority rule and self-determination, an end to discrimination and the injustices of the Rhodesian-style apartheid, and promoting black social and economic advancement were more significant than getting the land back. One could even pose a question to Shaw as to how the social and economic development goal will be realised if people are not given land because land plays a pivotal role in social and economic development.

These two motivations culminate in the argument that the land rightly belongs to “us” thereby providing a moral ground to claim that land. The government of Zimbabwe then proffers the view that white settlers stole the land and reclaiming the land is a matter of distributive justice. It is in line with this argument that I look at the question of Nozick’s entitlement theory. Although I have highlighted some injustices in acquisition in the first chapter, it might be important to recap some of these from a different perspective. In a chapter entitled, *Land Apartheid* by Hanlon et al (2013:32), these authors write²¹:

Rhodesian MP Walter Richards warned in 1941, “Without segregation, this colony would go black within 50 years and our European population would be reduced to traders, missionaries and civil servants.”

A 1935 article in the *Journal of the Royal African Society* explained that “the European requires a certain standard of living, he can hardly be reduced to bare subsistence farming,” and thus “areas of good soil, a fair average rainfall and the altitude and climate are suitable for Europeans.” There are areas that are not “suitable for white settlement” because they are low-lying, are infested with tsetse fly, or have other problems, and there is no “real reason why they should not be occupied by natives.... Settlers began forcibly displacing black Zimbabweans from their land in 1890, especially after Zimbabweans lost their first war against the white invaders, the 1896-97 First

²¹ This is a long excerpt, but it serves to highlight the injustices taking place at the time of acquisition and will form part of the analysis in conjunction with Nozick’s entitlement theory.

Chimurenga. The Southern Rhodesia Order in Council, 1898, issued by Queen Victoria, created Native Reserves, which were “land, the property of the British South Africa Company, set apart for the purposes of native settlements exclusively.

Segregation played a role in land acquisitions and this is something that cannot be denied given the above utterances, Acts and orders. The above excerpt can also be used to argue against the Lockean proviso – leaving enough and as good in common for others. The very idea that there are areas that were reserved for Europeans and natives were dispossessed off their land gives the government of Zimbabwe ammunition to implement the land reform programme. Towards this end, I now turn to Nozick’s entitlement theory and, later, I will offer justifications as to why such a theory is attractive to support land reform.

3.3. Nozick’s Theory of Justice

The question of how unheld things may be appropriated remains one of the thorny grounds to tread in political theory. Nozick’s entitlement theory seems to answer some of these questions although it has had its fair share of critics. Thus, according to Nozick, a theory of justice consists of three major topics. The three principles as propounded by Nozick (1974:150-152) are:

1. A person who acquires a holding in accordance with the principle of justice in acquisition is entitled to that holding.
2. A person who acquires a holding in accordance with the principle of justice in transfer, from someone else entitled to the holding, is entitled to the holding.
3. No one is entitled to a holding except by (repeated) applications of 1 and 2.

For Nozick, a distribution is just only if it is legitimated by other means of just distribution. In the same vein, the movement of one distribution to another are specified by the principle of justice in transfer. As Nozick (1974:153) puts it plainly, “The holdings of a person are just if he is entitled to them by the principles of justice in acquisition and transfer, or by the principle of rectification of injustice ...if each person’s holdings are just, then the total set of holdings is just.” Put differently then, if a person acquires something justly and it has followed all just steps, then such a holding is considered just. However, regarding land acquisition in Zimbabwe, one can see that such acquisitions have been marred by injustices.

As the analysis on Lockean labour theory might have shown, the question of initial acquisition remains a thorn in the flesh. One argument that has been brought forward against Nozick is at which point in history do we start to analyse acquisition. Such a question applies

to the case of Zimbabwe where it is alleged that even Shona's themselves also moved from up north settling now in what is known as Zimbabwe. The Ndebele's moved from KwaZulu-Natal to present day Zimbabwe, and thus they too might also be seen as settlers. One can see this line of argument also advanced in South Africa where it has been argued that if anyone should lay a claim to land, it is the Khoi san people because these were the original habitants of the place – everyone else is considered to have come from other places. As Shaw (2003:219) argues:

Over the centuries there have been conflicts, wars, and migration throughout this part of Africa, from the displacement of the Khoi-San ("bushmen") by Bantu speakers from the north in prehistoric times to the occupation of the southern and western portions of what is now Zimbabwe by the Ndebele people, who conquered the region only a few decades before the whites arrived. It is not clear how the entitlement theory can avoid having to address some very murky and invidious historical questions.

Thus, the issue of justice in initial acquisition in the Zimbabwean case becomes challenging. If it is true that the Shonas pushed other tribes out, why should their conquest be justified other than that of whites? Drawing a line in these cases becomes one point that is challenging for Nozick's theory of justice.

In addition to the question of justice in initial acquisition discussed above, a rather ambitious paper entitled, *There Is No Such Thing As An Unjust Initial Acquisition*, by Edward Feser has argued that Nozick got it all wrong. Feser²² (2005:58) writes:

The reason there is no such thing as an unjust initial acquisition of resources is that there is no such thing as *either* a just *or* an unjust initial acquisition of resources. The concept of justice, that is to say, simply does not apply to initial acquisition. It applies only after initial acquisition has already taken place. In particular, it applies only to transfers of property (and derivatively, to the rectification of injustices in transfer).

Feser's analysis is biased because it conflates two words: initial acquisition and transfer. He takes for granted that there is no initial acquisition thus he neglects this starting point. His analysis starts from previously unowned resources, but this is not how the world is or has always been. In the case of settlers removing the majority of indigenous people from their land, such a case cannot be said to be a mere case of transfer²³. This is what authors like Richardson take for granted when they just look at the loss of property rights and the collapse

²² Emphasis and parenthesis in the original

²³ Maybe Feser might have to elaborate on the etymology of the word *transfer* as this is the word that he values so much.

of the Zimbabwean economy without assessing the principle of initial acquisition and transfer. A plausible analysis would need to look at the question of property rights in relation to acquisition.

The second principle by Nozick is one that also warrants some investigation. The argument that has been put forward by Mugabe and his associates is that no present white-owned land belongs to white farmers. Although it is granted that certain farms may have been purchased or inherited in accord with the principle of justice in transfer, it was the view of the Zimbabwean government that such transfers did not exonerate the current land owners from having their farms expropriated. Accuracy of numbers aside, Hanlon *et al* (2013:7) writes:

Although a few white families could trace their ancestry back to the soldiers who were given land by the British South Africa Company in the 1890s, or to early twentieth-century settlers, by 2000, less than 5% of white farmers in Zimbabwe were descendants of pioneers. Indeed, less than 10% were from families that had settled before World War II, according to Commercial Farmers Union records. And only a few were ancestral farms; *nearly half of all white farms in 2000 had been bought and sold at least once* in the 20 years after independence²⁴ (emphasis added).

If, as indicated above, almost half of the farms had changed titles at least once in the 20 years after independence, those who acquired these farms through the principle of justice in transfer feel that expropriating such land was unfair. However, the argument that has been put forward is that if you buy stolen property, you stand to lose everything. Thus, those who bought stolen land have no recourse to any justice. In conversation with some white farmers who had their land taken, these land owners argue that the issue was not about distributive justice. In their view, this was a racial case because if the argument is that they bought stolen land, what about blacks who also bought those farms and never had their land taken from them²⁵. It is the case that current land holders bought stolen property and thus the need for appropriation. The argument is that this should be applied to everyone regardless of skin colour.

Title deeds have become a sacred sacrosanct document in the 21st century and it is through the respect of this document that private property is protected. The question that is difficult to

²⁴ See Selby (2006). Commercial Farmers and the State: Interest Group Politics and Land Reform in Zimbabwe. PhD thesis: University of Oxford.

²⁵ This is particularly the case in view of the judgment by the SADC Tribunal in *Mike Campbell Pvt Ltd and 78 Others v The Republic of Zimbabwe (Mike Campbell)*, where applicants successfully argued that they were discriminated on the grounds of their skin colour. See, SADC (T) case no 2/2007

answer is what must be done in instances where these title deeds were acquired unjustly? One argument to answer this question runs on the principle that: “after a sufficient amount of time and a sufficient number of otherwise innocent transfers, the present owner of a piece of land is entitled to it despite the likelihood that its initial acquisition, centuries ago, was unjust²⁶” (Shaw 2003:221-222). This argument has also been advanced in the case of Zimbabwe and one argument has been brought to the fore is that in order to curate an environment that respects private property, the ideal thing to do would have been to protect the property rights of those who were on the land. In other words, land reform should not have taken place because these land owners, after a series of transfers, were the rightful owners of land and no one had the right to take that land from them. The injustices that transpired in Zimbabwe are recent as compared to what may be considered historically remote injustices. It is then reasonable to argue that given such a short space time frame, just transfers cannot be said to have rinsed away injustices either in acquisition or transfer that transpired in the past. It is through this formulation that the entitlement theory seems appropriate from a ZANU PF perspective because the theory is historical. It cannot turn a blind eye to any established injustice that can be substantiated to have taken place, regardless of how historically remote that injustice might be.

It would be naïve to think that Mugabe and his comrades are closet libertarians, or they subscribe to Nozick’s entitlement theory, let alone believe and commit to some minimal state. Nozick’s theory of justice is historical thus whether a distribution is just depends on how it came about whereas in end-result theories²⁷, whether a distribution is just depends on who ends up with what. Given the legislations and discriminatory policies that were blatantly discriminatory in nature, Mugabe and his associates appeal, at least implicitly, to Nozick’s theory of justice by arguing that no present white-owned farm is justly held because all traces of such acquisitions lead to an unjust initial appropriation²⁸. In fact, the argument is that whites who settled in the then Rhodesia at the end of the nineteenth century and appropriated land for themselves – some as a reward for having fought in the World War 2 – and others for having rendered their services during the British South African Company expedition to what is now Zimbabwe appropriated this land unjustly. As such, subsequent legally impeccable

²⁶ This is what Shaw refers to as the Occupancy and Detrimental Reliance Doctrine.

²⁷ Nozick refers to unhistorical principles of distributive justice – including current time-slice principles – as end-result principles or end-state principles.

²⁸ As Van Horn (1994:174) puts it “Through a series of statutes-the Southern Rhodesian Order in Council, 1898, the Land Apportionment Act, 1930, the Native Land Husbandry Act, 1951, and the Land Tenure Act, 1969-property entitlements were defined and distributed on the basis of race.”

transfers do not and cannot wash away the stain of past acquisitions that have tainted such acquisitions. It then makes sense, on ZANU PF grounds, that those who bought or inherited what was originally stolen have no moral entitlement to such properties. It then follows from all this that rectifying past injustices requires taking back the land that rightly belongs to “us.”

There are few reasons why one might find the entitlement theory enticing, particularly in support of land seizures in Zimbabwe. It must be kept in mind that Nozick’s theory of justice was not developed to deal with land reform in Zimbabwe. However, the reason for bringing this theory into question is to see whether as a theory of justice it can be applicable and used to justify appropriations of the kind that took place in Zimbabwe. As indicated above, the entitlement theory is historical thus making it different from end-result. Such a difference then renders Nozick’s theory of justice non-consequentialist because in assessing whether a distribution is just, the historicity of it is what matters, that is, how it came about. Given the non-consequentialist nature of the theory, the Mugabe led government is exonerated of the need to analyse the economic and social costs of the land reform programme. As such, Nozick’s theory of justice would be enticing to the ZANU PF regime because whatever the results, the most important thing is that the programme has been implemented.

Although Nozick says little about the principle of rectification, the basic argument is that if both justice in acquisition and justice in transfer have been marred with irregularities, then some rectification is necessary to obtain the desired situation. Others have argued that there is a difference between restoration and rectification. The argument proffered is that when rectifying a past injustice, it does not necessarily mean that the holding must be returned as it was in the original state. This conception would then support the view that money could have been used to pay off those who would have claimed such unjust acquisitions and forced removal. A good example that comes to mind is the Land Restitution Claims in South Africa where the victims of forced removals, in some instances, have received money as rectification. This argument becomes very capitalistic in nature – money does it all. In cases of traditional societies like Zimbabwe, one has to do more than just monetary provisions. I argue so because land, particularly for traditional people, is not only a material commodity but also carries with it symbolic meaning. Land still has cultural, religious and symbolic meaning attached to it. Restoration in monetary terms would still leave the other aspect of culture and religiosity unmet and unsatisfied.

There is no doubt that no due processes or well-tabulated policies were followed in implementing the land reform programme in Zimbabwe. No wonder it was called the Fast Track Land Reform Programme. As pointed out earlier, Mugabe and his comrades do not explicitly subscribe to Nozick's theory. The reason for examining this theory has been to try and establish some of those loopholes that would enable one to make sense of the land reform programme and if possible, whether the justifications are sound. As a result, one question that would be interesting under the Nozickean framework is whether or not there was a historical analysis on each and every farm that was acquired so as to establish an injustice. Another argument that might be offered is whether there was an attempt to find the victims who were wronged to ensure that the land in question is returned to the rightful owners. These might be valid objections, but one response would be that due to time constraints, such a requirement might have been unnecessary in the case of Zimbabwe.

3.4. Conclusion

During the FTLRP, land was considered to belong to every black Zimbabwean. This explains the idea of an "us" which remains obscure more importantly because Zimbabwean society is not a homogenous society. This chapter has tried to give the motivations of the FTLRP and amongst these was that in order to alleviate poverty, the peasants need the land. Another argument is that the liberation struggle was premised on getting the land back thus freedom without land is not freedom *per se*. I then turn to Nozick's theory of justice and point out that inasmuch as Mugabe and his associates are far from being libertarians, the principles of Nozick's theory implicitly provides a justification for the ZANU PF led government programme.

Chapter 4: Between Justice and Political Expedience

4.1. Introduction

Making sense of the events that characterised the FTLRP and the resulting consequences from the programme remains a mystery that seeks to be unravelled. As indicated in the previous chapter, most people think that there is justice in what Mugabe did. However, it remains to be seen whether justice really prevailed in that programme. Given that the premise, as highlighted above, of the land reform programme was to eradicate poverty – because peasants needed the land – it is of paramount importance to assess whether these citizens are any better off than before. This chapter will focus primarily on the consequences of the land reform programme. In doing so, I seek to show that Mugabe and his associates – distributive justice aside – cannot be exonerated of their wrong doings and poor policy approach. This chapter will also try and assess whether the consequences of the programme are worthwhile in any case. I start the chapter by looking at the beneficiaries of the land reform programme and then make a case whether this helped to achieve the egalitarian society on which land reform was premised.

4.2. Consequences of the Fast Tract Land Reform Programme

Those who said the road to hell is paved with good intentions might have been on to something. Of course, one can never fully know the motivations and intentions of the ZANU PF led government apart from those that they have put forward and those that they would want us to believe. Making moral judgements on these consequences then is the most challenging endeavour to embark on. Although consequentialism has its own fair share of challenges and criticisms, I will use this ethical theory to analyse the outcomes of the FTLRP. I choose this theory not because it is the best ethical theory but, for the purposes of the undertaking at hand, it does justice to the project to analyse it from a consequentialist framework.

How are we to make a moral judgement about whether something is morally good or bad? Consequentialism is the theory that “an act is morally right if and only if that act maximizes the good, that is, if and only if the total amount of good for all minus the total amount of bad for all is greater than this net amount for any incompatible act available to the agent on that

occasion” (Sinnott-Armstrong 2015)²⁹. Classic consequentialism as pointed out by Sinnott-Armstrong (2015) has many versions and some of these include: objective Consequentialism, and Subjective Consequentialism. In relation to the task at hand, I intend to look at the actual consequences and the intended consequences. In order to make moral judgements on the FTLRP, I adopt both actual consequentialism and subjective consequentialism because so much of political and social life involves unintended consequences and as a result, intentionality has a place and must be factored in making these moral judgements. It might be argued that for everything that happens, there is a component of luck. ZANU PF might have intended certain results to come about but because of an unintended event or variable interfering with the intended consequences, the results ended up very differently. Looking at ZANU PF’s Policy, as will be discussed in detail in the pages to follow, the government wanted to create an egalitarian society by empowering the landless peasants and all those citizens who did not have land; but, for a whole series of reasons, the process did not yield the intended consequences. In assessing these consequences, I bring the subtlety of evaluating what were the intended consequences and then look at the actual consequences. This analysis can help in establishing the severity of holding accountable the government and all the other parties involved.

The first consequence of this highly controversial programme is to ask the question, who got the land? Since the programme was undertaken to improve the lives of landless peasants, one pitfall of the programme is that only a very small number of ex-farmworkers were resettled under the FTLRP (Matondi 2012:67)³⁰. The immediate result of the land reform process was that from the estimated 320 000 farm worker households prior to the land reform, up to 200 000 farm worker household were displaced from the acquired farms (Sachikonye 2003b). With diminished access to shelter and basic social services, one can only wonder what kind of positive outcome or success can be attributed to this programme. It is alleged that at the official close of the A1 model in 2002, only 2,087 farm workers had been resettled. Thus, Sachikonye (2003b) puts forward the view that only 5% of the farm workers were resettled. I begin with the issue of farmworkers because, in most cases, it has been argued that this group is often left out in most conversations on land reform. Even if these ex-farm workers were resettled, this might even apply to most resettled areas, these farm workers lost their jobs and access to social services such as health and schools (Sachikonye, Undated Conference

²⁹ Also refer to Chapters 1 and 2 of Moore (1912.).

³⁰ See Magaramombe (2003) and Sachikonye (2003)

³⁰ This paper can be accessed from

Paper³¹). One is then forced to argue that without proper education, the ex-farm workers and their children were denied basic and fundamental rights to education and healthcare. This lack of provision cannot be said to have been experienced by ex-farm workers only. The newly settled beneficiaries also find themselves in the same predicament. This is particularly the case because no schools or clinics or hospitals were built and, in most cases, the ones that might have existed prior to land reform had been vandalised. In one of the interviews conducted by the Human Rights Watch, a nurse at a clinic on one commercial farm narrated her ordeal as follows:

I was coming from the store, then I saw plenty of people coming, boys and women. Then they said, where's the office. Then they said, you are very slow in telling us. Then they beat me with a stick on my arm. They took us here to the yard. They were saying, *'Pamberi ne Zanu-PF, pasi ne MDC.'* [Forward, Zanu-PF, down with MDC.] After some seconds they took another boy and they beat that boy thoroughly. Then they went off³².

For an adversary of the idea that there were no clinics even during the period of white farmers, the above interview might then cast doubt on such a position given that on some farms, clinics existed. Such clinics, in most cases, were vandalised upon arrival of the newly settled or during the invasions and land grabbing. This line of thought does not also exonerate white farmers from the harsh treatment that they meted out to their workers in most cases, having used them as cheap labour. However, the point that I seek to advance is whether the conditions of the newly settled beneficiaries of land reform are better off than those who lived in these places prior to land reform. If one is to assess this situation from an actual consequentialism view point, then it might be justified that these consequences renders the programme, to a certain extent, a failure.

Another point worth examining is whether the beneficiaries of the fast track land reform programme were just political cronies. The general assumption is that it was ZANU PF supporters who got the land or those who were politically connected. As Hammer et al (2003); Alexander (2003; 2006) and Zamchiya (2011) observe, those who had close links and politically inclined towards ZANU-PF managed to access the land. While it remains difficult to establish the certainty of who got the land – ZANU PF supporter or not – statements made

<https://assets.publishing.service.gov.uk/media/57a08ce040f0b649740014ec/Sachikonye.pdf>
³² <https://www.hrw.org/reports/2002/zimbabwe/>

by some ZANU PF party leaders seem to be a confirmation that the reforms were primarily opposed to those considered to be members or supporters of the main opposition party – Movement for Democratic Change (MDC). To substantiate this claim, Marongwe establishes (2008:152) that some of the official correspondence included indication that well-known supporters of the main opposition party, the MDC, were barred from accessing land. A good example is one that comes from the Resettlement Committee in Mazowe that stated: “Councillors... reported that there were some people from Chiwororo who were resettled but they were MDC party members. The Governor [for Mashonaland Central] asked councillors to solve this problem. They were asked to screen the list putting Chiwororo [ZANU PF] party members” (Matondi 2012:76). The Supreme Court could not turn a blind eye to such an act of injustice. Driven by its mandate to provide justice for all, the Supreme Court had this to say:

But there can be no doubt that it is unfair discrimination to target farmers who are believed to be supporters of an opposition party, and to award the spoils of expropriation primarily to ruling party adherents. If ZANU-PF party branches or cells or officials are involved in the selection of settlers and the allocation of plots, the exercise degenerates from being a historical righting of wrongs into pure discrimination. It is equally wrong to discriminate against workers of foreign origin who are lawful permanent residents of Zimbabwe (Supreme Court Judgement SC 132/2000).

It is through these utterances that if the land truly belongs to “us” as I have titled the previous chapter, then it remains to be seen why land would be given only to those who were inclined to the ruling part or deemed to be supporters as such. If one were to look at these consequences then, it becomes closer to the truth that such a programme was not done to redress past injustices; instead, it was used as a political tool to garner votes and remain in power. Instead of it being a genuine programme, it became politicised to an extent that the language used was pro-ZANU-PF, the regalia that people wore, and the slogans chanted during such meetings was that of ZANU-PF.

The seriousness of these allegations cannot be taken for granted. If the programme were to ameliorate the living conditions of the people, particularly the landless, then everyone should have got the land regardless of their political party associations. In the same vein, Matondi (2012:81-83) gives an analysis that the elite often preferred land on main highways. In cases

where such land had already been allocated to a “nobody” or rather ordinary citizens, these elites went on to take the appropriated land again. It is for this reason that, “farmers in Mazowe who had initially had land adjacent to main roads became reluctant to take ownership of the land because of the fear of ‘nefarious highway visitors’ on the prowl for the best farms...” (Matondi 2012:83). If land then became idle because the beneficiaries were afraid of these elites taking that land again, it might be safe to say that such a development hampered progress. The same elites ended up having huge multiple farms despite calls that an individual must have only one farm³³. Matondi (2012:86-87) gives four reasons why it is difficult to establish multiple farm ownership and to identify the individuals involved in this scheme. First, these people who are multiple landowners are politically connected and most people are afraid to go after them thereby making them untouchable. Second, poor registration systems do not help in establishing who owns what. As Matondi (2012:86) puts it, there are variations in establishing multiple ownership thus there is “deliberate multiple ownership” and “blind multiple ownership”. For Matondi, such problems arise because at times, someone might not even know that they do have two or more farms registered under their name. Manual registration at the beginning of the FTLRP contributed to this programme. I am forced to argue that blind multiple ownership or deliberate multiple ownership as described by Matondi reflects poor policy on the part of the government. Third, in instances involving polygamous marriages, some registered the farms as husband and wife and they also extended this to their children so long as they were above 18 years of age. Fourth, people applied in many districts so as to up their chances and this resulted in their being given land in most of the provinces without their knowing. This problem was exacerbated by the fact that there was no proper filing of information and little reference to previous land records (Matondi 2012:87). All these challenges highlight how inefficient the implementation of the programme has been. The whole thing seems to have been rushed without the proper diligence it deserved. It is unfortunate to see that some of the concerns that should have characterised the whole process at the beginning of the programme are catching up.

Perhaps one of the unfortunate consequences of the land reform programme was the violation of human rights. In an age where the respect and protection of human rights have been tied to development, the violence that erupted as a result of land expropriation cast doubt on the

³³ Not only did they acquire multiple farms. These people in power grabbed land from resettled farmers as they pleased. For a detailed analysis of these examples, see Scoones et al (2010:35)

genuineness of the programme. In a heated debate on the killings that transpired during the FTLRP phase, one white farmer has claimed that, “if we are talking about numbers, I would say it is as bad and worse than Gukurahundi,³⁴” Although such is a controversial statement – evidence from the video seems to suggest so – the truth remains that intimidations and killings happened. Issues such as rape have also been highlighted as some of the gruesome events that characterised this phase of the land reform programme. The issue of violence and the killings cannot be limited to white farmers only³⁵. Indeed, this has been highlighted as one of the biases any discourse on land reform suffers because farm workers are often excluded from any of these discussions. Farmers and farm workers alike experienced violence and one might even infer that the suffering of farm workers might have been much more painful than that of farmers as these did not have much financial freedom that would allow them to relocate to places with better amenities.

Zimbabwe’s FTLRP has been characterised as one of the most revolutionary land redistribution schemes on the African continent. However, Matondi (2012:185) notes that this can be viewed as “a revolution without change in women’s land rights.” Matondi goes further to show that such a radical land reform did not contribute to the change of land ownership for women and in most cases, women were “the last beneficiaries, after men were satisfied with their choice of plots. Therefore ‘ordinary’ women were always at the end of the queue in the allocations and other benefits. Thus, in Zimbabwe, a radical land reform programme did not contribute meaningfully to women’s benefit in accessing state land” (Matondi 2012:185). One important aspect to note from the quote by Matondi is that he puts ordinary in quotes. The idea behind ‘ordinary’ is that women who are powerful or those who belong to the elite group were able to access land easily and a few names such as Joyce Mujuru (former Vice President) and Grace Mugabe (former First Lady of Zimbabwe) come to mind. These women, amongst many others belonging to that class, especially those in ministerial positions, benefitted just as much as their male counterparts in the same class. If it is true that land reform was aimed at improving the conditions of the disadvantaged, it is quite difficult to see how such empowerment can be said to have been achieved when those who benefitted were already privileged in many senses.

³⁴ See, <http://www.thezimbabwean.co/2018/01/land-reform-killed-more-people-than-gukurahundi-white-farmer/>

³⁵ For a detailed analysis of these violations, see the online publication by the Human Rights Watch https://www.hrw.org/reports/2002/zimbabwe/ZimLand0302-03.htm#P325_85980

Land reform was a programme meant to dismantle certain inequalities and such a programme was just one of the many ways to address socio-economic inequalities. Many of these inequalities affect women and any genuine programme would have given the concerns of women the attention such issues deserve. From a case study conducted by Scoones et al (2010:54) in Masvingo, "...the proportion of women who benefited from land reform in this way [FTLRP] is small. For the overall A2 allocations in Masvingo province, women constituted only about 13% of the total according to the 2007 Provincial A2 Land Audit." Any differentiation resulting from class, age, gender, and sex in society must be abolished. When these differences are abolished, those who find themselves in unfavourable situations will be empowered. As Agarwal (in Meinzen-Dick et al 1997:1307) notes, empowerment is "a process which enhances the ability of disadvantaged ... individuals or groups to challenge and change (in their favour) existing power relationships that place them in subordinate economic, social and political positions." On the face of it, the former president of Zimbabwe, Robert Mugabe seemed strongly to support women's access to land by pointing out:

Our sincere wish that women's food-generating activities can be improved to lead to financial security realised from their sale of their produce. This ... [can] only occur when and where appropriate policies regarding women's access to land, and the provision of vital farming inputs and credit, are put in place on time. In Zimbabwe, we continue to do our best in prioritising allocation of land and farming inputs to our women and thus empowering them, through our much-maligned land redistribution programme (quoted in Matondi 2012:188).

With such an understanding of empowerment, one would have expected that a lot would have been done in allocating land to women. During the donor conference in 1998, "the government had agreed to reserve 20 percent of land allocated under public resettlement for women [but such a quota] never became a formal policy in the Inception Phase Framework Plan 1999-2000, nor in the land allocations under the FTLRP" (Matondi 2012:188). Such an outlook forces me to conclude that there was no empowerment especially in the case of women. The same, however, could be said of many peasants who could not access land simply because they were "ordinary" or peasants.

Although the protection of women's rights and the advancement of women empowerment is enshrined in the Zimbabwean Constitution, there were several factors that limited women's

access to land. Zimbabwe is a patriarchal society and as a result, women have little or no say in decision-making processes. Given that most land management institutions are male-dominated, partly explains why women were left out in the process. Traditionally, land has always been reserved for men because women get married and move to their husband's places. Such an understanding might have contributed to limited access of land on the part of women. Another factor to consider is that competition is rife amongst farmers thus even if other women might have received the land, access to finance, inputs, labour and equipment remains a stumbling block for their success in these resettled areas.

As introduced above, the most important question to ask is whether Zimbabwean citizens, particularly the landless peasants and the poor, are much better after the FTLRP than they were before. In other words, did the FTLRP satisfy the needs of those who were on the receiving end? In a highly theorised work, *The Political Philosophy of Needs*, Hamilton has developed categories of different kinds of need: Vital Needs, Particular Social Needs and Agency needs (2003:23-24). According to Hamilton (2003:23; emphasis in the original) vital needs "are the *general* ineluctable needs that are unproblematically associated with individual 'health'. A non-exhaustive list of examples might be the need for adequate shelter, sufficient clothing, the required daily calorific intake, periodic rest, exercise and social entertainment. These needs are experienced both as felt drives and general goals in the form of conditions for minimal human functioning." The argument that I can advance here is that prior to the FTLRP, vital needs were being met but after the FTLRP, these needs are hardly met. In other words, people are now suffering more than they were suffering before. Zimbabwe used to be known as the bread basket of Africa but, as things stand now, it has become the basket case of Africa. Of course, this assertion would then supposedly lead to the conclusion that it was therefore unnecessary to carry out the land redistribution programme. Given the current economic situation in Zimbabwe, the validity of this line of thought would seem to hold water. While this argument might be valid in the sense that these vital needs were being met prior to the land reform programme, it is also equally problematic when a selected few individuals or part of a group controls the economic activity of the whole country. Earlier on, I made a distinction between actual consequentialism and subjective consequentialism. From the ruling party's perspective, it would make sense to argue from a subjective consequentialist view point. The argument would be that the government had good intentions, but things did not work out as they had planned. However, from an actual consequentialist

view point, all the above undesirable consequences paint a different picture, thereby rendering the programme a failure.

4.3. All Doom and Gloom?

Zimbabwe's land reform programme is marred with such controversy and if one is to read thoroughly the above undesirable consequences, surely it all seems dark and gloomy. However, there are others who think that we cannot deny and turn a blind eye that there is some good that came out of the FTLRP. In order to do justice to this possibility then, this section will look at some of the positive outcomes that have been pointed out by different scholars. Such an analysis might then point to a different future – a future to be explored in the last chapter. These successes might then chime well with the topic of this paper that we need to rethink what we mean by private property. The opening line of this paper was that any country whose formulation of laws pertaining to property are not premised on private property is considered to be backward. In an age where production and development are premised on the idea that these can only transpire when the property regime governing holdings in that particular country is founded on the respect of private property, these successes – if rightly they are successes – remove the sacredness of the institution of private property.

It is argued that Zimbabwe's FTLRP was not a total failure as some would have it. In a book entitled: *Zimbabwe's Land Reform: Myth and Realities*, Scoones et al (2010:8) have challenged what they regard to be the five myths that have characterised debates on land reform. These myths are:

1. Myth 1: Zimbabwean land reform has been a total failure.
2. Myth 2: The beneficiaries of Zimbabwean land reform have been largely political cronies.
3. Myth 3: There is no investment in the new resettlements.
4. Myth 4: Agriculture is in complete ruins, creating chronic food insecurity.
5. Myth 5: The rural economy has collapsed.

From these five myths, it is important to see that some of these have been discussed in the previous section of this chapter. Interrogating these myths will help establish whether or not the FTLRP was a total failure or whether it was a failure with relative success.

For many, the FTLRP of 2000 was a total failure and it is possible to draw such conclusions from the undesirable consequences highlighted earlier on. However, Scoones et al (2010:59) argue that caution must be observed so as not to generalise these so-called failures. Instead, they advocate for empirical research to this question and analyse it on a case by case basis. The research conducted by Scoones et al (2010) is based in Masvingo and it is from this region that they trace the success trajectory of the FTLRP. In this work, 120 biographies were selected all showing the “motivations for getting involved in the land invasions, the struggles that have followed and the hopes and fears for the future” (Scoones et al 2010:61-69). What can be deduced from these biographies is that it is not as bad as the media or literature would have it. In fact, most of these newly settled farmers are optimistic and it is possible to establish that this is a success story. One example of these case study stories comes from FV, at Lonely Farm (A1 Villagised) who put his story in this manner:

...My main reason for transferring to Lonely was to gain access to good grazing for livestock. In Serima it is very crowded, and the livestock suffer in the dry season. My wife trades vegetables from our plot. We also have a good trade in green mealies and other crops... (Scoones et al 2010:61).

These few sentences from a long story highlights the need for land and somehow act as evidence that in communal areas people were overcrowded with no room for expansion and growth. This story and many others paint a rather different picture from that which we know.

Another myth about Zimbabwe’s land reform that Scoones et al (2010:77) seeks to debunk is that “investment has been insignificant in the new resettlements: the land lies idle, people are not committed to farming and infrastructure is destroyed, neglected or non-existent. Perceptions of a lack of order and poor tenure security have further contributed to the view that investment has been negligible.” These authors argue that such an outlook is far from the truth because “impressive investments have been made in clearing the land, in livestock, in equipment, in transport, and in housing” (Scoones et al 2010:77). Because most of the farms in the area of study – Masvingo – were used for cattle ranching, the study shows that a substantial amount of land has been cleared in a short space of time. While this might be seen as a positive thing from Scoones point of view, environmentalists are up in arms with these

newly settled farmers arguing that by clearing the land, these farmers have caused severe deforestation³⁶.

Besides clearing the land, another success story that Scoones et al highlight is that housing infrastructure has improved. In their view, “over the seven years from settlement to the 2007 census a considerable investment in housing infrastructure occurred” (Scoones et al 2010:79). Amongst other successes is that cattle investment has been significant, and ownership of farm equipment has significantly improved to an extent that most farmers own ox-ploughs and others have cultivators (Scoones et al 2010:81). Another point that Scoones addresses is that of labour. Although the FTLRP resulted in significant displacement of farmworkers, Scoones et al argues that it is not all dark and gloomy as some would like to think. Instead, this resulted in job creation or employment. As such, Moyo (2009:14) writes that after the land reform programme, “a new pattern of increased farm labour utilisation and (mostly informal, casual and short term) employment has now emerged across a more diverse agrarian structure.” Although Scoones et al observe that this kind of employment offers poor remuneration, the positive side of it all is that these farm workers are able to eke out a living.

These ongoing observations seem to shed some light that not everything about land reform was and still is a total failure. Of course, given the living conditions and standard of living for these new resettled farmers and all the citizens of Zimbabwe at large, it takes a lot of effort to convince many that there is something positive that resulted from the FTLRP. In two papers: “How much did drought matter? Linking rainfall and Gross Domestic product growth in Zimbabwe” and “The loss of property rights and the collapse of Zimbabwe,” Richardson argues it was the loss of property rights that caused or rather contributed to the collapse of the Zimbabwean economy. In response to that argument, Andreasson (2006) argues that such theorisation cannot be blind to other factors such as drought as these negatively impacts production levels. Scoones has weighed in arguing that suggesting such a tight causal link to a complex relationship is misguided. Scoones et al (2010:86) put forward the view that the standard argument is that “without formal tenure security – ideally through freehold, if not through leases – then investment will not happen.” These authors argue against such minimalistic argument because in their research, these scholars found out that “investment is happening on all sites under a range of tenure arrangements, including the informal settlements, with houses being built, wells being dug, fields cleared and ploughed and herds

³⁶ For more on this debate, see Marongwe (2002). Elliot et al. (2006). Fox, et al. (2006). Also see a comparative study by Abel, N. and Blaike, P. 1989 (101-23).

accumulated” (Scoones et al (2010:86). By pointing out that investment is happening under a range of tenure arrangements, this challenges the view that only freehold title is the way to go.

4.4 Conclusion

In this chapter I have tried to show that while almost everyone agrees that land reform should have taken place, the way in which it was conducted has led many to ask whether this was meant to serve justice or only as a tool for political expedience. I have argued that noble as the idea might have been, Mugabe and his colleagues cannot be exonerated from the undesirable consequences of the FTLRP. As such, I have looked at some of these consequences such as human rights violations and the gender imbalances that characterised the programme. In order to provide a more balanced position, I have looked at some of the developments that Scoones et al deem to be successes. While I think these might be successes as Scoones and other scholars argue, I think such successes cannot meet the needs of the whole nation. Perhaps my adversary would argue that we should be more lenient and give these newly settled farmers the time they need in order to develop.

Chapter 5. Conclusion: The Case of Private Property in Zimbabwe

5.1. Introduction

In this paper, in chapter 1, begun by giving an exposition of the land tenure systems that existed prior to the Lancaster House Agreement. These laws show the injustices that were committed against natives and later culminating into a protracted war known as the Second Chimurenga. This chapter gave some background information as to why it is important to embark on this topic particularly because little has been done from the view point of political philosophy. In the same chapter, it was also important to highlight that while this study is focused particularly on Zimbabwe, it is important to realise that this is a topical issue and it cuts across most nations that were once colonised. It is for that reason that I have tried to show the various studies that have been carried out particularly in Tanzania, Swaziland, and the current painstaking debates on expropriation without compensation in South Africa.

The second chapter of this paper looked at John Locke's theory of property and I argued that although most liberals use this as the starting point for property discussions, a Lockean theory of property does not do justice to those who were colonised. This theory, I argue, might be applicable in other contexts but in the case of Zimbabwe, there are many limitations and it cannot be the basis for arguing for private property. In the third chapter, I adopted the Nozickian entitlement theory and argued that although Mugabe and his associates are not self-confessed libertarians, it would be justifiable that given the arguments that they have put across, the ruling party adopted a Nozickian approach. This is the case because there was injustice in acquisition and there was also injustice in transfer – notwithstanding the fact that in most cases, most of these farms had changed hands since April 1980 when Zimbabwe gained its independence. Although I have highlighted the limitations of the theory, I tried to show that this theory does justice or could be used to justify appropriations from a distributive justice point of view.

Making moral judgements is always a challenging endeavour. Thus, chapter four of this research report tried to understand the consequences of the land reform programme. I have argued that while almost everyone³⁷ agrees that there was justice in what the government of

³⁷ The Commercial Farmers Union of Zimbabwe and the MDC – both who have been regarded as the enemies of progress by the ruling party think that land reform was necessary but disagree with the government's

Zimbabwe did – both locally and internationally – disagreements have arisen on the approach and the lack of a clear policy. Given such disagreements and debates, I have tried to understand whether this programme was meant to correct past injustices, or if it was used simply for political expedience. This chapter tried to give a balanced view by looking at those undesirable consequences and those consequences that seem to outweigh the bad associated with the programme. Scholars like Sachikonye and Matondi have highlighted some of the issues that have transpired after the FTLRP. Although I have drawn on the negative consequences, these scholars have given a balanced view of the programme by looking at some factual information that might also point to some successes of the programme. On the other hand, I have looked at Scoones et al position and have drawn much of the analysis that has been offered in Zimbabwe's Land Reform: Myths + Realities. These successes, debatable as they may be, show that the FTLRP was not a total failure as the media and available literature suggest. Scoones et al acknowledge that despite the successes of the FTLRP, there are some limitations and challenges that continue to ravage the nation – challenges that emanate from the implementation of the FTLRP. After all these considerations, the next question is where does this leave the case of private property in Zimbabwe?

5.2. A Way Forward

Talk about private property is fraught with divisions and inconclusive debates. One of the most important components of a way forward is to be clear about our ideological language. This is particularly the reason why I have focused on the ideas behind property and not just the supposed facts on the ground. If we were to view this from a Marxian perspective or a communal property perspective, we could mount arguments that would support this kind of land reform. Although with the Marxian view, one ought to be cognisant of issues such as corruption and political power. In this section, I offer the four different ways: the Marxian view, the liberal view, the communal view and the need-based consequentialist view, to think about property and I will offer reasons for the version which I think is the best way to move forward.

As I hinted in the introductory chapter, one of the competing conceptions of property is the Marxian view. Instead of private property, Marx advocates for communism for he thinks that “The first positive annulment of private property—crude communism—is thus merely a

approach to redistribute the land. The same could be said about international bodies and other interested parties.

manifestation of the vileness of private property, which wants to set itself up as the positive community system” (Marx [1834] 2010:296). It would be appropriate then to argue that from a Marxist position, private property should be replaced with communism. To further strengthen his argument, Marx put the case of communism as follows:

Communism as the positive transcendence of private property as human self-estrangement, and therefore as the real appropriation of the human essence by and for man; communism therefore as the complete return of man to himself as a social (i.e., human) being—a return accomplished consciously and embracing the entire wealth of previous development. This communism, as fully developed naturalism, equals humanism, and as fully developed humanism equals naturalism; it is the genuine resolution of the conflict between man and nature and between man and man — the true resolution of the strife between existence and essence, between objectification and self-confirmation, between freedom and necessity, between the individual and the species. Communism is the riddle of history solved, and it knows itself to be this solution (Marx [1834] 2010:296-297).

The above passage shows a deep-seated belief in communism and it is clear from these passages that the way to go from a Marxian point of view is communism. The question that remains open on this view is whether communism offers the solution to modern day problems. In a world where private property seems to have gained momentum and is seen as the most viable property regime, the task is too heavy for communists to prove otherwise. The instances of poorly-performing communist countries like Cuba and Vietnam also puts pressure on the communist conception of property. Although private property is cherished in most places, Marx ([1834] 2010:300) argues

Private property has made us so stupid and one-sided that an object is only ours when we have it—when it exists for us as capital, or when it is directly possessed, eaten, drunk, worn, inhabited, etc.,—in short, when it is used by us....[thus] The abolition of private property is therefore the complete *emancipation* of all human senses and qualities, but it is this emancipation precisely because these senses and attributes have become, subjectively and objectively, *human* (emphasis in the original).

While Marx sees emancipation from a communist property regime, liberals argue that it is through private property that we are empowered. As I have pointed above, Locke thinks that production levels will increase only when property is held privately. It then appears far fetched for liberals to think of emancipation under communism. In a work entitled: *Manifesto of the Communist Party*, Karl Marx (2004 [1888]:18) argues, “The distinguishing feature of

Communism is not the abolition of property generally, but the abolition of bourgeois property.” It is interesting to note that the FTLRP gave birth to other forms of property regimes. Inasmuch as it may appear as the abolition of property, it simply gave birth to new forms of ownership – particularly communal and nationalised land. In Marx’s view, the wage-labour dichotomy does not produce any property for the proletarians thus it continues to be a vehicle for domination. This would be the argument that even if the workers were doing well prior to FTLRP, such wage-labour dichotomy would not have allowed these workers to own property. The challenge with the Marxian version is that because it is exploitation centred, there is always going to be a problem with private property. As shown above, the only way to empower people is by abolishing private property.

While there is not much literature dedicated to African communal conception of property, a paper entitled “African indigenous land rights in a private ownership paradigm” by WJ du Plessis gives a rich analysis of how conceptions of ownership were so different than the ones imposed by the colonial regimes. For example, he points out that “common law brought with it a new vocabulary that made it difficult, if not impossible, to interpret African indigenous law land tenure” du Plessis (2011). There has always been a challenge that it is difficult to understand African indigenous understanding of property because there is not enough information documented. Such an analysis is contested by Okoth-Ogendo (2008:96) who argues that there exist juridical fallacies and among these is the idea that, “indigenous law conferred no property in land. In other words, this fallacy lay in the assertion that the way in which indigenous communities occupied and used land did not constitute a system of property worthy of recognition under state law.” As I have argued earlier on, far from adopting the so-called property regime – private property – the FTLRP produced a system that is based on communal land rights and state ownership of land. Therefore Cousins (2008:15) is of the idea that “the most common approach to tenure reform in Africa today is one based on the notion of adapting systems of customary land rights to contemporary realities and needs rather attempting to replace them with Western forms of private ownership such as individual freehold title.” Despite the appreciation of communal land rights particularly from an African perspective, Hernando de Soto thinks otherwise. In his influential book, *The Mystery of Capital*, De Soto argues that ‘the poor of the Third World are excluded from the modern economy and its productive potential by a continued lack of formal rights to the land, buildings and businesses’ (quoted in Cousins 2008:15). Because of

these arguments, it appears as if private property is the only way to go. As a result of the importance placed on private property, all other forms of ownership are frowned upon.

One scholar who has looked at communal ownership from a Zimbabwean perspective in detail is Angela Cheater. In her paper, “The Ideology of 'Communal' Land Tenure in Zimbabwe: Mythogenesis Enacted?” Cheater (1990:190) gives the four different ways in which communal land tenure was understood by “a black Zimbabwean nationalist historian, a white colonial anthropologist, a white colonial administrator with an interest in anthropology, and a precolonial white missionary.” A thorough reading of Cheater’s paper highlights some of the problems with communal land tenure. One of the problems she notes with this model is that “women are not allocated land rights, by the headmen, as primary rightholders: they acquire only temporary usufruct within the lineage system through their husbands or male patrikin” (Cheater 1990:191). Many people have argued against private property on the basis that this institution commodifies land. These people argue that land as understood in African settings is more than just a commodity for it carries other equally important aspects. For example, more than just a commodity, land carries spiritual aspects and the people connect with their land in a variety of ways, not only in terms of what it can give them. Against Moyana who argues that before colonialism land was never a commodity ([1984: 1]; quoted in Cheater (1990:192), Cheater argues that the Shona people had expanded and mechanised their production.

As I have hinted earlier on, the FTLRP reproduced regimes of access to landed property which are hugely informed by communal ownership and nationalisation of land. Such regimes can be said to be represented by the A1 model and A2 model respectively. In both instances, no title deeds were given apart from the promises of 99-year leases. The challenge with the African communal model is that where there are no titles, injustices are likely to follow. As Matondi has highlighted in his book, *Zimbabwe’s Fast Track Land Reform*, some of the elite would just dismiss “ordinary” people as they please. It is for this reason that he puts forward the view that ordinary people preferred to be allocated land in areas that are far from the highway (main tarred roads) as these were often marked and preferred by elites. Without titles, the newly resettled peasants could be moved anytime. In the same vein, Cheater (1990:190) has highlighted the same issue with the *indunas* in Matebeleland that they would just use their arbitrary powers to dispose people and take the fertile land. It appears that in this 21st century, titles for holdings are important for they give security to the owner, a point which liberals, amongst other reasons, such as the ability to borrow, emphasise.

Hamilton (2003:177) has argued that “In many respects traditional communal ownership is even more detrimental to meeting needs than entrenched rights to land.” However, Hamilton thinks that constitutional safeguard of communal ownership must be assessed from a needs perspective.

Contrary to what I have demonstrated in chapter 4, Nozick is not interested in consequences. Instead, the three principles: justice in acquisition, justice in transfer and the principle of rectification are central to Nozick’s entitlement theory. Unlike John Locke, Robert Nozick adopts the weak form of the proviso which is the idea that “appropriation is legitimate only if it does not worsen other people’s opportunities to use things” (Matisonn 2016). There are challenges to this view, some of which I have highlighted in chapter 3. However, adopting this view points us in another direction. If we are not worried about consequences but only interested in justice, what happens when the consequences are not desirable? Is this still justice or must we describe it as tainted-justice? Second, it can be argued that under the weak proviso, a person cannot complain if my appropriation leaves him/her the ability to use things. Given the emphasis on natural rights, Nozick will not be concerned so long as the principles mentioned above are observed. Although in the case of Zimbabwe the Nozickian argument would seem to support expropriation because the two principles – justice in acquisition and justice in transfer – were not met, it would have been a different case had these principles been fulfilled in the first place. Therefore, enticing as it may be, the Nozickian argument still lacks the ability fully to address issues of property and ownership because whether this justice in acquisition or justice in transfer lead to good or bad consequences does not matter for Nozick.

The fourth appealing position to me and which I think should be adopted, is the needs-consequentialist view as advanced by Lawrence Hamilton (2006). This needs-consequentialist view is largely defended in his 2003 book, *The Political Philosophy of Needs*. Looking at the issue of land redistribution in South Africa, Hamilton has looked at some of the constraints hindering the effectiveness of land redistribution in South Africa. In trying to find the root cause of the problem that continues to stifle the much-needed progress in this area, Hamilton argues that in the case of South Africa, it is the constitution that is hindering progress. In his view, “Rights-based constitutions tend to entrench the extant arrangements of land ownership” (Hamilton 2006:136). Given that constitutions that are rights based might be restrictive in nature, if not domineering, I think in trying to rethink

private property, appropriation must be need-based rather than premised on the belief of some inalienable rights.

Unlike Marx who focuses only on exploitation or Nozick whose main concern is natural rights, I adopt Hamilton's view because it does not take as an extreme position on either. Instead, Hamilton advances the view that these sorts of considerations around private property need to be determined not by natural rights, human rights or by things that are above politics but by a consequentialism informed analysis of needs. As Hamilton (2003:3) has argued, "[a] political philosophy founded on rights is illusory, and in practice it often acts counter to some of its own intended goals." It is then equally important to acknowledge that while rights are important, other factors such as needs are also vital. The concern under this view is the question of what kind of consequences will follow if this policy is implemented. The reason why I think this is a viable position is because a needs-consequentialist view does not assess or depend upon historical analysis whether something was acquired justly or not but the analysis is focused on a whole range of contemporary needs. These needs are not only for the impoverished population as Marx would have it, but also the needs for the country to be successful. In the case of Zimbabwe, if the FTLRP was meant to empower the needs of the landless population, as we have been told, I have argued that the needs of the country as a whole should have been factored in. If this programme had been implemented with a needs-consequentialist goal in mind, the results of the FTLRP programme would have been different. As Hamilton (2003:184) has argued, "needs, institutions, roles and the general trajectory of need are, or at least ought to be, the central concern of politics." For this reason, further research should be concerned about the ways in which needs should be factored in policy formulation and implementation.

Bibliography

- Abel, N. and Blaike, P. 1989. Land degradation, stocking rates and conservation policies in the communal rangelands of Botswana and Zimbabwe, in *Land Degradation and Development*, Vol. 1, no. 2: 101-23.
- Alexander, J. 2006. *The Unsettled Land: State-making and the Politics of Land in Zimbabwe, 1893-2003*. James Currey: Oxford.
- Andersson, J. A. 2007. How Much Did Property Rights Matter? Understanding Food Insecurity in Zimbabwe: A Critique of Richardson. *African Affairs*, Vol. 106, No. 425 (Oct. 2007), pp. 681-690
- Andreasson, S. 2006. Stand and Deliver: Private Property and the Politics of Global Dispossession. *Political Studies*, Vol 54, 3–22.
- Arneil, B. 1996. *John Locke and America: The Defence of English Colonialism*. Oxford: Clarendon Press.
- _____. 1994. Trade, Plantations, and Property: John Locke and the Economic Defense of Colonialism. *Journal of the History of Ideas* 55 (4): 591-609.
- _____. 1996b. The Wild Indian's Venison: Locke's Theory of Property and English Colonialism in America. *Political Studies* 44 (1): 60-74.
- Arneson, R. J. 1991. Lockean Self-Ownership: Towards a Demolition. *Political Studies* 39: 36-54.
- Ashcraft, R. 1986. *Revolutionary Politics and Locke's Two Treatises of Government*. Princeton: Princeton University Press.
- _____. 1994. Locke's Political Philosophy. In *The Cambridge Companion to Locke*, ed. Vere Chappell, 226-51. Cambridge: Cambridge University Press.

- Baldwin, T. 1982. Tully, Locke, and Land. *Locke Newsletter* 13: 21-33.
- Becker, L. C. 1977. *Property Rights: Philosophic Foundations*. London: Routledge and Kegan Paul.
- Berry, S. S. 2001. *Chiefs Know their Boundaries: Essays on Property, Power, and the Past in Asante, 1896-1996*. James Currey: Oxford
- Bogart, J. H. 1985. Lockean Provisos and State of Nature Theories. *Ethics* 95 (4): 828-36.
- Brough, M. W. 2003. Lockean Express Consent: An Argument against Irrevocability. *Locke Studies* 3: 113-31.
- Brown, V. 1999. The 'Figure' of God and the Limits to Liberalism: A Rereading of Locke's 'Essay' and 'Two Treatises'. *Journal of the History of Ideas* 60(1): 83-100.
- Buckle, S. 1991. *Natural Law and the Theory of Property*. Oxford: Oxford University Press.
- Carter, A. 1989. *The Philosophical Foundations of Property Rights*. London: Harvester Wheatsheaf.
- Child, J. W. 1997. The Moral Foundations of Intangible Property. In *Intellectual Property*, ed. Adam D. Moore. Lanham, Md: Rowman and Littlefield.
- Chilinjika, A. and Uwizeyimana, D. E. 2015. Available from: </a href="https://repository.up.ac.za/bitstream/handle/2263/58168/Chilunjika_Shifts_2015.pdf?sequence=1">https://repository.up.ac.za/bitstream/handle/2263/58168/Chilunjika_Shifts_2015.pdf?sequence=1 />. Accessed date [15 March 2019].
- Chitsike, F. 2003. A Critical Analysis of the Land Reform Programme in Zimbabwe, Paper presented at the 2nd FIG Regional Conference Marrakech, Morocco, December 2-5, 2003.
- Clark, S. H. 1998. 'The Whole Internal World His Own': Locke and Metaphor Reconsidered. *Journal of the History of Ideas* 59 (2): 241-65.

Corcoran, P. 2018. John Locke on the Possession of Land: Native Title vs. the principle of Vacuum domicilium. Available from <https://digital.library.adelaide.edu.au/dspace/bitstream/2440/44958/1/hdl_44958.pdf> [Accessed 23 March 2018].

Cohen, G. A. 1995. *Self-Ownership, Freedom, and Equality*. Cambridge: Cambridge University Press.

_____. 1979. 'Capitalism, Freedom and the Proletariat,' in Alan Ryan (ed.) *The Idea of Freedom: Essays in Honor of Isaiah Berlin*. Oxford: Oxford University Press.

Cohen, J. 1986. Structure, Choice, and Legitimacy: Locke's Theory of the State. *Philosophy and Public Affairs* 15 (4): 301-24.

Constitution of Zimbabwe Amendment (20).

De Villiers, B. 2003. *Land reform: Issues and Challenges: A Comparative Overview of Experiences in Zimbabwe, Namibia, South Africa and Australia*. Johannesburg: Konrad Adenauer Publications.

Dienstag, J. F. 1996. Serving God and Mammon: The Lockean Sympathy in Early American Political Thought. *American Political Science Review* 90 (3): 497-511.

Drury, S. B. 1991 [1982]. Locke and Nozick on Property. In *John Locke: Critical Assessments*, ed. Richard Ashcraft, 495-510. New York: Routledge.

Dunn, J. 1969. *The Political Thought of John Locke: An Historical Account of the Argument of the 'Two Treatises of Government'*. Cambridge: Cambridge University Press.

_____. 1991 [1968]. Justice and the Interpretation of Locke's Political Theory. In *John Locke: Critical Assessments*, ed. Richard Ashcraft, 43-63. New York: Routledge.

Du Plessis, WJ. 2011. African indigenous land rights in a private ownership paradigm. Based on a paper presented at the 13th Biennial Conference of the International

Association for the Study of the Commons (IASC), Hyderabad, India, January 10th to 14th, 2011. Available at <http://www.scielo.org.za/scielo.php?script=sci_arttext&pid=S1727-37812011000700003> [Accessed 20 May 2018].

Elliot et al. (2006). The Nature and Extent of Landscape change under land resettlement programmes in Zimbabwe, in *Land Degradation and Development*, Vol. 17, no. 5. pp 495-508.

Floyd, B. 1972. Land Apportionment in Southern Rhodesia, in Prothero, R. (ed.), *People and Land in Africa South of the Sahara*. London: Oxford University Press, London.

Fox, R. C. et al. 2006. On the fast track to land degradation? A case study of the impact of the Fast Track Land Reform Programme in Kadoma district, Zimbabwe,' in Highland 2006 Symposium, 19 – 25 September 2006. Mekelle: Ethiopia.

Franklin, J. H. 1996. Allegiance and Jurisdiction in Locke's Doctrine of Tacit Consent. *Political Theory* 24, (3): 407-22.

Feser, E. 2005. There Is No Such Thing As An Unjust Initial Acquisition, in Paul, E F et al (eds), *Natural Rights Liberalism from Locke to Nozick*. Cambridge: Cambridge University Press. pp. 56-110

Freeman, S. 2001. Illiberal Libertarians: Why Libertarianism Is Not a Liberal View. *Philosophy and Public Affairs* 30 (2): 368-88.

Gann, L.H. 1963. "The Southern Rhodesian Land Apportionment Act, 1930: An Essay in Trusteeship", *The National Archives of Rhodesia and Nyasaland*, Occasional Paper No. 1

Glausser, Wayne. 1990. Three Approaches to Locke and the Slave Trade. *Journal of the History of Ideas* 51 (2): 199-216.

Gough, J. W. 1950. *John Locke's Political Philosophy*. Oxford: Clarendon Press.

- Grey, T.C. 1980. 'The Disintegration of Property,' in J.R. Pennock and J.W. Chapman (eds.) *Nomos XXII: Property* (New York: New York University Press).
- Hamilton, L. A. 2003. *The Political Philosophy of Needs*. Cambridge: Cambridge University Press.
- _____. 2006. Human needs, land reform and the South African constitution. *Politikon*, 33:2, 133-145.
- Hanlon, J. et al 2013. *Zimbabwe Takes Back Its Land*. Auckland Park: Kumarian Press.
- Harris, I. 1994. *The Mind of John Locke*. Cambridge: Cambridge University Press.
- Heller, M. A. 2000. Three Faces of Private Property, *University of Michigan Law School Scholarship Repository*, 417 – 434.
- .
- Horne, Thomas A. (1990), *Property Rights and Poverty: Political Argument in Britain, 1605–1834*, Chapel Hill: University of North Carolina Press.
- Human Rights Watch(HRW). 2002. Fast Track Land Reform in Zimbabwe. Available at: <http://www.hrw.org/reports/2002/03/08/fast-track-land-reform-zimbabwe> (Accessed: 25 January 2019).
- Jennings, A. C. and Huggins. G. M. 1935. Land Apportionment in Southern Rhodesia. *Journal of the Royal African Society*, Vol. 34, No. 136, pp. 296-312.
- Juan, J.S. 2006. A quantitative analysis of Zimbabwe's land reform policy: An application of Zimbabwe SAM multipliers, in, *Agrekon*, Vol 45, No 3.
- Kernohan, A. 1987. Democratic Socialism and Private Property, *Studies in Political Economy* 22, Spring, 145 – 166.
- Kleven, T. 1997. Private Property and Democratic Socialism. *Legal Studies* (21).

- Kramer, M. H. 2004. *John Locke and the Origins of Private Property*. Cambridge: Cambridge University Press.
- Lamb, R. and Benjamin T. 2009. The Meaning of Charity in Locke's Political Thought. *European Journal of Political Theory* 8: 229-52.
- Lemos, R. M. 1991 [1975]. Locke's Theory of Property. In, *John Locke: Critical Assessments*, (ed.) Richard Ashcraft, 343-61. New York: Routledge.
- Lewis, David K. (1969), *Convention: A Philosophical Study*, Cambridge: Harvard University Press.
- Locke, John (1988), *Two Treatises of Government* [1689] Peter Laslett (ed.), Cambridge: Cambridge University Press.
- Locke, J. 1690. An Essay Concerning The True Original, Extent and End of Civil Government, in Burt, E (ed) (1939), *The English Philosophers From Bacon To Mill* (pp.403-503). New York: Random House, Inc
- Mack, E. 1995. The Self-Ownership Proviso: A New and Improved Lockean Proviso. *Social Philosophy and Policy* 12: 186-218.
- Mack, E. 2002. Self-Ownership, Marxism, and Egalitarianism: Part I: Challenges to Historical Entitlement. *Politics, Philosophy & Economics* 1 (1): 75-108.
- Macpherson, C. B. 1962. *The Political Theory of Possessive Individualism: Hobbes to Locke*. Oxford: Clarendon Press.
- Magaramombe (2003). Farm workers: the missing class in Zimbabwe fast track resettlement, in, Gonese, F. and Roth, M (eds). *Delivering land and securing rural livelihoods: post-independence land resettlement in Zimbabwe*. Harare: University of Zimbabwe: Land Tenure Center.
- Marongwe, N. 2002. *Conflicts Over Land and Other Natural Resources in Zimbabwe*, Regional Environment Organisation (ZERO), Harare.

- Marx, K. 1976. *Capital*, Volume I [1867], Ben Fowkes (trans.), Harmondsworth: Penguin Books.
- Marx, K. H. (2004 [1888]). *Manifesto Of The Communist Party*, edited by Friedrich Engels. Ebook
- Masiwa, M. 2004. "Land Reform Programme in Zimbabwe: Disparity Between Policy Design and Implementation." Paper appearing in the edited collection entitled *Post Independence Land Reform in Zimbabwe*, published in May 2004 by the Friedrich Ebert Stiftung in Harare.
- Masitera, E. 2016. A critical Analysis of Distributive Justice in Zimbabwean Land Redistribution: Making Use of the Capabilities Approach and Entitlement Theory to Formulate Land Based Compromise. Doctoral Thesis, Available at </
https://repository.up.ac.za/bitstream/handle/2263/62651/Masitera_Critical_2017.pdf?sequence=1 /> [Accessed 27 May 2018].
- Matisonn, H. 2016. *Libertarian Justice*. (St Joseph's Theological Institute, Unpublished Notes)
- Matondi, P. B. 2012. *Zimbabwe's Fast Track Land Reform*. London: Zed Books.
- Mautner, T. 1982. Locke on Original Appropriation. *American Philosophical Quarterly* 19: 267-69.
- Meinzen-Dick, R. S. 1997. Gender, Property Rights, and Natural Resources, in *World Development* 25 (8):1303-15.
- Meyer, J. M. 2000. Rights to Life? On Nature, Property and Biotechnology. *Journal of Political Philosophy* 8 (2): 154-75.
- Moore, G. E. 1912. *Ethics*, New York: Oxford University Press.
- Moyana, H. V. 1984. *The Political Economy of Land in Zimbabwe*. Gweru: Mambo Press.

Moyo, S. 2014. A Failed Land Reform Strategy in Zimbabwe. The Willing Buyer Willing Seller. *Public Policy and Administration Review*, Vol. 2, No. 1, pp. 67-74

_____. 2004. Overall Impacts of Fast Track Land Reform Programme. Available at https://www.researchgate.net/publication/242138861_Overall_Impacts_of_Fast_Track_Land_Reform_Programme [Accessed 23 May 2018]

Moyo, S. 2005. Land Policy, Poverty Reduction and Public Action in Zimbabwe. *Paper presented at the ISS/UNDP conference on: Land Reform and Poverty Reduction. Hague Netherlands. 17-19 February 2005*

Moyo, S. and Chambati, W. 2013. *Land and Agrarian Reform in Zimbabwe: Beyond White-Settler Capitalism*. Harare: African Institute for Agrarian Studies.

Munzer, S. R. (1990), *A Theory of Property*, Cambridge: Cambridge University Press.

Mutopo, P. 2011. Women's struggles to access and control land and livelihoods after fast track land reform in Mwenezi District, Zimbabwe, *Journal of Peasant Studies*, 38:5, 1021-1046

Narveson, J. 1988. *The Libertarian Idea*. Philadelphia: Temple University Press.

National Archives of Zimbabwe , NAS S924/GI/1, Director of Land Settlement, BSAC, 18 July 1921.

Nicholson, P. 1998. The Limits of Lockean Rights in Property. *Locke Newsletter* 29: 153-68.

Nine, C. 2008. A Lockean Theory of Territory. *Political Studies* 56: 148-65.

Nozick, R. 1974. *Anarchy, State and Utopia*. Oxford: Basil Blackwell.

Nyandoro, M. 2012. Zimbabwe's land struggles and land rights in historical perspective: The case of Gowe-Sanyati irrigation (1950-2000). *Historia* 57. (2). Pp 298-349.

- Nyawo, V. Z. 2014. Zimbabwe post-Fast Track Land Reform Programme: The different experiences coming through. *International Journal of African Renaissance Studies - Multi-, Inter- and Transdisciplinarity*, 9:1, 36-49
- Oakley, F. 1997. Locke, Natural Law and God-Again. *History of Political Thought* 18 (4): 624-1.
- Okoth-Ogendo, H. 2008. "The Nature of Land Rights Under Indigenous Law in Africa" in Claassens A and Cousins B (eds) *Land, Power and Custom*. Cape Town: UCT Press
- Olivecrona, K. 1974. Appropriation in the State of Nature: Locke on the Origin of Property. *Journal of the History of Ideas* 35 (2): 211-30.
- _____. 1991 [1974]. Locke's Theory of Appropriation. In *John Locke: Critical Assessments*, ed. Richard Ashcraft, 327-42. New York: Routledge.
- Onselen, van. C. 1976. *Chibaro. African Mine Labour in Southern Rhodesia 1900–1933*. Pluto: London. pp 104–108.
- Palmer, R.H. 1977. *Land and Racial Domination in Rhodesia*. London: Heinemann.
- Paul, E. F. 1981. The Time-Frame Theory of Government Legitimacy. In *Reading Nozick: Essays on Anarchy, State, and Utopia*, ed. J. Paul, 270-85. Oxford: Basil Blackwell.
- Poole, R. 1980. Locke and the Bourgeois State. *Political Studies* 28: 222-37.
- Rapaczynski, Andrzej. 1981. Locke's Conception of Property and the Principle of Sufficient Reason. *Journal of the History of Ideas* 42 (2): 305-15.
- Rawls, J. 1971. *A Theory of Justice*. Cambridge: Harvard University Press.

- Ribot, J. C. and Peluso, N. L. 2003. A Theory of Access. *Rural Psychology*. Pp153-181.
- Richardson, C, J. 2005. The Loss of Property Rights and the Collapse of Zimbabwe. *Cato Journal*, 25(3):541– 565.
- Rifkind, M. L. 1972. Land Apportionment in Perspective. *Rhodesian History*, 3.
- Ryan, A. 1984. *Property and Political Theory*. Oxford: Basil Blackwell.
- _____ 1991 [1965]. Locke and the Dictatorship of the Bourgeoisie. In *John Locke: Critical Assessments*, ed. Richard Ashcraft, 419-37. New York: Routledge.
- Sachikonye, L. M. 2003. *The situation of commercial farm workers after land reform in Zimbabwe: Report prepared for the Farm Community Trust of Zimbabwe*. Harare: Farm Community Trust of Zimbabwe
- Sanders, John T. 1987. Justice and the Initial Acquisition of Property. *Harvard Journal of Law and Public Policy* 10: 367-99.
- _____ 2002. Projects and Property. In *Robert Nozick*, (ed.) David Schmidtz, 34-58. Cambridge: Cambridge University Press.
- Schmidtz, D. 1990. When Is Original Appropriation Required? *The Monist*, 504-18.
- _____ 1991. *The Limits of Government: An Essay on the Public Goods Argument*. Oxford: Westview Press.
- Schochet, G. 2000. Guards and Fences: Property and Obligation in Locke's Political Thought. *History of Political Thought* 21 (3): 365-90.
- Scoones, I et al 2011. Zimbabwe's land reform: challenging the myths, *Journal of Peasant Studies*, 38:5, 967-993.
- Scoones, I. 2014. *Debating Zimbabwe's Land Reform*. Brighton: Institute of Development Studies.
- _____ 2018. *Land Reform in Zimbabwe: Challenges for Policy*. Brighton: Create Space.

Shaw, W. H. 2003. 'They Stole Our Land': Debating the Expropriation of White Farms in Zimbabwe', *Journal of Modern African Studies*, 41 (1), 75–89.

Simmons, A. J. 1989. Locke's State of Nature. *Political Theory* 17 (3): 449-70.

_____. 1992. *The Lockean Theory of Rights*. Princeton: Princeton University Press.

[Sinnott-Armstrong](#), W. 2015. "Consequentialism", *The Stanford Encyclopedia of Philosophy* (Winter 2015 Edition), Edward N. Zalta (ed.), URL = <https://plato.stanford.edu/archives/win2015/entries/consequentialism/>. [Accessed Date:23/02/2019].

Snyder, D. C. 1991 [1986]. Locke on Natural Law and Property Rights. In *John Locke: Critical Assessments*, ed. Richard Ashcraft, 362-84. New York: Routledge.

Sreenivasan, G. 1995. *The Limits of Lockean Rights in Property*. New York: Oxford University Press.

Steiner, H. 2009. Left Libertarianism and the Ownership of Natural Resources. *Public Reason* 1 (1): 1-8.

Stevens, J. 1996. The Reasonableness of John Locke's Majority: Property Rights, Consent, and Resistance in the Second Treatise. *Political Theory* 24 (3): 423-63.

Strauss, L. 1991 [1952]. On Locke's Doctrine of Natural Right. In *John Locke: Critical Assessments*, ed. Richard Ashcraft, 161-84. New York: Routledge.

The Zimbabwe Human Rights NGO Forum, 2010. "Land Reform and Property Rights in Zimbabwe" Available from http://archive.kubatana.net/docs/hr/hrf_land_reform_property_rights_100812.pdf />. [Accessed 22 May 2018].

- Thomas, N. H. 2003. Land reform in Zimbabwe, *Third World Quarterly*, 24:4, 691-712,
- Thomson, J. J. 1976. Property Acquisition. *Journal of Philosophy* 73: 664-66.
- Tom, T. & Mutswanga, P. 2015. Zimbabwe's Fast Track Land Reform Programme (FTLRP): A Transformative Social Policy Approach to Mupfurudzi Resettlement (Shamva District, Zimbabwe), *IOSR Journal Of Humanities And Social Science (IOSR-JHSS) Volume 20, Issue 8, Ver. I (Aug 2015), PP 51-61.*
- Tsabora, J. 2016. Reflections on the Constitutional Regulation of Property and Land Rights under the 2013 Zimbabwean Constitution, *Journal of African Law*, 60, 2, 213–229
- Tully, J. 1980. *A Discourse on Property: John Locke and His Adversaries*. Cambridge: Cambridge University Press.
- Van Horn, A. 1994. Redefining "Property": The Constitutional Battle over Land Redistribution in Zimbabwe, *Journal of African Law*, Vol. 38, No. 2, pp. 144-172
- Waldron, J. 1993. 'Property, Justification and Need,' *Canadian Journal of Law and Jurisprudence*, 6: 185–215.
- _____. 1994. 'The Advantages and Difficulties of the Humean Theory of Property,' *Social Philosophy and Policy*, 11: 85–123.
- _____. 1979. Enough and as Good Left for Others. *Philosophical Quarterly* 29 (117): 319-28.
- _____. 1984. Locke, Tully, and the Regulation of Property. *Political Studies* 32 (1): 98-106.
- _____. 1988. *The Right to Private Property*. Oxford: Clarendon Press.
- _____. 2002. *God, Locke, and Equality: Christian Foundations of John Locke's Political Thought*. Cambridge: Cambridge University Press.

Wenar, L. 1998. Original Acquisition of Private Property. *Mind* 107 (428): 799-820.

Widerquist, K. 2009. A Dilemma for Libertarianism. *Politics, Philosophy, and Economics* 8 (1):43-72.

_____. Lockean Theories of Property. Justifications for Unilateral Appropriation. *Public Reason* 2 (1) pp 3-26

Wootton, D. 1992. John Locke and Richard Ashcraft's Revolutionary Politics. *Political Studies* 40 (1): 79-98.

Zuckert, M. 2005. Natural Rights and Imperial Constitutionalism, in Paul, E F et al (eds), *Natural Rights Liberalism from Locke to Nozick*. Cambridge: Cambridge University Press. pp. 27-55.