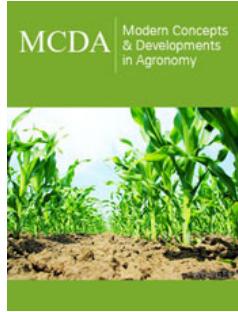


A Lockean Perspective on Large-Scale Land Acquisitions

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Perspective

Combatting hunger is a major challenge of our time. Increased food security is a crucial objective within the Sustainable Development Goals. The objective is beyond dispute, while strategies are highly contested. This is true a fortiori for large-scale land acquisitions (LSLA) which have been sharply attacked as neo-colonial exploitation and dispossession of local farmers¹. The basic idea of this article presents a philosophical perspective of land acquisitions in Sub-Saharan Africa (SSA) and it argues how ethically legitimate LSLA might contribute to the enhancement of food security and to the closure of agricultural yield gaps². Therefore, we analyze the property theory of John Locke from his "Second Treatise About Government" and interpret it within the contemporary frame of the Capability Approach (CA) worked out by Amartya Sen and Martha Nussbaum. The perspective within this interpretation is a threefold one [1-4]. First, we will discuss the right to property, especially property on land, through the investment of personal labor. Second, we will analyze the Lockean proviso, and third, we will establish an argument for the obligation of investors to increase the capability enhancing consequences of their projects. This threefold Lockean perspective can ground requirements for legitimate LSLA project and can help to identify "best practices"³. We hold that applying Locke's theory to contemporary LSLA must take all aspects fully into account: land acquisition by labor, "proviso", and "cultivation".

The theoretical approach of this article splits into three parts. The first part deals with the strengthening of informal land rights. These are part of the dual land rights system of many SSA states. 90% of the land holdings are represented as "customary land",⁴ but such legal status so far doesn't provide adequate protection against eviction, displacement, and other kinds of land loss. In his "Second Treatise", Locke depicts the original acquisition of property and how the investment of labor plays a major role during this process [5,6]. If a person decides to invest his labor in any kind of untouched good, he merges a part of his self with it and, by doing so, negates the entitlement of any other person for the concerned good⁵. The argument

¹Borras, Saturnino M.; Franco, Jennifer C. (2013); S. 1723-1747

²The article is based on a PhD thesis being worked out at the graduate school "Third Ways of Feeding One World" at Christian Albrechts University of Kiel. The graduate school is funded by the Protestant Church of Germany and located at the faculty for agriculture and the chair for philosophy and ethics of the environment at the institute for philosophy.

³Kleemann, Linda; Lay, Jan, et al. (2013); S. 1-13.

⁴Meinzen-Dick, Ruth (2009); S. 2.

⁵Locke, John (1983); S. 216–219.

is based on two premises. First, Locke outlines the autonomy⁶ and normative equality of all men, so that nobody may rule over or subject himself to another⁷. Second, he emphasizes that any kind of labor is a mean to sustain the livelihood of his investor, so that anybody who tries to negate this labor also infringes and impairs the person's efforts and right to live. Similar arguments are to be found within the legal documents of many SSA states. Accordingly, citizens have a right to occupy and utilize unused land to sustain their lives.⁸ From our Lockean perspective, such land acquisitions should be deemed legitimate⁹. Land plays an important role in enabling African smallholders to lead a flourishing life because it represents a basic element for almost every basic functioning and capability discussed by Sen and Nussbaum. For African smallholders, many of the basic capabilities stated by Nussbaum, can only be realized with the existence of secured landholdings¹⁰. The same holds true for Sen's version of CA. Although Sen is concerned with well-beings and freedoms, he admits the theoretical similarity of an approach of basic needs to his CA¹¹. Therefore, a Lockean perspective and CA support the demand to strengthen legal rights to land for peasant farmers in SSA [7-10].

Under this supposition, we address the Lockean "proviso". Taken the proviso literally, acquisitions of any kind can only be regarded legitimate if there are "enough and as good" goods left (Locke: "left in commons") after the acquisitions, so that any other person can enable herself to the pleasure of a life of similar fashion¹². Because of its vague wording and because the historical circumstances have dramatically changed since Locke's lifetime, the proviso requires theoretical specification and interpretation. It can't be taken literally. Our interpretation is represented by the list of basic capabilities of Nussbaum as a minimal conception of a decent human life. Investors should not leave "enough and as good" common land but should improve the land utilization practices close to their project areas. The standard and quality of life can be

also improved if peasant farmers have strengthened land rights and might earn monetary income as laborers on LSLA farms [11,12].

Investors performing LSLA retain the obligation of ensuring the fulfillment of the proviso in the most effective way possible by their efforts. This obligation is based on a twofold set of responsibilities. The first set is concerned with the responsibilities shown by David Miller consisting of a) responsibility because of benefits, b) responsibility because of capacity and c) responsibility because of community. Even if investors aren't responsible for the under-utilization of land in SSA they gain large benefits and profits from their land acquisitions. Benefit-sharing is mandatory under our reading of the proviso. Moreover, investors possess the knowledge, equipment, funds, and agricultural inputs to enable smallholders of proviso-fulfilling capability enhancement. Technology transfers and spillovers are mandatory. Because of the closeness of LSLA projects to the local smallholders, investors attain a communal responsibility to increase capabilities of peasant farmers and their families¹³. The second set of responsibilities holds because of the necessity of trade justice that includes foreign direct investments (FDI). Trade justice can be ensured only if exploitations (grossly uneven distribution of trade related entitlements) and excessively one-sided earnings are avoided¹⁴. Satisfying the proviso in form of the capability list should be regarded not exploitative because it represents the minimum standard of decent human life. Every act of trade not fulfilling the proviso don't comply with the requirement of distributive justice and proportional satisfaction of trade related entitlements. Nevertheless, investors shouldn't be required to enable smallholders in their capabilities as much as states should, but they should organize benefit-sharing and capability-improving practices with state administration, local authorities and NGOs.

The third perspective focuses of the utility enhancing (in terms of capabilities) aspect of LSLA. To Locke, the world was given by God to human beings for the "greatest convenience of life" (ch. V,

⁶Locke, John (2013); S. 205.

⁷Locke, John; Shapiro, Ian (2003); S. 64ff.

⁸As refences: The Uganda Land Act, Zambia Land Act

⁹Locke, John (1983); S. 220.

¹⁰Nussbaum, Martha C. In: Nussbaum, Martha Craven; Glover, Jonathan (Hg.) (2000); S. 83–85.

¹¹Sen, Amartya (1984); S. 513–515.

¹²Locke, John (1983); S. 220.

¹³Miller, David (2007); S. 102ff.

¹⁴Risse, Mathias; Wollner, Gabriel (2019); S. 81f.

para. 34)¹⁵. Land shouldn't remain "uncultivated". Locke argued that anybody who invests labor into land and acquires it for himself isn't decreasing the common holdings because of the utility enclosing element of his work. If somebody need ten acres of untouched land to satisfy his vital needs and only one acre is needed for the same result if labor is invested deliberately in cultivation, then the overall asset of fertile land has been largely improved, because nine acres can be utilized in many different ways¹⁶. This idea must be transferred from the state of nature to the realm of state life. We argue that closing yield gaps by LSLA enhances local food security if a fraction of the yields must be devoted to local markets.

To sum up: Even if John Locke might be rightly accused from a post-colonial perspective to have given ethical permission to the large European "land grabs" in Northern America since 18. century, his theory can, somewhat ironically, ground basic requirements of morally permissible LSLA. Locke's theory of property can strengthen customary land rights of peasant African farmers. Locke's "proviso" can be given a new reading in terms of mandatory benefit sharing and upgrading agricultural practices. Locke's idea of cultivation of land can be regarded as a (morally constrained) objective to close yield gaps in SSA in order to enhance local food security. Our theoretical grounding is in accordance with guidelines for responsible LSLA¹⁷. In compliance with the theoretical framework, legal policies, consultations, ¹⁸landholding contracts and land use form should be developed, so that LSLA's can be performed as a capability enhancing form of development cooperation.

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¹⁵Locke is highly evaluative at this point: "He (God) gave the world to the use of the industrious and rational"

¹⁶Locke, John (1983); S. 223.

¹⁷De Schutter, Olivier (2016); [fehlt!].

¹⁸Nolte, Kerstin; Voget-Kleschin, Lieske (2014); S. 654-668.

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