

İSTANBUL BİLGİ ÜNİVERSİTESİ
İNSTITUTE OF SOCIAL SCIENCES
INTERNATIONAL POLITICAL ECONOMY MASTER'S DEGREE
PROGRAM

**PROPERTY RIGHTS DISCRIMINATIONS AND LEARNINGS FROM
OSTROM'S LAW TO TERMINATE THOSE DISCRIMINATIONS**

Onur ŞEKERLİSOY

114675010

Yrd. Doç.Dr. ŞADAN İNAN RUMA

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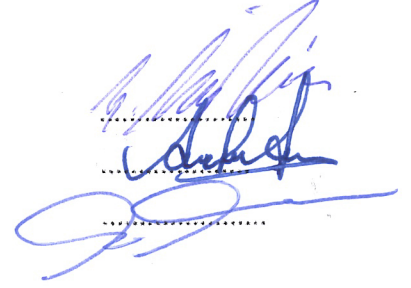
2017

PROPERTY RIGHTS DISCRIMINATIONS AND LEARNINGS FROM
OSTROM'S LAW TO TERMINATE THOSE DISCRIMINATIONS
MÜLKİYET HAKKI ÜZERİNDEKİ AYRIMCILIKLAR VE OSTROM
KANUNUNUN BU AYRIMCILIKLARIN GİDERİLMESİNDEKİ
MUHTEMEL ROLÜ

Onur ŞEKERLİSOY

114675010

Tez Danışmanı: Yrd. Doç.Dr. İnan Ruma
Jüri Üyesi: Yrd.Doç.Dr.Dilaver Arıkan Açar
Jüri Üyesi: Doç.Dr.Emre Erdoğan



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- 1) Property Rights
- 2) Ostrom's Law
- 3) Economic Growth
- 4) Discrimination of property
- rights
- 5) Liberalism

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ABSTRACT

The history of property rights is rooted in the liberal era and property rights have been one of the most crucial rights that liberalism supports. However, in certain circumstances today, property rights discrimination is observed. Despite the fact that property rights are essential for economic development, some countries do not grant and protect property rights as others do. Also, some groups are not granted equal property rights as other groups due to differences in ethnicity, race, religion, political ideology, economic property or language. In this thesis, the focus will be on cases of discrimination of property rights between different groups in a single country motivated by either a civil conflict, failure of privatization, or factors in either the private sector or the government. The examples will be from Zimbabwe, Sri Lanka, Ghana and Kenya. In all these countries, certain discrimination of property rights is observed based on the four identified motivations; civil conflict, failure of privatization, private sector based, and government based. The main idea of this thesis is the identification of incidents of discrimination of property rights between different groups within the borders of countries. In the conclusion, Ostrom's Law, which was established in order to govern the commons equally, will be offered as a way to solve discrimination of property rights. Implementing the Ostrom's Law to some of the cases and preventing the discrimination in granting and protecting property rights and the achievement of economic growth can be a part of further research.

Keywords: property rights, Ostrom's Law, economic growth, discrimination of property rights, liberalism

ÖZET

Mülkiyet haklarının tarihçesi liberalizmin tarihçesi kadar eskidir. Liberal dönemlerdeki düşünürler sayesinde, mülkiyet hakları bir bireyin sahip olabileceği en önemli haklardan biri olarak tanımlanmıştır. Buna rağmen, hem ülkeler arasında hem de ülkelerin kendi sınırları içerisinde mülkiyet hakları konusunda ayrımcılıklar yaşanmaktadır. Bazı ülkeler mülkiyet hakkını bireylere tanıyıp bu hakların korunması konusunda üstlerine düşen sorumlulukları yerine getirirken, bazı ülkeler bu konuda başarısız olmaktadır. Bunun yanı sıra, bazı ülkeler kendi sınırları içerisinde kalan ve etnik köken, ırk, din, dil, politik düşünce ya da ekonomik varlık yüzünden farklı olan gruplara mülkiyet hakkı tanımamakta ya da tanıdığı hakkı koruma yükümlülüğünü yerine getirmemektedir. Diğer bir deyişle, gruplar arası farklılıklar yüzünden bazı ülkelerde mülkiyet hakkı tanıma ya da tanınan mülkiyet hakkını koruma konusunda ayrımcılıklar yaşanmaktadır. Bu tez, belli ülke sınırları içerisinde yaşanan mülkiyet hakkı konusunda yapılan ayrımcı hareketlerin tanımlanmasını amaçlamaktadır. Tezde ele alınan örnekler mülkiyet hakkı ayrımcılıklarının dört ana motivasyon temelli olduğunu önermektedir; sivil çatışma, özelleştirmenin çöküşü, özel sektör ve devlet temelli. Ostrom'ın müşterek malların kullanımından doğabilecek sorunları aşmak için formalize ettiği Ostrom Kanunu ise sonuç bölümünde mülkiyet hakkı ayrımcılıklarının çözümü olarak sunulmaktadır. Zimbabve, Kenya, Gana ve Sri Lanka örneklerinden hareketle kuramlaştırılan mülkiyet hakkı ayrımcılıkları için Ostrom Kanunu yeni bir çerçeve sunmaktadır. Ostrom Kanunu'ndan hareketle önerilen yeni çerçevenin ayrımcılıkları sona erdirmesi ve bu yolla ülkelerin ekonomik gelişmişliklerini arttırması bundan sonraki çalışmaların bir parçası olabilir.

Anahtar Kelimeler: mülkiyet hakkı, Ostrom'ın Kanunu, ekonomik büyüme, mülkiyet hakkı ayrımcılığı, liberalizm

INTRODUCTION

Liberalism is explicit that certain rights that should be granted to all human beings in the world. As John Locke introduced, the right to live, right to liberty and the right to property are the three most crucial rights. Although the ideas of liberal thinkers and scholars change in terms of the priorities given to certain rights, the right to property is considered as one of the most important inventions of the liberal ideology, starting with John Locke and Adam Smith, who considered the right to property as a crucial part of individual freedom. Under the capitalist market system, the government or other institutions such as laws and certain bodies assigned by the state, is responsible for protecting private property.

The right to property is specifically protected under the capitalist market system because the protection of property rights enables the system of supply and demand in the free market to benefit of the whole society. Many economists (Acemoglu et al., 2001; North, 1990; Powell, 2002; Rodrik et al., 2004; Zak, 2002) argue that there is a positive correlation between the enforcement and protection of property rights and a country's economic growth and economic well-being. Also, in accordance with the modernization theory (Bernstein, 1971; Black, 1966; Inglehart and Welzel, 2005), modern states, which are based on institutions and rules to decrease uncertainties in societies, are economically more prosperous. As property rights in a country are granted and equally enforced by the governments or institutions responsible for protecting them, people can engage in economic activities more efficiently, uncertainties decrease. Subsequently, investment into the country increases. Economic activities, which enable the economic growth and economic well-being to increase, are exacerbated with the enforcement and protection of property rights. However, despite human beings creating institutions, such as property rights, to decrease uncertainties in societies, there may be some problems in practice when implementing these institutions and rules. In this thesis, I will mostly focus on the inappropriateness that decreases the level of these institutions and rules in societies.

Throughout history, one of the main topics for philosophers is 'property'. From ancient times to the present, 'property' has been discussed, especially 'private property' and its effect on life and society. While examining 'property', philosophers mostly look at the relationship between inequality and property as well as the relationship between property and justice. By those relations, they try to argue whether private property is legitimate or not. Those who defend the right to have property mostly emphasize the nature of human beings and the differences in work between people, whereas, those who are against this idea prefer to put an emphasis on the inequality that property creates.

The writings of Plato can be seen as the first text in which the theoretical use of 'property' exists. Plato's description of Athens' system the social classes of the society describe a type of city-state with a concept of 'private property'. Even in Plato's ideal state, private property appears as something that the rulers of the state should not have in order to protect the integrity of the state. If the rulers had private property, the city could be considered as divided into two parts: the parts they own, and the rest (Doyle, 1999; Sharma and Sharma, 2006). Moreover, Plato argues that property and virtue are contradictory concepts by saying "the more they value money... the less they care for virtue" (Plato and Jewett, 1941, p. 550). Although Plato presents a type of ideal communism in the Republic, in his work the Laws, private property is not a problem as long as it does not create wealth and poverty, however, he still argues that privacy, including property, is unnecessary for the survival of the state (Moore, 2013).

Aristotle, another important philosopher of the ancient age, has a different idea on property in contrast to his teacher Plato. He criticizes Plato's idea of communism and he argues if there is no private property there will be conflicts due to the differences in the lengths of work of different people because equality does not mean justice (Mayhew, 1993). Moreover, Aristotle also does not agree that property is the cause of crime. To confute this argument, he thinks there should be a minimum amount of property and work for everybody so that the property will not be the cause of crime (Mayhew, 1993). While Plato argues that private property

is inconsistent with virtue, Aristotle considers 'property' a necessity for virtue, due to the relationship between properties and pleasures (Mathie, 1979). From 'property', what Aristotle mentions mostly is 'land', because land was a valuable component of human life in the ancient era. Therefore, in his book *Politics*, he emphasizes the distribution of land, the most significant property, in common and in a friendly way, although possessions are not shared (Mayhew, 1993).

Another philosopher who contributes the idea of property in ancient philosophy is Cicero. For him, private property is not natural but occupation, conquest and law justifies its legitimation (Walcot, 1975). He argues that once privacy on any property is established, it must be respected in order to prevent any violation in society, therefore, he states that one of the most important duties of the state is to protect private property (Walcot, 1975). The introduction of Natural Law is a turning point that affects the approach to property in political philosophy, because it turns the discussions to law instead of idealism. In Roman law, one of the significant parts of historical writing, property occurs as a sum of three rights: "the right to use the thing", "the right to take its fruits" and "the right to dispose of the thing" (McSweeney, 2012). Roman jurists were the first to create the concept of private ownership, therefore their most significant contribution on the idea of property is in the realm of law (Pipes, 1999).

In medieval philosophy, Natural Law becomes the main concept that shapes the discussions on different political terms. Philosophers like St. Augustine, Thomas Aquinas and Gregory the Great focus on the relationship of property in the New Testament; therefore, their views are set in accordance with Christian teaching (Macpherson, 1979; McKee, 1991). Gregory, for instance, considers property as "divinely appointed remedy for human sin" (Lopata, 1973, p. 203).

In the 17th Century, a different view on property is explained by Thomas Hobbes. According to Hobbes, there is no right to have property in nature. It is totally against the ideas of philosophers in ancient (except Plato) and medieval ages, as they argue that this right exists naturally or is given by God. Hobbes says that absolute power

is under the control of the sovereign and, therefore, the sovereign can decide the use of property without any permission from the individuals (Lopata, 1973). For him, any right to own property will contribute to create anarchy if the sovereign has to ask permission from property owners. The individuals become the part of society by acquiring the rights decided in the contract in nature, therefore, property can occur only after the sovereign enforces the contract under the absolute control and will of the sovereign (Sommerville, 1992). Moreover, he says that people have the right to nothing because they do not have capacity to protect themselves against those who are equal to them (Lopata, 1973). Therefore, the reason why individuals' rights are decided by the absolute will of the sovereign because they cannot protect anything by themselves.

John Locke, another British philosopher of the 17th century, has the opposite idea on property in contrast to Hobbes. In his book, although some criticism is made for him in understanding the extension of his use 'property', he usually uses the word 'property' for the land and goods like most of the other philosophers (Richards et al., 1981). As a person who supports liberalism, for Locke, property is one of the main concepts that shape human life. Locke says that men are born free and equal to do what they want, and therefore, property is a part of nature (Vaughn, 1978). According to him, the earth was created by the God for people to possess. He argues that the government exists in order to protect people's right to have property, as property is the basis of liberty. On the other hand, the British political theorist, Robert Filmer also constitutes a relationship between property ownership and political rights (Richards et al., 1981). For Filmer, the origin of property can be found in paternal power, so subjects are the objects of a ruler's property (Rau, 1995). From the same century, James Harrington also has some words on property. He considers one politically important mode of property, the misdistribution of land. For Harrington, "property is dispersed to guarantee the existence of an independent citizenry (and militia), and aggregations of property are limited to render impossible coalitions of great landowners against the common" (Cotton, 1981). Political power, according to Harrington, is not the cause of property; instead, it is the

consequence of how the property is distributed. He supports the idea of 'balance of property' that involves a balance among property-holders and those engaged in politics (Rossides, 1988). Moreover, he argues that the distribution of property is conventional and its redistribution a republican and a limited form of government, therefore, there should be equality in the distribution of property among three entities: the king, the nobility and the people (Schultz, 1992, p. 415). While the philosophers' approaches on property are mostly determined as a means of something in the ancient and medieval ages, after the post classical ages, a new perspective emerges in defining property. Jeremy Bentham, the British philosopher, sees private property as the ultimate point instead of a means, like Locke. He says, "Each portion of wealth is connected with a corresponding portion of happiness" (Bentham, 1843, p. 305).

In the 19th century, John Stuart Mill approaches property by viewing it as a part of justice. According to him, property guarantees a positive result from people's labor; therefore, it is legitimate as an instrument that contributes to justice (Mill, 1909). Like Bentham, there is also no limited ownership of private property in the perspective of Mill. Moreover, he considers private property with individual competition as the main fundamentals of society that present an improvement with the full participation of all its citizens (Mill, 1909). On the other hand, Karl Marx, one of the important philosophers of the 19th century, criticizes the liberals' views on private property. Marx argues that all political rights are not equal to each other and the right of property puts a limitation on all those other rights (Marx, 1977). Moreover, he also criticizes the view of some former philosophers who argue that the law is for protecting the right to property. He defends that this idea is against the idea of equality before the law, because if there is no property, there is no law for those who do not have property (Birdal, 2007). Also, he points out "legal relations as well as forms of state are to be grasped neither from themselves nor from the so-called general development of the human mind, but have their roots in the material conditions of life" (Marx and Engels, 1983, p.503). Thus, Marx says that the root cause of the formation of property is due to the material gain and

interest of certain groups, rather than the consequence of the evolving human mind. His ideas can also be considered as a critique of Smith, who considers labor as property, because Marx argues that a worker cannot possess even his own labor (Birdal, 2007). The right of property occurs as the main instrument that shapes human life. According to Marx, the right to property does not create equality, security or liberty. Instead, property causes insecurity and inequality in the life of people and steals their liberty because all life becomes under the control of property. At this point, the perspective of Marx on liberty is the opposite of those who connects their theories on property in relation to liberty, equality, justice and peaceful society. In accordance with the theory of Marx, Pierre Proudhon says that property is theft because he does not consider property without physical possession legitimate (Wolfe, 1909).

To conclude, property has always been one of the most discussed topics in political philosophy. In addition to the historical philosophers and political theorists, in the 20th Century, there are also those who consider 'property' in a philosophical way, like Robert Nozick, Friedrich Hayek and Richard Pipes. As explained in this Chapter, perspectives on property change by the main focus of those who examine it. While some consider property as an essential part of liberty, others find its legitimacy in nature. It is discussed whether property is the consequence of natural law or human law. The concept of property can involve land, goods, labor, and intellectual ideas that can change in terms of the person who views it.

Protection of property rights is important for economic growth and economic development of countries, especially based on the modernization theory, and in academia, there have been many discussions around this topic. The argument that the protection of private property does not guarantee protection of property rights of all groups and citizens within a country and among countries is one of the modernization arguments that links property rights with economic growth. In other words, even though the liberal scholars argue that the introduction and protection of property rights grants economic growth and economic development, property rights are not equally granted in all countries. In reality, the introduction and protection

policies of property rights differ within countries, based on the differences among groups and citizens.

Even in the most liberal democracies, the protection of private properties is not granted to all groups. In less developed countries, on the other hand, this disparity grows worse and property rights are either not enforced or discrimination among groups is more visible and exacerbated. Keeping in mind that the idea of the protection of property rights has a positive impact on economic growth and economic development, when property rights of all groups within countries or between countries are not enforced or protected equally, discrimination happens in favor of and in interest of some groups in countries. Unequal policies of property rights protection between developed and less developed countries exaggerate the economic development gaps in the world.

Research Question of the Thesis

In this thesis, the main focus is circumstances where liberal ideology and private property rights are in conflict. However, rather than focusing on the conflicts of the idea and practice of liberal ideology between countries, this thesis will focus on the conflicts within particular countries. Discrimination of property rights between countries signifies that some countries, especially Western countries that have experienced liberalism earlier and have more solid liberal laws and regulations concerning liberal rights, have better and more equal regulations and laws concerning property rights. Other countries suffer more from discrimination of property rights due to their lack of liberal understanding. Discrimination of property rights within countries means that in some countries (mostly in underdeveloped countries) due to differences in regions, ethnicity, political ideology or race, some groups are discriminated against and not granted equal property rights. Discrimination of property rights within the borders of one country stemming from ethnic, racial, political, economic or regional differences is called as *discrimination within countries* in the rest of the thesis. In this thesis, discrimination in enforcement

and protection of property rights *within* countries will be analyzed, rather than discrimination in enforcement and protection of property rights between countries.

The main research question concerns the ways to identify and compare the discrimination of property rights within the borders of countries. Considering that discrimination of property rights among different groups in countries affect the economic growth and economic development of countries, identifying those acts of discrimination and the conflicts stemming from them will help increase economic growth. Thus, the main research question of this thesis is how to define the motives for acts of discrimination including those that happen during the enforcement and protection of property rights.

In other words, in many countries, due to differences of races, ethnicities, economic situations, political ideologies or regions, groups come face to face with the unequal regulations of property rights. In some countries, due to those differences, some groups of people are discriminated against by others and are not treated equally in terms of their property rights. Those groups either do not have any property rights, or have limited access to their property rights, while other groups freely experience their property rights. Thus, in this thesis, after displaying five types of discrimination, where we can see significant property rights discrimination against some groups of people, a new framework to solve private property discrimination based on Ostrom's Law will be presented. In other words, Ostrom's law will be suggested as the solution to the discriminatory practices of property rights. Although Ostrom's law was offered as a solution to the tragedy of the commons, it is hypothesized in this thesis that the same rules can be applied to cases of property rights discrimination of property rights and those rules will be helpful to create more equal property rights regimes. Following a more equal property right regime, the equal protection and granting of property rights regardless of ethnicity, race, region, economic or political situations or other differences, will result in a faster and more solid economic development.

Structure of the Thesis

In order to find the most appropriate ways to identify the conflicts between the practice and the theory of property rights regimes, first, the definition and the historical background of property rights will be given. Starting from a more general perspective of property rights, the thesis will then focus on specific cases where those conflicts are observed. Thus, the thesis is organized as follows: in the first chapter, the review of the main literature on the property rights is given. The first chapter will start with the historical background of liberal thought, because the liberal ideology is the first ideology that mentions the idea of property rights, its importance for the individual freedom and its possible impacts on economic development. The first chapter continues with the definition private property and the historical background of private property rights, especially from political thought. In this chapter, I will emphasize private property rights both from liberal and counter perspectives, such as Marxism.

In the second chapter, first the relation between the enforcement and protection of property rights and economic growth is analyzed from the perspective of various scholars. Then, the second chapter continues with the presentation of a new model to identify and compare the discrimination of property rights within the borders of countries. A model based on Ostrom's Law, which describes how to prevent tragedy of the commons and enable the governance of the commons effectively. Although common goods are outside the definition of private property, under certain criteria, even common goods can be used for the benefit and interest of the whole public. Ostrom's idea of collectively governing common pool resources is crucial in the sense that private property rights, granted by the state may not be the most effective solution for the protection of private properties in the liberal sense, especially when the property rights of certain groups are prone to be discriminated by states, Ostrom's Law, which was introduced for the efficient governance of commons. While analyzing Ostrom's Law, I will touch upon eight principles of Ostrom's law, presented as alternative solutions to discrimination of property rights. Next, I will present of examples of incidents when private property rights

are not granted to groups within countries. Specific examples, especially from less developed countries will be given. The first case will be based on the discrimination of property rights based on the fail of privatization. In Zimbabwe the black peasants experience property rights discrimination from white capital owners. Since the white capital owners have the economic power in the country and regulate the enforcement of property rights, they limit the property rights of black peasants.

The second case is based on discrimination motivated by civil conflict, showing discrimination of political rights based on political ideologies Sri Lanka. Private sector motivation is the next category, with Ghana as an example to show discrimination based on a geographical region. Finally, another case motivated by the private sector will be demonstrated by Kenya where discrimination of property rights materialized with a regime change. Following the analysis of different motivations and examples of discrimination of property rights, for each motivation I will offer a solution from Ostrom's eight principles to govern the commons.

In the third and last chapter, I will touch upon what I have learned from the thesis and the methodological constraints and challenges. Also, I will conclude that if the eight ways introduced by Ostrom are used in by groups whose property rights are discriminated by the state, discrimination towards less advantaged and discriminated groups in those countries will end and the economic growth and economic development of the whole society will be enhanced. Considering that the main research question of the thesis is to find the most suitable way to identify discrimination of property rights, by presenting Ostrom's Law, this thesis proposes that Ostrom's eight ways to govern common pool resources can be considered as the most helpful ways to end discrimination of property rights within countries, whose success will be analyzed in the further research. Keeping in mind the discussions about the ability of institutions to create a change in a system, this thesis paves a way to contribute to discussions on the success of institutions by presenting Ostrom's eight principles as institutions and offering them as a solution for the prevention of discrimination of property rights.

CHAPTER 1

HISTORICAL BACKGROUND OF LIBERAL THOUGHT

In order to talk about the notion of property and property rights, first we must examine their roots. Both the idea of property and property rights are based on the notion of liberal thought. Although acquisition of private property is highly considered as an issue for the political economy, historically, it cannot be excluded from political philosophy. The justification, provision and protection of private property and property rights cannot be considered outside the liberal framework; their bases lie in liberal thought. The main countries that will be emphasized in this Chapter are England, France and the United States. Those countries were vital for the emergence of liberal thought and the development of property rights. England had witnessed clashes between peasants, who had no right to property, and the feudal, who had had ownership of land, and those clashes turned into long wars resulting in England considering granting property rights to peasants. France is important because it is one of the earliest countries that the liberal thought burgeoned. Moreover, the United States is important for its expansion of liberal thought and ideas, especially the right to property. Based on the liberal ideas that burgeoned in England and France following long wars and clashes, the right to life, liberty and property, namely the three core ideas of liberal thought, extended to the United States and became the part of the American Constitution.

Considering that the right to property is a vital right that was introduced by the liberal thought and the ideology of liberalism, in this chapter, first I will touch upon liberalism as a political thought. Then, I will define property and describe the evolution of property from the political philosophy perspective. By looking at writings from the liberal field and writings from the opposite ideologies, I will show the evolution that the notion of property has experienced through centuries. Then, focusing specifically on private property rights, I will display the history of private property rights from both the political philosophy and political economy perspective.

1.1. What is Liberal Thought?

Liberalism is a political ideology that is based on several important notions, such as freedom, equality, individualism, progress, rationalism and a free market (Bell, 2014). Freedom is defined as the right of individuals to make their own choices as long as they do not interfere with others' freedom. For instance, while murder is prohibited under liberal thought, freedom of religion, and freedom of speech are supported by almost all liberals because exercising those freedoms does not interfere with others' freedom. The notion of equality rejects hierarchies and does not accept that one person is superior to others. The idea of individualism stresses the importance of the individual compared to the society. In other words, the interests of individual are more important than the interests of the society. Progress refers to the importance of new values for developments in science, society and economy. Rationalism is defined as the priority of logic and rational thinking above traditions or feelings. Free market, an idea related to the liberal economy, states that markets operate better and more efficiently without the intervention of state or other institutions. Each liberal thinker prioritizes one or two of these liberal notions based on their own preferences and ideologies, but they all support them.

Although John Locke has always been credited as the founder of the liberal thought, the roots of liberalism go back to the era of the English Civil War at the end of the 17th Century. The English Civil War was the result of conflict between the King and the Parliament. The people, tired of the absolute supremacy of the King, started a civil war (Hughes, 1991). The English Civil War ended with the execution of King, Charles I, and the establishment of a republic (Carlton, 1995). Members of a radical political movement supported suffrage, replacement of the monarchy and supreme power of one person with popular sovereignty, religious tolerance and equality before the law (Borgeaud, 1894).

1.1.1. Liberalism and the Ideas of Locke

John Locke is considered the father of modern liberalism as the first to systemize liberal thought and introduce it as an ideology (Delaney, 2005). In other words, while the basis of liberal ideas was discussed by those considered radicals during the 17th Century, resulting in the English Civil War, John Locke created a separate ideology out of those ideas. Thomas Hobbes (1651), who had been writing during the times of the Civil War, introduced the idea of the state of nature and the social contract. According to Hobbes, during the state of nature, individuals always fight to have more power than others. At the state of nature, people can protect neither their lives nor their belongings. The only way to avoid this war and the state of nature is to assign all the authority to the sovereign. By also giving their right to live, individuals can avoid the state of nature and can protect their lives and belongings through the sole authority. This social contract between the individuals and the sovereign will bring peace and avoid chaos. Adopting the social contract theory of Hobbes, Locke presents a contradiction. Although a social contract is necessary, according to Locke, in order to preserve peace among individuals within a society, a sovereign, who has the sole power, is contrary to the idea of a social contract because this violates the basic rights of people, which are defined as life, liberty and property (Locke, 1689).

According to John Locke, when authority, which is given consent by people to rule them, has the ultimate power and becomes a tyrant, then the tyrant violates the basic rights of individuals. If the monarch, who is given consent to abolish the state of nature, turns into a tyrant, then liberal values are violated by this tyrant. Unlike Hobbes, Locke thinks that the best idea is to avoid giving consent to a monarch, who will turn into a tyrant, despite there has been a social contract. According to Locke, for a government to be legitimate, it has to have the consent of the people who will be governed based on the social contract theory, but this government should not violate right to life, liberty and property. Also, unlike Hobbes, who thinks that a person is evil by nature, Locke believes that people are naturally reasonable and their nature is determined by tolerance. Thus, their definitions of

state of nature and social contract theory are different. Since Locke believes that people are not naturally evil and based on tolerance and reason, the state of nature is not presented as chaos and social contract is not necessary to abolish the state of nature, but in order to protect the rights of life, liberty and property among people.

Considering that Locke is obsessed with the basic freedoms of individuals, one of those freedoms is the freedom of conscience. Following the idea that people should be able to choose and practice their own religious ideas, Locke argues that the affairs of state and the Church should be separated (Locke, 1689). Thus, Locke is also considered one of the leaders of the secular idea. In other words, by supporting the separation of state and religious affairs in order to secure the freedom of conscience, Locke paved the way for the development of secular thought. Also, acknowledging that tolerance is one of the core values of liberalism, Locke is an advocate of tolerance as it is observed in his advocacy for the freedom of conscience. Since tolerance lies at the basis of liberalism, Locke advocates any freedom that is connected to tolerance, such as freedom of speech, freedom of expression and freedom of religion.

1.1.2. Adam Smith and the Industrial Revolution

Especially in the Western world, liberalism has changed both the political system and the economic system. Liberal ideas and values, which began to burgeon with Locke, were adopted by liberal economists, such as Adam Smith, Jeremy Bentham and John Stuart Mill. Initiation of a liberal economy as a new idea in economics started with the *Wealth of Nations* (1776) written by Adam Smith. Smith's ideas were a foundation of the Industrial Revolution (Campbell and Skinner, 1985). With the Industrial Revolution, which started towards the end of the 18th Century, the means of production changed (Griffin, 2010). While before the Industrial Revolution production was dominated by handmade work and workers were producing x quantity of product in y minutes, with the Industrial Revolution and the invention of steam power, workers started to produce 2x or even more quantity

of product in less than y minutes. In other words, as Moore (2000) the invention of steam power, which also led the introduction of machines, made production easier. With the help of machines, workers became able to produce more in the same amount of time.

The Industrial Revolution did not only change the means of production and increase the efficiency of production, but also it changed the ways of living and the economic structure. Due to the increase in production, economic growth increased in countries where the Industrial Revolution happened. The economic and social changes of the Industrial Revolution have been considered a turning point in history. One of the most important socio-economic outcomes of the Industrial Revolution is the introduction of the capitalist economy (Lucas, 2003). At that point, Adam Smith had laid the foundation of the liberal economy. Adam Smith introduced new notions to the political economy in accordance with the liberal ideas and the new standard of living that resulted in the Industrial Revolution.

Adam Smith introduced the ideas of the free market economy and the Invisible Hand, which are still valid in the liberal economic system. A free market economy signifies that the market should be free from any kind of intervention from the outside. According to Smith, demand and supply can find equilibrium when there is no intervention from the state or other institutions. In other words, for the most efficient outcome, market should be free. Invisible Hand, related to the idea of free market, signifies that even though there is no intervention from the outside, the market can regulate itself better as if an “invisible hand” is managing it.

Another crucial notion that Adam Smith introduced in *Wealth of Nations* is the division of labor. As well as the invention of steam power, division of labor contributes to production. If parts of a product are produced by the same employees constantly during a production cycle, productivity increases. As an example, in the production of a wheel, before the introduction of the division of labor, each employee is responsible for producing a wheel. Division of labor, on the other hand, enables each employee to be responsible for the production of one part of the wheel.

Eventually, division of labor increases the specialization of the worker. As workers specialize on the production of certain things, they work faster and productivity increases. An increase in productivity signifies the production of more products with less effort, namely less labor force. As the amount of products increase, the price of those products decreases and standards of living increase. Thus, according to Adam Smith, division of labor increases the standards of living.

Jeremy Bentham, who is generally considered as the father of utilitarianism, is also a liberal when his ideas and the subjects that he had advocated through his life are analyzed. Bentham (1843) argues that if a certain issue provides the greatest happiness for the greatest number of people, then the thing is right. If a certain thing does not provide the greatest happiness for the greatest number of people, then, according to Bentham, the thing is not right. Based on the utilitarian idea of Bentham, it can be deduced that he advocates individual and economic liberties because those freedoms provide the greatest happiness to the greatest number of people. Also, since religious tolerance brings happiness to the greatest number of people because it enables people to worship in their own faith and religion, Bentham is a supporter of the separation of the Church and the state. As an advocate of liberal ideas as well, Bentham also supports the abolition of slavery and the death penalty, and is a great supporter of individual freedoms, women's rights and animals' rights. Rather than believing in natural rights, Bentham believes that all rights individual attain should be legalized and protected by the legal norms, namely laws.

The last liberal philosopher and political scientist mentioned in that chapter is John Stuart Mill. Like Bentham, Mill is also an advocate of the idea of utilitarianism and his definition of freedom is groundbreaking. According to Mill, freedom is defined as individual's attainment of self-improvement without hurting other people's ability to practice and attain their self-improvement. As long as individuals are free, they can improve themselves and contribute to the development of society, socially, politically and economically. Thus, a society, where self-improvement of individuals is not limited by outside factors, such as other individuals or the state,

is liberal and in those societies, individuals can realize themselves and experience real liberty.

Also, in his revolutionary piece, *On Liberty* (Mill, 1859), Mill touches upon the fact that in a liberal society, each individual should have the right to say the things he/she wants to express and should be able to affect the decision-making process equally. Rather than giving a ruler have infinite power and rather than obeying all the rules that are established by the ruler as in a despotic country, societies where each individual is involved with the decision making process is socially liberal. According to Mill, for such a liberal state, which he called social liberty, to exist, there are two preconditions. The first is that all individuals are able to exercise political rights by and that constitutional checks are established to prevent the creation of any kind of despotism or absolutism. As long as individuals are able to exercise their freedom of speech and they can influence and have the power to change decisions of the ruling class, we can social liberty will exist.

1.1.3. Three Revolutions on the Road of Liberalism: The Glorious Revolution, American Revolution and French Revolution

Systemization of Locke's liberal ideas heavily affected the 17th Century. The Glorious Revolution, which happened in 1688 in England, brought many of these liberal ideas into action (Cruikshanks, 2000). As Harris (2006) argues, the Glorious Revolution paved the way for the generation of the first liberal state in the modern form. The newly established state in England was based on the parliamentary sovereignty, which is the idea that the governed give consent to parliamentarians to rule them. Also, unlike the previous rule, after the Glorious Revolution, England became a state that acknowledged certain liberties of individuals. For instance, the introduction of a Bill of Rights meant that the law was the supreme power and the parliament's rule was higher than the monarch's rule. Also, individuals were given the right to petition against the unfair punishments. As Sandberg (2011) argues, the Act of Toleration introduced after the Glorious

Revolution drew the framework for religious tolerance and the freedom of conscience. Also, the refusal to renew the Licensing of the Press Act in 1695 paved the way for the freedom of press, which is also related to freedom of expression (Patterson, 1993).

Liberal ideas that emerged in England affected other countries and even continents, too. For example, the American colonies, which were taxed by colonial powers without representation, began the American Revolution in the 18th Century (Bailyn, 1967). Locke and his liberal ideas informed the Declaration of Independence, which laid the roots of the Independent America, was in effect of. The liberal Constitution, in place today, gave basic rights to Americans while separating the three powers of the government (executive, legislative and judiciary).

Similar to the American Revolution, liberal ideas from England also gave rise to a revolution in France in 1789 (Frey and Frey, 2004). The French Revolution abolished the privileges of the feudal, who were the sole power in France for years. Also, due to the French Revolution, the notion of republicanism and equality were spread to the country. Those liberal ideas were not spread only to France but also to the other European countries. In other countries, such as Switzerland, the ideas of property law, republicanism, liberty and equality under law became the basic concepts. Also, with the French Revolution, religious tolerance was spread to Europe. Freedom of expression and freedom of speech were accepted and punishments for those who expressed their political and religious ideas were abolished.

In terms of the spread of all these liberal ideas to Europe and America, John Locke was not the only political philosopher at the forefront. Thomas Paine also played a crucial role in both the American and French Revolutions. With his ideas, Paine is considered as the one of the Founding Fathers of the United States of America (Henretta et al., 2011). As Henretta et al. argues, Paine supported rebels to start a revolution in America against the colonial powers to attain their basic rights. In his best-known piece, the Rights of Man, Paine advocates the revolution against those

governments that are not able to protect the natural rights of man. Thus, through this book, Paine defends those engaged in the French Revolution, against the critics, such as Burke (1965).

1.2. History of Private Property Rights

A property right is defined as the legal framework that determines the ways to use or own a specific property. As Alchian (1991) puts in words “a property right is a socially enforced right to select uses of an economic good” (Alchian, 1991, p.584). The main components of property rights are similar in all types of property, from private property to public property, and these are categorized in four categories, as follows: the right to use a good, the right to get the income that comes from a good, the right to give a good to other people and the right to enforce property rights (Klein and Robinson, 2011). According to Bromley (1991), property rights are categorized into four categories; open access property, public property, common property and private property. In order to differentiate between different categories of property rights, first I will define two concepts that determine the category of good. The first is *being excludable* and the second is *creating rivalry*. If a good is excludable, it means that the owner of that good can prevent other people from using the good as long as they do not pay for it. Thus, excludability is the possibility of preventing the use of a good by other people (Stiglitz, 1999). If a property is a rival good, then the use of *that* good or service may prevent other people from consuming the first good or service (Weimer and Vining, 2010).

1.2.1. Four Categories of Properties

Next, the characteristics of four categories of properties will be examined. First, open access property is defined as goods that are not under the category of ownership. Open access property is non-excludable, which means that people cannot be prevented from using an open access property. On the other hand, open

access property is open to rivalry, which implies that the consumption of open access property may prevent other people from consuming that specific open access property. An example of open access property is the oceans. Oceans are not under the ownership of certain people, but the use of oceans for fishing for example, may prevent other people from using the ocean as a good because when a user may take and consume fish from the ocean, he may prevent other consumers from fishing. Second is public property, whose ownership is under the control of the state. Although everyone can use public property, the state can limit and control the use of public property. Parks or facilities that are established by the state are examples of public property.

The third is common property, which is property owned by a group of people. The owners of the common property determine who will use and who will not use the property. Thus, common property is excludable, but excludability is determined by the owners of the common property. The last type is private property; whose ownership is under the control of a private owner. Private property is both excludable and rival. In other words, the use of private property can be prevented by property owners and the consumption of private property can prevent other people from consuming it.

1.2.2. Historical Background of Private Property

The history of private property can be traced to the Renaissance period. As merchants began to engage in trade, they started to collect properties, owned by private merchants. The roots of liberalism and capitalism in the 16th century in Europe were Lutheranism and the Protestant ethic, first coined by Weber (1930) that says that production and creating a surplus are encouraged. Since the surplus of over production is under the control of private owners, the notion of the private property emerged. Based on the ideas of Lutheranism and the Protestant work ethic, when someone produces a good or service, it is under the protection of the Bible since it is the output of someone's effort. Thus, it can be deduced that the ideas of

protection of private property and the right to private property are rooted in the trend of Lutheranism. In the 17th Century, as people started to demand more political, economic and civil rights, the demand for the right to private property arose in Europe.

In order to delve into the development of the right of private property, I will start with English Civil War, which is also the beginning of demands for civil and political rights. With the absence of democracy, the right to vote was crucial in 17th Century Europe. Being an owner of private property was a necessity for the right to vote. Since the Church and the ruler had the right to confiscate properties owned by private owners, people who owned private properties demanded the right to protect their private properties from the control and manipulation by outer forces. Voicing a demand for private property rights continued with the American and French Revolutions (Berle, 1965), where the liberal ideas continued to spread and develop. Since private property rights were essential to gaining political and civil rights, those Revolutions were based on gaining private property rights.

The Protestant work ethic and Lutheranism are also linked to the political economy perspective of the right to private property. Demands for the protection of private property and the right to have private property are rooted in the political economic perspective of Lutheranism. The fact that the over production is encouraged and supported by this religious based liberal thought, and that over production brings surplus and surplus support the idea of private property.

In this chapter, first, a brief introduction to liberalism as an ideology was given. Since the right to property is one of the vital rights supported by liberal thoughts and ideas, before delving into the right to property and its dynamics, analyzing liberalism is crucial. Concepts that arose in the English Civil War in England, the French Revolution in France and the American Civil War in the United States, were aimed at ameliorating the conditions of people by introducing certain rights. The right to property, introduced by Locke and others, is one of those rights introduced with the expansion of liberalism.

The introduction of the right to property as a part of the liberal ideology ended conflicts between people who have the right to own their properties, and the people who work on those properties. The right to property and its introduction into many agreements and even constitutions of countries and the protection of property by state agencies was considered a positive thing by liberal thinkers, as it increased production. However, for socialist ideologies, such as Marxism, the right to property is a tool of exploitation of human labor and a cause to reinforce capitalism, since the right to property makes people produce surplus even if it is not needed. Despite the fact that there are still ideological questions about the validity of the right to property and some criticisms by socialist thinkers, right to property is still vital for the lives of people, especially as they continue to live in larger societies.

CHAPTER 2

EXAMPLES OF THE DISCRIMINATION OF PROPERTY RIGHTS IN LIBERAL ERA

In the first chapter, the historical background of liberalism was given because liberalism is the core ideology of right to property. Next, the history of the emergence and development of right to property were analyzed in different countries in different years. After understanding the dynamics of the right to property through a historical glass, in this Chapter the view on relation between the protection of property rights and economic growth from various academics will be presented. Because property rights are part of institutions that vary between countries and within countries, protection of property rights can differ for different groups within countries; this is called discrimination. In this section I will clarify examples of property rights discrimination in four different cases, looking at Zimbabwe, Sri Lanka, Ghana and Orma in Kenya.

2.1. Right to Property and Economic Growth

According to Douglass C. North (1994) institutions are one of the pioneers of economic change. Since institutions are flexible, unlike some political, economic or social bodies, which are static, they can help society to change economically. Thus, according to North, economic development occurs due to the progress of institutions, not because of demographic changes, or changes in knowledge. Institutions are bodies that are developed and changed by humans in order to shape the human behavior. In that sense, North describes institutions as the existence and enforcement of the formal rules, such as laws, regulations and informal constraints, such as behavioral norms, in a society. Including society as a whole from political to economic organizations to actors, institutions and the change in institutions become the primary source of economic change and development through time.

From another point of view, Jared Diamond (2005) emphasizes the importance of institutions as dimensions of the failure and success of societies in history. Diamond's piece describes the social collapse of some pre-historic and historical societies. He touches upon many factors, such as environmental challenges, climate change, trade and neighboring countries. Based on the responses of societies towards these challenges, Diamond determines the reasons for the collapse of certain societies and the survival of others. According to Diamond, major societies, such as Maya and Anasazi, experienced failure and collapse following their most prosperous years. According to Diamond, the reason for the collapse of these societies was a condition of "maximum population, wealth, resource consumption, and waste production" (Diamond, 2005, p. 509). Regarding these problems, Diamond offers two solutions to prevent collapse for societies that are currently living in their best years. These solutions are having long terms plans against crises and challenges based on certain rules and institutions and protecting the core values of societies. Through planning, Diamond, like North, mentions the importance of rules and institutions for the survival and prevention collapse of societies. In this thesis, following the arguments of North and Diamond, I will try to clarify the types

of institutions that may increase economic development and economic growth through time in certain countries.

Among academics, especially those who study development economics, the enforcement and the protection of property rights are generally considered as key institutions for economic growth (Acemoglu et al., 2001; Powell, 2002; Rodrik et al. 2004 and Zak, 2002). One of the pioneers of and most prominent supporters of the concept that protection of property rights guarantees economic growth (also called as the property rights movement) is De Soto (2000). De Soto states that the main solution to poverty at a local and global level is the enforcement of formal property rights and the establishment of institutions to enforce and protect those property rights. According to De Soto's research, in most underdeveloped countries, the poor have control over the majority of the resources and properties. However, because formal property rights are not given to the poor, poor people cannot prove their ownership. Based on the De Soto's research, if property rights were recognized for the poor, especially in developing or underdeveloped countries, the cash value of the property owned by the poor would be 9.3 trillion dollars (De Soto, 2000). According to de Soto, if this informal property was protected by property rights, these 9.3 trillion dollars could have been turned into credits, and the flow of credits among the poor would have generated economic growth and brought development for underdeveloped and developing countries.

Despite that a positive correlation between ensuring property rights and economic growth is proved by many scholars, there are also a number of academics and researchers who oppose this correlation (Fogel, 2004; McArthur and Sachs, 2001; Schmid, 1987; Boettke and Subrick; 2015). For instance, Schmid (2013) offers that a certain level of uncertainty in property rights is essential for innovation and entrepreneurship to increase economic growth. Moreover, Easterly (2003) argues that advancing property rights, especially private property rights, distorts economic growth by increasing inequalities. The renter-based society in Latin America, where the rich gain from the poor by renting houses and property, is an example of the low economic growth and increased inequality in Latin America (Engerman and

Sokoloff, 2000). Everest-Phillips (2008) says that rather than focusing on property rights, the focus should be on other determinants that are more important for economic growth.

Following the arguments and analysis of De Soto and other institutional economists, the International Monetary Fund and the World Bank encourage developing and undeveloped countries to take measures to introduce and enforce property rights in order to increase economic growth and initiate development in those countries. As Martines and King (2010) infer from the World Bank's Policy Research Report on land policies in 2003, the World Bank considers the introduction and enforcement of property rights as a way to accumulate wealth and transfer it between generations. The introduction of property rights enables the poor to own properties and turn those properties into goods that they can use economically. The World Bank and the International Monetary Fund aim to introduce and enforce property rights in developing and underdeveloped countries to contribute to their economic growth and development.

As well as de Soto, other academics (Everest-Phillips, 2008; Besley and Ghatak, 2009) display the basis of economic growth as an investment, and touch upon the fact that investment can be profitable and bring economic growth and development only if there is no risk of expropriation of private properties and investments by the government or other outside forces. Based on this argument, Besley and Ghatak (2009) present four key elements that relate to the securitization of property rights and economic growth and development. The first element is the incentive to invest. If private investors know that their investments and private properties are secure by legal property rights and protected from expropriation from exogenous factors, they will invest more. As investment increases, economic growth increases as well. On the other hand, if investors cannot be sure whether their properties and investments are protected, they will not engage in investment and economic growth and development is interrupted.

The second channel introduced by Besley and Ghatak is efficiency. As individuals gain ownership of their properties and their right to own the properties are protected under legal norms, people can transfer their properties to others who may use those properties more efficiently for the provision of economic growth. The third element is the fact that when private properties are protected by property rights, property owners can then direct their efforts to investment and economic growth rather than protecting their properties from expropriation by the government or others. The fourth and the last element presented by Besley and Ghatak is the fact that when properties are protected legally under property rights, then transactions increase the value of resources in the financial market, which increases productivity and economic growth.

As well as the theoretical approaches to the relation between the introduction, enforcement and protection of property rights, there is also empirical evidence by a significant number of academics that prove that secure property rights enable economic growth and development. Pioneers of this empirical work are Acemoglu et al. (2005), who looked at 64 countries that were colonized between the 15th and 19th Century, and regressed their economic growths in 1995 on the protection of property rights. For economic growth, the authors use GDP per capita as proxy and “the average protection against expropriation risk (of private property) through institutions” (Locke, 1689, p. 18) as the proxy for the protection of property rights. Acemoglu et al. find that there is a positive, statistically significant correlation between the proxies of economic growth and secure property rights. Like Acemoglu et al., studies by both Knack and Keefer (1995) and Kerekes and Williamson (2008) (who also controlled for exogenous factors such as religion and geography) find a positive relation between secure property rights and economic investment and economic growth, respectively.

Many academics analyze the relation between property rights and economic growth at the micro-economic level, as well. For instance, based on surveys of firms operating in former communist countries, Johnson et al. (2002) conclude that if property rights are secure in a country, then firms invest more and contribute to

economic growth. Based on their study with firms in Madagascar, Green and Moser (2012) have the same conclusion as Johnson et al. on the relation between increased investments and secure property rights.

Despite the proven benefits to economic growth, in some countries private property rights are not enforced by the state or not granted equally to all groups. In other words, in some countries or localities, private property rights are either not granted at all by the state to its citizens or are denied to some citizens in a specific region. Thus, those countries can have problems regarding the economic growth and development and the risk of expropriation through private property rights discrimination. Flores (2008) defines private property rights discrimination as “protecting certain groups’ rights while willfully ignoring or even deliberately violating other groups’ rights” (Flores, 2008, p.2). According to Flores, this kind of discrimination in the enforcement and protection of property rights inhibits economic growth and economic development. The reason for the lack of economic growth is not only the decrease in investment by the discriminated groups, but also the creation of parallel economies by the discriminated and non-discriminated groups living in the same country with different property rights. Discrimination towards some groups supports economic inequality, which directly affects the level of economic growth.

As stated by many academics, including Rodrik (2004), Rodrik et al. (2004), Tabellini (2010), Acemoglu et al. (2001), Sabel (1993) and Knack and Keefer, 1995; Leith, 2005; North, 1990; Stigler, 1971 institutions are important for economic development. It has been shown that property rights are one such institution that supports economic growth. It cannot be assumed that property rights are enforced and granted to everyone in a country equally. In reality, it does not happen and property rights institutions differ from one country to another. In other words, while property rights are granted under high standards in some countries, especially Western countries, in other countries, property rights institutions are not given the same importance.

2.2. Ostrom's Law as a New Framework

Considering the importance of the protection of property rights as a determinant of economic growth and development, as mentioned in the introductory chapter in this thesis, the work of Ostrom to solve the tragedy of the commons will be presented as a solution to the discrimination of private property rights. The institutional arrangement for the governance of the commons based on the real life examples using Ostrom's Law will be discussed. Then, based on Ostrom's law, a similar solution to the tragedy of commons will be suggested for the property right discrimination. Citing from Fennell, "Ostrom's focus on situated examples has advanced interdisciplinary dialogue about property as a legal institution and as a human invention for solving practical problems" (Fennell, 2011, p. 9) shows that the right to property is a way to provide equality for the ownership of rights among different groups in a country. By making it law, the right to property becomes a legal institution and the reinforcement and protection of the right provides equality within a country in terms of property ownership. Although Ostrom's law is more focused on the governance of commons, lessons that from that milestone will help us to find the perfect solution.

Based on the idea formalized by Ostrom, in order to govern the commons as a form of property rights, both as a legal institution to protect and reinforce the rights and a human invention to prevent acts of discrimination whilst using the commons, a new approach will be produced for the prevention of property rights discrimination against some groups by others, which have the numerical majority or political power.

First, I will describe the commons, which are often problematic. According to Yochai Benkler (2003), the commons is defined as "a particular type of institutional arrangement for governing the use and disposition of resources" (Benkler, 2003, p. 6). The commons are generally not under the control of a single person due to the nature of the commons. Commons can be either human made or natural. For example, an irrigation system is a human made good, but it should be used by all members of a society for the welfare of the society. An Irrigation system cannot be

used by only one person and cannot be under the ownership or control of one person. Also, oceans and air are natural resources, which are not human made and are considered commons, because nobody can exclude others from using the oceans or air in a society. Although previous examples in the second chapter proposed contradictory examples for the use of both commons and the enforcement of private property rights, the theory structured by Ostrom will provide a base for the solution to the problems presented in that chapter.

According to Benkler, commons are determined by two parameters and based on these parameters; there are four categories of commons. Rather than describing them as human made or natural, Benkler proposes a more complex classification for commons, which will also help us to categorize the different cases of property rights discrimination. Benkler's first parameter is the openness of the good. Benkler says, "The oceans, the air, and highway systems are clear examples of open commons. Various traditional pasture arrangements or irrigation regions are now classic examples, described by Eleanor Ostrom, of limited access commons- where access is limited only to members of the village or association that collectively "owns" some defined pasturelands or irrigation system" (Benkler, 2003, p.6-7).

The second parameter offered by Benkler is the existence of regulation. While some of the commons are regulated by formal rules, such as property rights, others are not regulated legally and formally. Benkler's example is important in the sense that the regulations of common pool resources differ extremely. For instance, breathing air is not regulated by laws. Anyone can breathe in anytime he wants. On the other hand, breathing out can be regulated by laws, due to the fact that breathing out strongly in somebody else's face can be disturbing. Also, as Benkler describes "Air is a more extensively regulated commons for industrial exhalation in the shape of pollution controls" (Benkler, 2003, p.7). Also, commons under everyday usage, such as highways, sidewalks and roads are under regulation in order to prevent harming other people living in the same society.

Following Benkler's categorization, questioning the sustainability of different categories of common pool resources is valid. While some commons are open to everyone, others are not. Also, while some commons can be regulated by formal

and legal rules and law, others cannot. Thus, sustainability and the need to control for sustainability arise as questions for commons. Based on these questions, in 1968, Garrett Hardin wrote an article on the sustainability of commons and proposes his own solution. According to Hardin, due to the limitedness of natural resources as commons, overpopulation and inefficiency of the welfare state, the commons are destined for a negative future. Because people are greedy and think about feeding their own descendants, they do not consider the future of others. Over exploitation of resources and the existence of selfish individuals who use and even over-exploit resources are the main tragedies of commons. The tragedy of commons is the future possibility of depleting the commons. In order to prevent the tragedy of commons, Hardin proposes a regulatory management scheme. Because many firms pollute the air disregarding the long-term consequences, Hardin proposes that the management of those commons can be sustained by introducing property rights. As long as the property rights regime for these commons are valid and enforced, then the tragedy of commons can be prevented and the sustainability of the commons can be granted.

Despite the fact that the management of commons is a crucial issue, it has not been discussed by academics properly until Hardin ignited the idea of the tragedy of commons. Following Hardin, one of the most crucial people in the study of the commons and the management of commons, is Nobel Prize winner Elinor Ostrom. According to Ostrom, when the institutions to manage the common pool of resources are set efficiently and are based on certain criteria, then the tragedy of commons can be prevented. In other words, Ostrom's idea of governing the commons provide a blueprint for the management of the commons, that can prevent discrimination within the society against certain groups from using common resources or the over exploitation of those resources by certain groups.

Based on her field studies in many areas, such as communal tenure schemes in forests and mountains in Switzerland and Japan and irrigation systems in the Valencia, Murcia, and Alicante region of Spain and the Philippines, Ostrom sets the blueprint for governing the commons. When she elaborates on successfully managed commons in those areas, she traces the similarities of those institutions.

Those similarities can be categorized in eight principles. The very first is “clearly defined boundaries” (Ostrom, 1990, p.91), which signifies that common pool resources as well as the people or groups having the right to use those commons must be clearly defined. The second is “congruence between appropriation and provision rules and local conditions” (Ostrom, 1990, p. 92). This principle means that appropriation rules for time, place, technology and provision rules for labor, material and money should be set. The third principle is “collective-choice arrangements,” (Ostrom, 1990, p. 93), which signifies that anyone who is affected by the rules can participate in the decision-making and arrangement processes.

The fourth principle is defined as “monitoring,” (Ostrom, 1990, p. 94), and says that the conditions of the commons should be monitored. The fifth principle is “graduated sanctions,” (Ostrom, 1990, p. 94) signifies that those who violate the appropriation and provision rules should face sanctions, which are gradually increased. The sixth is “conflict-resolution mechanisms” (Ostrom, 1990, p. 100). This principle is related to the resolution of conflicts that may happen between the appropriators and officials. Thanks to these mechanisms, any conflicts that happen among appropriators and between appropriators and government are rapidly resolved in the local areas. The seventh principle is “minimal recognition of rights to organize,” (Ostrom, 1990, p. 101) and this principle offers that the rights that are set to govern the commons by the appropriators of those commons cannot be challenged by government agencies or institutions. The eighth and last principle, “nested enterprises” (Ostrom, 1990, p. 101) is offered for the commons under larger systems and proposes that the seven principles should be organized as a part of multi-layered enterprises to make management easier for larger communities.

2.3. Motivations for Discrimination of Property Rights as the Scope of the Thesis and Its Examples

As Flores (2008) argues, discrimination concerning the enforcement and granting of property rights does not only happen within countries, but also between

countries. While property rights are enforced and granted unequally between countries due to their institutional structures and political and economic backgrounds and regimes, according to Flores, discrimination regarding property rights within countries is due to imbalances in demand and supply for property rights. Flores explains the existence of property rights institutions are based on the demand by different groups within countries and the supply, which is determined by the decisions of political leaders. Different groups ask for the enforcement of property rights in order to remove informality and decrease the risks of investment. This happens when groups and individuals know that their properties are protected under legal norms. However, politicians do not always supply property rights institutions to those groups, which results in discrimination. Rather than focusing on property rights discrimination between countries, which is related to the different institutional backgrounds of each country, in this thesis, I will focus on property rights discrimination *within* countries.

First, I will start with discrimination of property rights motivated by the fail of privatization, demonstrated by the rural property rights in Zimbabwe and analyze the discrimination in Zimbabwe following the arguments of Leopoldo Fergusson (2013). Then, discrimination of property rights motivated by civil conflict will be exemplified by Sri Lanka and how different ethnic groups within the country were entitled to different property rights during its civil war. To illustrate the Sri Lankan case, the arguments of Benedikt Korf (2005) will be followed. Next, discrimination of property rights motivated by the private sector will be analyzed with the case of Ghana, and the arguments of Timothy Besley (1995) will be used to show ways that the existence of different property rights institutions changes the economic environment and investment decisions. As the last example, discrimination of property rights motivated by governments will be presented through the case of Orma in Kenya by Jean Ensminger and Andrew Rutten (1991), which displays how the structure of property rights change in pastoral areas with overgrazing and how different groups, based on their relations with the central government, get profits from these newly established property rights.

All these cases are crucial for the thesis because, in general, they all pose certain problems regarding property rights. Despite the fact that liberalism introduced property rights as vital rights, property rights do not operate as the liberal thinkers had once thought. In all the following cases presented in this chapter, the rights of property of certain groups were discriminated by either the government or other groups for political, social or economic reasons. These cases are presented in this chapter to display that right to property does not operate or is enforced in every country equally. Although in Western and European countries right to property is usually legalized, constitutionalized and protected by the states equally for every group regardless of ethnicities, religious backgrounds or other discriminatory characteristics, in the following examples, breaches of property rights of groups are observed. Despite the fact that rights to property are legalized in some of the following examples, in practice, acts of discrimination occur. Rights of property are not reinforced equally in every country as they are granted, enforced or protected. These cases are also important for this thesis in the sense that they demonstrate the threats to the equal enforcement and grant of rights to private property, which also affect the productivity and economic growth in those countries. Thus, when the underlying causes of the discrimination are displayed and analyzed successfully, a better solution, using some of the principles of Ostrom's law will be offered to end discrimination and enable a more effective rapid economic growth. By implementing Ostrom's related principles to each case, economic growth and development will be sustained as Rodrik (2004), Rodrik et al. (2004), Tabellini (2010), Acemoglu et al. (2001), Sabel (1993) argue.

Also, considering the link between development and the equal protection of property rights mentioned in the previous part, it is no surprise that all of these significant cases about discrimination of property rights take place in low developed countries. According to the World Development Indicators 2015 report (World Bank, 2015), protection of property rights enables secure investment results in economic development. Supporting the theory on the link between development and the granting and equal protection of property rights, those countries mentioned

below experience significant acts of discrimination of property rights and low development levels.

By looking at distinct examples of discrimination of property rights, we can see that those examples can be categorized under four types of motivations for discrimination of property rights civil conflict, the fail of privatization, factors in the private sector and factors in the government. In the example of Sri Lanka, civil conflict motivated the discrimination of property rights. In Zimbabwe, the motivation was the failure of privatization after the introduction of a new regime. Discrimination of property rights in Ghana can be linked to the private sector due to the fact that acts of discrimination are based on the production material, rather than ethnicity or race. Lastly, government-centered motivation for property rights discrimination can be seen in Kenya, where people need codified and standardized rules for the granting and protection of property rights. In the next chapter, I will delve into the specific motivations of property rights discrimination by deeply analyzing each example. Also, following the principles of Ostrom, I will present solutions to discrimination of property rights based on four motivations. Finally, I will focus on the ways that Ostrom proposes to govern the commons and how those ways can be implemented in the four cases. By showing that principles to govern commons are also appropriate to preventing conflicts and discrimination over property rights, a new way to end those acts of discrimination will be presented.

2.3.1. Discrimination of Property Rights Motivated by the Fail of Privatization

As mentioned above, the cases presented in this chapter present various forms of discrimination of property rights. Specifically, Zimbabwe is chosen as an example of discrimination motivated by the fail of privatization based on conflict between the black peasants and the white capital owners. In Zimbabwe, formerly Rhodesia, capital owners had the political power to shape and enforce property rights but black peasants, who actually dealt with the land, were not granted the right to the land. The right over land is a problem in many African countries due to their colonial

pasts and Zimbabwe is an example. Since colonial times, white people expropriated land used by local people for agricultural and other means and legalized the property rights for their own profits.

According to Fergusson (2013), in developing countries, the granting of property rights differs from one group to another. Some groups are granted property rights; other groups may be out of the context of the enforcement of property rights. Thus, Fergusson states that in developing countries, one, standard regime of property rights for each and every group, regardless of its ethnicity, background or other characteristics, does not exist. Zimbabwe is one of these developing countries Fergusson examines in his article called “*The Political Economy of Rural Property Rights and the Persistence of the Dual Economy.*”

In developing and underdeveloped countries, property rights regarding land are not specifically codified and standardized. Wealthier capitalists have property rights over their lands and the poor peasants are not granted property rights over the lands they should have owned. According to Fergusson, the real reason for unequal property rights and the discrimination of property rights, especially in less developed and developing countries, is a strategy that capitalist landowners embrace in order to decrease the power and authority of peasants in those rural lands and make them work for low wages. The existence of discrimination regarding property rights over rural lands also creates a dual economy by making poor peasants divert to other sectors.

As Fergusson argues, Zimbabwe, is one of the African countries in which a dual economy is observed due to the discrimination of property rights against the majority black peasant population that deals with rural land and does not have ownership of the lands they work. The political power of the white capital owners creates a dual economy in Zimbabwe and other less developed and developing countries in Africa. Concerning the discrimination of property rights, Fergusson touches upon three important facts, which are all observed in Zimbabwe. According to Fergusson; “the first is that political power (the ability to shape key institutions

and policies) is largely in the hands of private landowners; the second and these assumptions concern the double-impact of poor property rights on the peasant sector- lowering productivity and increasing the cost of rural-urban migration. In Rhodesia [currently Zimbabwe], there is ample support for each of these assumption” (Fergusson, 2013, p. 176).

The third principle of Ostrom can be employed to solve the discrimination based on the fail of privatization in Kenya. Ostrom’s third principle, one of her primary and revolutionary principles, is the idea that anyone who is affected by the common pool resource should be involved the decision-making process. This decision-making process determines who will and who will not use a resource and under what conditions the resource is used. This principle should be valid for the property right regimes as well. Those groups who are the beneficiaries of the properties should be able to participate in the decision making process, which determines the basic characteristics of the property and the appropriators of the property. For example, in the case of Zimbabwe, there is a discrimination against black peasant by the white capital owners. Since the white capital owners have the power and authority to change the policies, the black people cannot participate in the decision making process regarding the properties they appropriate.

2.3.2. Discrimination of Property Rights Motivated by Civil Conflict

While Fergusson focuses on the role of imperialism in the discrimination of property rights and the inequity between capitalist landowners and peasants who constitute the majority of the population in Zimbabwe, the Sri Lankan case is more related to the role of civil war and its effects on discrimination based on ethnicity. The case of Sri Lanka illustrates discrepancies in the practices of certain institutions, such as property rights. Although the focus points of the cases of Zimbabwe and Sri Lanka are different, the former emphasized capitalism and imperialism while the latter focuses on ethnicity, discrimination happens in both

when a certain group has the full political power to shape property rights institutions.

Due to the existence of complex ethnic and religious groups in Sri Lanka, clashes occur between those different groups. While the main conflict between the Tamil minority and the Sinhalese-Buddhist majority is the main cause of the ongoing civil war in Sri Lanka, there are also both political and military conflicts between three key groups; Sinhalese, Tamils and Muslims in different parts of the country. As Korf (2005) argues, rights over the local resources in places where different groups have conflicts demonstrate the “daily struggles for survival” (Korf, 2005, p. 206). As civil war in Sri Lanka exacerbates the scarcity of local resources, conflicts between different groups are intensified and conflict over the ownership of the local, scarce resources occurs. Korf, in his article, gives the example of a district in east Sri Lanka, where three different ethnic groups are in a constant fight both for political power and the ownership of paddy land and the irrigation system. According to Korf; “Since political bargaining power varies according to ethnic affiliation, this situation leads to unequal, ethnicized entitlements, because affiliation to a particular ethnic group may favor or disfavor access to resources. This process deepens inter-ethnic grievances on the community level, while it allows combatants to stabilize their specific power position” (Korf, 2005, p. 207).

In east Sri Lanka, three major groups, the Sinhalese, Tamils and Muslims, are in conflict with each other. These three groups are engaged in civil war to gain political power in the region and also the political power to manage the irrigation system and the paddy land in the neighborhood. Korf argues that, the ethnic group that has the greatest level of warfare over the other ethnic groups also has the power over the local resources. The three case studies between three different groups over the management of scarce resources display that “...entitlements to resources are regulated by a clientele system that is organized around ethnic bonds, leading to a system of ethnicize entitlements. Ethnic capital –individuals’ ability to access political (and military) power-holders of their own ethnic group- allows those with links to the more powerful combatant and power-holder to derive distributional

benefits in the local arenas of resource competition” (Korf, 2005, p. 214). Thus, the Sri Lankan example shows that conflicts over the political power and authority in the district between three different ethnic groups present that ethnicity is the key of political mobilization (Gurr, 1993) and the ownership over the local resources.

Following the first principle of Ostrom, which is to define the boundaries of the common pool resources, determining who is entitled to use those resources and who is not, the Sri Lankan type of discrimination can be solved. Unless the boundaries of properties are defined and determined clearly, discrimination and conflicts happen, as it is observed in the case of Sri Lanka. Because three ethnic and religious groups cannot share the properties equally, they engage in civil war, which results in an exaggeration of discrimination of property rights that are entitled to each group. Thus, to identify problems when a conflict, even a civil war, occurs due to undetermined property boundaries, Ostrom’s first principle must be recognized and implemented.

Ostrom’s principle based on the existence of the conflict resolution mechanisms is necessary, especially in cases where the violations of the set of rules by certain appropriators increase. When certain groups who benefit from properties violate agreed-upon rules, and when graduated sanctions are not sufficient to prevent this, these incidents may turn into conflicts, and even civil wars, as in the case of Sri Lanka. Thus, considering the case of Sri Lanka, conflict resolution mechanisms should be prescribed in order to end the conflicts that may happen due to the violation of the rules of equal property distribution and discrimination over property rights.

2.3.3. Discrimination of Private Property Motivated by the Private Sector

As mentioned in the previous chapter, property rights are considered key to economic development. In African countries, which are poorer compared to countries on other continents, especially Europe and North America, the granting and the protection of property rights by the government is considered as a pressing

issue. Following this argument and the fact that the African continent has countries with the least development scores around the world, Besley (1995) analyzes the relation between the property rights and economic growth in Ghana. Since Ghana is in a transition period from a traditional land regime to a modern regime, the relation between investment incentives of individuals and the entitlements over their land and economic development can be observed clearly.

Also, the differences in terms of the agricultural sectors and the production materials in two different regions in Ghana give clues about the discrimination of property rights based not on the entitlement to political power or ethnicity, but the production material and geographical region. Besley conducted case studies in two different regions in Ghana, Wassa and Anloga. Considering that Ghana gained independence from Britain in 1957, the regions are mostly the same in terms of their colonial histories. Wassa produces cocoa in the western part of the country and tree crops are planted in the Wassa region. Before independence, during the colonial times, the lands were controlled by the tribal powers; after independence, changes were attempted as a part of the post-colonial law. However, the influences of the tribes rather than the state are still observed. According to the data of Besley, in Wassa, there are “217 households that own and operate 1,074 fields...” (Besley, 1995, p.913).

In other region, Anloga, “there are 494 owner-operated fields spread over 117 households” (Besley, 1995, p.913). Anloga, unlike Wassa, is not dependent on agricultural production, thus land is not as important as it is in Wassa. Also, inheritance is the key factor for possession of the land. As Migot-Adholla and Place (1991) argue, due to the strategy of inheritance, the rights over lands are individualized in Anloga and courts act as de-facto intermediaries in order to solve the conflicts that occur due to the ownership of the land within a family due to inheritance. Based on Besley’s analysis, in the Wassa region, inhabitants are more supportive of the enforcement of more standardized and codified property rights. Considering that the discrimination in Wassa region are due to the power of the tribes over property rights and land ownership, inhabitants, who deal with the land,

are more disposed to the introduction of property rights over land by the government. In Anloga, on the other hand, inhabitants' desire for establishment of land property rights is not as robust due to endogeneity. In Anloga, inhabitants have a certain code of property rights through inheritance and legal institutions to solve the problems that occur due to this de facto codification of land ownership; obvious discrimination is not observed in Anloga as in Wassa.

Ostrom proposes that once appropriators set their rules and certain devices to execute those rules, other governmental institutions, considered external, should not intervene with the rights of appropriators over their properties and their rules. In other words, this last principle dictates that external institutions, either from the government or other bodies, should not interfere with the rights and rules of appropriators over properties. In Ghana, external government agencies and institutions try to control the right of appropriators over the properties that should be set equally by all groups. Since the external governmental institutions delve into the process of the appropriation of the properties in those cases, Ostrom's principle is crucial for the prevention of conflicts and discrimination within countries among different groups.

2.3.4. Discrimination of Property Rights Motivated by the Government

Economic development and economic growth, as well as being the consequence of the introduction and enforcement of secure property rights, can be the reason for the change of property rights regime. As less developed and developing countries become economically developed, they change their property rights regime, especially concerning rural lands and pastoral areas, in order to prevent overgrazing of those lands. To put in other words, an increase in population as a consequence of economic development and economic growth can cause overgrazing of pastoral lands. The Orma region in Kenya is an example of property rights being changed and adapted to a growth in population and the resulting economic change.

Orma is situated in the northeastern part of Kenya with pastoral lands, where the economy is highly dependent on cattle. When Kenya began to be economically developed, the population of Orma, as a fertile land, increased. The income from the production of meat and milk increased in Orma, and Kenya has become one of the countries with highest economic growth on the African continent. While before the population boom in Orma the pastoral lands were open to grazing for members of the all ethnic groups, the water wells, on the other hand, were “owned not in common but by the person who had first dug the spot and his patrilineal descendants” (Ensminger and Rutten, 1991, p. 684).

Despite the fact that there was an attempt to manage the increased population in Orma by limiting the expansion of territories and the access and use of water, as the population increased in positive correlation with economic growth, new institutional changes were put into effect. Ensminger and Rutten explain the new measures and institutions put into effect to prevent overgrazing and increase the sustainability of pastoral lands against the increased population as the following: “As people began to settle, these options were no longer effective, and the Orma had to develop new methods of preventing the overuse of land, which they did by imposing restrictions on access to the commons near sedentary villages. These restrictions functioned quite effectively in the absence of third-party enforcement until the mid-1980s” (Ensminger and Rutten, 1991, p.684). By the mid-1980s, a discrimination of property rights emerged in favor of a new group of commercialized producers (Libecap, 1989). As commercially-oriented sedentary groups wanted to increase their profits over the Orma land, they aimed to influence the government to change the property rights regime. They used their influence over the national politicians’ to restrict the access of nomadic groups, which once had equal access as the other groups, to pastoral lands. As commercial groups put pressure on the government to change the property rights regime, the nomadic groups started to have less access over the pastoral lands, which created discrimination against the nomadic groups.

As the authors stated, the commercialized groups' pressure to change the property rights over pastoral lands resulted in "a gradual dismantling of the commons to the benefit of the sedentary producers" (Ensminger and Rutten, 1991, p.684). As well as in cases described above, Rhodesia (now Zimbabwe) and Sri Lanka, in Orma, the power and influence of certain groups over the politicians and national politics creates discrimination against other groups that have less or no influence and power in the political arena, concerning the property rights regime. The fact that the case of Orma is closer to the case of commons rather than the case of private property as in the other four cases; since both commons and private property are under the same umbrella of property rights, I will still demonstrate the discrimination that people face in term of their access to the commons as the discrimination of property rights.

The discrimination of property rights in Kenya can be solved by Ostrom's second principle: the conformity between the rules of appropriation and provision and the locality of those rules. As Ostrom argues, the rules that are set to use the common pool resources and the rules that are set to provide those resources should be in congruence and set based on local conditions. For instance, in Kenya, despite that it can be considered as a case of commons rather than private property, if there was conformity between the appropriation and provision rules, the nomadic groups will not face discrimination when new regime of property rights is introduced. Since the nomadic groups and the commercialized groups are members of the same community and beneficiaries of the same property or resources, their rights of appropriation over certain properties should be set equally. By setting the appropriation and provision rules congruently, discrimination over property rights against certain groups will be eliminated.

Also, following the third principle for the Kenyan case, if black peasants in Kenya have the power to be involved in the decision-making process over the properties they benefit from and appropriate, then the decisions can be made more equally. All appropriators will decide collectively about the problems and decisions regarding the property. Otherwise, discrimination against some of the appropriators occurs, as it is the case in Kenya.

CONCLUSION

Despite the fact that the right to property is considered as one of the most important milestones of the liberal ideology and a crucial factor that encourages economic growth by a significant number of academics, the cases that have been shown in the previous chapter proves that in certain circumstances there is discrimination against the right to property. As illustrated in Chapter 2, in certain cases, the right to property may not be protected or reinforced equally by the responsible agencies for all groups within a country. Four different cases in the second chapter were used to illustrate property right discrimination observed within countries due to the inequalities in reinforcing and protecting property rights among different groups in terms of ethnicity, political background or other differences. The four types of motivations to create discrimination of private property are civil conflict, the failure of privatization, a private sector context and one based on a government context. The main argument that is presented in this thesis is that due to agencies and those four types of motivations, property right discrimination may happen in certain circumstances. While property rights exacerbate economic growth in countries, when some groups are favored in terms of property rights and protection of those rights by government-appointed agencies, discrimination hurts the economic growth and well-being. Thus, property rights discrimination stems generally from the unequal legislations on property rights, different enforcement of property rights and differences in protection of certain groups' property rights while ignoring the property rights of other groups. In this last part of the thesis, I will first discuss the thesis as a whole and then evaluate what I have learned from this study. Next, I will present the challenges and advantages of the methodology that I have chosen. Then, in the last section, I will discuss Ostrom's principles as a solution to the property right discrimination examples that were emphasized in the previous chapter.

As an essential part of liberal ideology, private property rights protect the rights of individuals who own certain assets and properties, against abuse by the state or other individuals. Although, from the liberal perspective, private property rights are considered a way to individual freedom, in certain circumstances, such as the

discrimination of private property rights (Flores, 2008) those rights can be posed as an obstacle to individual freedom and create a dichotomy between ideology and practice. The biggest obstacle is the discrimination that happens in how property rights are granted and protected. While some institutions and agencies that are responsible for protecting property rights do protect the rights of certain groups, those institutions do not always protect the rights of every group in certain countries. State institutions execute discrimination of property rights and those acts may be based on the ethnicity, religion or political views of certain groups. In other words, state institutions protect the property of rights of groups that are closer to the views and ideology of the state, while engaging in discriminatory behaviors toward other groups whose ethnicities, religion or political views are not in accordance with the stance of the state. Discrimination of property rights materializes through those institutions eventually damages the individual freedoms of the members of those groups. Both the economic development of those groups and their liberal rights are hurt.

In this thesis, while analyzing the discrimination of property rights from four distinct motivations using four examples from around the world, I learned that, despite the motivations and the context, where discrimination of property rights exists, the consequences of the discrimination are similar. Although the examples are from different countries with different ethnic, racial, religious and historical backgrounds, in all four countries discrimination of property rights is observed and this discrimination impinged development in those countries. Also, in matching Ostrom's principles for governing the commons as solutions to the discrimination of property rights in the four cases, I realized that the principles of Ostrom are universal. Ostrom's principles, which were first presented to govern the commons more effectively, are also principles that might help in the prevention of discrimination of property rights and other factors that may affect the development levels of countries. Also, by introducing Ostrom's principles, a more efficient use of resources and property, either common or private, can be granted. In economically more developed countries, one or more principles of Ostrom are

followed to govern the commons and to grant the protection of property rights equally for everyone, resulting in more successful economies.

In accordance with the research question, I used examples as the main method of the thesis. I analyzed different examples as my main methodology. I was not able to do interviews or surveys since the cases I chose are dispersed on many continents; I used secondary sources to determine representative cases of discriminatory private property practices. Also, since quantitative data on the property rights regimes of countries and the discriminatory property right regimes is not applicable, analyzing examples was my best option. Thus, I analyzed those cases and the discriminatory practices regarding the exercise of property rights. After presenting the cases of property rights discrimination, I presented the Ostrom's law concerning governing the commons, based on the primary source by Ostrom.

One of the biggest challenges for me in terms of the methodology was to find appropriate examples for the four distinct motivations of discrimination of property rights. Since real life examples of discriminatory property rights practices can be complicated and difficult to categorize, I looked for the most appropriate examples for each motivation. Also, there was a challenge in that all four examples are from different countries, so that discriminatory practices happen in different contexts. In order to be able to analyze the discriminatory practices successfully, I needed to give brief backgrounds of each country. Thus, studying four distinct examples with different contexts and political, economic and historical backgrounds for four distinct motivations of discriminatory practices was difficult methodologically.

One of the main theories of Ostrom where she shapes her argument on governing the commons is that the beneficiaries of the common pool resources have the right to participate in the decision-making processes on how to use the resources. Also, Ostrom theorizes that common pool resources are best governed by the people who use those resources. Starting from that point, this thesis proposes that the motives of the acts of discrimination of property rights should be identified so comparisons between different kinds of actions can be made. Once the discrimination of property

rights is defined, further research can delve into the solutions for discrimination, proposed as implementing eight rules presented by Ostrom to govern the common pool resources for the properties where discrimination occurs.

The validation strategy offers that by implementing Ostrom's eight rules in the four cases selected for this thesis, discriminatory property rights regimes in Zimbabwe, Sri Lanka, Ghana and Kenya would be prevented. In other words, if property rights discrimination were considered tragedy of commons in a different sense, the same treatment would cure both. Despite the fact that tragedy of commons is a different phenomenon than the discrimination of property rights based on racial, regional, political, economic or ethnic differences, the treatment that Ostrom proposes can be the ultimate solution for the cases such as those mentioned in this thesis. Sustainable Development Goals, introduced as the enlarged version of the Millennium Development Goals by the United Nations, heavily focus on the reduction of poverty and the granting of equality economically, politically and socially not only among countries but also within countries. One of the important issues that underdeveloped countries must address is offering equal property rights regimes. The solutions to create equal property rights regimes differ from one country to another, but International Organization for Migration (IOM) suggests that micro-level regulations towards lands and other properties are the best way to secure equal property rights in underdeveloped countries (IOM, 2014). In other words, Ostrom's main idea that the problems regarding property rights should be solved by the people who benefit from that property is supported by a well-known organization that works with many countries around the world. Thus, this real life example proves the validity of Ostrom's laws and idea to prevent discrimination of property rights.

Despite the fact that property rights are one of the most important elements of the liberal ideology, in certain cases, it is observed that the practice and the theory of property rights are not in harmony. This thesis focuses on the question of those conflicts between the theory of property rights from a liberal perspective, which proposes that every human being is entitled to own his own property, property rights

should be equally exercised by all individuals as part of individual freedom, and there should be practice of the enforcement and the protection of property rights. As shown in four case examples, in certain countries, some groups do not have the same property rights as other groups due to their ethnicity, religion, political view or geographical areas. The main theme of this thesis stems from the need to identify discrimination of property rights and to compare with other cases. This thesis offers that the eight principles theorized by Ostrom to govern the common pool resources can be used by countries, where discrimination of property rights against certain groups is observed. If discrimination over property rights are eliminated and a more equal property regime is sustained, then economic development is also satisfied. With a more equal property regime, people will become more prone to investment, which increases the levels of economic growth and economic development, according to certain scholars. As long as acts of discrimination are eliminated, a more liberal property right regime will emerge that pursues the core components of individual freedom. Thus, the role of Ostrom's Law as a new framework to solve the discrimination of property rights suggested in this thesis can be the subject of further research. By doing so, the success or failure of Ostrom's Law can be further elaborated.

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