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THE APPLICABILITY OF THE WESTERN SOCIAL CONTRACT THEORY TO THE SUB-SAHARAN AFRICAN POLITICAL CONTEXT

BY

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CERTIFICATION

This is to certify that this thesis has been read and approved as having met the requirements of the Faculty of Humanities, National University of Lesotho for award of the Degree of Doctor of Philosophy in Philosophy.

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DECLARATION

This thesis is my original work. It has not been submitted to any university or institution of higher learning whatsoever. Information taken from other sources such as books, journals, articles, newspapers and websites has been duly acknowledged.

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ABSTRACT

While much of the world is constantly progressing towards economic, political and social development, Sub-Saharan Africa is generally characterized by persistent political instability that has culminated into an incessant vicious cycle of poverty, conflict and a development deficiency. Colonialism and its attendant legacy in Africa are frequently cited as the main reason why these states have failed to achieve any noticeable accumulative growth. This thesis engages this idea from a social contract perspective. From this standpoint, the thesis is premised upon two observable facts; that state formation is artificial and that no state in the world has ever progressed significantly on a foundation that is politically, socially, culturally and ideologically borrowed. On the first assumption, the thesis argues that state formation is a function of the social contract theory, wherein individuals come together to agree on the type of state they would want to live under, specifying the concomitant obligations on all parties to the contract. The thesis argues that the advent of colonialism led to the formation of a colonial state through a social contract that was deliberately designed to recognize the humanity of the colonizer as superior, and the native Africans as inferior, thereby deserving subjugation and oppression. From this dimension, the social contract that led to the formation of the colonial state was Western-based, catering only to Western interests, and not designed for the native African. On the second assumption, the thesis argues that upon attaining independence, the new African states did not take time to formulate a new social contract based on African experiences, but simply adopted the colonial social contract with minor changes. The thesis demonstrates how this has immensely contributed to the problems that currently bedevil sub-Saharan Africa. It argues for the bold claim that there is need to have a complete overhaul of

the colonial Western-based social contract, and for the formulation of a new social contract that is founded on authentic African principles. The widely recognized African principle of *Botho,* is identified as a source of inspiration for the African based social contract theory. *Botho's* recognition of the humanness of others is isolated as the most important foundational principle that an African based social contract theory is to be founded. The recognition of the humanness of others is argued for as inculcating principles of governance that are based on accountability and the adoption of social, political and economic principles that promote human well-being for the citizens. In particular, the thesis argues that this kind of social contract theory would be instrumental in ending the cycle of poverty and instability that currently characterizes Africa. Finally, the thesis argues for a *Bothocracy,* 'a government of and for the humane' as the best form of government that should arise from an authentic African social contract theory.

DEDICATION

I dedicate this work to Almighty God who gave me special graces of wisdom and strength throughout my study. Furthermore, I dedicate this work to all my ancestors more especially my parents and grandparents. Finally, I dedicate this work to the past, present and future African generations.

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GENERAL INTRODUCTION

Sub-Saharan Africa is typically characterized as a conglomerate of failed states, with the exception of a few countries such as South Africa. This is supported by Cem Karadeli (2009:111), who argues that Sub-Saharan Africa is a region which has many weak and failed states and the region's countries experience state failure far more acutely than other similar regions. Among the various reasons that have contributed to this state of affairs is the advent and legacy of colonialism. Of particular interest to this study is that when the colonial settlers arrived in Africa, they used the Western based social contract theories to justify the appropriation of vast tracts of land to the detriment of the African person. This also led to the formulation of oppressive laws which excluded the participation of the African person in political affairs. After independence, however, there was no significant attempt to formulate and implement an authentically African social contract. African leaders simply adopted the oppressive colonial system of rule and this has, to a great degree, led to economic and political demise in much of these states. The states in question took over a colonial system that was based on ideals offered in Western social contract theories which seemed to suit the colonialists at the time colonialism began. The present African leaders have not made any significant attempt to figure out an authentic African foundation for the modern African state. That being the case, there is need to interrogate the suitability of the Western social contract theories to the African social and political context. On top of this, there is also need to investigate whether there is an authentically African social contract theory grounded in the experiences and belief systems of the African context. This will involve formulating what the state of nature may have been like and the conditions that may have necessitated the formation of such a society and

what the newly formed society ought to look like. From this, the conditions under which an authentic African social contract is formed can be formulated, and the hope is that a social contract theory grounded in African thought systems and beliefs may be better suited to the African context and, if adopted, may alleviate some of the problems caused by the inherited Western type of social contract.

The significance of this study is twofold: first, it interrogates the suitability of the Western social contract theories to the African social and political context. Second, it investigates whether there is an authentically African social contract theory grounded in the experiences and belief systems of the African person. In the final analysis, the study endeavours to address some of the problems such as state failure caused by the inherited Western social contract theory in the Sub-Saharan African countries. The theoretical framework upon which this work is grounded is the social contract theory. The underlying assumption is that for there to be a cohesive modern state, there has to be, ideally, a point in history when the individual members of the group came together and formed a social contract that enabled them to surrender part of their freedoms in return for some benefits of being in a state. Such individuals ought to have, ideally, recognized each other as human beings' worthy of mutual respect and that individual members of a society are bound to follow the rules and regulations of their society through a voluntary agreement between the ruled and the rulers. The necessary element for both the social contract to work is that there has to be mutual consent on the terms under which the new states are supposed to run. If this crucial element is missing then certain problems may arise, which the study seeks to investigate. Again, the social contract ought to take into consideration

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contextual peculiarities between different groups of people such that a social contract that works for one context may not necessarily be imposed upon another context for which it was not intended.

To achieve the objectives of the research, and since the research is primarily analytic, the main method of data gathering will be the library/desk research method. This involves visiting both physical and electronic libraries to get access to books, articles and journals on the subject matter of the social contract. The material gathered from these sources will then be analysed to get a clearer understanding of the core concepts embedded within such concepts as the social contract theory and political power in Africa. After such an analysis, the information will then be synthesized to form new concepts and give a better understanding of the nature of social contracts in Africa.

The study will be carried out in five chapters. Chapter One focuses on the social contract theory and the formation of modern Western states. In this chapter, the study attempts to explore the Western social contract theory, specifically how this is an explanation of the formation and functioning of the Western modern states. The questions that this chapter attempts to answer are: what is a social contract and what it seeks to achieve? Second; what kind of social and political conditions necessitated the Western social contract theory?

Chapter Two focuses on the African social and political landscape. In this chapter, the study attempts to analyze whether the Western social contract theory was formulated with the African and their thought system in mind. Chapter Three focuses on an in-depth analysis of the

applicability of the Western social contract theories to the Sub-Saharan Africa. Chapter Four focuses on an exploration of the possibility of the existence of an African social contract theory. This chapter attempts to investigate whether there is an African social contract theory and, if there is, how different it is from the Western social contract theory. Chapter Five is the conclusion of the study. In this chapter, the study summarizes the key research findings that respond to the research questions and aims of this study. The chapter also reflects on the limitations of the study and provides recommendations for future research.

CHAPTER ONE

THE SOCIAL CONTRACT THEORY AND THE FORMATION OF MODERN WESTERN STATES

1.1. INTRODUCTION

The social contract theory has been very instrumental in the formulation and function of modern Western states. Primarily, the question that social contract theorists were trying to answer is: what is the justification for having political authority? From the observation that we are obliged to follow the dictates, rules regulations and laws of the state we are born in, we come to ask ourselves where such obligations come from. Put differently, we get curious as to where the government got its powers to rule over us. In attempting to answer all these questions, various philosophers have come up with different opinions. However, even though they differ, there are some common trends/themes that can be observed in all of them, from which we can draw a basic idea of what a social contract theory is. It is undoubted that the social contract is the basis of both political authority and the moral obligation to political obedience.

The questions that this chapter attempts to answer are twofold. The first question is; what is a social contract and what does it seek to achieve? The second question is; what kind of social and political conditions necessitated the Western social contract theory? In light of the foregoing questions, the purpose of this chapter is to critically analyze what a social contract is and what it seeks to achieve as well as to examine the social and political conditions under which the Western social contract theory was formulated. In an endeavour to make the analysis,

it is important for this chapter to first examine the question that may have prompted the social contract in the first place: are governments natural?

1.2.   ARE GOVERNMENTS NATURAL ENTITIES?

Answering the question of whether governments are natural or man-made depends on a number of factors. The earliest recorded government in history is that of the Sumerians (present day Iraq) which was established around 4500 BCE. The Sumerians were the most rapidly urbanizing civilization of this time, so it was bound to have some laws and regulations that governed the urban centres. In fact, the Sumerians also have the oldest recorded constitution to date which is known as the *Code of Ur-Nammu*. Other early civilizations were the Harappans in the Indus Valley from around 3000 BCE, the ancient Egyptians (around 3050 BCE) with their elaborate governance structure involving a Pharaoh at the helm, ancient China beginning with the Xia Dynasty in 2070 BCE, the ancient Greeks (1100 BCE) beginning with the Mycenaeans and Minoans, the ancient Romans (753 BCE), as well as the ancient Japanese under Emperor Jimmu (660 BCE). Although these are the earliest recorded civilizations in history, with an assortment of different types of governance styles (mostly theocratic monarchies), we remain unsure of the factors that led to the formation of these elaborative governance structures or how their rulers came to be rulers in the first place and others came to be ruled. In other words, the conditions under which the first group of people came together and decided to form a state are largely unknown.

Religion attempts to offer some insights into where this system of 'ruler and ruled' originated from. In the Bible, for instance, there is no clear account of how people came to form themselves into organized groups after the fall in Genesis. There is also no account of how the Pharaoh of Egypt, from whom Moses freed the Israelites, actually became assumed kingship. But somehow, in that Biblical account, the Pharaoh was leader to the group of people called Egyptians. However, a detailed account of how a government is formed comes in 1 Samuel 9:17, where the Israelites ask of God to have a king over them, just like other states of that time. In this instance, God *chooses* Saul to be King (through a revelation to the prophet Samuel).

However, before this, a covenant between God and the Israelites in the form of a list of instructions listed in the Pentateuch or the Jewish Torah (which the Jews strongly revere to this day) was the organizing structure of the day. The Torah's instructions could be taken as a constitution of some sort, that was put in place, supposedly by God, to ensure that the Israelites have some form of organized society with God at the helm. But the first instance of a description of a human-led government in the form of a King to rule over others, is to be found in the Saul account in 1 Samuel as described above. From this example, one may draw the conclusion that, at least in the Biblical account, before there was a civil government, God was in control and that human-led governments were an artificial creation by humans. When requested to have a human-led government, God *chose* leaders. In other words, the Christian Bible (and most religions in fact) endorses a form of government called *theocracy* in which God, through his prophets, chooses leaders and forms some form of covenant with them such

that their descendants will also become kings. So, in the beginning we have theocracy which then transforms into a monarchy.

In the Samuel story, we also get a sense of the factors in that society that led to the rise of earthly 'kings': kings in this case being the embodiment of a civil government. In this account, there was social order with people following the dictates of God through the Torah. However, they grew discontented and wanted an earthly reason so that they could be 'like other people.' God grants their request but defines the parameters within which the king was going to operate. The king would:

> take your sons and make them serve with his chariots and horses, and they will run in front of his chariots. Some he will assign to be commanders of thousands and commanders of fifties, and others to plough his ground and reap his harvest, and still others to make weapons of war and equipment for his chariots (Samuel 8:11-12).

On top of this, the king would also take women to do what he pleases with them, take the best of each person's crops, take a tenth of each person's grain, and would take all women and male slaves for his own use as well as to confiscate each man's cattle (1 Samuel 8:13-16). Harsh as this may sound, the people agree to this and God chooses Saul as their first King. In this narrative we get an early account of what has come today to be known as the social contract theory, where certain conditions in a pre-government state necessitate the emergence of a government of one sort or the other, in which the people tacitly or implicitly agree that one of them, or a group of them, would rule over the others (in this case, on behalf of God).

Thinkers in the Renaissance and Enlightenment eras were not entirely convinced with religious anecdotes of where civil governments came from because of their deep suspicion in human nature and a consequent suspicion on the divine right of kings. Theocracies and monarchies, with their tendency to stifle creative thought (especially that which questions the divine authority of rulers) were deeply challenged during these phases of human history. More focus was placed on the human capabilities. With the emergence of the scientific method, with its emphasis on proof/evidence, religious claims in the areas of science, morality and politics came to be questioned and analyzed. In the political sphere, the origins of civil government also became an area of interest to thinkers of this era, and the social contract theory as we have it today was born, inspired by questioning the idea of divine right to rule.

Various thinkers can be observed coming up with ideas on this issue, most notably Thomas Hobbes in his *Leviathan* (1651), John Locke in his *Two Treatises of Government* (1689) as well as Jean Jacques Rousseau in his *Social Contract* (1762). It is important to note that there were other thinkers who contributed to the social contract tradition, but these three are central in that their ideas are adequate in summing up the various aspects of what has come to be known as the social contract in modern times. These aspects can be categorized into a number of notable themes, beginning with the idea of a pre-government state known as the *state of nature*. The social contract theories which were advanced by these prominent philosophers will be used in this research as constituting the Western social contract theory. This does not mean that their differences are not taken into consideration. At this juncture, it is important to discuss the hypothetical pre-governmental condition of the state of nature.

1.3. THE HYPOTHETICAL PRE-GOVERNMENT CONDITION OF THE STATE OF NATURE

It is important to note that Hobbes' social contract theory was inspired by the events of the civil war that occurred in Britain from 1642 to 1651. One of the major causes of this civil war was the rift between the King, Charles 1, and the Parliamentarians, led by notable figures such as Oliver Cromwell. The basis of this rift was a questioning of the King's divine right to rule in light of the king's abuse of power and non-beneficial economic policies. In the end, the King lost the war and was executed in 1649, with Cromwell taking the leadership role. Hobbes' social contract theory was inspired by the brutality of the English civil war and he decided to give a rational defence of the King's right to rule in his *Leviathan* (1651). In this work, Thomas Hobbes justifies the willingness of the ruled to submit themselves to political authority and starts his justification by first outlining a state of nature which he describes as a hypothetical situation before the establishment of civilized society. Inspired by the events of the civil war, Hobbes describes the state of nature as a state of war, and the conditions of the life of man are disorganized because of constant fear of death. This implies that for Hobbes, the state of nature is not conducive enough for human survival. Hobbes argues that;

> in such Condition, there is no place for Industry; because the fruit thereof is uncertain: and consequently no Culture of the Earth; no Navigation, nor use of the commodities that may be imported by Sea; no commodious Building; no Instruments of moving; and removing such things as require much force; no Knowledge of the face of the Earth; no account of Time; no Arts; no Letters; no Society; and which is worst of all, continuall feare, and danger of violent death; And the life of man, solitary, poore, nasty, brutish and short (Tuck, 1997:89).

In addition to the bleak conditions in the Hobbesian state of nature, there are at least two things which are positive; men are governed by reason as well as self-interest. War is inevitable because there are no governing laws (Tuck, 1997). To say man is governed by self-interest and reason simply means that all men in the state of nature naturally look for what is in their best individual interests and their rational capacity makes them pursue those interests optimally. That is, where humans see advantage in certain actions, they will pursue such actions as rationally justifiable. For Hobbes, it is on the basis of this desire to optimize self-interest that humans in the state of nature eventually voluntarily submit to a common political authority.

Given that Hobbes characterizes the state of nature as that of war, it follows that there is neither peace nor security since everyone does whatever reason gives him/her to do for purposes of self-preservation. This indicates that humans are always in fear of death in the state of nature and, because of their ability to recognize advantage in being alive, they have the desire to avoid it. Due to the absence of peace and security in the state of nature, Hobbes argues that this condition of the life of man compels him/her to seek peace and security. Apparently, the desire for peace and security fundamentally constitutes the law of nature which all humans must follow. Hobbes argues that:

> and because the condition of Man (…) is a condition of Warre of every one against everyone; in which case everyone is governed by his own Reason; and there is nothing he can make use of, that may not be a help unto him, in preserving his life against his enemyes; It followeth, that in such a condition, every man has a Right to everything; even to one another's body. And therefore, as long as this natural Right of every man to everything endureth, there can be no security to any man, (how strong or wise soever he be,) of living out the time, which Nature ordinarily alloweth men to live. And consequently it is a precept, or generall rule of Reason, *That every man, ought to endeavor Peace, as farre as he has hope of obtaining it; and when he*

cannot obtain it, that he may seek, and use, all helps, and advantages of warre
(Tuck, 1991:91-92).

Hobbes emphasizes that the law of nature is recognizable by reason and it can help humans escape the state of nature. It is the law which commands men to pursue peace by creating a civil society. Therefore, the law of nature can help and indeed, commands men to construct a social contract which can provide better conditions of life as compared to the one experienced in the state of nature. It is on this basis of rationality and the law of nature Hobbes argues that the social contract is the fountain of all good things that men need in order to live well (*Internet Encyclopedia of Philosophy*). The choice of people is between two extremes: it is either they adhere to the terms and conditions of the social contract or revert to the state of nature, and for him, the latter could not be an option.

John Locke in his *Two Treatises of Government* paints a different picture of the state of nature from that given by Hobbes. However, like Hobbes, Locke starts his social contract theory with the state of nature. Locke agrees with Hobbes that modern governments arose out of some sort of state of nature. However, unlike the Hobbesian state of nature which is characterized by war, the Lockean state of nature is characterized by absolute freedom wherein everyone is free from interference by others (Skoble et al, 1999). It is worth noting that this does not mean that each person is also free to do whatever he wants due to the influence and guidance of the natural law. The idea of natural law maintains that men inherently have values and rules that govern their behaviour. These rules which determine what is right or wrong have not been created by society. Even though the state of nature is characterized by absolute freedom, Locke asserts that private property is not secured due to absence of political authority. Locke argues that;

"For all being kings as much as he, every man, his equal, and the greater part no strict observers of equity and justice, the enjoyment of the property he has in this state is very unsafe, very unsecure" (Skoble et al, 1999:206).

According to Locke, the natural law governs people in the state of nature because there is no civil authority for purposes of enforcing the law and punishing people who violate them (Skoble et al, 1999). All men are independent and equal to one another in the state of nature because they are all controlled and governed by the Law of Nature which prohibits people from harming each other. Locke argues that:

> the *State of Nature* has a Law of Nature to govern it, which obliges every one:
> And *Reason*, which is that Law, teaches all Mankind, who will but consult it,
> that being all equal and independent, no one ought to harm another in his life,
> Health, Liberty or possession (Laslett,1960:289).

According to Locke, the Law of Nature which exists in the state of nature is the basis of morality since it prohibits men from harming one another. This means that it is on the basis of the presence of the Law of Nature that the state of nature is a state of complete liberty wherein men are free to pursue their interests without any external interference. Therefore, the state of nature for Locke is peaceful due to restrictions imposed upon men by the Law of Nature. This is different from the state of war which Hobbes describes.

Jean-Jacques Rousseau in *The Social Contract* (originally published in 1762) asserts that naturally man was peaceful in the state of nature but with the advent of modern states, man is no longer at peace (Gourevitch, 1997). For Rousseau, all things that could nurture the passion of power and competition as well as fear of death were absent in the state of nature (Gourevitch,

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1997:166). This implies that the state of nature is characterized by peace because people are not naturally inclined to war as it is the case with Hobbes. This is to say, nature is sufficient in satisfying people's needs in the state of nature. Therefore, people are unlikely to cause harm to one another due to the peaceful condition of man in the state of nature. Rousseau argues that:

> man is naturally peaceful and timorous, at the slightest danger his movement is to flee; he becomes warlike only by dint of habit and experience. Honor, interest, prejudices, vengeance, all the passions that might make brave perils and death, are far from him in the state of nature. It is only after he has entered into society with another human being that he decides to attack someone else; and he becomes a soldier only after having been a citizen (Gourevitch, 1997:166).

In the light of the foregoing, Rousseau agrees with Locke that the state of nature is peaceful and only becomes corrupted with the advent of civil society. An assessment of these three philosophers' ideas reveals that they have different ideas about the natural state of humans in their pre-societal condition. Rousseau paints a picture of lone and isolated individuals, or what he calls *noble savages*, who roam the world, who are not out to harm each other, but to go about their business in their quest for survival (Gourevitch, 1997). Locke paints a similar picture where mankind in the state of nature is peaceful/good by nature, by virtue of possessing reason which recognizes the law of nature which instructs that we do not harm one another. Hobbes, on the other hand, describes a state of nature in which human nature is evil by nature. Each person is suspicious of the other and out to create war on everybody else in their quest for survival. It is a Machiavellian type of state where might is right. We may never get to know with absolute certainty who got it right among them, though a quick glance at modern humans may point to an inclination towards the Hobbesian description.

The modern world, full of laws and governments and sophisticated weapons has failed to maintain world peace, despite thousands of years of civilized society. The fact that we have failed to achieve world peace, perpetually involved in conflicts against one another in a continuous cycle, could be interpreted as evidence that Hobbes may have gotten it right: we are naturally selfish and war is an inevitable aspect of life. In fact, there was never a time in recorded history where there were no conflicts in all parts of the world at the same time. If the modern world has failed to maintain perpetual peace, it is not difficult to imagine a Hobbesian state of nature where conflicts were the norm of the day. Perhaps this boils down to our nature as humans as selfish by nature due to our constant desire to survive by any means necessary. One may ask the question: if humans are selfish in nature, are they born selfish or they have learnt it as they grow up? Put differently, do human beings have innate sense of selfishness? In Book 2 of the *Republic*, Plato gives the myth of King Gyges which may act as a thought experiment to help us determine if indeed, human beings are selfish by nature as Hobbes describes. In the myth, Gyges, a noble and morally righteous man, finds a magical ring which grants anyone who wears it the power to disappear. When Gyges got the ring, he lost all his sense of moral sensibilities, subsequently seducing the queen and murdering the king, thereby becoming the king of Lydia. From this story, we can imagine what the average modern human would do if they stumbled upon such a ring today. The imagination runs wild with all sorts of evil acts that may ensue. This is not to say that there are no good people in the world, but it would appear that the vast majority would be corrupted by the ring's abilities and throw away any semblance of morality.

From this, we can deduce a fairly good picture of how the state of nature may have been, and this picture could be closer to the description given by Hobbes. That being the case, it is also important to note that human beings are not comfortable to live in a state of uncertainty. At some point in our history, humans must have realized that cooperative efforts would be good for us in the long run. Hence, there was need to escape the state of nature. When one looks closely at reasons which forced humans to shift from the state of nature, one realizes that the security of life and protection of private property were the primary reasons. Therefore, it was out of the need for safety and security of property that humans escaped the state of nature and entered into a social contract. At this juncture, it suffices to turn to ideas of property in the state of nature.

1.4.   IDEAS OF PROPERTY IN THE STATE OF NATURE

The three philosophers also have different ideas on property in the state of nature. Property plays a pivotal role in the state of nature as it is primarily from various conceptions of the idea of property, in the form of one's possessions or possession of one's self, that we see modern societies emerging. According to Locke, the state of nature is characterized by freedom but it is only property that is not secured (Laskar, 2013:3). By *property*, Locke meant individual possessions that come about as a result of using our *labour* (which he considered to be our first natural property that all beings possess). Locke argues that human beings own themselves in the sense that they have ownership of their bodies. As such, self-ownership is a natural right that man was born with. It is equally important to understand that man can acquire private property. Because such property is acquired through individual labour, the Lockean account

implies private versus collective ownership of property. Private property simply means the allocation of certain objects, such as a portion of land, to individual human beings to the exclusion of others. This entitles individuals to utilize and control such private property as they please.

For Locke, the reason behind the insecurity of property in the state of nature is the absence of common laws, impartial judges and a common political authority which should protect private property. It is on the basis of the insecurity of property that Locke argues for the protection of a right to own private property as the justification of escaping the state of nature and forming a civil government (Skoble et al, 1999:207). Locke begins his theory of property acquisition by acknowledging that God has given the world to all humanity in common. This means that the world in its natural state belongs to all mankind. As such, it is necessary to determine a rational acquisition and use of private property for survival. Locke argues that:

> God, who hath given the World to Men in common, hath also given the reason to make use of it to the best advantage of Life, and convenience. The Earth, and all that is therein, is given to Men for the support and comfort of their being. And though all fruits it naturally produces, and Beasts it feeds, belong to Mankind in common, as they are produced by the spontaneous hand of Nature; and nobody has originally a private Dominion, exclusive of the rest of Mankind, in any of them, as they are thus in their natural state: yet being given for the use of Men, there must of necessity be a means to *appropriate* them some way or other before they can be of any use, or at all beneficial to any particular Man (Laslett, 1990:304-305).

Locke puts forward a theory of property acquisition where he argues that an individual human being has a right and is entitled to acquire private property as a result of his labour and it is only through this appropriation that resources in the world can be put to good use. This is to say; everything man has laboured on, gives him the right to own it. In this regard, labour is the

basis of a right to property acquisition. This implies that nobody already owns property before labour. Locke argues that:

> though the Earth, and all inferior Creatures be common to all men, yet every Man has a *Property* in his own Person. This no Body 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 has mixed his *Labour* with, and joyened to it something that is his own, and thereby makes it his *Property* (Laslett, 1960:305-306).

Now, the salient question is: is it everything that one has laboured on that he/she can claim to own it as his/her private property? For example, assuming that either the American or Chinese and perhaps Russian governments send Astronauts to planet Mars and do some work on it, would their work give them or their governments a right to acquire Mars as their property or they would be entitled to own just a part of it where they have worked on? Or if Russia succeeds to invade Ukraine, would that entitle them to own Ukraine simply because they have worked hard to invade it? Moreover, would Israel be entitled to own the Palestinian land if it succeeds to win the war? Again, would it be proper for Britain to claim any rights based on labour after it has colonized Lesotho? For purposes of answering these questions, Locke gives three conditions for property acquisition as follows: First; one can own property as his own only if there are enough raw materials left for others. Second; one can own private property if what he has left for others is as good as what he has taken and third, one can own property on condition that he is not going to waste it (Laslett, 1960).

The first condition demands that one should not legitimately own anything if what will be left will not be enough for others. The purpose of this condition is to eliminate greed which may

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lead to excessive acquisition of private property at the expense of other people. With this condition, Locke rejects excessive amassing of wealth at the expense of other people hence he sees it wrong. He maintains that nobody has a right to acquire too much wealth which will deprive others their right to the same wealth. With this condition, Locke argues that leaving little to no resources for others to share is unjust.

The second condition demands one to leave what is good enough for others who also have the same right to acquire private property. This condition prohibits one to select good things and leave bad or inferior things for others. In other words, the second condition says what one is leaving for others must not only be enough for them, but must also be as good as the one that has been taken away. Therefore, Locke argues that the taking away of good things and leaving the inferior for others would be unjust.

The third condition prohibits one to take away things and waste them. Locke argues that taking possession of things only to waste them would be unjust. An example would be with regards to the appropriation and use of land in Lesotho. Chapter IX of the constitution of Lesotho provides that all land belongs to the Basotho nation and the power to allocate it is vested in the king as a trustee. However, this power is executed by local councils in conjunction with customary chiefs (Leduka et al, 2018:11). The allocation of land has resulted in such a condition that some people have more than one residential, commercial or agricultural pieces of land while some do not have even a single piece of land. Those who have many pieces of land fail to either use or develop some of the allocated land profitably and this has happened for several years. Therefore, the failure of people to use and develop the land allocated to them

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becomes a waste of land property which could be put to good use by others. In the light of the three conditions of property acquisition mentioned above, the relevance of these conditions is primarily for the respect and protection of the right to own private property which was not enjoyed in the state of nature as argued by Locke. This right should be protected by law which is supposed to be enacted and enforced by a legitimate political authority. Moreover, a political authority is necessary in order to enact just laws that could regulate the distribution and acquisition of private property for everyone to have a fair share.

Moreover, these conditions are relevant in the sense that they are designed to prevent war caused by illegitimate or unjust acquisition of property like it happened in the state of nature. These conditions also prevent people from making other people worse off by not leaving what is enough and inferior for others since these would lead to struggling or even fighting to acquire the inferior that is left. Actually, if people know quite well that what is left would not be enough and accessible to them, fights would ensue, and war over property would take people back to the state of nature which is undesirable. The conditions are also important to close the gap between the rich and the poor by means of sharing property instead of wasting. Therefore, a political authority is necessary for reasonable distribution of resources.

Locke further argues that the state of nature, though largely peaceful, can turn into a state of war. Given that in the state of nature there is no political authority to punish offenders, the law of nature empowers men to defend themselves even by killing those who interfere with their interests. The main interests here could include the rights to life and to own private property. In this sense, killing another person is justifiable on the basis of self-defence and protection of

property. Locke further notes that if war over property commences, it is likely to continue and this is a justifiable reason to escape the state of nature by collectively agreeing to form a civil government.

According to Davis (2013:271), Locke in the *Two Treatises of Government* wrote more on property in the state of nature as compared to Hobbes in the *Leviathan*. Davis argues that Hobbes is generally understood as holding the view that there is no private ownership of property in the state of nature. For this reason, Hobbes, does not accept private ownership of property. Rousseau also differs from Locke by arguing that there is no natural right to property in the state of nature. This means that humans were not born with the right to property. For Rousseau, the problem of property emerged with the formation of society due to selfishness and competition over acquisition of private property (Laskar, 2013:5). For this reason, Rousseau considers property as morally bad since it causes inequality and harm to people. Rousseau was responding to Locke's view which holds that all men are born free and equal in possession of the natural right to life, liberty and property. When one looks closely at Locke's justification for having a political authority, one starts to realize that the need for the protection of life, liberty and property plays a central role in forming a legitimate government through the social contract. Apart from the need for the protection of life, liberty and property, there were also other conditions that necessitated the formation of government through social contract.

1.5. OTHER CONDITIONS THAT NECESSITATED THE SOCIAL CONTRACT

For McClelland (1996), the social contract theory was designed to explain the rationale behind obeying the state, the law and the sovereign. McClelland gives the example of Socrates who did not escape from prison due to his obedience to the Athenian laws and the Athenian political authority (1996:172). In this regard, Socrates' obedience implies that he was obeying the already existing and binding social contract in Athens. However, even though the social contract theory was intended to justify the existence of the state, the law and the sovereign, it must be noted and acknowledged that the social contract theory has been used to justify other several political interests too.

For one to better understand the justification for having the political authority in particular, one must first understand the social and political conditions under which Hobbes, Locke and Rousseau formulated the social contract theory. Put differently, one must first understand what inspired these political philosophers to formulate the social contract theory. As noted earlier in this chapter, during their time in the early modern England, it was necessary to justify political authority since there was a conflict over a legitimate political authority between kings and parliamentarians. On the one hand, kings claimed to have the divine right to rule while on the other hand, parliamentarians wanted the political power to be shared between them (parliamentarians) and the kings (McClelland, 1996, 177).

McClelland further argues that what was not disputed was the view that God is the lawful sovereign and His law is good (ibid). This view was generally accepted and regarded as an

ideal formula for making laws; that good laws should be made by legitimate law-makers. On the contrary, what was disputed was who is entitled to make laws that are binding. In other words, it was disputed whether the legitimate makers of law should be kings simply by virtue of having the divine right to rule, or such laws should be made by the ruled. The dispute was based on the observation that wicked kings were capable of making bad laws for people who were ready to obey good laws. For this reason, wicked kings were not regarded by parliamentarians as legitimate law-makers who have the right to make laws that are binding.

McClelland further argues that concerning the issue of the divine right to rule which was disputed; it was questionable whether wicked kings also possessed this right. If the answer could be yes, the possible question is; would the law made by a wicked king be binding? It was on this background that a distinction between law itself and the one who has made it had to be necessarily taken into consideration. Therefore, it was important to separate the law from its maker in order to determine who has the right to make laws that are binding. As a result of the need for separation of law from its maker, people felt not bound by any law on the ground that it should first be made properly by a legitimate sovereign. In the same vein, it was also important to define good laws and bad laws in order to distinguish them. Therefore, a decision on whether the king or parliamentarians should make laws was an important issue. According to McClelland (1996), there was a division of opinion between choosing either an absolute monarchy or constitutional monarchy.

The idea of the divine right of kings to rule which was associated with absolute monarchy was defended by philosophers such as Robert Filmer. In the *Patriarcha* (1680), Filmer justifies

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absolute monarchy and his theory of the divine right to rule was based on the view that a family is well governed when there is a father at the helm. Drawing from the Biblical story in Genesis where Adam is made *lord* of his children by God, Filmer argues that kings also, are given the mandate to rule over their *children* by God, which is the best form of government. Filmer argues that:

> Adam was lord of his children, so his children under him had a command over their own children, but still with subordination to the first parent, who is lord paramount over his children's children to all generations as being the grandfather of his people. (…) and this subordination of children is the fountain of all royal authority, by the ordination of God himself (1680:4).

Filmer was responding to the Jesuits and Calvinists who held that people have the political power to punish the king on grounds of the violation of the law of the kingdom. These Catholic and Protestant theorists claimed that all men were born equal hence they are at liberty to choose the form of government they want (McClelland, 1996). Filmer was at the same time attacking the parliamentarians who questioned the absolute power of the king. Parliamentarians held the view that if the king fails to protect the nation, the people have the legitimate reason to overthrow him. They also claimed that people's allegiance to the sovereign is not absolute but people have the right to remove the king from throne if he fails to respect his oath (ibid).

The claim that was regarded by Filmer as the most dangerous claim was made by the Jesuits such as Cardinal Bellarmine and Francisco Suarez who claimed that the Pope could interfere and excommunicate kings who rule outside the teachings of the Church (Cuttica, 2012). This claim was perceived by Filmer as a rebellious doctrine which threatens the political power of the king. Thus;

> he made it clear that Jesuits stances were extremely dangerous since they made *'the church above the king, and the Pope above the church'* and also 'the Law above the king, and the people above the Law and so' they deposed 'Princes, by their *Tumults and Insurections'* (Cuttica, 2012:239).

The major threat of the Jesuit political thinking was that of putting the Pope and church above the king. This was made even worse when the Jesuits dismissed the view that God has assigned power to kings. On this matter, the Jesuits argued that God has not given power to one particular person. Instead, he has given it to people collectively. As such, people are free to choose any person who can rule them (Cuttica, 2012: 240). This suggests that political power resides in people but not kings. In the light of the foregoing, one may conclude that Filmer's *Partiarcha* enabled defenders of monarchy to see the king as the father who should protect the nation and this view strengthened the hereditary link between kings.

The divine right of kings to rule was challenged by Oliver Cromwell and parliamentarians. They opposed absolute monarchy and supported constitutional monarchy. According to Feinberg (1968), Cromwell believed that the authorities and their powers are the ordinance of God. For Feinberg, Cromwell held that the powers of the authorities are limited since authorities are accountable to the people. As such, the king becomes king by contract. Feinberg further argues that Cromwell fought against absolute monarchy by physically engaging in war with King Charles I and his supporters. The crux of the war was to force King Charles I to agree to stop being an absolute monarch and become a constitutional monarch. According to Feinberg (1968), by the end of the first English civil war, Cromwell and his army engaged in peace negotiations with Charles I which were intended to allow Charles I time to agree to become a constitutional monarch in order to make the king accountable to the people. Feinberg

asserts that instead of cooperating, Charles I started the second civil war in 1648 (ibid). Notwithstanding king Charles' resistance to become a constitutional monarch, he was defeated by parliamentarians and called to account for crimes he committed during the time of civil wars and a tribunal was set to hold him accountable as well as to further negotiations (Holmes, 2010:290). Holmes indicates that Charles I refused to appear before the court for the reason that if he recognized the right of the court to try him, he would be acknowledging the authority of the parliamentarians over the king. This would also mean that he has implicitly agreed to abolish his absolute powers and conceded to constitutional monarchy (ibid).

According to Feinberg (1968), Cromwell and the parliamentarians realized that King Charles I was not willing to cooperate by becoming a constitutional monarch and this is what prompted Cromwell to sentence Charles I to death. Eventually, Charles was executed in 1649. Thus; "Cromwell brought about the execution of Charles I in 1649, only after it had become clear that the King would not accept the role of a constitutional monarch, absolute within his sphere, but limited in total power (Feinberg, 1968:454).

It can be argued that Cromwell challenged the divine right of kings and absolute monarchy of England which were supported by Filmer. Moreover, it goes without doubt that Cromwell influenced English political revolution through violence. Therefore, one may conclude that the events leading up to the English civil war are important factors which necessitated the social contract theory and the formation of modern Western civil governments. Having discussed these further conditions that necessitated the Western social contract tradition, the discussion will now focus on the various types of government that would be formed in the different social

contract theories. The intention is to provide a clear picture of how the Western social contract theory influenced the current forms of government utilized in the West.

1.6.   THE TYPES OF GOVERNMENT FORMED

At this juncture, it is necessary to unpack the social contract theories advanced by Hobbes, Locke and Rousseau for purposes of identifying the different types of government proposed by the three political philosophers. McClelland argues that;

> some, like Hobbes, argued on absolutist case for undivided sovereignty in the hands of one man or a body of men; others, like Locke, argued a recognizably parliamentary case; and yet others, like Rousseau, argued a case for an absolutely sovereign people as lawgivers to themselves (1996:176-177).

In the first place, Hobbes asserts that unless all men are subjected to a political authority for the protection of their rights and freedoms, they are bound to consistent war (Skoble et al, 1999:133). Hobbes further argues that since man has a natural inclination to security and order, he entered into a contract for purposes and intends of self-protection as well as self-preservation. Consequently, all men voluntarily surrendered their rights and freedoms to some political authority. In the *Leviathan*, Hobbes argues for an absolute monarchy as the best type of government that can maintain peace and security. The basis of his argument is that man is inherently self-interested hence an absolute monarchy is necessary to keep citizens in order. This suggests that an absolute monarchy is the best form of government that can alleviate man from the state of war. It is against this background that an absolute monarchy is necessary to take men out of the state of war since it provides a robust means of security which is not available in the state of nature.

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Contrary to the Hobbesian social contract, Locke in the *Two Treatises of Government* puts more value on individual liberties. He opposes absolute monarchy for the reason that it restricts individual liberties. This view is informed by his opposition to the idea that God has made all people the natural subjects of a monarch. Instead, he believes that all people are naturally free. According to Locke, monarchy values social order more than individual freedom. For this reason, it is not the best form of government for the people. Locke argues that:

> hence it is evident, that absolute monarchy, which is by some men is counted the only government in the world, is indeed inconsistent with civil society, and so can be no form of civil government at all; for the end of civil society being to avoid and remedy these inconveniences of the state of nature (…) (Skoble et al, 1999:194-195).

For Locke, man escaped the state of nature and voluntarily entered the social contract simply for the purpose of the protection of private property. He further argues that when humans entered the social contract, they did not surrender all their rights to any individual human being such as the king, but what they only surrendered to the political authority is the right to maintain order and to enforce the natural law. It is basically for this reason that man did not surrender his inalienable rights such as the right to life, liberty and estate. As such, Locke was concerned about the protection of fundamental rights such as life, liberty and property and all these characterize democracy which is opposed to absolute monarchy.

Rousseau echoes the Lockean view by arguing that men did not surrender their rights to an individual but to the whole community through the social contract and this is reduced to what he calls the 'general will'. Rousseau argues that:

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finally, each, by giving himself to all, gives himself to no one, and since there is no associate over whom one does not acquire the same right as one grants him over oneself, one gains the equivalent of all one loses, and more force to preserve what one has. If, then, one sets aside everything that is not of the essence of the social compact, one finds that it can be reduced to the following terms: *Each of us puts his person and his full power in common under the supreme direction of the general will; and in a body we receive each member as an indivisible part of the whole* (Gourevitch, 1997:50).

Rousseau argues that it was through the social contract that a state was formed in order to safeguard the rights, liberties and equality of people for the benefit of all. For him, the 'general will' is a majority view which should be obeyed and respected by all people and each individual human being is not accountable to any individual but to the 'general will'.

In terms of the 'general will', Rousseau argues that the elected representatives cannot decide the general will of the people. As such, he argued for a direct democracy in which every person votes to exercise his/her 'general will' and makes laws (Gourevitch, 1997). This indicates that Rousseau believed that all political power rests with the people when they apply their 'general will'. For Rousseau, the 'general will' could be understood as the will of the sovereign or the will of the people as a collective who aim at the common good; essentially what is best for the entire state, and not necessarily the majority. The 'general will' is best expressed through just laws and elections as well as constant referendums.

According to Rousseau, once people have come together to form one body called the sovereign; they have a moral duty to help one another. For him, an injury or attack to one member is an injury or attack to all. In the same manner, an injury or attack affects all members of the sovereign. Rousseau observes that:

> as soon as the multitude is thus in one body, one cannot injure one of the
> members without attacking the body, and still less can one injure the body
> without the members being affected. Thus, duty and interest alike obligate
> parties to help one another and the same men must strive to combine in this
> two-fold relation all the advantages attendant on it (Gourevitch, 1997:52).

Even though Hobbes, Locke and Rousseau differ on the form of government that should be instituted at the inception of the social contract, they agree on the idea of having a political authority that will be able to protect the rights and freedoms of people.

However, Rousseau agrees with Locke that individual human beings are born free and have natural rights that are not to be surrendered to the king. In the final analysis, Rousseau and Locke value the primacy of an individual over the state or government. On the contrary, Hobbes values the primacy of the state over the individual. Therefore, Locke and Rousseau managed to influence both the French and American revolutions and democracy was adopted as the best form of government in both instances. To date, democracy is regarded by the West as the best form of government that could be adopted and applied globally.

1.7.   THE EXTENT OF POWER OF GOVERNMENT

It is important to understand the extent of the power of government after it has been established through the various social contract theories. Hobbes in the *Leviathan* argues that the social contract could be constructed in such a manner that men must elect one or a few people amongst themselves and give him or them the authority and power to rule (Tuck, 1991). Actually, the power to rule gives one the power to enforce the initial social contract through enforcement mechanisms such as the enactment of laws. Connected to the power to enact laws is the power

to punish offenders. Since the power to punish those who violate the terms and conditions of the social contract is vested in the political authority, humans are likely to switch from doing what pleases them to what is required by the law.

It is necessary to highlight that the existence of political authority helps in forcing men to abide by the law and as such, a powerful conventional artificial authority could be able to execute its mandate for the betterment of a society. Whereas Hobbes admits that it is difficult to live under political authority, he also sees it as better than living in the state of nature (Laskar, 2013). The reason behind this is that there is nothing else other than the sovereign, who can help men escape the state of nature. Therefore, Hobbes argues that the sovereign should have absolute power for the success of the social contract and the life of a society.

Hobbes advocates for absolute monarchy and he considers it to be the best form of government. He finds it rational enough to have absolute monarchy since it cannot be destroyed from within. For Hobbes, absolute monarchy can minimize disagreement, dissatisfaction and factionalism that can cause conflicts within a society (ibid). Hobbes contends that disagreement can happen even between the state and church. Moreover, it can happen even between rival governments. Hobbes argues that conflicts caused by dissatisfaction and disagreement can lead to civil war and compromise peace. As such, he argues that members of society should subject themselves to one absolute power for purposes of maintaining peace (Tuck, 1991). Hobbes believes that obedience to the sovereign is paramount and directly connected to peace. Therefore, for the attainment of peace, the sovereign has the power to run the government, enact all laws and to become the principal of the church.

Locke in the *Two Treatises of Government* posits the need for the existence of political authority. He argues that the fundamental objective of having it is to protect the natural rights of people. As such, the political authority is expected to fulfil this objective through the enactment of laws and punishment of offenders. Locke argues that:

> and thus the Commonwealth comes by a Power to set down, what punishment shall belong to the several transgressions which they think worthy of it, committed amongst the Members of that society, (which is the power of making laws) as well as it has the power to punish any Injury done unto any of its Members, by any one that is not of it, (which is the power of War and Peace;) and all this for the preservation of the property of all the Members of that society, as far as possible (Laslett, 1960:342).

Locke further argues that when the government has enacted laws, they are valid and binding to all people. For Locke, the power of the government is primarily limited to the good of the people. This means that the achievement of the public good is central as far as the powers of government are concerned. This is to say, the government has the power to preserve individual human life and property through just laws and punishment of offenders. Put differently, the government exists for purposes of protecting people from the violation of their natural rights. In this regard, the power of the government is limited to protecting people.

Moreover, Locke argues that the government is prohibited from killing and enslaving people. Given that the power of government is limited to the public good which, in this context, is the protection of natural rights, the government also has the power to promote the public good. By implication, these powers become duties of the government and if government fails to perform its duties, people are justified to overthrow it (Laslett, 1960).

As noted in earlier sections of this chapter, Rousseau in *The social contract* believes in a government which values the 'general will' of the people. For him, people give their consent to the government to rule over them and what is important for the government is to express the 'general will' of the people. This is expressed through the enactment of just laws and regular elections. This means that the government should give priority to the 'will' of the people over self-interests. The concept of the 'general will' is different from the notion of 'majority rule' which is usually associated with representative governments. For Rousseau, the sovereign should never represent people but its own will. He argues that:

> sovereignty cannot be represented for the same reason that it cannot be alienated; it consists essentially in the general will, and the will does not admit of being represented: either it is the same or it is different; there is no middle ground. The deputies of the people therefore are not and cannot be its representatives, they are merely its agents; they cannot conclude anything definitely. Any law which the people has not ratified in person is null; it is not a law (Gourevitch, 1997:114).

Unlike Hobbes who advocates for a single sovereign, Rousseau argues for all citizens to agree to the social contract and form a collective sovereign power since universal participation in the making of laws can be able to establish constitutional stability. For Rousseau, a group of people who govern under a constitutional government should be accountable to the governed. Put differently, government officials have been given the executive power to serve people and they are not the masters of people. Rousseau argues that:

> it follows that the act which institutes Government is not a contract but a Law, that the trustees of the executive power are not the people's masters but its officers, that it can establish or remove them whenever it pleases, that there is no question of their contracting, but of obeying, and that in assuming the charges which the State imposes on them they are only fulfilling their duty as

citizens without in any way having the right to challenge the condition (Gourevitch, 1997:118).

Rousseau argues that accountability should be enforced and maintained through certain procedures such as regular elections, recall and referendum. For Rousseau, the accountability of government officers to citizens imposes accountability for performance of government upon citizens. Rousseau further argues that upon elections, government officials are endowed with authority and power to execute duties that they committed themselves to do (Gourevitch, 1997).

In the light of the foregoing discussion, one realizes that the fundamental purpose of having political authority is to protect the natural rights of individual human beings such as the right to life and the right to own private property. As such, the government has a duty to promote the public good by providing essential services. Indeed, a right to life does not make sense in the absence of essential services. For instance, a right to life without access to food, clothing and shelter does not make sense. Therefore, in order to receive all necessary essential services provided by government, people elect and give a government the powers to rule, enact laws and punish offenders. Notably, government officials should be mindful that they are accountable to the ruled. Accountability is ensured when government officials are given the power and authority to rule through elections.

To the extent that the Hobbesian social contract theory is to be adopted, then the powers of the government extend to infinity, holding an absolute authority over the individuals it governs. Wielding absolute authority, such a government cannot be removed by the people who have deliberately and consciously surrendered all their powers to the government. This is the extent

of the powers of a Hobbesian type of government; it is absolute and not subject to removal. To the extent that the Lockean social contract theory is to be adopted, then governmental power is limited and measured by its ability to protect its citizens' property, life and health. If the government fails to achieve these claims, then the people have a right to overthrow this failing government, going back to a state of lawlessness, which Locke considers to be better than a state of being ruled by a failed government. To the extent that Rousseau's account is correct, then power resides in the people who submit themselves to the general will. Although it is unclear how exactly a general will would be different from a democratic majoritarian rule, it would seem that for Rousseau, governmental power is simply extended to the people who, in principle, cannot commit an injustice against themselves. Having discussed the extent of these governmental powers, it is important to discuss the power of the individual once the social contract is formed.

1.8.   THE POWER OF THE INDIVIDUAL IN THE NEW STATE

In the *Leviathan*, Hobbes argues that due to constant fear of death in the state of nature, men have the desire to escape the state of nature by entering into a social contract which can be able to produce a government. After the establishment of a political authority, people should submit to it in an absolute sense. This means that people in a state have a moral duty to obey political authority by adhering to the terms and conditions of the social contract as well as the laws which are enacted by the political authority. In this regard, Hobbes does not see the citizens having any powers in the new state. Instead, it is only the political authority which has the right to influence state affairs (Tuck, 1997). However, Hobbes admits that it is difficult to live under

political authority and though he also admits that it is better than living in the state of nature. According to the Hobbesian social contract theory, people are stripped of their power to overthrow the government even if it fails to achieve its mandates. The Sovereign has complete wisdom on the direction the state is to take, regardless of how the citizens may perceive this wisdom.

Even though Hobbes argues for having an absolute monarchy and obedience to the absolute sovereign, he provides some reservations on the basis of rights. First; he argues that subjects or citizens have a right to defend themselves against the sovereign when their lives are at stake (ibid). Second; Hobbes emphasizes that subjects must resist or disobey the sovereign when their families and honour are in danger. Third; when the sovereign fails to provide protection, his subjects have a right to disobey him (Tuck, 1997). The justification that Hobbes advances for resistance and disobedience by the people is that failure to protect citizens by the Sovereign means citizens have not escaped the state of nature. It is worth mentioning that the right to disobey the sovereign emanates from the view that subjects are not bound to hurt themselves. Hobbes argues that:

> if the Sovereign command a man (though justly condemned,) to kill, wound, or mayme himselfe; or not to resist those that assault him; or to abstain from the use of food, ayre, medicine, or any other thing, without which he cannot live; yet hath that man the Liberty to disobey (Tuck, 1997:150).

One would argue that the rationale behind disobedience is to protect the right to life and to prevent going back to the state of nature. If the subjects could obey the command which requires them to kill or deprive necessities of life, they would be in the state of nature. Although

this seems contrary to the general Hobbesian view that the Sovereign has absolute authority, it should be noted that these are reasonable exceptions in the broader scheme of the Sovereign's rule. It would seem rational to disobey an order by the Sovereign to kill oneself. But generally, the Sovereign wields absolute authority over his subjects.

According to Locke in the *Two Treatises of Government*, once men have come together and agree to form a civil government, they must also agree to give it the power to punish people who violate laws. Consequently, when men have agreed to abandon the state of nature and given power to political authority, they now have a moral obligation to submit to the political authority (Laslett, 1960). Locke advances the condition that when a civil government degenerates into tyranny, men are justified to defend themselves against a tyrant by resisting the authority of a civil government, in which case citizens in the Lockean social contract have an expanded extent of rights than in the Hobbesian one where this is not an entitlement.

Moreover, when a civil government fails to protect individual property, freedoms as well as people's interests, citizens are free to dissolve a civil government and start the process of forming a civil government afresh. This simply means that for Locke, if a government fails to protect people's rights, citizens have a moral duty to overthrow it (ibid). They also have a right to rebel against such a government and this justifies a radical political revolution. Locke argues that:

> though in a Constituted Commonwealth, standing upon its own Basis, and acting according to its own Nature, that is, acting for the preservation of the community, there can be but one Supreme Power, which is the Legislative, to which all the rest are and must be subordinate, yet the Legislative being only

> a Fiduciary Power to act for certain ends, there remains still in the People a Supream Power to remove or alter the legislative, when they find the Legislature act contrary to the trust reposed in them. For all Power given with trust for attaining an end, being limited by that end, whenever that end is manifestly neglected, or opposed, the trust must necessarily be forfeited, and the Power devolve into the hands of those who gave it, who may place it anew where they shall think best for their safety and security (Laslett, 1960:384-385).

According to Schwoerer (1990:547), Locke was responding to the issues that were at the heart of the Glorious Revolution in England. For Schwoerer, the Glorious Revolution had three issues that needed to be addressed which Locke responded to. They were issues that troubled England such as:

> who should be king of England? What should be the nature of kinship or in what ways should the government be reformed? And what should be the relationship between the Angelican Church and other Protestant groups? Also important was the question of the nature of the Convention, that is, the body irregularly elected in January 1689 to settle the nation's affairs (Schwoerer,1990:532).

Looking at these issues, one may easily conclude that the Glorious revolution in England during the time of Locke was based on political and religious issues. However, on the political aspect, Schwoerer indicates that the main problem involved in the Glorious Revolution was to know whether people possess the right to resist the king and if the answer is yes, what is the justification and the method of doing so? (Schwoerer, 1990:532). Moreover, Schwoerer argues that the idea that when a civil government degenerates into tyranny, men are justified to defend themselves against a tyrant by resisting the authority of a civil government was actually levelled against King James II who was thought to be a tyrant due to his arbitrary use of power. As such, he was thought to have broken the fiduciary relationship between himself and the people; hence he had ceased to be the king by himself. Therefore, it was on the basis of the

broken fiduciary relationship Locke challenged the kingship of King James II as well as the headship of the state of England. Schwoerer argues that:

> a second issue at the time of the Revolution was the headship of state. Locke's position was that James II had broken the trust between himself and his people and therefore was no longer king; he had actually put 'himself into a State of War with his people (1990:537).

It follows that Locke influenced and justified the rebellion of people against King James II. For example, Locke justified the rebellion against the king by arguing that people have the right to resist the king, overthrow his government and start a new government. This implies going back to the state of nature. Therefore, on the basis of this argument, one may infer that Locke justified and influenced the Glorious Revolution. The argument posits the view that people have individual power over the government to ensure the equal protection of their rights and freedoms.

On the equality of men, Rousseau in *The Social Contract* argues that all men are equal simply by virtue of their natural status of being human hence nobody is exceptionally endowed with a natural right to rule others (Lincoln, 1897). It is on the basis of equality of men Rousseau proposes equal influence of all men towards the fulfilment of people's interests. Thus: "In defense of this position, it is assumed that Rousseau intended all men, of whatever grade, to possess equal influence in the state" (Lincoln, 1897:59). Therefore, Rousseau argues for the existence of a legitimate political authority established through the consent of all people through a social contract.

The consent of people is very important since it can bring people together, enhance justice and harmonize people's interests for the common good. To achieve this, any policy of state should be in the best interests of all people and it is the "general will" which should determine the suitability of a policy (Lincoln, 1897:58). The equal influence of all men towards the fulfilment of people's interests means that people have the right to influence law-makers in order to maintain harmony between the law and the entire community. Thus;

> the people should have, at all times, the right to suggest laws, or even veto any law suggested by the legislative body, for in this way alone can that harmony be maintained between people and law, which is essential to national well-being (Lincoln, 1897:58).

In essence, for Rousseau, one of the important questions that the social contract seeks to answer is: how can people restore the natural freedom they enjoyed in the state of nature. In responding to this question, Rousseau maintains that people collectively must first submit themselves to the general will through agreement. He explains the "general will" as the working together of people for the common good. Rousseau further asserts that the collective coming together of people is the foundation of society and formation of a sovereign. For him, after the formation of a sovereign, people should collectively renounce and transfer to the political authority, their individual rights and the freedom they possessed in the state of nature.

Rousseau also maintains that the social contract demands reciprocal duties in the sense that the sovereign has a moral duty to do what is good for individuals while individuals in turn have a moral duty to do what is good for the whole society (Lincoln, 1897). It is on the basis of individual moral duty that individuals are not free to decide on what best suits them individually

but they should conform to the general will. As such, Rousseau asserts that a healthy state is supposed to make sure that people recognize their common interests through periodic elections and this is one of the characteristics of a strong democracy. For him, a strong democracy is the one which is constituted by small states wherein people know each other and work consistently together for maintaining the general will (ibid). Therefore, the gist of the social contract theory put forward by Rousseau is that a civil government acquires the right to rule through the consent of people who come together and agree to live together as a society for the common good.

When one looks closely at Locke, Rousseau and Hobbes on the individual influence in a new state, one realizes that it is only Locke and Rousseau who are optimistic on the issue of going back to the state of nature. For Locke, once a government fails to maintain its mandate to protect people's life, liberty and property, and then the state of nature becomes a better option because in it, people were pre-social but not pre-moral. For this reason, the state of nature is far much better than a failed government/state. Therefore, it is on the basis of this background Locke argues that people have the right to rebel against a government and overthrow it and this implies going back to the state of nature.

Unlike Locke who suggests the rebellious individual power, Rousseau concedes that it would be difficult if not impossible, to go back to the state of nature, hence people are forced to remain in the established state. This means that Rousseau does not see it possible to go back to the state of nature once people have established a new government. Even though these philosophers differ on the individual power in a new state, they agree on having political authority through a social contract. Consequently, the Western social contract theory has

produced modern Western societies which recognize constitutional monarchy and liberal representative democracy that still prevail even today.

1.9.   CONCLUSION

The purpose of this chapter was to outline what a social contract is and what it seeks to achieve, as well as to examine the social and political conditions under which the social contract theory was formulated. The findings of the chapter are as follows: First, a social contract is either an actual or hypothetical agreement which is made between the ruler and the ruled and it defines the duties and rights of each of them. More importantly, it is an agreement which is made voluntarily to establish a government by members of a society who find it more beneficial to live in a civilized society than in a state of nature. Second, the social contract theory was formulated as the justification for having political authority. It was observed in the chapter that a social contract theory sets out hypothetical conditions (albeit sometimes based on true historical events) that justify the existence of political authorities of various sorts with the view of establishing the authenticity of such authorities to rule over others. Third, it was also observed that the opinions of social contract theorists such as Hobbes, Locke and Rousseau differ on types and powers of government that are established in their individual social contract theories. However, it was observed that their social contract theories follow a similar pattern, beginning with a state of nature from which people are trying to escape, followed by coming together to form a state which will have a variety of mandates, then the formation of the state or civilized society. Their ideas constitute what can be broadly called a social contract theory, wherein individuals agree to give up their rights to some form of political authority so that the

political authority, in turn, can provide certain comforts of being in a civilized society such as the protection of individual liberties, property, health and life. Consequently, modern Western states were formulated out of the social contract theories which produced a variety of governments inclusive of liberal and representative democracy, as well as constitutional monarchies. As such, one may argue that the social contract theory can legitimately be identified as a justification of the formation of modern Western states, being born out of the political histories and cultural peculiarities of the societies in which they were founded. This observation then begs the question on whether such social contract theories that were a product of unique historical and political events of their contexts can be broadly applies to other contexts which they may not have been intended to cover, in this case, the African social and political landscape? In an endeavour to address this question, it is necessary to first outline the nature of the African social and political landscape which will be the subject of the next chapter.

CHAPTER TWO

THE PRE-COLONIAL AND POST-INDEPENDENCE AFRICAN SOCIAL AND POLITICAL LANDSCAPE.

2.1.   INTRODUCTION

The African social and political landscape has been described by some authors in terms of the diversity of political systems. It should be noted from the onset that part of the problem with defining the African social and political landscape lies in the fact that it is unclear *when* this kind of endeavour can begin. This is because Africa has a pre-colonial, colonial and post-colonial history with a lot of gaps that may sometimes be difficult to fill in. For instance, much of pre-colonial Sub-Saharan African societies cannot be characterized as literacy societies, lacking any significant documentation of its own history by its own people. The information we do have comes from colonial anthropologists and missionaries who may have either misunderstood or misrepresented the African way of doing things, or who may have outrightly distorted their observations to suit the colonial agenda. This being the case, it is important to explore from the available literature what the pre-colonial African mode of political authority and governance structures may have looked like. This chapter broadly has three objectives. First, the chapter seeks to give an account of the socio-political organization of precolonial African states. To this end, this chapter will make an attempt to reconstruct how pre-colonial African governance systems may have looked like. This task is more of a reconstruction of how events may have been rather than an accurate account of how things actually were since there is no direct literature available from first-hand accounts of the people who lived in these societies. From there, it is important to give an outline of the political conditions in the colonial

state. Then finally, the chapter seeks to give an outline of the political conditions in the post-colonial African state.

2.2. AFRICA'S HETEROGENEOUS NATURE AND PRE-COLONIAL CONFLICTS

The precolonial African governance system was characterized by diverse political systems. Besley (2012:9) asserts that while some societies in precolonial Africa were on one hand organized in the form of kingdoms, on the other hand, they were also structured in a stateless mode. In short, the precolonial political systems were organized as kingdoms and stateless societies. Besley (2012) further argues that these kingdoms were always engaged in constant conflicts due to territorial expansion and consolidation (ibid). This implies that the precolonial African kingdoms were established out of wars over geographical territories. Possibly because there were no strict boundaries between kingdoms and also because there were no strict common laws that would prevent neighbouring kingdoms from attacking each other for territorial expansion, wars were commonly experienced between precolonial African kingdoms (Ben-Amos Girshick et al, 2001:354).

Precolonial African kingdoms were largely divided along linguistic and cultural lines. It should be noted here that the linguistic aspect played a significant role in identifying a group of people as belonging to the same kingdom. Hence even the naming of the different kingdoms was along linguistic lines, examples being the Basotho (who speak Sesotho), the Ndebele (who speak Ndebele), the Zulu (who speak Zulu) and the Shona, who speak Shona. It should also be noted

that the cultural differences among these sub-Saharan pre-colonial African groups were not as pronounced, as, even today, the various tribes that exist in this region are culturally very similar, pointing to a common ancestry of these various groups of people. Once we take away the linguistic differences, these groups are culturally the same (with minor differences here and there).

Different ethnicities were therefore defined largely by their language as there would be little to no difference in everything else, inclusive of appearance (a Zulu person and a Shona person have no apparent differences until they start speaking their unique languages). According to Paine (2019:649), ethnic differences were a source of violence and insecurity in the precolonial Africa as people identifies more with their own groups than their neighbours. Emphasis was placed more on how the different groups were *different*, rather than how they were similar. In retrospect, if the various ethnic groups had actually focused more on cooperating based on similarities rather than differences, perhaps Africa would be a different place today.

Paine further observes that ethnic conflicts in pre-colonial Africa were fuelled by an us-versus-them mind-set which was inspired by a constant need to enlarge an ethnic group's territory. Competition for resources such as animals (cows, sheep, goats), water sources and grazing land frequently resulted in wars. Such wars were also a statement by one group attempting to prove its military prowess (Chidume et al, 2021:71). The dominant groups would subjugate those that they won over and take their resources as well as women, who were considered the spoils of war.

In the light of the above, it could be understood that the precolonial Africa was diverse in terms of its ethnic groups who were divided along linguistic and cultural lines and an inevitable competition for resources created conditions necessary for conflicts. However, although such conflicts may be seen as a negative episode in Africa's history, of particular concern to this study is the observation that there were already in place some forms of governance structures that made it possible to organize armies and actually engage in warfare. A structure of a functional society can already be observed in the various ethnic groups, who had leaders and some form of political organization that ran their specific societies. It is important at this juncture to attempt to make a determination of the kinds of political organizations that existed in pre-colonial Africa.

2.3. THE PRECOLONIAL MODELS OF POLITICAL AUTHORITY/ GOVERNANCE STRUCTURES

As mentioned earlier, precolonial societies were largely kingdoms of people who identified themselves with a common language and culture. According to Palagashvili (2018), pre-colonial African societies were constituted by different tribes that existed independently without any common political leader among them. Some tribes were structured into chiefdoms and those which were larger were perceived, understood and acknowledged as the kingdoms. Some were also considered as groups of people who were stateless. Shedding more light on this, Palagashvili argues that:

> throughout the continent (and Sub-Saharan Africa in particular) a vast number
> of "governments" existed with a variety of different organizational forms.

Some were stateless societies which were a collection of various tribes that existed as autonomous political entities without any one ruler at the head. Other tribes were organized into smaller or larger chiefdoms (large chiefdoms often were considered to be kingdoms). The main characteristic of a chiefdom or kingdom was some recognized leader or head of the tribal grouping. The chiefdoms, kingdoms and stateless societies all co-existed at the same time – providing a unique and rich historical example of a polycentric system of clubs: an environment of multiple providers of governance services (2018:283).

Already this shows that there was some form of political organization in these early African societies. Kingdoms were structured into federated governments and centralized monarchies. At this juncture, it is important to shed more light on both federated governments and centralized monarchies to get a better picture of how such systems were organized.

2.3.1. FEDERATED GOVERNMENTS AND CENTRALIZED MONARCHIES

Federated governments and centralized monarchies were among the types of kingdoms which existed in precolonial Africa. On the one hand, federated governments were kingdoms which had a recognized leader. Chiefs and kings gained political power through the consent of their lineages (Van Wyk, 2007:6). Under these kingdoms, there were several subgroups which were politically autonomous in the sense that they had a leader and council which played the role of decision-making. The subgroups were endowed with the power to choose the king as well as to dethrone him (ibid).

On the other hand, the centralized monarchies were characterized by a king as head of state and there were many communities under his authority. Unlike in the case of subgroups under federated governments which were autonomous, communities under centralized monarchies

were not autonomous. The king in the centralized monarchies had the power to choose members of council who would advise him. Between federated governments and centralized monarchies, the federated governments were more common than centralized monarchies in precolonial Africa. Thus Palagashvili argues that:

> …the internal political organization of chiefdoms and kingdoms took two main forms: (1) federated or pyramidal governments and (2) centralized monarchies. The federated kingdoms (also known as constitutional monarchies) consisted of a recognized head of state with many subgroups that were given significant autonomy. Each subgroup consisted of a leader and these leaders formed an inner council that was the major decision-making body and chose the king (and likewise could dethrone him). This federated type of governance was the most common in the late precolonial era. The centralized monarchy featured an exceedingly consolidated political administration that ruled over various communities and gave them limited political autonomy. The king was the head of the state and was advised by an inner council that was chosen by him (Palagashvili, 2018:283).

The perception that federated governments were more common than centralized monarchies was based on the perception by many African people that federated governments were more effective and beneficial than centralized monarchies. Moreover, they were common and preferred because they existed longer than centralized monarchies until such time when they were changed by the colonial political system. Perhaps, they were preferred and existed longer because they served both the subjective and objective interests of the people. Since the federated governments in precolonial Africa were the most preferred and most common, it is important to paint a clear picture of federated governments by discussing how they were structured.

2.3.2. THE STRUCTURE OF FEDERATED GOVERNMENTS

In precolonial African societies, federated governments had their roots in the lower level of lineage or village. Each lineage had the political power to choose its leader and lineages collectively formed a village (Palgashvili, 2018). Lineages were entitled to choose a leader of a village or tribe. The leaders of different lineages served as members of the council of the chief and the chief was perceived and understood as the religious, ancestral and political authority. Thus:

> the chief was seen as the tribe's religious leader and the living representative of the ancestral spirits as well as the governance leader responsible for maintaining order and acting as a decisive authority in matters affecting the welfare of the tribe (Palagashvili, 2018:284).

Van Wyk (2007:6), concurs with Palagashvili that some kingdoms such as the Cayor, Bur, Ga, Asante, Yoruba, Kongo, Luba and Buganda believed that kings possessed the supernatural or divine power to rule which is derived from their lineages, echoing the same sentiments from the previous chapter on the divine right of kings in the formative years of Western societies. Notwithstanding this power, kings did not rule in isolation but they ruled with the support of councils. According to Palagashvili (2018:284), the chief's council which was made up of elders, had some key functions that it performed. First, it monitored the performance of the chief in order to ensure that he does not abuse his powers. Second, it assisted the chief in the execution of his duties. Apart from the council of elders, there was also the inner council which assisted in governance. The inner council was constituted by relatives and friends of the chief (ibid). However, even though members of the inner council were influential, their powers did

not override those of the chief. Their role was simply to keep the chief informed about what is happening in the tribe. This means that the members of the inner council were reduced to almost mere whistleblowers (Palgashvili, 2018).

Moreover, Palagashvili observes that apart from the chief's council, there also existed village people or commoners who served as the court (ibid). They served as the last resort where there was no consensus over a disputed issue between the chief and the council of elders. At the court, community members and their leaders discussed a disputed issue and finally resolved it amicably through consensus. In the context of Lesotho, Machobane (1990:23), argues that it was at the public assembly and court where people spoke their minds freely in order to reach a consensus. If a chief acted against the public opinion, he was dethroned since his action could cause unnecessary conflict in the tribe (Palagashvili, 2018:284). However, Palagshvili notes that it was on rare cases that the chief acted against public opinion. In the light of the above, the precolonial models of political authority and governance structures could be better understood in terms of federated kingdoms. According to Palagashvili (2018), a federated kingdom was formed by chiefdoms when they come together. The chiefs in the federated kingdom retained the powers they had in their tribes. What is important with this practice is that tribes continued to enjoy their autonomy even in the federated kingdoms. Moreover, the retention of the powers they possessed in their tribes sustained the political structures of different chiefdoms. Having discussed the structure of federated kingdoms, it is important to discuss the administration of chiefdoms.

2.3.3. THE ADMINISTRATION OF CHIEFDOMS

Chiefs in precolonial Africa were relatively accountable to the people and they were remunerated for executing their administrative duties (Palagashvili, 2018:285). For example, the major responsibility of a chief in precolonial Lesotho was to ensure the welfare and wellbeing of his people and this was done in consultation with his council (Jingoes, 1995:3). In the execution of these responsibilities, chiefs had the executive, legislative and judicial powers which were monitored by councils of elders. The judicial services were administered by the chiefs in the sense that they served as judges of village courts. Village courts were regarded as courts of appeal in which, *inter alia*, disputes between lineages were resolved. For Palagashvili (2018:285), heads of lineages were responsible to arbitrate for cases such as divorce, adultery, family disputes, petty theft, common assault and fighting, hence on the basis of being judges, chiefs were paid for the services they provided (in the form of livestock, grain or other traditional forms of payments).

Palagashvili (2018) observes that land in the precolonial Africa belonged to the ancestors and it was neither a communal property nor private property. He further points that the people who acquired land did not own it but had rights only over the piece allocated to them. It is worth noting that while it was the responsibility of a chief to allocate land, the allocation was done in consultation with the council of elders (ibid).

Chiefs in precolonial Africa had no other means of income except to receive payment from people. The payment of chiefs was made by the people on the basis of quality of service. Failure

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to provide the quality of service led to desertion to another chief who provided quality of service. Palagashvili (2018: 287) argues that:

> it is important to note here that the chief had no other real means of income besides what he got from his citizens in exchange for his services as the political and religious leader of the tribe. In that way, the chief acted as a residual claimant on the governance services provided to this people in his community. In order to receive the payment, the chief must provide quality governance services to his citizens. If he fails to do so, he will lose the "members" of his community.

Since chiefs were deserted or dethroned on accounts of not performing their duties and failing to listen to the council elders, they (chiefs) had a moral duty to do everything possible that could be in the best interest of their people and kingdoms. Palagashvili further notes that kings were also deserted and dethroned if they acted against the wishes of the people. This implies that the right of the people to dethrone chiefs and kings forced chiefs and kings to compete for providing better governance services. It is important to note from all this that pre-colonial African societies had functioning governance systems that ensured a smooth flow in the day to day running of their kingdoms. However, when colonialism arrived in Africa, an impression was given by the colonizers that Africans did not have elaborate and sophisticated governance systems, which also became part of the reasons to colonize Africa; to give them *modern/Western* type governance models which they considered superior. At this point, it is important to discuss how colonialism came into play and distorted the precolonial African models of political authority and governance structures.

2.4.   THE ADVENT OF COLONIALISM

According to Ocheni et al (2012:46), colonialism is the absolute domination of one country by another foreign country in a direct manner. In other words, it is a direct domination of one country by another. Soukni (2020:11), defines colonialism and imperialism as policies that were created by colonial states which sought to expand their territories by coercion for purposes of retaining political authority and gaining financial dominance. For Ocheni et al (2012:12), colonialism had two objectives. First, it aimed to achieve the goal of political domination of one country by another foreign country. Second, it aimed at the exploitation of the colonized country. Ocheni et al further asserts that colonialism is a form of imperialism. He argues that:

> it is a phenomenon which is part and parcel of another phenomenon called imperialism. In fact, colonialism is a direct form of imperialism. This is why it is often said that "all colonialism is imperialism, but not all imperialism is colonialism" (2012:12).

The existence of colonialism dates back to around the year 1500 while its end can be traced to the 1960s. It started with the emergence of industrial revolution which emerged with the decline of agricultural production, more especially in Britain. Consequently, the industrial revolution changed the Western socio-economic policies and practices. As such, the quest for accumulation of wealth accompanied by the need for raw materials led to the colonization of Africa (Kalama et al, 2020:303, Ocheni et al, 2012:47). This means that the colonization of Africa was necessitated by the socio-economic transformation of the European countries which were driven by the capitalist interests.

For Ocheni et al, the industrial revolution increased the appetite of Europeans to produce more and this is what led to the high demand of raw materials that were required by industries. This forced the Europeans to look for raw materials from external continents such as Africa. Indeed, the European industries managed to acquire raw materials and, on top of this, they produced more than what was required. Given that the new products were produced at a faster rate, European products required both internal and external markets. Consequently, Africa had the potential to become another market for European products (Ocheni et al, 2012). While Africa was being used as a market, it was also used to invest surplus capital for Europeans. The Europeans started to make huge profits in Africa and this prompted the quest to seize and control the entire African markets (ibid). Apart from this, the desire by Europeans to have full control of the African political administration increased as well. Consequently, the quest for the control of African economy and political administration paved way to colonialism. Ocheni et al argue that:

> the colonialist had to take direct control of African economy and administration as a means of protecting the capitals they have transported from Europe to be invested in Africa. We are aware that one of the reasons for colonization of Africa was because colonialists were looking for where to invest the surplus capital which was accumulated as a result of the industrial revolution (2012:48).

In light of the foregoing, the strategy to colonize Africa had to be created and implemented by colonialists. The colonization of Africa was collectively planned by Europeans. However, only the British strategy for colonizing Africa will be discussed for purposes and intents of achieving the goal of this chapter. The justification for this approach is that Britain seized and ruled many African states while other colonizers seized lesser African states (Mudane, 2018:10). This does

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not mean that other European colonizers did not have their own strategies or did not use the one that was utilized by Britain. According to Palagashvili (2018:290), the plan for colonization of Africa was officially launched at the Berlin conference of 1884 where the African continent was to be divided among Western imperial forces such as the British, the French, the Dutch, the Germans, and the Belgians in what has come to be called *the scramble for Africa*. For him, the strategy that was used by the British was "indirect rule" which ended up with the altering and weakening of the precolonial African social and political system as well as its structures. When the British arrived with the intent to colonize Africa, their obvious targets were the people who commanded control and respect of their various tribes- the African chiefs and the kings. British indirect rule was implemented in at least three major ways; it was implemented by paying the traditional chiefs salaries, centralization of chiefdoms and the elimination of the power of citizens to dethrone traditional chiefs and kings.

In the first instance, British indirect rule established the employer-employee relationship between the traditional chiefs and the British administration. This was proven by salaries that were paid to the traditional chiefs by the British administration in exchange of services provided by chiefs. Moreover, traditional chiefs received sitting allowance after they had performed duties entrusted to them by the colonialists. Traditional chiefs were used by colonial powers to collect taxes as well as to maintain order. Palgrashvili (2018:291) observes that:

> the British paid the chiefs to both carry out British demands as well as to perform the traditional functions of governance. The British demands on chiefs or kings primarily were to "maintain order" and collect taxes from the citizens. One of the ways in which the chiefs obtained extra money was by "sitting" in a court created by the British administration.

It could be drawn from the foregoing observation that the traditional chiefs had many sources of income during colonial rule. Consequently, the payment of salaries to the traditional chiefs made them (chiefs) accountable to the British administration instead of the people. As such, British indirect rule shifted political power form the people to the British administration by paying salaries to chiefs. Notably, the British indirect rule separated chiefs from the people and created a remarkable social division. In the context of Lesotho, the apparent collaboration of traditional chiefs with British imperialism was attacked by the *Lekhotla la Bafo* (Council of Commoners) which was led by Josiele Lefela (Mekenye 2012). The *Lekhotla la Bafo* complained that chieftainship has been turned into an instrument of oppression and exploitation to the extent that chiefs have deserted people. Mekenye argues that:

> thus one major reason for the Basotho rebellion in 1880/83, was the cape colony's assault on chieftainship by turning them into tax-collectors and tools of oppression and exploitation for the colonial regime. In other words, the chiefs were no longer in touch with the people; rather they now worked for their own interests as well as those of the colonial governments (2012:79).

Second; another key method for implementing the British indirect rule was to consolidate and centralize different smaller chiefdoms. For example, some chiefs who governed smaller areas were appointed by the British administration to govern larger areas. The kings who governed larger regions were put under the jurisdiction and power of chiefs who were appointed by the British administration. Thus:

> the [other] main feature of British colonial rule was consolidating various smaller chiefdoms and districts into larger jurisdictions and choosing one of the traditional chiefs to govern the new larger area. As a result, chiefs or kings who once governed smaller areas were propped up as chiefs or kings of larger regions; all of the chieftaincies within new larger jurisdictions were forced to

subordinate themselves to artificial, British-appointed chiefs (Palagashvili, 2018:292).

The probability is high that the consolidation and centralization of chiefdoms without the consent of people inflicted psychological pain on the chiefs whose powers were taken away from them. It follows that even the people as well, suffered the same psychological pain. Notwithstanding the psychological pain suffered by the demoted chiefs, those who were promoted were satisfied and became happy. On the contrary, those who were demoted became angry. In this regard, the consolidation and centralization of chiefdoms caused a great confusion amongst chiefs and the people. Understandably, anger which culminated into conflicts between the demoted and promoted chiefs was inevitable. Another key impact of the centralization of chiefdoms is that it disfigured the existing precolonial African governance structures, separating the chiefs from their people and showing complete disregard to existing social and political institutions that ran the African societies with some degree of order and efficiency. This made it possible for the British administration to have control over the appointed chiefs and kings. One would imagine the confusion as well as chaos that prevailed among the people and their kingdoms when these radical changes of divide and rule were taking place in Africa.

Third; in the precolonial African political system, citizens had the power to dethrone their chief or king and elect the new one. This power influenced chiefs and kings to listen to the council of elders. One may argue that the power of the people to dethrone their chief and install a new one instilled discipline in chiefs and created competition between chiefs for them to work hard in execution of their duties. However, with the advent of colonialism, citizens were no longer

able to dethrone the chief or king due to the influence and backing up of the British administration. For example, if citizens attempted to dethrone a chief or king, the colonial soldiers and/or police were used to suppress that action of people in the name of keeping law and order (Palagashvili, 2018:293). Palagashvili further observes that what was important for a chief or king during the colonial rule was to satisfy the British administration. This shows that the chiefs were completely accountable to the British administration rather than to the people, which they had been doing formerly.

Palagashvili contends that since the British administration protected chiefs and kings from being dethroned, the traditional chiefs started not to listen to the council of elders anymore. Instead, it was the council leaders and people who listened to chiefs and kings. This means that the bottom up chain of command was replaced by the top bottom system and on top of it were the British colonizers. Consequently, the British support of chiefs ended the political competition for the position of a chief or king. Moreover, chiefs became free from being monitored by councils and started to be monitored by the British colonizers. At this juncture, it could be understood that the most effective colonial strategy which was used by the British colonizers was the separation of chiefs from people (Mekenye, 2012:80). As a result of the separation, consultations between chiefs and people to discuss social and political issues came to a halt. Having discussed the strategies that were used by colonialists to have a grip on the political affairs of the pre-colonial African states, it is important at this point to discuss the nature of the colonial state.

2.5. THE NATURE OF THE COLONIAL STATE

It should be noted from the onset that colonialism was not negotiated with native Africans, but imposed upon the already existing and structured African societies. The imposition was primarily done for purposes of exploiting African resources for the benefit of Western societies at the expense of African people. After colonialism had been imposed, it simply established exploitative relationship between the colonizer and the colonized. However, colonialism kept safe, domestic societies for colonial interests. Bellucci (2010:18) argues that:

> colonialism in Africa imposed itself upon structured societies and established specific relations of exploitation. It did not, however, take land ownership from the hands of the people, a primary condition for capitalist production (…). Neither did it make wage labour a general rule. It left domestic society with its own social relations, which were conserved and /or adapted to serve colonial interests.

The established relations indicate that colonialism was characterized by exploitation that was deliberately designed to benefit the capitalist societies. According to Itah et al (2016:13), there are both causal and historical linkages between colonialism and economic imperialism as well as exploitation. The major areas of exploitation such as economic and labour exploitation as well as the imposition of taxes should be clearly articulated in order to explicitly clarify how colonialism was exploitative. These areas of exploitation should be understood as major tools which were used by colonialists to further their interests in Africa.

2.5.1. ECONOMIC EXPLOITATION

In order for economic exploitation to happen, there had to be means of production in the first place. At the time of colonization, the modes of production were the capitalist and traditional or local systems (Bellucci, 2010:18). For Bellucci, the capitalist system served the interests of metropolis while the traditional system of production served the economic interests of domestic societies. According to Bellucci, when the labour force was not employed, it engaged itself in the traditional system of production. For Bellucci, what was produced by unemployed labour force was discredited by the capitalist societies. This simply means that the local and traditional production was perceived and regarded as inferior by the capitalists. On the contrary, what was credited was the production of the capitalist societies since the capitalist perception was that only what has been produced in a capitalist society is important. This implies that, the production of the capitalist societies was considered superior while of domestic societies, inferior.

2.5.2. LABOUR EXPLOITATION

Colonial rule needed an African labour force in order to beef up the colonial economy. For this reason, the colonial states found it necessary to control labour in such a manner that it could benefit them by making massive production and profit. Sharkey (2013:5) argues that; "colonial rule depended on African labour to build and to maintain infrastructure, from roads, railways, bridges and telegraph lines to government offices and rest-houses". Sharkey further asserts that the colonial states decided to impose forced labour due to the need of African labour. Apart

from the forced labour, the colonial states had paid labour too. Belluchi (2010:18) observes that the capitalist system accessed cheap labour from domestic societies and paid workers wages that were far below what the workers deserved and this was absolutely exploitative. Nevertheless, Mhlauli et al opines that many indigenous African people from different countries have been exploited through hard and cheap labour in the mines of South Africa. Mhlauli et al (2015:212) argues that:

> the rush for mineral exploitation increased the plight and suffering of the indigenous people in South Africa. They were made to work in the mines, providing hard and cheap labor in very poor working conditions. The Africans flocked from all over Africa, from countries like Botswana, Malawi, Zambia and Zimbabwe and up to north to work in the mines.

2.5.3. THE IMPOSITION OF TAXES

The colonial rule saw it prudent to introduce and impose taxes upon Africans. Sharkey (2013:6), points out that taxes were imposed only on those Africans who were considered as adults from the age of eight years old and above. The rationale behind considering children as adults at the age of eight is questionable. Sharkey further observes that many Africans were forced to look for wage-paying jobs due to the need for cash that was required for paying taxes. It is undeniable that the wage-paying jobs such as mines, factories and farms were owned by the colonizers.

It is important to mention that in order for colonial states to control economy, labour and taxes, some kind of enforcement had to be utilized such as the armies and police. It is worth noting that most of the army and police members were Africans who were used as instruments of

enforcing the colonial rule against their fellow Africans. At times, they even pushed their individual interests forward. Thus;

> colonial states relied on an array of coercive bodies notably armies and police forces, but also an innocuously named labor bureaus" (…) as well as the private militias that some chiefs maintained. Moreover, these coercive bodies sometimes claimed significant autonomy and pursued their own corporate interests relative to other parts of colonial states (Sharkey, 2013:6).

In the light of the forgoing, one may argue that the nature of colonial state was exploitative and coercive. This is proven by the economic and labour exploitation as well as the imposition of taxes that were enforced by the armies and police. The rationale behind using coercive bodies was simply to ensure that there is no resistance to exploitation.

The contemporary world is divided into two categories namely the developed and developing states. This is the result of the European policies of colonialism and imperialism. On the one hand, the developed states have stable economies and strong governments. On the other hand, the developing states have shaky and unstable economies that have led to extreme poverty and weak governments. Even though many African states are now regarded as sovereign and independent states, colonialism has left unequal political power between developing and developed states (Cooper, 2002). For example, developed states seem to have stronger economic power than developing states and this has caused unnecessary tension between them.

Soukni (2020), argues that the Europeans had to first justify colonial dominance. According to him, they justified it on the basis of race superiority. This means that skin colour was fundamentally the determining factor for colonial dominance; white skin was superior and

black skin was inferior. Having justified colonial dominance, Soukni asserts that colonial states invaded Africa through the use of their strong armies and advanced weapons in order to suppress any opposition that may arise.

The suppression of any kind of resistance helped the colonial authorities to impose changes that portrayed European worldview. Furthermore, the colonial authorities gained political power by changing the judicial system that already existed for purposes of implementing the colonial rules. Soukni (2020:20), argues that:

> changing and controlling the judicial system in a colony can cause a shift in power and for the distance between the hegemon and the subordinate people to grow. As there is pre-existing difference or separation between the colonizers and those who are colonized in the sense that the colonizing minority were from the beginning considered to be more privileged than the colonized majority.

The changing of the judicial system was so effective to the extent that it increased the power of the colonizers who were even the minority. One would ask the question: how did the minority (colonialists) overpower majority (Africans)? An analogy of a boy and bull is relevant to provide the answer. Imagine a small boy who is looking after a bull by controlling it. A bull has more strength than a small boy but it is controlled by a small boy with a small stick in hand. A bull is controlled by a small boy with a small stick because it does not know its strength. Once it becomes aware of its strength, a small boy will never control that bull again. The problem with a bull is primarily its mind-set. In this analogy, a bull translates to Africans while a small boy, colonialists.

The changing of judicial system also stripped off the political power of the colonized despite the fact that they were the majority in their African states. Besides the deliberate use and control of judicial systems, Soukni observes that many colonial states used administrative systems to gain political power. For example, they appointed some African people into administrative positions in government while they still controlled them. According to Soukni (2020), the appointees were used as bridges between the colonizers and the colonized.

Moreover, another method that created the imbalance of political power between developed and developing states is the introduction of the Western education system. According to Soukni (2020:22), the colonial states implemented education systems that benefited the colonizers while at the same time disadvantaged the colonized. For examples, the colonizers benefited by undermining the African knowledge system and considering it inferior while promoting the Western knowledge system through education. With the advent of Western education, Africans abandoned their epistemic cultural values and practices. On top of this, the colonial states used their languages in education system while denying local languages the same opportunity. Consequently, the Africans who were fluent in foreign colonial languages were recruited to study and work for colonizers. Inversely, the colonized were disadvantaged in the sense that their education system and language were undermined. Mosweunyane (2013:55) argues that:

> the Africans that excelled in schools received scholarships to go to study in European and American universities, which further distanced them from their African cultures. The learning and teaching strategies and techniques that African societies had employed for lengthy durations were discarded. African education system was undermined at the expense of a more clearly defined form of structured learning which was introduced to the continent from the North.

At this juncture, it is important to highlight that due to the oppressive and exploitative nature of the colonial state, many African countries engaged in a struggle for independence. Therefore, in light of the foregoing discussion, it is important to turn the discussion to the struggle for independence in Africa.

2.6.   THE STRUGGLE FOR INDEPENDENCE IN AFRICA

The struggle for independence in Africa began with the African resistance against colonization. The resistance was influenced by the political process of struggle which is generally known as nationalism. During the time of colonization, many colonies were administered through oppressive colonial rule and laws. As indicated in earlier sections of this chapter, colonial rule was pioneered by the European countries such as Great Britain, Germany, France, Portugal and Spain (Gunn, 2018:2988). African people who lived freely in their kingdoms were forced to obey the colonial rule and laws which were foreign to them. Consequently, colonization was resisted by most African states hence the beginning of nationalism which led to the African independence.

2.6.1. THE CONCEPT OF NATIONALISM

The concept of nationalism is derived from the English word "nation" which refers to a group of people who have agreed to live together on the basis of the shared cultural values (Gunn, 2018:2989). This implies that for a group of people to be called a nation, there should be an agreement or contract for living together as a community. The agreement should be followed by the existence of cultural values that would determine the way of life in a community. The

existence of cultural values demonstrates the willingness of people to live together for the common good under the political authority of their choice. This means that the consent of people is needed for living together as a community. In this sense, nationalism could be understood as the process of self-identification of a particular nation on the basis of the shared cultural values, for the end of self-determination. Where self-identification and self-determination are deprived on the part of a particular nation, that nation faces the risk of extinction hence it has no other option except to resist and engage in a struggle for it to flourish and remain as a nation. Therefore, Shivji (2003:3) sums it up to say; nationalism is "a process of the struggle in the formation of nations". In the light of the foregoing, *nationalism* could be defined as the process of political struggle by a nation for the purpose of fighting for self-identification and self-determination (Gunn, 2018:2989).

For a nation to fully determine its future, it should attain and enjoy its sovereignty without any external threat. It is against this view that Africa was conquered and the legal status of the European states to rule the African states was imposed (Gunn, 2018:2989). This led to the distortion of the African kingdoms and the destruction of the Kingdoms that once characterized African sovereignty. Different groups of people who formerly identified themselves as distinct found themselves forced to belong to one colonial state, which further worsened their conditions. Consequently, in pursuit of their former sovereignty, Africans were forced to resist European colonization as well as to defend their territories through nationalism. For this reason, African nationalism became a political struggle that was used to resist the colonization of Africa by the Europeans. Therefore, African nationalism should be understood as a political

struggle which fought against European imperialism in Africa. This is to say, African nationalism is a process of struggle against the European oppression and domination which denied Africans their cultural identity and self-knowledge. Moreover, one would also argue that African nationalism is an ideology which was used to rediscover the authentic nature of Africans by Africans themselves. Thus, "it was a struggle against denial – denial of humanity, denial of respect and dignity, denial of the Africanness of the African. It was the struggle for the "re-Africanisation of minds" or to *rebecome* Africans" (Shivji, 2003:3).

Although African nationalism was the struggle against colonization and imperialism, it was the process of struggle for Africans to reunite, revive and remember their cultural values as well as their true selves. Besides being the struggle to reunite, revive and remember African cultural identities, it was also the struggle to rebuild the African nation. Indeed, it was the African struggle for transformation from Europeanization to Africanization. In a nutshell, African nationalism was the struggle for African liberation. Therefore, it was a political tool that was used by Africans to resist colonization. Indeed, this was a tool which was used by many African states which were colonized and it worked for them.

2.6.2. AFRICAN RESISTANCE AGAINST COLONIZATION

For many centuries before the colonization of Africa, Africa and Europe had peaceful and successful ties that were based on trade. This is the proof for the existence of mutual economic benefit between the two continents. However, with the advent of the industrial revolution in Europe, the capitalist system changed the mutual economic benefit that existed before. Given

that the capitalist system was based on imperialism and domination, the industrial revolution intensified colonialism in Africa. Gunn (2018:2990) argues that:

> for so many centuries, the relations between Africans and Europeans were based on trades as we have foretold and every party has taken benefit from these activities. But with the industrial revolution in Europe in the XIXth century, the win-to-win economic system has been changed into a new capitalist system based on imperialism and domination. The new system brought colonialism at a large scale in Africa.

Colonialism expanded and deepened European economic interests at the expense of Africans and mutual economic benefit ceased to exist. It is important to mention that colonialism did not only affect the mutual economic benefit, but it also threatened African cultural values and the sovereignty of the African kingdoms (Gunn, 2018:2990).

The actual threat of African cultural values and sovereignty prompted massive resistance to the colonization of Africa. According to Gunn (2018:2990 – 2991), the main factors that influenced African resistance against colonization were twofold: First, it was on the basis of the sovereignty of the African kingdoms. The reason behind this factor is that colonization threatened the African sovereignty to the extent that Africans have lost the right to self-administration, self-determination and freedom to colonialism. This means that African people have lost their political participation and identity that they enjoyed before colonization. Second, the African resistance was based on religion. The African religious thoughts and beliefs were adjacent to sovereignty because rituals and cultural values were connected to religion. For this reason, colonization was perceived by Africans as threatening local religion, cultural values

and sovereignty. Therefore, Africans found it necessary to protect their social as well as political identities and interests.

A typical living example of the passion of Africans to resist colonization through nationalism was the formation of the African National Congress (ANC) which was formed in South Africa in 1912. The formation of the ANC inspired many African states to resist colonization (Cooper, 2002:10). Gunn (2018) further argues that the African resistance through nationalism was made known to many Africans by the class of educated Africans through the media, especially newspapers. This means that African nationalism was established and made popular through the use of the Western education system. For example, some few educated Africans who studied colonial languages such as French and English introduced nationalism to their tribes and kingdoms. This indicates that the education of missionaries had a positive impact for spreading nationalism for the liberation of Africans. Moreover, it was through the help of education led by missionaries that nationalism succeeded simply because of some Africans who were agents of the colonial authorities. Gunn observes that: "some of the educated Africans became teachers, translators, doctors, agents of private sectors in the European companies like lawyers for example" (Gunn, 2018:2992).

Gunn asserts that another factor which strengthened African nationalism was the involvement of many Africans in the Second World War who were soldiers in the British and French armies. The advantage of the Africans for being in the European armies is that they learnt and knew how to use guns and they were also exposed to military skills. As a result of their involvement in the European armies, a new perception of Europeans by African was created hence the rise

of African nationalism. Since the purpose of the Second World War was to resist Hitler from

conquering many European states, the Africans who were involved in the war realized the need

to resist the colonization of Africa. Gunn argues that:

> the second world war was another factor which encourages African
> nationalism. Lot of Africans were enrolled in French and British armies, as
> soldiers and they knew the use of guns, the military weakness of white people,
> and also they were influenced by American soldiers about democracy and
> freedom. War propaganda provided an opportunity for Britain to rally her
> West African subjects against Nazi system but this war also permitted the
> African elites to articulate their nationalist demands about freedom and self-
> determination that underlie British war propaganda (Gunn, 2019:2993).

Gunn further observes that the African nationalism was also strengthened by the declaration

made by the British prime minister, Winston Churchill and the American president Franklin

Roosevelt who declared their respect of the right of all people to determine the form of political

authority they want. Indeed, the declarations affirmed the African right to self-determination

and independence. Furthermore, the declaration affirmed the victory of Africans against

colonization through nationalism. This marked the end of colonization and the beginning of

African independence (Gunn, 2019).

2.7. THE INDEPENDENT AFRICAN STATE

During the time of independence in the 1950s and 1960s, the spirit of nationalism in many

African states took a new shape which was different from the one experienced during

colonization. The difference was made by the diversity of ethnic groups and cultures that

challenged nationalism. Because the colonial state was characterized by a forced coming

together of people who belonged to different ethnic kingdoms without any recognition of their

inherent differences, this created a challenge to the nationalist agenda of the post-colonial African state. After independence, many Africans valued their own ethnic identity over national identity hence the post-independent political leaders invested more energy into ethnic interests at the expense of national interests (Gunn, 2018:2393). Perhaps, one may argue that this happened through the influence of the European colonizes for purposes of dividing the Africans. As a result of this influence, political leaders promoted their own ethnic groups and this created both social and political rifts between different ethnic groups in some independent African states. The biased promotion of ethnic groups divided people and nurtured nepotism as well as favouritism which led to political chaos or instability and this was proven by the prevalence of civil wars, genocides and military coups. Gunn argues that:

> the African leaders relied on their own ethnic groups rather than the national ones and this behavior broke the national sentiment among the population. The use of the ethnic groups as a bond for nationalism provoked ethnic divisions and rivalries but also civil wars, genocides, military coups in some countries like Nigeria, Rwanda etc (2018:2994).

Gunn further argues that political chaos in some African countries was accompanied by corruption which weakened economic growth that culminated into extreme poverty and as a such, the African nationalism was challenged. Due to the prevalence of ethnic and cultural diversity in Africa, nationalism was also challenged by ethnic struggles which sought political power to rule. Notably, different ethnic groups claimed the political right to determine their destinations. Consequently, African nationalism in some independent African states became intertwined with ethnicity to the extent that political leaders used both of them to rule (Gunn, 2018).

2.8.   POWER DYNAMICS IN THE INDEPENDENT STATE

The power struggle against colonialism through the use of African nationalism was deeply rooted in the passion to emancipate Africa from the colonial rule. The emancipation was expected to be done by the Africans themselves. In other words, the struggle was fundamentally the struggle for political power against the European colonizers who imposed their colonial rule upon the African states. The struggle became successful and Africans finally received their political independence from their colonizers. As a result, there was power shift from the European colonizers to African political leaders through independence. According to Van Wyk (2007), at the beginning of independence, the incoming political leaders did not have enough time to prepare themselves for independence. For this reason, the African political leaders simply inherited the colonial structures of governance which they were not familiar with. Van Wyk argues that:

> Africans had little time to prepare for independence and at independence the incoming elite inherited alien structures. It inherited state structures developed through coercive mechanisms and centralized political and economic controls such as the army, policy and the bureaucracy. This resulted in the establishment of a political culture based on ethnicity and authoritarian patterns of governance (2007:7).

In essence, there were no sufficient and necessary steps taken to ensure that the incoming African governments were properly suited to the task at hand. Since the incoming African political leaders did not have enough time to prepare themselves for independence, one would argue that it was European colonizers who did not prepare the incoming political leaders for independence. The incoming African political leaders were expected to rule in a different way

as compared to their predecessors who ruled through coercive mechanisms and centralized political and economic controls. Moreover, the incoming African political leaders were expected to build the African economy that was torn apart by the European capitalists (Mudane 2018:2). Since the incoming leaders inherited state structures that were developed through coercive mechanisms and the centralization of power and economy, the high expectations of people about the post-colonial government were probably switched off. The most dangerous inheritance from the colonial rule was autocracy which replaced participatory and consensual political practices which were characteristic of the precolonial Africa. Arguably, the autocratic rule characteristic of the oppressive colonial rule which was designed to be discriminatory towards Africans needed to be replaced with another form of governance that was more accommodating to African needs. This means that the incoming African political leaders simply inherited the coercive and authoritarian structures of the colonial administration.

African political leaders who came to rule after independence became exceedingly rich and retained power through coercion as well as using state resources to further their individual interests and those of their ethnic groups (Van Wyk, 2007:11). Van Wyk further argues that the recognition of individual and ethnic group interests ensured that leaders stay in power as life presidents. The prolonged stay in power was strengthened by the centralized political and economic powers which were accessed by political leaders only. Additionally, the acquisition of political power was legalized by amending constitutions in order to accommodate repeated and continuous terms of political leaders in office. For example, in Ghana, Nkurumah amended the constitution and dismissed civil servants without the approval of parliament. He further

arrested other people on the basis of political crimes. Moreover, Nkurumah declared his ruling party the only legitimate party and this action inspired the single-party rule in many African states. Mudane (2018:11), observes that:

> in 1960, a change in the constitution gave Kwame Nkurumah, as head of state, the power to dismiss civil servants, judges, and military officers without the authorization of parliament. In 1963, the president acquired the power to detain persons charged with political crimes and to try their cases in special courts. When, in 1964, Nkurumah proclaimed the ruling party the sole legal party in Ghana, he both followed and gave impetus to the trend toward single-party rule on the continent.

This indicates that Nkurumah's rule was authoritarian and this could be one of the reasons that he was toppled in 1966 by the military. The possible question could be; what happened in the African states where the attempts to amend the constitution failed? The answer is that, where attempts to amend the constitutions failed, political leaders started to appoint their successors from their own political parties. Moreover, African political leaders formed their political parties to retain power. Van wyk argues that:

> in Malawi, Bakili Muluzi also attempted constitutional amendments to give him a third term in office. Muluzi's attempts backfired but he managed to have Binu Wa Mutharika ascend to power. After a fall out with Muluzi and the party that brought him to power, Mutharika formed his own political party (2007:13).

It is not surprising for political leaders to use their political parties in order to grab political power since most political parties in Africa emerged out of undemocratic environment of authoritarian rule which was inherited from the European colonizers. For this reason, many political parties in Africa were established to support autocracy and authoritarianism (Mudane, 2018, Van Wyk, 2007).

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For purposes and intends of maximizing political power, the incoming political leaders excluded traditional leaders and abolished some traditional systems. Van wyk (2007:14), cites an example of president Nkrumah of Ghana and president Nimeiri of Sudan. For him, Nkurumah excluded Asantehene while Vimeiri abolished the 'native administrative system' and created regional area councils. The exclusion of traditional leaders from governance and abolishment of native administrative system had a potential of causing conflicts more especially by the disadvantaged ethnic groups. However, it is also important to acknowledge that the traditional leaders were not excluded in all the African states. Van Wyk argues that in some African states, traditional authorities and leaders were still recognized and politically supported. Thus:

> in South Africa, eleven kings recognized by government serve on its council of traditional leaders. These traditional leaders are the custodians of their ethnic groups and its culture. In certain rural areas, governments only have access to the rural population if it goes through the traditional leaders (Van Wyk, 2007:14).

Moreover, Van Wyk contends that in Uganda, president Museveni supported the installation of Museta II as the new *Kabaka* king. Although Museveni acknowledged and supported the installation of the king, the salient question is; did the king acquire the political power to rule or his kingship was simply ceremonial? The answer is that the kingship of Museta II was simply ceremonial without the power to rule (Van Wyk, 2007:14). This is a good reflection of what is happening in Lesotho in the sense that the king is recognized by the government without the power to rule. As such, the king is simply a constitutional monarch.

Van Wyk (2007:17), further argues that the primary goal of political leadership is power. For him, political leaders often gain their political power in many ways such as ascription, succession, nomination, appointment, election or self-appointment. The important question is; which method amongst these was more suitable and legitimate than others for the acquisition of power more especially in African states? The question in essence interrogates whether political power was legitimately obtained, maintained, distributed and exercised by the incoming political leaders after independence. Van Wyk (2007:17) points out that there is a link between ethnic leadership and succession in Africa. Due to this linkage, he maintains that large ethnic groups in Africa wish to be ruled by their own people whom they know very well that they would take their ethnic interests seriously. As a result, leaders who did not belong to the large ethnic groups were removed from power and replaced by the ones who came from the large ethnic groups. However, political leaders were also removed from power by members of their own ethnic groups on account of other issues such as poor service delivery. Those who managed to stay in power had to do so through coercion. As a result of many political leaders who retained power through coercion, Van Wyk asserts that many African governments were overthrown by the military since 1991.

In the light of the foregoing, political power was acquired by coercion by African leaders and this was inherited from the colonial rule. As such, many African states experienced and are continuing to experience persistent political instability on the basis of power struggle since independence to the present day. Attempts to address the political and economic impasse by regional bodies such as the African Union (AU), New Partnership for Africa's Development

(NEPAD), Economic Community for the West African States (ECOWAS), Organization of African Union (OAU) and African Peer Review Mechanism (APRM) were made but all have been unsuccessful. The struggle for political power and economic emancipation in most independent African states is still continuing and this is worrisome more especially on the part of many African states.

Although many attempts have been made by some African political leaders to address the political and economic impasse in Africa, the problem still persists and seems to be far from being resolved. History has taught people that all these bodies are not effective enough to address the political and economic impasse in Africa since they seem not to focus on a suitable political authority which is based on the African social contract for the benefit of Africa and Africans. Perhaps, a dialogue should have been initiated amongst Africans about a suitable form of government. A dialogue could have been the starting point at independence instead of inheriting the coercive, authoritarian and centralized Western political system. Consequently, failure of Africans to engage in a dialogue led to the inheritance of colonial rule and the Western social contract by African political leaders. Therefore, the African continent is where it is today because of colonialism, authoritarian and brutal African political leaders. Having discussed power dynamics in the independent state, it is important to look at contractarianism in the independent state.

2.9.   CONTRACTARIANISM IN THE CONTEXT OF AFRICA

It is undeniable that the social contract theory has played a pivotal role in influencing and shaping the contemporary Western states. Having this in mind, it is equally important to understand that the Western social contract has been inherited by African political leaders during independence. Therefore, it is necessary to unpack the social contract theory in the context of contractarianism more especially in Africa. According to Etieyibo (2018), the social contract theory is deeply rooted in individual interests. For example, a government is acceptable on condition that it satisfies individual interests. On the basis of this, man is governed by self-interest and his rational capacity makes him to pursue those interests optimally.

Given that all men have individual interests, it is important for every rational person to cooperate with others in order to agree and accept a government. This means that a legitimate government could exist only if it has been endorsed and accepted through the consent of a group of people (Laslett, 1960). For this reason, individual interests and consent of the governed are the key underpinnings of the social contract. The consent of the governed to form a government seems to have been applied in the formation of Western states only. On the contrary, the consent of Africans has never been solicited in Africa at the beginning of independence. Instead, the incoming political leaders simply inherited the Western form of governance without the consent of African people. The predicament is that the inherited form of governance that is premised on the Western social contract seems to put the primacy of individual interests over the interests of the community.

The Western social contract does not serve the interests of African people because the African social and political thinking is by and large communitarian. The inherent communitarian nature of African social and political thinking considers a human person indivisible from others as opposed to the Western conception of a person. In this sense, a person is defined by reference to the community (Menkiti in Wiredu et al, 2004). The similar view is echoed by Mbiti who observes that: "I am because we are" (Adeate, 2023). Gyekye captures the inherent communitarian aspect of a human person and argues that:

> communitarianism sees the human person as an inherently (intrinsically) communal being, embedded in a context of social relationships and interdependence, never as an isolated atomic individual. Consequently, it sees the community not as a mere association of individual persons whose interests and ends are contingently congruent, but as a group of persons linked by interpersonal bonds, biological and/ or non-biological, who consider themselves primarily as members of the group and who have common interests, goals and values (1992:104).

According to the communitarian perspective discussed above, one can conclude that there is no person who can exist independently in isolation from others in order to successfully achieve his or her aims in life. Therefore, the African social and political life is better understood in terms of communal existence and participation but not individual desire for social and political interests (Chemhuru, 2017:510). Chemhuru admits that communitarian thinking does not mean that an individual human person absolutely submits to the community. Moreover, it does not mean the community has absolute rights over the individual human person. In the foregoing light, one can argue that communitarian thinking implies that interests of the individual human person are well recognized but priority is given to the community. This means that even though priority is given to the community, individual rights should not be compromised. Thus:

> moderate or restricted communitarianism gives accommodation, as has been shown, to communal values as well as to values of individuality, to social commitments as well as to duties of self-attention. Even though in its basic thrust and concerns it gives prominence to duties toward the community and its members, it does not- cannot- do so to the detriment of individual rights whose existence and value it recognizes, or should recognize, and for a good reason (Gyekye, 1992:121).

The view that the Western social contract theory values individual interests rather than communal interests indicates that the theory is not consistent with the African communitarian social and political thinking. Therefore, an African social contract theory which is based on the African communitarian social and political thinking is needed in Africa.

2.10. CONCLUSION

The purpose of this chapter was to give an overview of the social and political conditions in the African states from the pre- to the post-colonial stages of political organization. It was observed in this chapter that although it is difficult to come up with an accurate picture of how the conditions in the pre-colonial state were, through a reconstruction of the information found in available literature, we can note that traditional African societies had some political organisations centring around the idea of clanship based on linguistic and cultural lines. Linguistically similar groups organized themselves into political entities with a chief at the helm while some had kings. Constant conflicts of these different ethnic groups were the norm as they competed for resources. The coming in of colonialism ushered in an era where different warring ethnic groups found themselves in one state which was micro and macro-managed by the colonial administration through divide and rule mechanisms as well as oppressive laws and systems, that ensured that the native Africans would not unite to rebel against them. The

colonial state was premised on the superiority of the white race and the subjugation of the black Africans. However, it was also observed in the chapter that once colonialism ended, the new political entities led by the native black nationalists did not make any efforts to change the colonial system but merely inherited existing structures that had been created for their subjugation. Instead of whites subjugating Africans, it ended up being the black liberators such as Nkrumah, using the very same system to subjugate the people they fought to liberate. Due to this, independent African states have continued to face a number of political, economic and social problems that necessitate a complete overhaul of the inherited colonial systems to something that is authentically African, designed to have the interests of the Africans at the core. Having established these observations, it is the task of the next chapter to continue with an evaluation of the applicability of Western-based social contract to Africa.

CHAPTER THREE

THE APPLICABILITY OF THE WESTERN SOCIAL CONTRACT THEORY TO AFRICA

3.1. INTRODUCTION

It can already be seen from the discussion in the previous chapters that the Western social contract theory may be problematic to apply to the African context. For one thing, it seems to be the case that the social contract theories were born out of conditions that were unique to Western societies in their various stages of development. Notwithstanding the successful application of the Western social contract theory in the West, its application in Africa seems to have caused many social and political problems. The aim of this chapter is to make an in-depth evaluation of the kinds of problems that arise in our attempt to try and apply the social contract theories to the African situation. To this end, the chapter seeks to examine the role of the social contract theories in the justification of colonial systems that led to the subjugation of native Africans in their own ancestral lands.

3.2. SOME PRELIMINARY ASSUMPTIONS

Before any successful analysis of whether the social contract theories apply to the African context, it is important to briefly outline some preliminary assumptions. The first thing to note is that all the world's civilizations that have become successful have done so through their own achievements, inventions, language, and ideas. A look at ancient civilizations that have given birth to modern Western states, such as the ancient Greeks and the ancient Romans, will reveal

that societies tend to develop more as they do things their own way, rather than things being imposed on them. Modern science, for example, has an elaborate history that stretches back to the ancient Greeks, finding its roots in the philosophical thinking of the Ionian philosophers who questioned their own cultural beliefs about the nature of the natural universe. Although they may have borrowed some of their ideas from other places that they were in constant contact with (we hear that Aristotle studied in Egypt), it still remains true that the ancient Greeks developed thinking styles that have shaped modern science today.

This kind of ingenuity can be noticed in other aspects of such societies, inclusive of political, economic and social principles. For instance, history tells us that democracy as a system is said to have begun at the turn of the 5th century BC in ancient Greece, with people like Plato even considering it a bad thing. This shows a progression of knowledge from an earlier model of political governance, to another one. In the social sphere, we see a gradual development of epistemic and moral ideas, from ideas where religion took centre stage, to a society where secular reasoning seems to be the norm; from communitarian ideas, to libertarian ideas with their focus on the primacy of the individual over the group. The point is that all of these evolving ideas are not necessarily imposed from outsiders, but are either borrowed and fused with already existing ideas, or they are created from scratch as an improvement to already existing systems. This is what ultimately drives societies forward. In other words, societies that develop seem to do so better than others only from their own unique vantage points.

What all this suggests as preliminary assumptions is that in order to bring about an era of political systems based on authentically Africa-centred principles, Africa needs a reformed

form of mind-set aimed at dislodging the colonialism-instituted world-view with an Afrocentric or Africa-centred perspective dedicated, among other objectives, to the promotion of African consciousness as opposed to a neo-colonial consciousness (Okafor, 2006:29). Some people may wonder why it is so important that the alien, hegemonic world-view should be drastically modified. The answer may be found in the following question: when you look at the world through someone else's cultural eyes rather than yours, whose reality do you perceive? In this instance, if we look at the African political landscape using the Western based social contracts, how authentic is this worldview?

Besides that, as Cheikh Anta Diop says in his book, *The African Origin of Civilization: Myth or Reality* (1974), "African culture will not be taken seriously until their utilization in education becomes a reality." Adherence to the African orientation to the cosmos could enable Africa to look inward rather than outward in its search for solutions to its problems. This, of course, does not suggest that Africa should not borrow ideas and techniques as and when necessary, provided that what it takes in does not only synchronizes with African ontology, but also serves African interests.

Finally, upon examining Africa's continuing experimentation with various forms of governmental systems, it appears the following question has seldom been asked: are there no composite elements in Africa's traditional governmental systems that could be incorporated into contemporary institutions in order to evolve a culturally conducive and workable political system? African consciousness would enable us to see ourselves as a people with a common destiny, or bring about what can be described as collective consciousness, or what Diop (1974)

calls the *collective national African personality*. These are the assumptions that this study, as well as this chapter, specifically, is based.

3.3.   PROBLEMS ARISING FROM APPLICATION OF THE WESTERN SOCIAL CONTRACT THEORY TO AFRICA

It seems many problems have arisen in Africa when the Western social contract is applied to Africa. For example, from the beginning of colonialism in Africa, the colonialists used the ideals of the social contract theory to establish what can be called a racial contract, to expropriate and exploit the African land and exclude African people from participation in governance affairs. The ideals of the social contract were twisted for the purpose of socio-economic transformation of European countries which were driven by the capitalist interests in Africa (Kalama et al, 2020:303). As noted in Chapter One of this study, the social contract theories were used in various Western contexts to justify the existence of certain types of governments, be they absolute monarchies or democracies following the general will.

The justification for the adoption and application of the social contract theory in the West was prompted by the observation that people have the moral obligation to obey a government. The notion of the moral obligation to obey a government implies the need for having a social order which is informed and supported by established moral rules which are intended to govern social relations. This simply means that the social contract theory laid foundation for people to agree to treat each other with respect through the guidance of some basic rules agreed upon by a society. In a nutshell, the social contract theory is all about having a political authority which

has a moral duty of delivering certain goods in society while at the same time justifying its demand for obedience on the part of its citizens.

On top of obedience to the government, the citizens must also exhibit obedience to social norms. Compliance with social rules is equivalent to obedience to political authority or government. Indeed, when people are ready to endorse and comply with social rules, it becomes easy for a government to enforce social rules. But if people are not ready to comply with social rules, it becomes difficult for a government to enforce them. When a government is able to enforce social rules, it becomes possible to establish and maintain social order through which people could live in harmony with one another. Therefore, as a result of the mutual benefits that come about as a result of the social contract theory, it successfully applied in the West.

Since most Western societies have adopted representative liberal democracy as their model of government out of the social contract theory, it is undeniable that the Western social contract theory is implicit in representative liberal democracy. Put differently, one may argue that representative liberal democracy is intrinsically informed by the Western social contract theory as discussed in the previous chapter. On the basis of this view, one may argue that the social contract theory is the seed from which representative liberal democracy has been produced in order to serve the interests, values and ideals of Western societies (Caniglia, 2017:6). Many Western societies to date, comparatively value, perceive and portray representative liberal democracy as the better form of government that can be universalized in any context and work perfectly. Representative liberal democracy has thus become a well celebrated form of government that has been ultimately globalized and Africa is not an exception from the

globalization with global entities such as the World Bank and the International Monetary Fund even premising their funding on the ability of beneficiary states to conform to democratic norms.

Despite the successful application of the Western social contract theory through representative liberal democracy in the West, many African states use representative liberal democracy even though this kind of system did not emerge out of their own circumstances as it did in the Western social contract tradition. It is questionable why representative liberal democracy as a political instrument which helped Western societies escape the state of nature is failing to do the same in Africa. Part of the problem is that Africans did not develop and transform their own unique political and social governance models into the new African states but, as indicated above, simply inherited the colonial type of governance which was based on a social contract among the colonizers.

At the advent of colonialism, after the Berlin conference of 1884 in which African territories were divided up among the Western powers, the colonizers formed some sort of social contracts that led to the formation of the colonial states, its governance hierarchies, laws and institutions. However, in these social contracts, the Africans were clearly excluded. It would appear, then, that because the African people did not at some point come to form their own social contracts based on African social and political experiences, or at least were excluded in the social contracts of the colonial states, the Africans are still in some form of a *state of nature*, a precursor to the formation of an actual social contract. One would argue that unlike the Hobbesian state of nature which is characterized by the condition of war, the state of nature in

Africa is characterized by the condition of confusion which came as a result of borrowing governance structures from the West. This kind of state of nature also stems from the fact that most African states were not given an opportunity to develop their own social contract ideals, based on their own experiences and cultural inclinations. This means that the African state of nature is a condition of ideological confusion, and not the state of war as advanced by Western social contract theorists. The confusion arises at the point where the confrontation and blending of both the African and Non-African cultural values and practices occur. Arowolo (2010:7) argues that:

> indeed, the significant fact about African cultural history is the convergence upon the indigenous tradition of the external influences – the Arab-Islamic and the European-Christian – to which the continent has been exposed far well over a millennium. The values and lifestyles associated with these traditions have been assimilated and to a large extent indigenized on the continent.

A variety of examples could be provided in order to show how the African condition of confusion is broadly experienced. With regards to the institution of marriage, African people are confused to decide the acceptable kind of marriage between monogamy and polygamy. Polygamy was practiced in the precolonial African societies but with the advent of Christianity in the colonial state, monogamy is encouraged while polygamy is discouraged. Still on the issue of marriage, the contemporary African people are confused whether they should accept or reject same sex marriages. Most Western societies have accepted same sex marriages. Some African states such as South Africa have legalized this kind of marriage while some are resisting to accept it. In the case of governance, African people are confused to decide the form of government which may suit them between representative liberal democracy and consensual

participatory democracy. Precolonial African societies used consensual participatory democracy which was led by a chief under the institution of chieftainship but with the advent of independence, representative liberal democracy was indigenized on the African continent.

Africa has seen a wave of democratic changes of government previously unknown in its checkered history. Whereas before 1990, only seven of the 54 countries of Africa practiced multi-party democracy, between 1990 and 1997 alone, over forty-seven African countries converted to multiparty democracies. However, it remains unclear as to whether these multi-party democratic elections have been driven more by long-suppressed internal yearnings for democratic rule than by external political conditionalities demanded by Western bilateral and multilateral institutions, as well as global institutions, such the World Bank and IMF (Okafor, 2006:34). It would appear that both factors have been contributory to the wind of multiparty democratic elections that has swept in Africa in the recent decade. An unresolved question is whether multiparty elections have necessarily institutionalized an effective political culture on the continent.

Indeed, the confusion in Africa which characterizes this African state of nature calls for African people to individually and collectively realize the need for escaping this state of nature. Perhaps, an open alternative for escaping the state of nature in Africa is to get rid of everything that African people have inherited from the West and start from scratch in finding solutions that are beamed from an African lens. They should have an African social contract theory that will work for them in order to have Africa they want. It is undeniable that without the initiative of African people to have their own African social contact in place, they will continue to live

in this perpetual state of nature. At this juncture, it is important to unpack the nature of the problems that have arisen when the Western social contract theory is applied to Africa.

3.3.1. THE ESTABLISHMENT OF A RACIAL CONTRACT

In *The Racial Contract* (1997) Charles Mills provides a critique of the social contract theory that is relevant to this thesis' central argument on the problematic nature of the social contract theory when applied to Africa. In this work, Mills argues that the white supremacy was the basis of the recognition of being rational. If it is rational then it is human. Rationality had since been identified as the defining feature of being a human. However, black people were not seen as rational. Even notable figures in Western philosophy such as the celebrated Immanuel Kant had identified black people as inferior to white people due to their inability to reason. Coupled with reports from missionaries such as Placide Tempels, which identified the African as incapable of engaging in any rational thought, the Westerners would not consider entering into a social contract with a non-rational African. The social contract then, was between only rational *white* men, who were considered capable of rationally entering into the contract. This is the reason why Mills labels social contract theories in general as *racial contracts*. Marwah, argues that:

> in Mills' recasting, modern social organization is, in fact the product of a racial contract, an agreement among whites generating political institutions based on the exclusion, domination, and exploitation of non-whites. Against the social contract's abstract and universalistic egalitarianism, the racial contract exhumes the foundational asymmetry of modern socio-political life, as a "system of domination by which white people have historically ruled over, and in important ways, continue to rule over non-white people" (2022:3).

Mills further provides the way in which racism influenced and shaped the Western conception of humanity and social ontology. According to Mills, some key Western political philosophers established theories that classify and divide people in the world into humans and sub-humans. The first class of people who are regarded as humans are the whites while the second class of sub-humans are non-whites. Marwah argues that:

> (…) white philosophy rests on "a partitioned social ontology … a universe divided between persons and racial subpersons, *Untermenschen*, who may variously be black, red, brown, yellow – slaves, aborigines, colonial population – but who are collectively appropriately known as 'subject races'" (2022:4).

The classification was made on the basis of the consideration that the Europeans are associated with rationality while non-whites are associated with irrationality hence not capable of engaging in politics. Indeed, when we look at some key historical events, it would seem that this is the case. For instance, when the Spaniards occupied the Americas in the 16th century and in this colonization period, they established societies that recognized the native groups such as the Aztecs as inferior people, leading to a crusade campaign that saw the native occupants of the American continents almost wiped out. By 1550, the Spanish had created the most formidable empire in European history by conquering and colonizing in the Americas. Stretching around the Caribbean and deep into both North and South America, the empire dominated a territory more than ten times larger than Spain (Taylor, 2013). The approximately twenty million Indian subjects dwarfed the seven million Spaniards at home. At the heart of the empire lay mineral-rich Mexico and Peru, whose mines exported to Spain 181 tons of gold and 16,000 tons of silver between 1500 and 1650 (Taylor, 2013). That wealth inspired

ambitious Spaniards to imagine that other golden empires must lurk just beyond reach to the north of Mexico, leading to a colonization of North America.

This was followed by the trans-Atlantic slave trade in which Africans were brought into cotton plantations as slaves to work for the white slave-masters. The very idea of colonialism itself is based on the notion of some races being superior, while some races are inferior. This shows that in terms of the recognition of other races as equally human, the Western social contracts that were used to establish these colonial and slave-based societies were not intended to include other races.

John Locke, for example, is regarded by Mills as an imperial philosopher since in his works, he placed the world's people in a hierarchical order with Europeans at the top of the hierarchy. By placing the world's people in a hierarchical order, Locke legitimized European imperialism and proposed European's rationality as a universal standard against which other non-white people were to be judged and ruled (Marwah, 2022).

Mills contends that this racial line of thought influenced and gave rise to political developments during the Enlightenment period such as the formation of modern states, European declarations of sovereignty, written contracts of slavery and new world conquest. Mills further observes that the racial contract and denial of personhood to non-whites were formally agreed and implemented, hence the status of non-whites and whites were clearly demarcated. Thus:

> personhood is white personhood; non-whites fall short, the moral claim to the equality of persons maintained by hiving the category off from darker intruders. The counterpart is *Herrenvolk* ethics, the "racially structured moral

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code" differentially applied to different strata of sub/persons (…) (Marwah, 2022:4).

The formal implementation of the racial contract theory was actualized in the form of colonization through which the expropriation and exploitation of the African land were done. The implementation of the social contract, which was in effect a racial contract, disadvantaged African people.

3.3.2. EXPROPRIATION AND EXPLOITATION OF AFRICAN LAND

The colonization of Africa by the European colonizers paved way for the expropriation and perpetual exploitation of the African land. It is interesting to note that by as late as 1880, about as much as 80% of the continent of Africa was being ruled by her own kings, queens, clan and lineage heads, empires, kingdoms, communities and polities of various sizes and shapes. However, within the next thirty years, this situation underwent a phenomenal and indeed a revolutionary change. By 1914, with the sole exception of Ethiopia and Liberia, the whole of Africa had been subjected to the rule of European powers in colonies of various sizes which were generally much larger physically, but often bore little or no relationship to the pre-existing polities. But it was not African sovereignty and independence alone that had been lost at that time. It represented also an assault on established cultures.

According to Mills, at the heart of colonization was the contract of white supremacy that was made between the whites only in what was identified in the previous section as the racial contract. This means that non-whites were not part of the contract that led to the emergence of the colonial state. Perhaps, one would assume that this might be one of the reasons why the

Berlin conference of 1884 was attended only by the white people without even a single non-white in attendance. The Berlin conference was based on the colonization of Africa and the main purpose of colonization was the acquisition of political and economic domination by the West (Soukni, 2020:11, Ocheni et al, 2012:12). Mills argues that the exploitation of the colonized world benefited Europe at the expense of the colonized. He contends that it is the racial contract which necessitated the conquest of non-European lands, exploitation of resources and domination of people. Thus;

> the racial contract necessitated European expansion in that they conquered lands, exploited resources and dominated the people they found. In this sense, it is meant that the racial contract was basically driven by race and an effort to exert white supremacy (Mhlauli et al, 2015:211).

Since according to Mills it is the racial contract which necessitated European expansion, it follows that it was also used for the appropriation of land in colonies where European settlers seized land from the original inhabitants in Africa. The expropriation of land was supported by the laws of exclusion from appropriation of land by natives. This means that the natives were excluded from acquisition of their own land. Such laws were extremely oppressive on the part of African people since the laws allowed white people more privileges and rights in order to accumulate wealth and enjoy the benefits of being in a state at the expense of the Africans (Steiner, 1994). In Algeria for example, under forestry services, land seizure policies were implemented in the name of protecting forests while in actual fact, land policies helped white wine-makers to expand their farmlands (Sharkey, 2013).

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In the *Two Treaties of Government*, John Locke argues that individual human beings have a right to acquire private property as a result of labour. This simply means that everything that one has worked for gives him or her the right to own it. For Locke, labour is the foundation for property acquisition. It was on the basis of private property acquisition advanced by Locke that European colonizers found it befitting to justify the appropriation of vast tracts of land which belonged to the natives. Locke argues that:

> God gave the World to Men in Common; but since he gave it to them for their benefit, and the greatest Conveniences of Life they were capable to draw from it, it cannot be supposed he meant it should always remain common and uncultivated. He gave it to the use of the Industrious and Rational (and *labour* was to be *his Title* to it;) not to the Fancy or Covetousness of the Quarrelsom and Contentious. He that had as good left for his Improvement, as was already taken up, needed not complain, ought not to meddle with what was already improved by another's Labour (Laslett, 1966:309).

When European colonialists arrived in Africa, they saw vast tracts of land that they thought were unused or underutilized. In actual fact, such land belonged to the native Africans who had been living in their kingdoms for generations. This was their ancestral home; their ancestral property. Although the native Africans did not have an intricate system of private property nor private property laws as that which the Westerners had already developed, the land and its resources rightly belonged to them, in the same manner as the land in Europe belonged to their European ancestors who first occupied the lands before the formation of European countries.

In the colonizers' view, unused land was in the state of nature and did not have any legally binding owners, hence they proceeded to distribute such land to themselves disregarding the ownership by the natives, and in some cases even relocating the natives to non-productive

lands. In Zimbabwe, for example, white settlers removed the natives from fertile lands into tribal trust lands. The colonial occupation of Zimbabwe by the British in 1890 witnessed the advent of early forms of legislation under which land was expropriated from Africans in favour of the new European settlers (Nyandoro, 2019). In the late 19th and early 20th centuries, important pieces of legislation incorporated the 1894 Matabeleland Order in Council, the 1898 Southern Rhodesia Order in Council, and the seminal state case of 1918 in which the British Privy Council held that Africans had no title to land and that the land belonged to the British Crown. Following this and during the period of responsible government in Rhodesia - from the end of British South Africa Company (BSAC) rule in 1923 to the Unilateral Declaration of Independence (UDI) in 1965 - a self-governing colony of Britain which was representative of the white population, was implemented (Nyandoro, 2019).

Because the hoped mining potential of the region had failed to materialize, agriculture became the country's dominant enterprise and principal export earner. To this end, white settler farmers who controlled much of this key sector and enjoyed a correspondingly dominant political importance in contrast to the peasant or African smallholder farmer, canvassed for a segregationist and discriminatory political and economic system which ensured that they enjoyed all the best that the country could offer and that their quest for building a "white man's country" could not be obstructed.

After 1925, the system was supported by additional legislation, beginning with the passage of the Land Apportionment Act (LAA) in 1930/31. This act required that Africans residing outside the then Tribal Trust Lands (TTLs) or "native reserves" (now called communal areas),

on alienated land and Crown Land designated as European land, forest areas and unassigned areas, were required to relocate (Nyandoro, 2019). Land apportionment legalized the division of the country's land resources between black and white. This marked a major turning point in colonial Zimbabwe's racialized regime which in all respects became highly segregationist in outlook and disadvantaged Africans.

The premise of such land appropriation and apportionment which led to the segregation of the natives from their own land, was that the natives had not *mixed their labour* with it. Without any legally binding documents to show ownership, the colonialists simply assumed that unused land meant the same as land with no owners. Historians claim that the white colonialists would allocate themselves land with no regard to the natives. For example, the colonialists would ride on a horse in a specific direction and ride till the horse got tired. If the horse got tired after 40 kilometres, then that entire area belonged to the colonizer. If there happened to be any natives in that land, then they would need to be either relocated or removed violently.

Once they took such land, they would then *mix their labour* with it, in the form of either tilling the land with heavy equipment like tractors, or animal drawn ploughs, or using the natives themselves to till that land. Once this was in place, the colonizers were now entitled to that land as their own, and once the colonial state was formally established with its laws and governance structures, land which was taken this way came to belong to the colonizers formally in a permanent way. This explains why vast tracts of land in Africa belong to former white colonizers.

Once the colonizers mixed their labour with their desired lands it then became their private property. Besides the unused land, Locke discourages waste of property. He emphasizes that even if one has acquired land and worked on it but wasted it, such land should be re-allocated. Locke argues that:

> whatever he tilled and reaped, laid up and made use of, before it spoiled, that was his peculiar Right; whatsoever he enclosed, and could feed, and make use of, the Cattle and Product was his. But if either the Grass of his Inclosure rotted on the Ground, or the Fruit of his planting perished without gathering, and laying up, this part of the Earth, notwithstanding his Inclosure, was still to be looked on as waste, and might be the possession of other (Laslett,1966:313).

Some properties of African people which were thought and perceived as a waste by European colonialists were taken away from them. In some instances, African people were compelled to quit the occupancy of their own lands through the use of legal frameworks. The legal dispossession of African land forced African people to submit to work on their own land for private benefit of European colonialists. Since the land that was used by Africans for their survival was seized from them, they had no other means of survival except to work for the white man. This explains why huge fertile farmlands are still in the hands of white people in Africa more especially in South Africa and Zimbabwe. It also explains why many non-white people are working in the farmlands in South Africa. They work hard on the African soil which in the end does not benefit them but the white people.

Given that the Europeans seized African land, it is important to also highlight the reasons behind the seizure. One of the reasons for colonization of Africa was the control of African economy and political administration in order to make Africa a ready market for products

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manufactured in Europe. Africa was needed by European industries because without Africa, European industries would collapse (Ocheni et al, 2022:48). This explains why Africa is continuing to be a consumer and market for Europe even today.

Since one of the objectives of colonialism was to make Africa a ready market for the European manufactured goods, the colonialists found it compelling to take full and direct control of African economy and political administration. As such, political authority was needed and utilized for purposes and intents of enacting and enforcing the laws that would force African people to abandon their traditional means of production and adopt the Western system of production. Ocheni et al argues that:

> the only option was to take direct control of the economy and political administration and then use government machinery through the proclamation of laws to compel them to move from their enclave and to abandon their traditional system of production in preference to that of their colonizers. Hence, the need for direct colonization of the African territories and the consequent imperialism (2012:48).

The colonialists used several strategies to ensure that African people submit to colonialism. One of the strategies they used is conquest. According to Ocheni et al (2012:49), many African states or territories were conquered through the use of military force and the colonialists started to interfere with African sovereignty and internal governance affairs. For Ocheni et al, this was done by undermining the sovereignty of African kingdoms. After the colonialists had conquered African territories, they expropriated and exploited African land. This was done by seizing African resources such as land which they were interested in. Moreover, the colonialists used African people as their labour force in the mines and farmlands. Thus;

first they began to take out of African use of occupancy whatever land they wanted, and they simultaneously assembled African labour to mine the land for gold, copper, diamonds, asbestos, tin iron and zinc, or to farm wool, sisal, palm-oil and kernels, cotton, cocoa, rubber and groundnuts (Ocheni et al, 2012:49).

Given that African land was taken away from natives by conquest, the important question is: was the acquisition of African land through conquest just? Locke in *The Two Treatises of Government* on property argues that robberies are unjust acquisition of property. He further argues that inherited properties which were acquired unjustly are also unjustly acquired. This means that African land which was acquired by European colonialists through conquest is unjustly acquired hence it should be restored. The restitution of unjustly acquired property is supported by Locke who contends that if one has been deprived of appealing for his conquered property, his children may appeal for the restitution of such property (Laslett, 1966:404). Therefore, African people are justified to reclaim their conquered land as is the case of the Zimbabwean government, under Robert Mugabe in the early 2000s, which embarked on a massive land redistribution program to the native Africans in a bit to redress past land injustices of the colonial regime. The rationale for programs like this is a recognition that the colonial state was premised on a social contract that did not only recognize the humanity of the native Africans, but also failed to recognize property rights by failing to acknowledge that the land on the continent rightly belonged to the natives rather than the colonizers, even if there were no formal contracts that showed that the natives owned the land. With the inception of the colonial state, the colonizers left out the native Africans as active participants in all aspects of the new state, leaving them in a state of nature from which the Africans have struggled to escape. The same holds true not just for land appropriation, but also for political participation.

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3.3.3. EXCLUSION FROM PARTICIPATION IN POLITICAL AFFAIRS

As discussed in the previous chapter, African people in precolonial Africa used to participate in the political affairs of their individual clan-based political systems. However, the colonial system undermined this kind of participation. It should be noted that one of the primary motives of the colonizers was to make the colonized land their new home which they would run in similar fashion to their original European homes. Hence everything needed to be measured up against European standards. This meant that at the inception of the colonial state, there needed to be a new state with its own type of government, its own economic systems, and its own social order. At the inception of the colonial state, it has been noted that the native Africans were not recognized as equals, but as an inferior group of people that could be utilized as cheap labour.

This kind of exclusion in participating in the running of the colonial state extended to the political sphere. The colonial state had its own laws which were largely exclusionary to the native Africans. Although all colonial states were like this, the best example is the South African case during the apartheid era. In this kind of system, laws that segregated the blacks and whites were the order of the day. Black people could not go to certain whites-only places because they were considered inferior. The word apartheid even translates to *segregation* [of races]. In the political sphere, black people had no say in what the government was doing, inclusive of these oppressive laws against the natives.

On top of this, oppressive laws made it difficult for the natives to participate in economic activities of the country. There were certain jobs that were restricted to whites only, while the natives were relegated to menial jobs like cooks and cleaners. It was difficult for black people to own large commercial farms in their own native lands. All of these difficult conditions could have been changed quite easily had the natives been given access to political participation in which they could choose their own leaders who represented their interests. But this was also impossible in the apartheid state. The whites were the only ones who participated in politics and black people were not allowed to vote. In Zimbabwe's colonial administration, Ian Smith, the former colonial Premier, claimed that black people could not rule themselves even for a thousand years, arguing that to vote means to be able to make sound decisions based on education, which the black African was incapable of doing. This exclusion from political participation prompted the various wars of liberation that sought to remove the white governments such that the black majority could participate in politics. In fact, it can be argued that in any functional state, the ability to move forward progressively lies in the ability of all of its citizens to choose leaders that it thinks can deliver such progress. But if the people are excluded from active political participation, this is the definition of oppression.

However, it is interesting to note that political exclusion continues to happen even in contemporary Africa (Chikerema et al, 2021:2). In many modern African states, people do not enjoy the rights and freedoms which were promised by the social contract theory formed at the inception of the post-colonial state. On top of this, they no longer enjoy the rights and freedoms they used to enjoy in the precolonial Africa. Instead, their rights and freedoms are violated and

restricted by their own political leaders. For instance, the right and freedom of expression is restricted by a good number of contemporary African societies. The reason for this lies in a fact that has been alluded to in earlier sections of this chapter that the post-colonial African governments simply inherited the colonial state without putting much effort into creating a new type of governance structure that overhauls and rules out all forms of oppressive laws. The same oppressive colonial laws are still used to suppress the will of the people in some contemporary African states.

One would argue that the violation of people's rights and freedoms by cotemporary African political leaders constitutes political oppression. Political oppression is experienced in some African states when the police and army disperse people using lethal weapons during political demonstrations, protests and meetings. This is usually done against people who express their dissatisfaction against political leaders and government. At times, people are even killed when they exercise their right and freedom of expression in Africa. A typical example is Marikana massacre which took place in South Africa on 16 August 2012. The tragic event left 44 miners dead while 70 were wounded as a result of police shooting (Boettger et al, 2016:2). The massacre happened when the workers were protesting for their labour rights. Boettger et al argues that:

> however, unlike Sharpeville that focused on apartheid laws, Marikana was a protest against economic inequality and injustice. Therefore, the protest by the employees of Lonmin at Marikana had a clear economic agenda that can be traced back to economic exploitation of the colonial and apartheid eras in South Africa (Boettger et al, 2016:2).

Such oppressive activities act as proof of the exclusion of African people from participation in political affairs. This means that oppressive African governments are in effect behaving like the colonial regimes in which people were not allowed to express their dissatisfaction but they were simply expected to follow the orders and commands of the colonial administration.

3.4.   THE COLONIAL LEGACY AND ITS EFFECTS ON AFRICA

The colonial legacy and its effects on Africa is perceived and understood differently by scholars. On the one hand, some scholars strongly argue that colonialism has left a positive legacy in Africa such as formal education and modern technology (Ocheni et al, 2012:47). This line of thought implies that the problems that Africa is experiencing today are not the results of colonialism but the blame should be shouldered by the African political leaders who are not good at the art of statecraft. On the other hand, some scholars argue that colonialism has left a negative legacy in Africa hence the problems that Africa is currently facing are traceable to colonialism (Chikerema et al, 2021).

However, it should be mentioned that even though views on this issue differ, scholars do not dispute that the colonial powers have expropriated and exploited African land and resources for the purpose of furthering the interests of the West. Arguably, the expropriation and exploitation of African land and resources disadvantaged African people. The status quo is maintained by African political leaders since independence. The advancement of Western interests in Africa necessitated colonial rule which was inherited by the African political leaders at independence. The colonial legacy that was left behind by colonial rule in Africa

includes but not limited to the following effects; the exclusion of Africa from economic development, colonial boundaries and political violence, formal Western education, Western cultural imperialism as well as colonial rule.

3.4.1. THE EXCLUSION OF AFRICA FROM ECONOMIC DEVELOPMENT

The exclusion of Africans from economic development was deliberately established by European colonizers. This is premised on the view that one of the factors that necessitated the colonization of Africa was socio-economic transformation of European countries which were driven by capitalist interests (Kalama et al, 2020:303). Since one of the reasons for the colonization of Africa was to take full control of the African economy and political administration in order to make Africa the market for the European manufactured goods, the colonialists established colonial economic policies. The policies did not only help Europeans to make huge profits out of African markets but it also excluded Africa from economic development.

The colonialists excluded Africa from economic development in such a manner that they changed traditional African markets and designed the economic systems that would fulfil the capitalist interests (Akeyo, 2011). For Akeyo, Western colonialists were not interested in developing African economies but they were interested in securing markets for the goods produced in Europe. Apart from this, according to Walter Rodney, Africans were used as cheap labour in extracting raw materials that would be exported to the European market (Wright, 2020). Again, the expropriation of materials and exporting them in their raw form also

disadvantaged Africans to the benefit of the Europeans as the Africans would now have to buy the finished European products at a higher cost (ibid). As such, African people were introduced to the culture of producing the goods they would not consume and consume goods they did not produce.

Moreover, Akeyo argues that Africans were also introduced to the culture of producing cash crops that were intended to go abroad instead of supplying the local markets. On the one hand, the export of cash crops to Europe developed European markets and economies while on the other hand it caused food shortages in Africa. This explains why most African states are excluded from economic development and depend more on European economies. Thus:

> African economies were designed by the colonialists in a way that helped them in fulfilling their selfish economic interests. The Europeans were mainly interested in securing raw materials for their industries back home, getting cheap labor to produce the raw materials, and securing markets for the finished products from Europe. Africans were therefore trained to be producers of raw materials and consumers of finished products. They therefore produced what they did not consume and consumed what they did not produce. The Europeans introduced the culture of cash crop practice in Africa instead of local drought resistant crops which could help reverse the persistent food shortages in Africa even in fertile lands. The cash crops were exported to Europe instead of developing the manufacturing industries in the colonies. This made Africans depend fully on the manufactured products from Europe (Akeyo, 2011:5).

For the purpose of promoting the export-import culture, Ocheni et al (2012:52) argues that the colonialists established new market places where their needed raw materials could be purchased and exported easily to Europe. For Ocheni et al, these newly established market centres gradually destroyed African traditional market centres.

Besides the destruction of local traditional markets, Ocheni et al insists that the colonialists did not re-invest in African economies for development of African economy. Instead, they sent their profits made from African markets back home to develop European economies and this partly explains the prevailing underdevelopment of Africa. In doing so, the colonialists developed Western economies while at the same time they excluded Africa from economic development. They excluded Africa from economic development by destroying local traditional markets and establishing their own markets in Africa that are controlled by them. Even to the present time most African markets and economies are still controlled by European capitalists. This demonstrates economic exclusion and exploitation of Africa.

According to Mills, the socio-economic aspect of the racial contract, as described in preceding sections of this chapter, is fundamentally premised on economic exploitation (Mhlauli et al, 2015). Mills further argues that the implementation of economic exploitation that is informed by the racial contract has established a moral hierarchy which divides people for purposes and intents of securing and legitimizing economic opportunities or privileges of the whites. As such, it is undeniable that the division of people for the creation of economic opportunities that favour the whites excludes non-whites from such opportunities and privileges. Moreover, Mills observes that on the one hand, the racial contract has created the domination of Europe over the whole world while on the other hand; it has made the whites a privileged class of people. Therefore, Mills observes that the racial contract has created a world order that perpetuates unbalanced power relations (Mhlauli et al, 2015).

Even though many African countries have gained independence from their colonizers, the question is; has the racial contract that is rooted in the social contract theory stopped? Mills emphasizes that the racial contract has not stopped but it still exists even today and appears in many different forms. Mills argues that:

> (…) the current period is the *de facto* white privilege and extension of rights. The racial contract is still alive and continues to manifest itself through unofficial local agreements such as covenants, discriminatory employment contracts, and political decisions about resource allocation and many others that we see today (Mhlauli et al, 2015:217).

Since the racial contract is still alive, Mills argues that it is unreasonable for African countries such as South Africa and Botswana to brag that they are free and independent states yet they are still controlled by the West under the pretence of global order. Mills further emphasizes that these countries dance to the tune of Europe which determines who should be included and excluded in the global economy and this is implemented through institutions such as the World Bank, International Monetary Fund (IMF) and World Trade Organization (WTO) (Mhlauli et al (2015).

Despite the fact that most African countries have gained their independence from their European colonizers, Mills contends that the global economy is still in the hands of the former colonizers (Mhlauli et al, 2015). This implies that African countries have received pseudo-independence from European colonizers. It is pseudo-independence because most African states depend more from foreign aid. Consequently, African political leaders do what they are ordered to do by the former colonizers and this explains how European indirect rule operates in Africa. It goes without questioning that the current African political leaders work hard to

deepen and solidify representative liberal democracy in their respective countries. Any sign of failure to comply with principles of representative liberal democracy is considered as non-compliance to democracy. Any African state which is regarded as non-compliant loses the opportunity of receiving foreign aid. Arguably, many contemporary African states are even competing to win foreign aid.

This kind of colonial legacy is a sign which demonstrates that African people have received pseudo-independence. Mills makes an example of the former British colonies which have come together to form what is today commonly well known as the Commonwealth Nations. For Mills, the role played by the Commonwealth is nothing except to keep the British colonial legacy alive in Africa and this is done in the pretext of establishing and maintaining friendly relationships between member nations. Mills perceives the relationship non-beneficial because it involves difficult policies that African countries have to implement for economic development, but many of the member countries, especially those in Africa, are not able to meet many requirements attached to those policies (Mhlauli et al, 2015). An analogy which can better explain the current relationship between African political leaders and the West is that of a dog and fox. In this case, the fox approaches the dog which is tightly tied to its rope. The fox brags that it is better than a dog because it is free. The dog responds by arguing that even though it is tightly tied to its rope, it is better than a fox because it is given food and shelter free of charge. In this analogy, the dog translates to African political leaders while the rope represents foreign aid. The fox translates to states that are economically and politically independent such as China and Russia.

3.4.2. COLONIAL BOUNDARIES AND POLITICAL VIOLENCE

One important aspect of colonial legacy which is hindering development in Africa is colonial boundaries. The colonial boundaries have caused unnecessary political violence. According to Olaosebikan (2010:551-556), the causes of conflicts that culminate into civil wars in Africa include the creation of arbitrary boarders by colonial authorities. This is proven by civil wars that have taken place and are continuing to occur across Africa. According to Olaosebikan (2010:549), civil wars have been experienced in the following African countries after 1960: Sudan, Chad, Liberia, Nigeria, Somalia, Burundi, Rwanda, Sierra Leone and Angola.

Olaosebikan contends that during the time of the colonization of Africa, the colonial authorities created political units by dividing ethnic groups at some places while they combined rivals at others. The divisions and combinations of political units were done through the use of European colonial boundaries and they still exist even to the present time. Notably, the arbitrary colonial boundaries were done without the consent of African people as the inception of the colonial state excluded the Africans who were considered inferior, as noted earlier. The negative impacts of these boundaries were felt more especially where rival cultures were forced to live together and form a single state. An analogy where a lion and hare are kept in a lion's den for the two animals to live together could explain this even better. What is expected out of the situation in which a lion and hare are forced to live together? Obviously, it is conflict that would end up in the loss of life for one animal and most probably, the powerless animal.

It follows that when the colonial boarders forced traditionally rival cultures to live together and form a single state, this led to ethnic conflicts that have overwhelmed Africa. Olaosebikan observes that ethnicity has produced negative attitudes such as suspicion, hatred and distrust among African people and it is the cause of internal conflicts in Africa. Olaosebikan argues that;

> ethnicity has bred the feelings of suspicion, hatred and distrust among members of the various ethnic groups in Africa and has no doubt retarded political integration in Africa. It is therefore not surprising to note that at least twice (1967-70 civil war and 1993-1999 friction) ethnic rivalry has been the major cause of internal conflicts in Nigeria. Similar stories may also be told of Liberia, Uganda, Rwanda, Burundi, Somalia, Sudan, Congo and a host of other African states (2010:552).

In light of the foregoing, it is evident that ethnic rivalry was established by European colonialists through the creation of colonial boundaries which were used by colonizers to divide and rule African people. However, it is worth noting that the condition of divide and rule through colonial boundaries and ethnicity is still existing even in the contemporary Africa after independence. The important question is; why have not African political leaders abolished colonial boundaries that have divided African people and are causing tribal conflicts? One may argue that the reason could be that they are also benefiting from divide and rule principle as it was done by their colonial predecessors.

The impact of such tribal conflicts in Africa reached its peak in genocidal events that plagued African states post-independence, such as the Hutus and Tutsis in Rwanda, and the Ndebele genocide in Zimbabwe. Beginning with the Zimbabwean case, Robert Mugabe is said to have massacred people belonging to a rival tribal group known as the Ndebeles in what has come to

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be called *Gukurahundi* which loosely translates to 'rain which washes away the chaff before the spring comes' (Mpofu, 2021). The Ndebele group is a sub-group in Zimbabwe, together with the majority Shona group, to which Robert Mugabe belonged. In an effort to quail what Mugabe called political *dissidents* in the 80s, whom he accused of trying to subvert the government, he embarked on a genocidal campaign in the Matebeleland area of Zimbabwe, largely populated by the Ndebele ethnic groups, that led to the deaths of over 20 000 Ndebele people. To this day, this atrocity is still an ongoing issue in Zimbabwe's political discourse which has created tensions and rifts among Zimbabwe's two major ethnic groups.

In the Rwandan case a similar sequence of events took place. Rwanda got its independence from Belgium in 1962 (Sebahutu, 2023:178). However, when the colonialists arrived, the ethnic groups of the Hutus and that of the Tutsis had been occupying Rwandan territories. Although not much is known about the nature of the two group's relations before the advent of colonialism, it is safe to assume that they lived like most African tribes did before colonialism; having no common authority and going about their business, occasionally clashing over territories here and there. The ethnic rift between the Hutus and the Tutsis was fuelled by the Belgian colonial administration which tended to favour the minority Tutsis, putting them in administrative positions of government, creating Tutsi elite (Sebahutu, 2023:174). In this divide and rule-scheme of politics by the Belgian colonial government, the Hutus felt excluded from political participation and became a somewhat marginalized ethnic group in colonial Rwanda. It should also be noted that being Hutu or Tutsi was a fluid concept before colonialism as there were no distinct differences between the two groups. However, the colonial

administration made things more formal by introducing identity cards that identified one as Hutu or Tutsi (Sebahutu, 2023:174). Again, the Belgian colonialists propagated a Hamitic theory of the Tutsis, which, in short, made it clear that the Tutsis were descendants of a superior Hamitic group that was nearer to the European civilized man, and hence were superior to the Hutus, who were considered as barbaric and backward (Sebahutu, 2023:168). Such racial undertones would come to haunt the Tutsis who were enjoying a privileged position in the colonial state.

Being the majority in the Rwandan territory, the Hutus managed to revolt against the Belgians through a series of revolts beginning in 1959, resulting in the surrender of power to the Hutus by the colonial government in 1962 (Sebahutu, 2023:169). This being the case, the Hutus went on a vengeance campaign against the Tutsis, taking active steps to remove them from key positions in government and excluding them from education quotas (ibid). Following such racist documents as the 10 Hutu commandments (Sebahutu, 2023) argues that, among other things, made it a treasonous offense for Hutus to marry Tutsi women, or to employ any Hutus; made it mandatory for Hutus to be the majority in all schools; made it treasonous for Hutus to engage in business transactions with, or lending to/borrowing money from the Tutsis since they (the Tutsis) were considered as dishonest in business; and a complete exclusion of the Tutsis from the Rwandan army which was supposed to be exclusively Hutu, the result was the infamous Rwandan genocide in 1994 which resulted in deaths of Tutsis amounting to 800 000 people, though the numbers could have been higher than this (Shaw, 2012:1) .

The lessons to be learnt from these two episodes are that the colonial agenda did not take into cognisance some of the ethnic differences that permeated the African continent before colonialism. Instead, they simply bunched up different groups of people with disastrous consequences that have continued to plague the post-colonial African state today. In present day Africa, countries such as Sudan, the Democratic Republic of Congo, Somalia, Nigeria, Burkina Faso, Burundi and Cote Devoir find themselves plagued by constant ethnic conflicts that have resulted from the bringing together of historically autonomous kingdoms that seek their own independence, but find themselves belonging to one country due to boundaries created by the colonizers. This kind of problem is also exacerbated by continued Western influence on the African continent in other aspects such as culture.

3.4.3. WESTERN CULTURAL IMPERIALISM

Another major colonial legacy in Africa is Western cultural imperialism. Colonialism has been blamed for distorting and retarding African cultural growth and civilization. This has led to stagnation and erosion of African traditional and cultural values. The condition of stagnation and erosion of African traditional and cultural values has given room for cultural imperialism to Western cultural practices and beliefs through globalization. This means that European civilization has extended colonialism by creating cultural imperialism in Africa. Arowolo (2010:2) summarizes it in these words:

> with Africa subjugated and dominated, the Western culture and European mode of civilization began to thrive and outgrow African cultural heritage. Traditional African cultural practices paved the way for foreign ways of doing things as Africans became fully 'Westernised'. Western culture now is regarded as frontline civilization. African ways of doing things became

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primitive, archaic and regrettably unacceptable in public domain. Not only were certain aspects of the material culture in the colonies lost or destroyed, colonial societies also lost the power and sense of cultural continuity, such that it became practically impossible to recover the ability to strive for cultural progress on their own terms.

From the argument advanced by Arowolo, one could argue that the civilization agenda for Africa was the greatest form of cultural imperialism. There are a number of instances where such cultural imperialism can be directly observed such as the unbridled individualism that has come to characterize African societies, linguistic imperialism as well as the adoption of Western based religions such as Christianity in Africa. On the issue of individualism, contemporary African people have ceased to practice their communal ancestral culture in which they associated harmoniously with other people from their groups. Instead, today they exhibit some form of individualistic rather than communal existence. This runs contrary to the view that African social and political thinking is primarily informed by communitarianism (Menkiti, 2004, Gyekye, 1998). The phrase; 'I am because we are' by Mbiti in Adeate (2023) captures the shared view of Menkiti and Gyekye that the existence of an individual African person makes sense with reference to the community. Other phrases such as; "you are because we are" and "He/she is because we are" express a similar view. African people seem to have now adopted the famous Cartesian individualistic thinking; "I think therefore I am," which may have been largely adopted during the colonial era through an envy of the colonizer's way of doing things that was created by the colonial system.

Concerning the issue of language, the use of African languages seems to be deteriorating since the contemporary African people are forced to adopt Western languages. For instance, people who are not able to speak colonial languages such as English and French are considered inferior

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and uncivilized by some members of their own communities who are able to speak foreign languages. Arowolo (2010:10) argues that;

> proficiency in our language is declining in Africa because we are compelled to embrace Western culture and civilization as Western language; Western language has created a dichotomy between elite and mass of our people who still cannot do business with foreign language. It causes alienation for people who cannot speak English or French.

Religion was also used as a cultural vehicle by the colonial powers to Westernize African people. This is demonstrated by the Western education system which was introduced to Africa by missionaries and proficiency in foreign language such as English or French was a necessary condition for being civilized. People abandoned their own African religious beliefs in ancestral spirits. Traditional ways of engaging the ancestral spirits such as consulting spirit mediums and/or *sangomas* (traditional healers) was demonized leading many Africans to shy away from their own beliefs in favour of Western based religions like Christianity (Arowlo, 2010). It is undeniable that Christianity and language challenged traditional African practices and beliefs. Arguably, the adoption of Christianity and foreign colonial languages means adoption of Western cultures. Consequently, both Christianity and colonial languages as Western cultures have dominated African religions and languages in Africa and this constitutes cultural imperialism. Another area that language and religion are inculcated in the minds of the Africans is education.

3.4.4. WESTERN EDUCATION

One of the colonial legacies that has retarded African development is education. From ancient times in the whole world, education has been used as an instrument of development and Africa is not an exception. Before colonialism in Africa, education induced personality and good character in children due to the communal nature of African communities. The mark of an educated person in precolonial African societies was the ability to get along with others and the ability to contribute to society through activities such as hunting, craftsmanship and fishing. Individualistic tendencies were kept at bay. The idea was to create a well-rounded member of the group who was deemed to be moral and able to contribute to the progress of the society. Emphasis was not placed on technical know-how, but more on the development of a desirable character, in line with the norms and values of the group.

However, with the advent of colonialism in Africa, this kind of education was replaced by a Western type of education which had different areas of emphasis. Colonial education was intended to civilize Africans but not to develop Africa (Mosweunyane, 2013:54). The mission to civilize Africa was implemented in conjunction with both European colonizers and missionaries. European colonizers focused on the solidification of colonial rule while missionaries, evangelization (ibid). This indicates that Western education was tailored to fulfil and achieve the interests of Europeans. Mosweunyane further argues that Western education was intentionally and deliberately taught and used to produce traders, clerks, interpreters and chefs with Christian ethics (2013:51). Mazrui concurs with Mosweunyane and emphasizes that the Western education was not intended to develop Africa. Thus;

> many schools taught the virtues of obedience instead of the ethos of initiative; they taught fear of God instead of love of country, they taught the evils of acquisition instead of the strategy of reconciling personal ambition with social obligation. Political education was anathema (Mazrui, 1978:29).

It is worth mentioning that African people were using colonial languages at schools and the use of African languages was not encouraged (or allowed in some cases). There are several features of colonial education which were used to instil the Western worldview in minds of students. The students who passed well were awarded certificates and scholarships to study abroad in the European universities and this strategy worked for European colonizers to distance children away from their cultural practices and beliefs in order to Westernize them easily. Mosweunyane argues that:

> The Africans that excelled in schools received scholarships to go to study in European and American universities, which further distanced them from their African cultures. The learning and teaching strategies and techniques that African societies had employed for lengthy durations were discarded. African education system was undermined at the expense of a more clearly defined form of structured learning which was introduced to the continent from the (2013:55).

It is important to note that even after independence, colonial education systems are still used in most African schools and universities. As such, African students are continuing to receive Western culture through Western based education systems.

3.4.5. Colonial Rule

Colonial rule is one of the colonial legacies deeply rooted in Africa. From the beginning, colonialism was imposed through coercion and the colonizers invaded Africa through the use of strong armies in order to suppress any kind of resistance (Soukni, 2020). As noted earlier,

the colonization of Africa was done to further colonial interests for benefit of capitalist societies. Notably, at independence the incoming political leaders inherited colonial structures of governance (Van Wyk, 2007:7). According to Van Vyk, the incoming African political leaders inherited colonial structures that were developed through coercive mechanisms. They also inherited the system of centralized power and economy. On the basis of the foregoing, it is undeniable that the incoming political leaders inherited autocracy from their predecessors which was accompanied by coercion and authoritarianism. Van Wyk further argues that, African political leaders who ruled after independence retained power through coercion and became very rich because they used state resources to further their personal interests (Van Wyk, 2007:11). This happened because the colonial type of governance did not put sufficient checks on the government to prevent corrupt tendencies. When the native politicians came into power, they did not change the colonial way of doing things, leaving them with unchecked power which has resulted in the majority of African countries being led by corrupt and oppressive regimes.

One could ask why the colonial system worked for the colonizers (with relatively little corruption) but seems to be failing in the independent state. To this question this study offers two responses; first, it should be noted that the colonial type of rule was oppressive to the black people in general. Hence, mechanisms to keep the natives in check had to be put in place, such as a heavy militarization of the state to quail any opposition. This went along with oppressive and segregatory laws that were meant to ensure that the natives would remain in a perpetual inferior state. Second, it should also be noted that since the colonizers had originally begun the

colonial state, virtually creating it from nothing, they understood its intricate inner-workings and what needed to be done to ensure that it functioned efficiently. This meant a great deal of specialised knowledge of how the economy worked and how it was managed. Unfortunately, these two factors would connive to create post-independence African dictators. This is because when the new African leaders came into power, they only made it possible for the native population to be free of their colonial administrators, effectively simply changing the faces from white to black. The post-independent African leaders were not conscious of the inner workings of the state and effectively just spent all the money in government coffers without any more coming in, save for donations from former colonizers. In light of their failures to manage the economies of their inherited colonial states, they used the same oppressive mechanisms of the colonial state to silence any criticisms from the native population.

This means that the incoming African political leaders after independence were inclined towards corruption from the onset. Chikerema et al concurs with Van Wyk that African politicians are coercive, corrupt and authoritarian due to what they inherited from the colonial authorities. Chikerema et al argues that:

> the African politicians envy white supremacy notably, the manner in which they dominate the legitimacy, use of violence through the police and army, silencing dissenting voices, also the way they manipulate the judiciary system to pass judgement in their favour and arm twist the legislative to make laws that promote their interest. The supplanting of Westminster model resulted in the creation of an all-powerful presidency's office, which formulates, implements, monitors and evaluates policies. The adopted presidential system promoted democratic centralism and competitive electoral authoritarianism (2021:4).

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With regards to corruption by African political leaders, Olaosebikan (2010) argues that corruption was manifested in a form of embezzlement and misappropriation of public funds for purposes of achieving individual interests instead of public interests. The embezzlement and misappropriation of public funds shows that most African leaders exploited and are continuing to exploit resources of the African continent as it was done by their predecessors. Olaosebikan asserts that the corrupt attitude occurred for decades and it has sparked militant nationalism against African leaders in some parts of Africa. It follows, then, that through exploitation of African resources, and the corruption of African leadership, Africa will perpetually continue to experience the prevailing situation of extreme poverty and underdevelopment. Bayeh also corroborates the view that the prevalence of corruption by the contemporary African political leaders is traceable to the colonial rule. Bayeh (2015:91) argues that:

> from this therefore, one can deduce that the existing corrupt behaviour of the contemporary leaders of Africa is the continuation of the policies and administration of imperialists. It is obvious that corruption is one of the most attributing factors for poverty and poverty in turn leads to corruption creating vicious circle.

Since the power to enact laws rests with a ruler, corrupt African political leaders are tempted to enact unjust laws that protect political leaders to continue with their corrupt interests. For example, some African political leaders who ruled after independence prolonged their terms of office to become life presidents by amending constitutions and Kwame Nkurumah is a typical example (Mudane, 2018:11). According to Mudane, Nkurumah enacted the law which allowed him to dismiss civil servants and arrest some of them on the basis of political crimes. For this reason, one could be justified to argue that Nkurumah was a corrupt authoritarian ruler who

used oppressive and unjust means to retain his political power. At this juncture, it is important to note that the contemporary African political leaders are continuing to rule with the inherited corruption from the colonial rule without ending.

In light of the above discussion, one would argue that the colonial legacy in Africa was created by the European colonial rulers, traders and missionaries. Lefela summarises it better and says; 'The missionaries are the thin end of the wedge. The traders are the body of the wedge and the Government is the head of the wedge that splits the tribes' (Mekenye, 2012:6). In a nutshell, this simply means that the colonial government, traders and missionaries were one and the same instrument which was used by the West to divide and colonize African people. Put differently, they were used by the Western colonizers to colonize Africa. Having discussed the colonial legacy and its effects, the discussion now turns to how this problem can be dealt with.

3.5. TOWARDS GETTING RID OF THE COLONIAL LEGACY IN AFRICA

By the mid-1990s, most African states had become independent. However, this does not mean that they are free or completely independent (in the sense of being fully self-sufficient and being equal players in the global sphere) due to neo-colonial tendencies which translate to some form of indirect colonial rule which still exists, since most African states still use the inherited colonial systems. This means that African independence still needs to be fully realized. For instance, it can be argued that Africans are not politically free in their native land due to the influence of political affairs by Western governments who continue to attach conditions to aid and monetary donations, a phenomenon known as neo-colonialism. African people are

interested in nation building and economic growth but they fail to achieve this goal due to authoritarian African political leaders who pursue their individual interests instead of national interests. Mayen (2012:2-3) argues that;

> sub-Saharan African countries continue to be political states but have failed to evolve into nations. The major reason for failure to create nations out of states is an inevitable preoccupation of authoritarian regime survival, rather than nation building and economic growth. Up until present times, the authoritarian leaders of sub-Saharan African states have manipulated existing ethnic/kinship relationships with ulterior self-serving motives, instead of building new national interests that would be to the benefit of their countrymen/women.

African authoritarian leadership that serves its own interests of regime survival is not able to serve the interest of people. This means that the current African political leadership fails to take the interests of people seriously. The worst part is that they seem unwilling to discard inherited colonial legacy which further promotes segregatory tendencies and a division of the people along ethnic lines.

African political leaders have the responsibility of getting rid of the colonial legacy and its impact. Africa is not developing today because the incoming African political leaders at independence did not decide to discard the colonial government and create anew a form of government tailored to suit the African. Instead, they simply inherited the Western colonial form of government, its systems, institutions and laws. As such, they borrowed the Western governance system which was different from the traditional African governance system. The African traditional governance system was destroyed by colonialism which created a culture of tyranny in Africa. Chikerema et al argues that:

> colonialism had some influence in the moulding of African states transitioning and succession frameworks. The first generation leaders embraced and inherited the systems, institutions and laws of the colonial master without tailoring suitable systems to the new political environment. Africa had democratic culture in the pre-colonial time which later was destroyed through the impact of subjugation, imperialism and neo-expansionism. Curiously noticed that the "contemporary state in Africa is a remnant of a colonially imposed framework which created ethnic and tyrant based political culture" (2021:2).

The blend of Western and African governance systems in Africa has caused a great confusion amongst contemporary African people. The confusion explains and characterizes the chaotic nature of the African political situation. This confusing and unstable state of affairs is what this study has identified as the *African state of nature*. Indeed, this kind of African state of nature is a call for the revival of the African social contract theory.

Even though colonialism ended some decades ago, African political leaders have failed to liberate Africa from colonial legacy and its impact. They have failed because they did not initiate and implement an African social contract theory at independence. It is necessary for African political leaders and African people as a whole; to take Africa out of this state of nature in order to move from being an underdeveloped to a developed continent as it happened with Asia. This means that African political leaders in conjunction with people have the responsibility of making Africa a better place to live in. Put differently, they collectively have the responsibility of making Africa great again. The starting point for taking Africa out of the state of nature is changing the mind-set of African political leaders and all African people which was created during colonialism. It is quite unfortunate to realize that even after colonialism the dependent mind-set of African political leaders and people has not changed. It

is even worse to see that due to the inherited colonial mind-set, contemporary African political leaders are still using the principle of divide and rule.

Moreover, they are still clinging tenaciously on indirect rule by the West (Ocheni et al, 2012:52). African political leaders are used by the West to exclude their fellow Africans from enjoying the African resources which are found in abundance. For example, the colonial borders that still exist even today have divided African people for the benefit of European colonizers. It is important to note that Lesotho is surrounded by South Africa through the use of colonial boundaries. Amazingly, Basotho people, Zimbabweans and Mozambicans suffer xenophobic attacks from their fellow brethren in South Africa, when, if we remove the linguistic differences, these people are literally the same, culturally. It should be noted that this kind of problem cuts across the African continent. It goes without questioning that the biggest problem that is facing Africa today is not only neo-colonialism, but the mind-set of the African political leaders. Due to their colonial mind-set, African political leaders are not even held accountable to public money that is privately used (Alemazung, 2010:70-730).

3.6. CONCLUSION

The purpose of this chapter was to evaluate whether the Western based social contract theory is applicable to the African context and to assess the problems that have arisen when it is applied. The chapter argued that the Western social contract theory was successfully applied in the West but it was not applied in Africa by European colonizers. Instead, when the European colonizers established the colonial state, they implemented a social contract that amounted to

being a racial contract through the exclusion of native African people at its inception. The racial contract was premised on white supremacy and an assumed inferiority of the natives. The whites were regarded as humans while non-whites, sub-humans. The racial contract led to the justification of the expropriation and exploitation of African land and property. Having established the racial contract and its inner workings, the chapter also demonstrated the problems that have arisen both in the colonial and post-colonial African state. Of note is the inheritance of the colonial type of state by independent African leaders which has resulted in ethnic conflicts (directly) and economic mismanagement and corruption (indirectly). The major finding of this chapter was that the implementation of a social contract that is Western based and does not take into account peculiarities and experiences of the African people has not been beneficial to the post-independence African state. What is needed is a radical overhaul of the whole colonial-based system in favour of a social contract that is African based. But pertinent questions arise in this endeavour. For example, is there a uniquely African social contract theory that could be used to overhaul the colonial system that permeates African states to this day and if there is, how different it is from the Western social contract theory? For purposes of answering this question, the next chapter will investigate whether there is an authentic African social contract theory.

CHAPTER FOUR

THE EXISTENCE AND NATURE OF THE AFRICAN SOCIAL CONTRACT THEORY

4.1.   INTRODUCTION

The question of the existence of an African social contract theory seems to be an elusive issue, as, thus far, there has not been a widely held account of what such a social contract theory would look like. Part of the problem, as has been observed in preceding chapters, is that African ideas seem to be largely ignored at the expense of Western based ideals. As noted in the previous chapter, when Africans took over their countries from the colonialist, they did not take the time to formulate ideas on how their own independent African states would look like. Instead, they took the Western template that had been used in the formation of the colonial state and used it as the basis of the newly independent African state. However, as has been observed in the previous chapter, the application of such Western based political ideals has had some negative consequences on the social and political arena of the independent African states. To solve some of these problems, the assumption of this study is that there is need to formulate an authentically African social contract theory that will take Africa out of the political quagmire that it currently finds itself in. The hope is that such a social contract, based on African experiences, would be able to alleviate some of the challenges that Africa is facing. To this end, the purpose of this chapter is to investigate whether there is an African social contract theory and how it is different from the Western social contract theory.

4.2.   THE AFRICAN EXPERIENCE AND *UBUNTU/BOTHO* PHILOSOPHY

The best starting point in the attempt to find out an authentically African social contract theory is to take a look at theories that are grounded in the African experience. Beginning with seminal works by African scholars such as Ramose Mogobe (1999) and Samkange and Samakange (1980), the African experience has been identified as being embodied in the philosophy of *Ubuntu*. The concept of *"Ubuntu"* is derived from the two words namely *"Ubu"* which means "I am becoming" and *"ntu"* which means "a person" (Volkmink in Rocha, 2017:64). From the foregoing meaning of words, the etymological meaning of *Ubuntu* is "becoming a person". It is important to highlight that the concept of *Ubuntu* is sometimes used interchangeably with the concept of "*Botho"*. Both concepts are used by the Nguni and Sesotho speaking people of Southern Africa respectively. Oyowe et al (2018:345) endorses *Ubuntu* as a Nguni term which literally means "human-ness" or "personhood". The notion of personhood demands the recognition of the humanity of other people and on this basis treat them well. Therefore, the general expression of *Ubuntu* takes an ethical outlook of showing "humanity towards others".

Volkmink in Rocha (2017) breaks down the concept of *Ubuntu* into two parts which are; "*Ubu"* and "*ntu"*. For him, *Ubu* translates to "being" and *ntu*, "person". As such, *"Ubu-ntu"* means *being a person*, and to say "being a person" or "becoming a person" refer to the same reality. In this sense, these two expressions are not opposed to one another but related (Ramose, 1999:44). In the Zulu language of South Africa, *Ubuntu* is well captured by the phrase; *"umuntu ngumuntu ngabantu"* while in Sesotho it is expressed as: *"motho ke motho ka batho ba bang"* which means a person is a person through others" (Ramose, 1999).

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Looking at both *Ubuntu* and *Botho* concepts, one realizes that a human being is expected by a community to become a person by acquiring the quality of being human. This means that personhood is not the quality that man is born with, but it is acquired (Menkiti 1984, Gyekye et al 1992, Molefe 2017). For one to have acquired personhood, he or she must participate in communal life by discharging various moral obligations. In the context of the African communal life, personhood is not inherited or biologically acquired but it is by efforts of an individual as she or he matures in a community. Therefore, in an African context, it is not acceptable for one to be a mere human being because more efforts are expected and required for one to acquire the status of personhood and become a fully recognized person. For this reason, personhood is understood as a process which one undertakes to move from being a mere human being to being a person. This means that the acquisition of personhood is a journey of moral transformation.

Being a person is understood as referring to an individual who has acquired a high level of moral status in a community and to be judged as a person depends on the performance of acceptable norms prescribed by a community. In this regard, to be called a person is a moral judgement. Given that to be called a person is a moral judgement, *Ubuntu* is understood as a normative philosophy which emphasizes that a human being is considered a person only if she or he is able to perform culturally expected and acceptable norms. Having recognized the humanity of other people, an individual person is expected to establish humane relations with other people. Ramose (1999:42) summarizes it to say;

> (…) it may nonetheless be construed to mean that to be a human be-ing is to affirm one's humanity by recognizing the humanity of others and, on that basis, establish humane relations with them. Ubuntu understood as bei-ng human (human-ness); a humane respectful and polite attitude towards others constitutes the core meaning of this aphorism.

This shows that *Ubuntu* is a relational philosophy which demands the recognition of the humanity of others and establishment of humane relations as well. The phrase; "a person is a person through other people" is magnified by the phrase: "I am because we are" which defines and describes *Ubuntu* as an African philosophy that teaches the interconnectedness and interdependence of all humanity. Nussbaum (2003:2) argues that:

> Ubuntu (…) speaks to our interconnectedness, our common humanity and the responsibility to each other that flows from our deeply felt connection. Ubuntu is consciousness of our natural desire to affirm our fellow human beings and to work and act towards each other with communal good in the forefront of our minds. Ubuntu calls upon us to believe and feel that, your pain is my pain, my wealth is your wealth, your salvation is my salvation.

As a normative social philosophy, *Ubuntu* recognizes any action that expresses compassion, reciprocity, dignity and harmony towards other human beings in a community (Munyaka et al in Murove, 2009). This simply means that, in the context of *Ubuntu*, one is expected by the community to behave well towards other people in a community. Indeed, without *Ubuntu*, one cannot be recognized as a full person. This implies that without community, *Ubuntu* does not make any sense since it is demonstrable in a community. To be inhuman towards other people qualifies one as non-human. For an example, acts of oppression such as those imposed by colonialism are not aligned to *Ubuntu* and one whose acts are not aligned to *Ubuntu* is not recognized as a person, but a brute. Usually individuals whose acts are not aligned to *Ubuntu* are rejected in the community (Van Stam, 2014:42). According to Ramose (1999:43), "The

judgement, pronounced with approval or disapproval respectively, is invariably expressed in these terms: *ke motho* or *gase motho*". The former expression means; he/she is a person while the latter, he/she is not a person.

It is worth noting that the rejected person who has transgressed *Ubuntu* norms still remains a member of a community simply by virtue of possessing human dignity. The problem with the person who attracts rejection is only his or her conduct which lacks the quality of being human towards other people in a community (Munyaka et al in Murove, 2009:73).

As noted in the preliminary assumptions outlined in section 3.2 of this study, when we look at all human societies across the globe, it is undeniable that in an endeavour to survive, societies evolve philosophies and or social ideologies of life informed by their existential circumstances. In the process thereof they define their own being, identity, and selves in ways that become manifest in their daily activities and societal operations. For societies to develop in a sustainable manner, it is imperative that they should first and foremost take stock of their own fundamental and unique values which are the lifeblood of any human community. These unparalleled values which more often than not, shape, influence, and guide human contact and relations are normally expressed in people's beliefs and thinking. In this case, in Southern Africa, and the rest of Africa by extension, the philosophy of *Ubuntu* is at the centre of all human realm, whether economic, religious, political or cultural. In conformity with the above, Olinger *et al* (2007), point out that *Ubuntu* has informed politics, business, corporate governance, restorative justice and conflict resolution among many other human spheres. As enshrined in the philosophy of *Ubuntu*, it is the group and not individuals that motivate daily

endeavours, design, and behaviour. Having outlined the concept of *Ubuntu*, it is important to turn the discussion to the essential elements of the social contract theory such that an understanding of what an African social contract theory can be made from the principles of *Ubuntu*.

4.3. EXPLICATING THE ESSENTIAL ELEMENTS OF THE SOCIAL CONTRACT THEORY

As noted in the first chapter of this study, the social contract theory could be explained as a view that puts political as well as moral obligations in the form of agreement between rational persons who wish to escape the state of nature and form a society. Furthermore, the social contract theory could be understood as a political theory which provides a justification for having a political authority. The desire to escape the state of nature in order to have a political authority explains why the social contract theory was necessary. It is important to mention that the essential elements underlying the Western social contract are not unique to it but they cut across all forms of contracts. According to Oyowe et al, in Etieyibo (2018:349-350), even in everyday commercial contract that occurs between individuals in a society, there is always essential elements of the contract that are involved and need to be considered and clarified. The essential elements of a contract are always necessary for determining the existence of a contract. Similar to the commercial contract, the essential elements that determine the existence of the social contract theory that need to be considered and clarified are the state of nature, negotiation, consent and mutual benefit.

4.3.1. THE STATE OF NATURE

All social contract theories begin with a state of nature situation in which a group of people find themselves in a situation where they do not as yet have a common authority to govern them or make laws of judgments. Although the conditions in such a state of nature are different depending on the outlook and experiences of the theorist, it is safe to say that such a state before civil society is formed is an essential element of any social contract theory.

4.3.2. NEGOTIATION

Negotiation in the social contract theory refers to the situation where people engage in a dialogue and negotiate terms and conditions of a contract for the purpose of reaching an agreement in order to escape the state of nature (Oyowe et al in Eitieyibo, 2018:358). Because conditions in the state of nature are not conducive for human flourishing, different groups of people come together to negotiate on the kind of conditions that will be characteristic of their newly formed society.

For the process of negotiation to start and be successful, there are at least three conditions that must be met (Oyowe et al in Etieyibo, 2018:358). For Oyowe et al, the first condition is the presence of dispute or conflict that needs a resolution or agreement, in this case, the conflicts arising as a result of the absence of a common authority or common laws. Second, parties that are involved in the negotiation must each have interests on the subject matter. In this case, because people in the state of nature all have a stake in the formation of the new society, and because they all have something to gain by being members of a new society, they decide to

come to the negotiating table. Third, the subject matter must be based on mutual benefit. For the people trying to escape the state of nature situation, they must see the benefit of being in a state under a common authority rather than being in the state of nature. The negotiation aspect becomes key in the formation of a social contract based on these principles.

4.3.3. CONSENT

According to Oyowe et al in Etieyibo (2018:353), consent and agreement refer to two identical and related factors which are involved in the contract. Oyowe et al argue that consent refers to the acceptance of the terms and conditions of a contract, while agreement refers to reaching a consensus by parties involved in the decision-making process. For example, parties reaching a consensus on terms and conditions of the contract have accepted and consented to an agreement. Therefore, reaching a consensus on terms and conditions that would have been derived from the negotiation phase of the contract is consent to the contract. This means that the legitimacy of a social contract theory is based on the consent of people after having negotiated and come up with terms that the social contract will be based. In the *Two Treatises of Government* for example, Locke argues that once people come together and agree to from a civil government, they must also agree to give it the power to punish people who violate the laws. When people have agreed to abandon the state of nature and given power to political authority, they have a moral obligation to submit to the political power. This means that, the existence of political authority depends on the will and consent of people. Moreover, people are punished when they have violated laws because they have accepted and consented to be punished when they were forming a society. Without their consent, they could not be punished

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and there could be no government. Rousseau in *The social contract* shares the same sentiment and argues that people give their consent to the government to rule over them.

It follows that the consent that is legitimate is the one which people are aware of what they are consenting to. Hume contends that; "the argument rests on the contention that consenting, choosing and contracting are things that one can do only if one conceives oneself to be doing them" (Brownsey, 1978:134). This means that if people are not aware of what they are consenting, choosing and contracting to, there is no contract. For example, at independence the African people were not fully aware of what they were consenting and choosing because they had little time to prepare themselves for independence (Van Wyk:2007:3). This implies that they had little knowledge about the government they were consenting to. Therefore, one cannot claim the legitimacy of consent at independence in Africa.

There are at least three types of consent namely; actual/explicit consent, tacit/non-ideal consent and hypothetical consent (Oyowe et al, in Etieyibo 2018:354). For Oyowe et al, actual consent refers to the consent where people actually agree to the terms and conditions of a contract. This kind of consent is sometimes accompanied by signing. For an example, a marital contract is signed by both bride and groom hence they each have actual consent to the terms and conditions of marriage. However, this kind of consent is not applicable or practical when choosing a government because everyone should actually sign a contract which legitimizes a government. If this kind of consent could be required for choosing a government, there is no government which could be legitimate due to many political reasons such as the existence of diverse political interests. Ifeanyi Ani in Etieyibo (2018:221) argues that:

actual consent would mean that everyone under government actually signed
a contract to be ruled by a government, and this is not possible. If this were
to be the case, no government in the world would be legitimate since quite a
number of people may refuse to sign such a contract.

Other than the actual consent another type of consent is *tacit* consent. Tacit consent refers to a situation where people have given consent to participate in some form of governance and activities in a society. For example, where people participate in government by paying taxes and using public facilities they are legitimizing and consenting to it.

Another form of consent is hypothetical consent, which refers to a situation where the terms and conditions of the contract are accepted and regarded as just and fair for everyone. A typical example is where people give their consent to the political authority under the Rawlsian "veil of ignorance" in the "original position" (Ani in Etieyibo, 2018:263-264). In the original position when people are under the veil of ignorance, they choose principles that are just and fair without knowing their positions or conditions in the society (Rawls,1971).

4.3.4. MUTUAL BENEFIT

Mutual benefit or advantage is one of the important elements of the social contract theory. Mutual benefit is concerned with benefits acquired by all parties which are involved in a contract or relationship (Oyowe et al 2018:351). Rousseau in *The Social Contract* argues that the social contract demands reciprocal duties or responsibilities. For example, the sovereign has a moral responsibility to always do what is of great benefit for individual human beings. In the same manner, individual human beings have a moral duty to do what is in the best interests of the entire society. The idea of mutual benefit seems to demand a united society which always

works together for the common good. Working together for the common good demands harmonious and mutual relationship between individual persons. For instance, in the *Leviathan*, Hobbes argues that due to constant fear of death in the state of nature, men have the desire to escape the state of nature and submit to political authority. People submit to political authority in order to have just laws or rules that should govern how people are to treat one another in a society. In this case, the common good that needs united people is to escape the state of nature and have a government that will enact just laws for equal protection of all people. Therefore, a political authority and just laws are needed by the society to ensure mutual relationship that culminates into mutual benefit in a form of justice, security and peace.

Upon closer analysis, the concept of mutual benefit did not apply during the formation of modern governments in Africa. In the first place, the concept of mutual benefit does not allow any kind of domination of one country by another foreign country either in a direct or indirect manner. Put differently, the concept of mutual benefit is against any form of imperialism because in this kind of relationship there is no mutual benefit but exploitation. As a result of colonial imperialism which benefited the European imperialists, Africa experienced different forms of exploitation such as economic exploitation, labour exploitation and the imposition of taxes. Furthermore, at independence, the incoming African political leaders became rich and retained power through coercion and utilized state resources to further their individual interests and those of their followers (Van Wyk, 2007:11). The inherited autocratic rule by the African political leaders still exists even in contemporary Africa and it does not honour the mutual benefit which is an important factor of a contract. Having discussed the essential elements of

the social contract theory which are the state of nature, negotiation, consent and mutual benefit or advantage, it is important to situate such factors in the *Ubuntu/Botho* theory. This is done for the purpose of demonstrating that the essential elements of the social contract theory are comparable and compatible with *Ubuntu*.

4.4. SITUATING THE ESSENTIAL ELEMENTS OF THE SOCIAL CONTRACT THEORY IN *UBUNTU*

Thus far, the essential elements of *Ubuntu* philosophy and the social contract theory have been illustrated. It remains to be seen how an authentic African social contract theory can be formulated from the African experience.

4.4.1. THE STATE OF NATURE

It is an undeniable fact of history that African states went through a period of colonialism as discussed in the previous chapter. With the exception of countries like Ethiopia, virtually all of Africa has been colonized by one Western power or the other. This being the case, in our attempt to formulate an authentic African social contract theory, it is difficult to look at the pre-colonial past for insights into what a potential state of nature could look like, as there are two basic problems that may arise. First, there were no direct writers in African societies who described the nature of the political arrangements in such societies, let alone how such societies would have emerged, with any degree of measurable accuracy. It then becomes extremely difficult to have a reconstruction of the nature of pre-colonial African states without distorting the accuracy of such states.

The second problem that may arise is that there is a tendency to romanticize the African pre-colonial past as a glorious and idyllic place that was better than conditions under colonialism. The danger here is that this may also not paint an accurate picture of how African societies were ordered since there is a tendency to be affectionate towards what one considered their own. In other words, there is a tendency for African philosophers to give a picture of a precolonial past that was almost like the Biblical Eden, which was free of modern day corruption and evil (which are usually blamed on colonialism). This being the case, as hinted in the previous chapter, our best starting point is what we do know about the current African condition; specifically, that Africa went through a period of colonialism which was brutal and oppressive.

In essence, the African state of nature, as also hinted by the previous chapter, is a state wherein, coming from the colonial state, there was no effort to craft a new African social and political order that is grounded in African experiences. Ideally, what should have occurred at independence was a complete overhaul of the colonial system and the colonial type of administration. All laws that were passed in the colonial state, good or bad, were to be completely dispensed with and the African politicians, in consultation with the African citizens, were to decide the principles that would guide the running of their newly formed state. They were supposed to, in true social contract fashion, come together to escape the state of nature that had been created by colonialism; a state that was characterized by the brutal oppression and subjugation of the will of the native people. In other words, the colonial era marks the state of nature phase of the African social contract.

In this state of nature, the humanity of the African person is not recognized. The African person was reduced to a level below that of an animal, a grown African man typically being referred to as a boy (Sharkey, 2013:13). The rights and freedoms of the African person were not recognized, and restrictions on his well-being were imposed through colonial laws that favoured the white colonialists at the expense of the African. The laws were used in a partial manner to the disadvantage of the native Africans who were reduced to mere cheap labour, or slaves in some extreme cases. The native black person was excluded from political and economic participation, creating a vicious cycle of poverty and exclusion. Resources were extracted by the colonial settlers to the benefit of their European origins at the expense of the African state.

Finally, the colonial era saw the coming together of different tribes that had traditionally saw themselves as autonomous kingdoms. Bringing together two or more groups of people who occasionally see each other as enemies and totally disregarding their unique heritage and traditions was colonialism's assault on social relations among differing ethnic groups. The colonial administration further widened the fissures of suspicion between the different ethnic groups by carefully crafting a divide and rule strategy that saw them favouring one group while disadvantaging the other group; a situation that was observed in the previous chapter to be the cause of many of the current ethnic conflicts that bedevil Africa to this day. This is the nature of the African state of nature; the product of its colonial past.

The African people, being fed up with the conditions of the colonial state of nature, waged various wars of liberation to get themselves out of the colonial state of nature. An opportunity

to escape this state of nature presented itself at the inception of the post-colonial independent African state. This is where things begin to go wrong for the majority of African states. Instead of getting out of the state of nature, the African leaders decided to get out of the state of nature by continuing with the same system of the state of nature through inheriting the colonial state in its raw form, and merely making minor changes here and there. In essence, African states are still in the colonial state of nature, albeit it being under the leadership of the black natives, rather than white colonialists. Because there was no overhaul of the colonial system and its attendant state of nature conditions for the African natives, it is important to examine how such an activity would have looked like.

4.4.2. NEGOTIATION AND *UBUNTU*

One of the important elements of the social contract theory is negotiation which demands people to engage in a dialogue in order to reach an agreement or consensus. Generally speaking, a dialogue is a mutual process which takes place between two or more parties who negotiate for the purpose of reaching a consensus for the common good. In the colonial Africa, African societies were not brought to the negotiation table to bargain how they would want the colonial state to be run. The colonial state was exclusionary in its approach to dealing with the natives. However, at independence, the native African politicians ought to have brought the various people of their territories and negotiated on how the new state was going to be run. The common aspect would have been the need to escape the colonial state of nature into a new state which was run on authentically African principles. From a reconstruction of how traditional African societies may have been organized (basing this reconstruction on the nature of

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traditional values in African societies today), it is important to note that traditional African societies utilized actual negotiation through dialogue as an integral part of *Ubuntu* in order to reach a consensus. It is worth mentioning that *Ubuntu* imposed upon people, as a moral imperative, the obligation to negotiate by way of engaging in a dialogue (Oyowe et al, 2018:359).

As indicated in the preceding chapter, the process of negotiation could have been done through dialogue because African societies were under the rule of federated governments and centralized monarchies. Federated governments were structured in such a manner that they had their roots in the lower level of lineages or villages. Each village had the political power to choose its leader who served as member of chief's council and the chief was regarded by many as the supreme political authority (Palagashvili, 20218:284). For Palagashvili, village people or commoners served as the court *(lekhotla)* and they served where there was no consensus over a disputed issue between the chief and councillors. At the court, the commoners and their leaders discussed and negotiated a disputed issue and finally resolved it amicably through consensus. In this regard, the court was used by traditional Africans in the precolonial Africa as a place of dialogue where disputes were negotiated for reaching a consensus.

In like manner, at the inception of the African independence, the African leaders ought to have brought the common people in the state who had undergone the brutality of the colonial state and negotiated on the kind of state that they would have wanted to live under, which was different from the colonial state of nature, more like how the people in the Western based social contract theories formed new societies as a way of escaping the state of nature. At the

bargaining table, new principles that would run the state, based on the principles of *Ubuntu* would be tabled such that all members of the state would be compelled to want to live in the new state rather than the old colonial state, assuming of course, that both parties were true in their intentions and not just paying lip service to the whole process. Among the things that should have been negotiated for was the kind of government that the people would want and the kind of laws that they would want which were inclusive and impartial to all members of the state.

To put it more vividly, the following principles were ideally to be brought to the negotiation table:

- That the laws in the new state would not be segregation-based. *Ubuntu* demands that the humanity of all people would be recognized regardless of gender or social status (although it is difficult to see how this would include the former white oppressors, since the word *muntu*-human- does not generally apply to non-black people).
- That the oppression of the colonial state of nature should never be witnessed again in the new state
- That the people would be free to choose leaders of their choice
- That the government would be accountable to its people
- That the government would create an enabling condition for people to thrive
- That the government should make it as its main mandate to end poverty of all forms in the new African state.

- That the government should redress the imbalance caused by the injustices of the colonial state of nature.

All of these principles are in line with the demand of *Ubuntu* with its emphasis on the recognition of the humanity of others, similar in comparison to the Kantian maxim of the categorical imperative in which we would recognize and treat other humans not only as ends in themselves, but also with dignity, using universalizable principles.

4.4.3. CONSENT AND *UBUNTU*

Having negotiated for the kind of state they would want to be in which was different from the state of nature characterized by the colonial state, the people in the new African state needed to give their consent on the principles they would have chosen such that these principles would become binding to everyone involved, the political leaders and the people alike. This would have ensured that the oppressive tendencies of the colonial state of nature would not be replicated in the new independent state. Due to the moral demand of *Ubuntu* of treating other people in a humane manner, there was need to come up with strong laws that recognized and enforced this principle. Such laws would also decide the extent of the powers of the leaders, doing away with any colonial laws that gave an unfair advantage to the leaders, creating a conducive environment for such power to be abused, and the subsequent return to the oppressive colonial state of nature.

Looking at the obligations imposed by *Ubuntu* such as affirming the humanity of other people and establishing humane relations, there is an implicit consent that the people agree to have

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someone as their leader (Oyowe et al, 2018:355). From this, it can be noted that Africans needed to have a consensual form of government, wherein they were supposed to voluntarily accept the terms and conditions that would run the new state, creating accountable leaders and an environment of respecting one's obligations.

4.4.4. MUTUAL BENEFIT AND *UBUNTU*

Mutual benefit as one of the key essential elements of the social contract theory seeks to create a united society which works together for the common good or interests. Working together for the common good is compatible with mutual benefit or advantage. Likewise, when individual citizens are united, they become strong and benefit from one another, hence the phrases: "I am because we are" and "a person is a person through other persons" speak to this mutual benefit principle. *Ubuntu* is a relational normative and social philosophy which demands parties or people work in solidarity and cooperation with other people for a harmonious relationship that aims at achieving mutual benefit or advantage. Therefore, the essential element of mutual benefit fits well in *Ubuntu.* Oyowe et al argues that:

> to the extent that Ubuntu requires parties to relate positively towards others, to engage in cooperation with fellow humans, and in this sense broadly encourage solidarity, as well as collaborative and harmonious values, it is comparable to the notion of mutual advantage in the social contract tradition (2018:352).

At the inception of the independent African state which was free from the state of nature characterized by the oppressive colonial regime, African governments ought to have created states that were founded on this principle of mutual benefit. Whatever type of government was

going to be formed was supposed to be based on these principles and the task on the new states was to ensure that there would be no going back to the colonial state of nature.

4.5.   THE AFRICAN SOCIAL CONTRACT THEORY

From the above discussion, an attempt has been made to demonstrate how the important elements of *Ubuntu* can be paralleled with the essential elements of a social contract, thereby formulating an authentic African social contract theory. The principles of *Ubuntu* form the basis upon which an authentic African social contract theory can be formulated. In this section, the intention is to provide an abridged version of what this study contends is an authentic African social contract theory.

The African social contract theory begins thus; in the beginning, there were isolated individual tribes whose origins cannot be accurately determined due to lack of first-hand accounts of evidence, but were generally divided upon linguistic lines. However, from the documentations of historical records, there appears to have been some sort of formal structures of organization in African societies that had chiefs and kings at the helm. These various individual tribes co-existed and occasionally were involved in conflicts due to territorial expansion or the search of a myriad of resources.

Colonialism came in and plunged African societies into a state of nature, similar to the one described by Hobbes. Although this state of nature was a civil state with common authorities and laws, this was a state of nature to the African because the Africans were not included in the social contract that led to the formation of the colonial state. In fact, the colonial state was

designed to have prejudicial laws that were meant to oppress and subjugate the natives. There was no idea of mutual respect or benefit, as the natives were seen as inferior beings that could not enter into contracts. They were largely left out of the political and economic benefits of being part of civil society. Disgruntled by this oppressive state of affairs, the natives sought to remove the oppressive colonialists and replace them with a government that was for the natives (and in most cases in Africa, for the former colonialists too). To this end, the Africans fought protracted wars of liberation to escape the conditions of the colonial state of nature which was characterized by oppression and the dehumanizing of the African person.

Once the wars of liberation were fought, and won, the Africans (and the former colonisers in some cases) came to form a new social contract that was based on recognition of the humanity of the African person. Guided by the African principle of *Ubuntu*, in this contract, people were to surrender their autonomy to the new government and obey its laws in exchange for a number of societal benefits including:

- The recognition of the humanity of all human beings,
- The recognition of the various ethnic groups of people as belonging first and foremost to the human race, and second as belonging to the state, being recognized as equals regardless of ethnic belonging,
- The freedom to participate in political and economic activities of the state without facing prejudice,
- The eradication of segregatory laws,
- The ending of racial discrimination,

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- The creation of an education system that benefitted the natives in the economic activities of the state, and

- The ending of poverty which had been created by the colonial system.

Of particular note is the second item on this list, which recognizes the equality of the ethnic groups as equals in the new state. Most African states, because of the arbitrary creation of colonial boundaries, find themselves with a number of distinct ethnic groups that have been forced to coexist. Although cessation would be a viable option, the contention of this study is that once African states are formed on the basis of the recognition of the humanity of others, and does not embark on policies that fuel divisions and separation as the colonial state did through divide and rule strategies, then coming together is a more attractive and productive option. To give a solid example, the Southern African country of South Africa is comprised of four major ethnic groups namely the Nguni (Zulu, Xhosa, Ndebele and Swazi), Sotho, Shangaan-Tsonga and Venda (Levinson, 1998). However, at the inception of the post-apartheid South Africa, these groups remained distinct, but did not actively seek cessation because they saw more benefit as belonging to the broader conglomerate South Africa, than becoming individual states. This is because their humanity, regardless of their different and distinct ethnic belonging, was recognized equally by the state. So it is important for any African social contract theory to recognize this unique aspect of the African landscape, that of a heterogeneous population comprising of different ethnic tribes and harmonize them into becoming one people who are equals in all aspects.

On the question of what kind of government would be formed, this study contends that a Government run by humane principles stemming from the principles of *Ubuntu*, was the best form of government. To this end, drawing from the Sesotho variation of the word *Ubuntu*, which is *Botho,* this kind of government can adequately be called a *Bothocracy* being derived from a combination of the Sesotho word *botho-* meaning *humane*, and the Greek *Kratos* which has been Anglicized to be the suffix *–cracy* meaning 'rule by.' In essence, *Bothocracy* then means *rule of the humane*.

What would a *Bothocratic* government look like, one would wonder? The foundational principle of a *Bothocracy* would be the recognition and respect of the humanity of others. As noted earlier, this would be akin to the Kantian formulation of his categorical imperative, which demands that moral principles be based on recognition of humans as equal members of the realm of ends. But unlike the Kantian formulation which was racist in nature, applying only to Westerners than to Africans (whom Kant considered inferior beings), *Bothocracy* would apply to all humans regardless of race, demanding that *all* members of the human race must have an equal recognition as moral agents with their own goals, values, ends, aspirations and desires, which should be catered for by virtue of belonging to the state. As such, this already places a burden of responsibilities on the government to be formed as the leaders have to run the state by principles that promote the humanness of others. For example, economic principles must be arranged in such a manner that they recognize the humanness of all citizens, meaning that no one should be left behind in economic activities. No one would assume that brutalizing others is a way of recognizing their humanity; hence a *Bothocracy* would not permit the brutalizing

of citizens. Again, no rational person would assume that oppressive laws would promote the recognition of the humanity of others; hence the government would not institute laws that are oppressive. Finally, poverty is an offence on the very idea of the humanity of others, hence a *Bothocracy* would be compelled morally to ensure that all of its principles are aimed at ending poverty. If the African governments should exhibit any form of *Bothocracy* at all, then pursuing all possible means of ending poverty would be on top of their agenda.

A salient lingering question then would be, should this take a democratic or otherwise kind of governance model? The answer to this question would be that in a *Bothocracy*, the underlying principles are not necessarily democratic or otherwise. But the people must come together and decide which form of government best promotes the humanness of others. If it so aligns with democratic principles, this should only be considered a coincidence. It is up to the people in the formation of this African social contract theory to determine the government that they best see fit as promoting the humanness of others.

A few lessons on this can be drawn from history. Chief Moshoeshoe of pre-colonial Lesotho, for instance, is said to have displayed compassion for the humanness of others which characterizes *Ubuntu* by ensuring the welfare and wellbeing of his people through the system of *mafisa* (cattle loans) (Eldredge,1993;34). This implies that the traditional Basotho society was a welfare state which was operating on fair distribution of resources. The system of *mafisa*, in which a person would be loaned with another person's cows and return them when they gave birth (keeping the offspring), established and maintained humane relations between chief Moshoeshoe and his people (Mothibe in Pule et al, 2013:12). The system of *mafisa* established

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and maintained humane relations amongst people as well. For Eldredge, the system of *mafisa* was an opportunity which enabled one to feed his family with milk as well as to plough his fields. Moreover, *mafisa* was used as an advantage to build one's own herd and was perceived as a loan made out of generosity which also characterizes *Ubuntu*. Therefore, the system of *mafisa* was perceived as a successful welfare system for economic growth (Eldredge, 193:34).

Again, during the political leadership of chief Moshoeshoe, people worked in the fields through *letsema* (communal labour). At the time of cultivating, hoeing and harvesting, people worked freely and voluntarily in the fields as an expression of allegiance to the chief and in exchange of benefits they received from the chief (ibid, 37). It is worth mentioning that the food that was produced from the fields was used to feed the needy, strangers, visitors and warriors hence the entire society benefited. Eldredge (1993:39) emphasizes that;

> the chief was ultimately responsible for the welfare of those who lived under his jurisdiction; and the food from the fields which were ploughed and harvested "by the nation" through work-parties for the chief was designated to feed the poor as well as strangers and visitors from elsewhere, and soldiers in times of war. Hence the fields which appeared to benefit the chief worked by his people in fact benefited the whole society.

Communal labour benefited the society and Lesotho economy started to grow exponentially. Consequently, the reputation of Chief Moshoeshoe increased and attracted many people to his kingdom. According to Thompson (1975:190), Lesotho's economy grew by mid-1850s due to agriculture to the extent that the whites who settled in the Southern high veld depended on Lesotho for grain supply.

However, a few caveats must be put in place. History has demonstrated how human nature can corrupt even the noblest of humans. Left unchecked, power being given to human beings can lead to dangerous despots that become a danger to their own societies contrary to the promotion of humanness in African societies. To curb this human tendency, a *Bothocratic* state would ideally be run by *institutions* that ensure that the power of individuals is always kept in check, and that the state always pursues principles that are in line with the principles of *Ubuntu*. Whether the leaders are chosen by democratic means or by casting lots is not what is important if strong institutions exist to keep whichever leaders are in place in check. The absence or failure of these institutions to keep such leaders in check would be an affront to the principles of *Ubuntu*, and ultimately a failure of the state.

To give a clear example of this, most African states are a clear demonstration of this fact. Although they claim to be democratic and founded upon democratic principles, on the ground, these African states are not necessarily democratic, but despotic governments hiding behind the mask of democracy in order to secure funding from Western countries. In principle they are democratic, but in reality they are something else. Citizens are brutalized by their states for simply sharing differences in opinion, constant ethnic divisions continue to be taken advantage of by despots who seek to prolong their stay in power, elections are a sham and the institutions that are meant to keep government power in check such as constitutions and the judiciary are compromised by the very leaders who proclaim to be democratic. This is why it is important to have a *Bothocratic* state that is run by *institutions* rather than have a democracy in name only.

If only African states had adopted this form of government at the inception of the new African state, thereby forming a *Bothocratic* state, the sequence of events in post-colonial Africa would have been radically different, and Africa would be a different place to live in. However, this did not happen, as most post-independent African states either continued with the same oppressive system of the colonial regime, or adopted a sham schematic of democracy to please the former colonizers so that they had access to aid. But a salient question also needs to be answered regarding *Bothocracy* as an ideal and authentic African ideal social contract theory; how achievable is this kind of theory?

As indicated above, human beings are difficult to predict, and Thomas Hobbes seems to have been right that human beings are by nature selfish. Africans, being humans, are not an exception to this rule. To romanticize Africans and say that they are filled with the spirit of *Ubuntu* and that they always recognize the humanity of others would be too much optimism. As argued above, the current oppressive and conflict-ridden states, characteristic of modern Africa, are a testimony to this fact. To say that people can band together to form a government based on *Ubuntu* implies that they acknowledge and know what this *Ubuntu* looks like. However, modern Africans, being heavily diluted and influenced by Western cultural ideals, seem to have lost their *Ubuntu* ways. This would make it difficult to come up with a government that based on those ideals. Further, it should also be noted that *Ubuntu* is not a streamlined philosophical outlook, with different African scholars characterizing it differently, although there are some common themes. So it may be a challenge to determine which principles actually form the foundations of *Ubuntu* and which ones do not.

In response to these criticisms, it should be noted from the onset that the social contract theory should be understood as a hypothetical/ideal theory which can be adopted. It does not necessarily mean that the social contract theory of Hobbes or Locke was an actual sequence of events, but just idealized versions of the sequence of events. Likewise, this African social contract theory is also an idealized form which chronicles an ideal sequence of events rather than actual events. To solve the problem of having multiple interpretations of *Ubuntu*, there is also need to come up with a universal understanding of what *Ubuntu* entails. This can be done by agreeing on what it actually constitutes, so that there is only one accepted version of *Ubuntu* that can be universalized. This ensures an easy and common application of its principles in contexts where it is needed.

4.6.   THE DIFFERENCE BETWEEN THE WESTERN AND AFRICAN SOCIAL CONTRACT THEORIES

From the discussion given thus far, it would appear that both Western and African social contract theories are normative, political and social theories. They are similar in that they both try to give accounts of idealized versions of how societies should be founded and the principles upon which they should be run on. However, there are some significant differences that are worth noting. The major difference is that the African social contract theory takes a communitarian outlook, with its emphasis on the recognition of the humanity of other members of the society, while the Western social contract theory is predominantly individualistic.

According to Chemhuru (2017), sociality is natural in the African communitarian setting. As opposed to the African social contract, the Western social contract puts more emphasis on individual human reason as the basis for social order. Contrary to this view, Chemhuru (2017:13) argues that the African social contract theory does not put priority on individual reason. Instead, it puts priority on community. Van Stam (2015:41) endorses the view and argues that; "*Ubuntu* considers the need of the group first, believing that in so doing, individual needs will be met. As a result, within *Ubuntu*, team rewards take precedence over individual rewards". The priority that is put on individual reason is better explained in terms of the Cartesian phrase which says: "I think therefore; I am". The Cartesian phrase is opposed to Mbiti (1989) who says: "I am because we are, and since we are, therefore I am". The Cartesian phrase puts more emphasis on the "I" which translates to the importance of an individual with the capacity of thinking. On the contrary, Mbiti puts more emphasis on the "we" and this translates to the importance of community. The importance of community is proven by the expressions: *"umuntu, ngumunyu ngabantu"* in Nguni language and *"motho ke motho ka batho ba bang"* in Sesotho language which mean; "a person is a person through other persons". In light of the above, one may realize that the Western social contract theory is individualistic.

It is worth mentioning that to say *Ubuntu* is more communal does not mean that it does not recognize the existence and importance of an individual human being. *Ubuntu* recognizes individual human beings since it demands individual human beings to transform from the status of being simple human beings to becoming human persons. This is to say, being a person starts from being a human being and before one becomes a person, he/she is first a human being. As

such, *Ubuntu* recognizes the importance of an individual human being who is a potential human person.

Awoniyi (2015) concurs with the claim that the existence of an individual is recognized in the African communitarian setting. For Awoniyi, an individual is recognized for purposes of avoiding utmost individualism which may distract social values such as caring for others, interdependence and unity. Furthermore, Awoniyi contends that the recognition of an individual is an attempt to balance individualism and communalism for them to exist in parallel. Awoniyi argues that;

> the value that traditional African societies place on communalism is expressed in sharing of a common life, commitment to the social or common good of the community, appreciation of mutual obligations, caring for others, interdependence and solidarity. At the same time, the claims of individuality are recognized. African ethic, however, urges the avoidance of extreme individualism, which is seen as potentially distractive of human values and of the whole meaning and essence of a human society. Attempts are therefore made to balance communalism and individualism so that they can co-exist (2015:8).

It follows from the foregoing discussion that the African ethic that is utilized to avoid extreme individualism and balance communalism and individualism is *Ubuntu*. Notably, *Ubuntu* seeks to promote the common good. (Chemhuru, 2017:13) argues that; "The idea of the common good in the context of the African social contract ought to be understood in such a way that the social or communitarian being also has individual life, liberty, will and identity among others". The common good could be achieved by adhering to *Ubuntu* norms that include but not limited to; kindness, generosity, benevolence, compassion and respect for other people (Wiredu, 1996, Gyekye, 1997, Metz, 2011).

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4.7.   CONCLUSION

The purpose of this chapter was to investigate whether there is an African social contract theory and how it is different from the Western social contract theory. The chapter has discovered that inasmuch as there is no universally recognized African social contract theory, there is a recognized African moral philosophy that is known as *Ubuntu/Botho*. From this ethical principle and its dictates, an authentic African social contract theory was formulated. It was observed that *Ubuntu/Botho* recognizes above all else, the humanity of others and places great emphasis on this aspect. Coming from a colonial past that was characterized by oppression and brutality towards the native Africans, African states were ideally supposed to craft new African societies that were in tandem with the principles of *Ubuntu.* However, this did not happen, as the African governments simply inherited the structures of the colonial government that they were running away from. It was also observed that whichever social contract theory should inform African political and social affairs, should be cognisant of the fact that Africa is a heterogeneous landscape, with various ethnic groups having been bound together by the colonial state. As such, an authentic African social contract theory should also cater for this peculiarity. Basing on the principles of *Ubuntu*, an authentic African social contract theory was characterized by the following aspects: an escape from the oppressive and segregatory nature of the colonial state of nature, the coming together of humans in the new state to form a government that was based on the recognition of the humanness of others; this is not necessarily a democratic government, but one which is run by strong institutions that ensure that the humanity of others is recognized and that keeps selfish tendencies on the part of leaders in

check. The ideal African social contract would ensure that the different ethnic groups are all recognized and get the same benefits as equals in the state, that there is no place for the return to the colonial state of nature, and that there is an active attempt by the government to end the cycle of poverty created by the colonial regime. In this way, the African social contract theory was seen to take a communalistic orientation rather than the individualistic orientation of the Western social contract theory.

CHAPTER FIVE

CONCLUSION AND RECOMMENDATIONS

This study aimed to investigate whether the Western formulated social contract theory is applicable to the Sub-Saharan African social and political context as well as to determine whether there is an authentically African social contract theory. The first chapter outlined what a social contract is? establishing that it is a hypothetical theory that is used as an explanation for the emergence of formal governments as we have them today, as well as a justification for political authority; the explanation of why political authority exists in the first place, and where they get their power to rule over others from. It was observed from the writings of such philosophers as Thomas Hobbes, John Locke and Jean Jacques Rousseau, that various factors led to the burgeoning of the social contract theories, specifically the emergence of an era where the divine right of kings was subjected to rational scrutiny. From the various social contract theories of these three writers, a number of fundamental aspects of the social contract theory were derived. It was observed that more broadly, a social contract theory comprises of three fundamental stages; that of the pre-government state or the state of nature, that of escaping this state of nature due to problems within the state of nature, and that of creating a new government based on a variety of principles agreed upon, depending on the context.

That being established in the first chapter, the second chapter attempted to give a reconstruction of how pre-colonial African states may have been structured. It was observed that in pre-colonial African societies there were monarchies and federations of different ethnic groups who were ordered among linguistic lines. These groups had autonomous organizational

structures with chiefs and kings taking centre stage. However, it was noted that an accurate determination of how such societies may have emerged could not be made, but a depiction of how they may have functioned could be made from the available literature. Engaging in occasional conflicts due to territorial expansion, they were relatively peaceful and did the best they could to coexist.

The third chapter explored how the Western based social contract theory was used as the basis for the inception of the colonial state in which the Lockean proviso of mixing one's labour with something made it their own property was used to expropriate the native's resources, chiefly land, which the colonizers assumed was just lying idle with no ownership on the part of the natives. The formation of the colonial state was also seen as exclusionary to the native Africans, who were perceived by the colonialists as inferior beings who did not have anything to contribute in a rational manner to the formation and successful functioning of a state. Again, the colonial state was seen as ignoring the fact that there were various distinct ethnic groups in Africa, but simply bunched them up as belonging to one group- the new colonial state. Coupled with the divide and rule strategy, the colonial state further fuelled the existing tensions between the various ethnic groups.

At independence, however, it was also observed that the new African governments did not take active steps to overhaul the colonial system, but simply extended it into the new independent African states. In essence, the new African states were founded on a Western based social contract which was not intended to benefit Africans in the first place. In fact, some of these African leaders were seen to use the inherited colonial system to oppress and subjugate their

fellow black citizens in order to enrich themselves. It was then argued that to escape this situation, there was need to formulate an authentic African social contract theory that was to form the basis of a truly independent African state.

In the fourth chapter, it was argued that inheriting the Western colonial system has not benefitted the Africans; hence a complete overhaul of the system was needed. To this end, the chapter sought to formulate an authentic African social contract theory which was based on African experiences, and upon which the new African societies could be founded. In order to formulate such a theory, the chapter identified a uniquely African framework that has been cited by many scholars around the world as representing an authentic African outlook; that of *Ubuntu* or *Botho*, depending on the linguistic variation of choice within sub-Saharan Africa. *Ubuntu* was seen as emphasizing the fundamental recognition of the *humanity* of others similar to the Kantian categorical imperative and its formulations. It was observed that an authentic African social contract would be best founded on this principle. Following the format of the social contract theory, the chapter argued that the colonial period marked as the state of nature was needed in which the native Africans were in a state of oppression and subjugation from the white colonialists. The conditions in this state of nature were such that the Africans were not free to pursue their own conception of the good life, as it was discriminatory along race lines. Opportunities that were available to the white people were not available to the black Africans by default, and the laws and institutions of the colonial state were used to perpetuate this cycle of subjugation, leading to poverty on the part of most Africans. Again, the colonial state of nature fuelled hatred between the different ethnic groups that were part of the arbitrary

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colonial boundaries by the strategy of divide and rule. Because conditions in this colonial state of nature were not ideal for the black Africans' flourishing, they banded together to form organized units that would lead wars of liberation- to liberate themselves or escape from the oppression and poverty of the colonial state of nature.

Having escaped the state of nature and successfully overthrowing the colonial regimes, the African people ought to have established governments that were founded on the principles of *Ubuntu*. It was argued in the fourth chapter that such a government would be led by humane principles, regardless of whether these were on a democratic or otherwise foundation. An ideal form of government to be formed was labelled a *Bothocracy,* which translates to 'rule by and/or of the humane.' A government run on this principle would ensure that it puts strong institutions in place that would ensure that the humanity of others is always recognized and protected in the new African state, and also, that a return to the conditions of the colonial state of nature would never occur, as the conditions therein were undesirable and to be abolished permanently. Again, in a *Bothocracy*, because of the emphasis on the recognition of others as human, institutions would be established that would ensure that there is no place for ethnic preferentialism, and all peoples would be recognized first and foremost as just one people- human beings. Finally, once the humanity of others is recognized, a *Bothocracy* would also take active measures to ensure that it eradicates poverty, for poverty diminishes the humanity of others. A *Bothocracy* would ensure that it pursued political and economic policies that ensured that all members of the state do not have to go through poverty cycles, and that all

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members of society have access to life's necessities that eradicates the cycle of poverty. This was argued, would constitute an authentic African social contract theory.

RECOMMENDATIONS

As recommendations, the study would recommend that further research is needed to further outline the finer details of what a *Bothocracy* would look like. African scholars must come together and formulate consistent principles that transcend contextual boundaries and that can be adopted on a continental level, especially in Sub-Saharan Africa. The study also recommends that it is high time African governments make a serious introspection into the nature of the independent African states and take active measures to remove all remnants of the colonial state in favour of more humane based principles. It is only through such introspection that true development can begin with the aim of creating a better Africa for the African who calls it home.

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