

The Doctrine of Necessities and the (Public) Good

12.1 Necessity and Necessities in Knowledge and Morality: *An Essay Concerning Human Understanding*

It is in the absence of thinking, not merely of power as Hobbes had it, that necessity occurs. This is how Locke put it: ‘Where-ever Thought is wholly wanting, or the power to act or forbear according to the direction of Thought, there *Necessity* takes place.’¹ Thinking is therefore the opposite of necessity. We are ignorant of ‘the Nature’ of ‘that thinking thing that is in us, and which we look on as ourselves’, save for the fact that it is free to design her own destiny, misery or happiness.² It is possible to ascertain the centrality of human necessities in Locke’s wider theory of knowledge and human morality as set out in *An Essay Concerning Human Understanding*. First, human beings navigate this world securely through the knowledge provided by necessities.

If any one pretends to be so sceptical, as to deny his own Existence, (for really to doubt of it, is manifestly impossible,) let him for me enjoy his beloved Happiness of being nothing, until Hunger, or some other Pain convince him of the contrary.³

Second, the particular knowledge constituted by necessities provides a helpful guide to the correct moral action to be taken towards happiness, as it is necessary to assess whether human desires, which are numerous and constant, are fixed on their proper objects. As a rule of thumb of proper conduct, necessities lead to the preservation of life; while following desires threatens its loss if these desires are not examined with the goal of eternal life in mind. As any reader of *An Essay Concerning Human Understanding* will see, there is much more to Locke’s epistemology and

¹ See also in Locke, *An Essay Concerning Human Understanding*, II. 21. §13, p. 240.

² Locke, *An Essay Concerning Human Understanding*, II.27. §27, p. 347.

³ Locke, *An Essay Concerning Human Understanding*, IV, 10 §1.

moral philosophy than human necessities. However, human necessities are the hinge that unites knowledge and morality.

12.1.1 *Epistemology and Necessities*

In *An Essay Concerning Human Understanding* Locke traced how ideas originate, in order to distinguish between knowledge and opinion. Matthew Priselac has called the epistemology of that book a 'genetic structure' of knowledge.⁴ Naturally, ideas start when the human body experiences the external world and the senses inform the mind of this. Together with awareness of the existence of an infinite and omnipresent God, human necessities unproblematically relate human beings to the reality surrounding them. Thus 'necessities' have a fundamental role in avoiding general scepticism. Despite Locke's adherence to corpuscularianism and his conception that everything is composed of atoms in constant flux, it is clear in his epistemology that human beings are equipped to know what will help them to survive in the world, and more than survive.

That *the certainty of Things existing in rerum Naturâ*, when we have *the testimony of our senses* for it, is not only *as great* as our frame can attain to, but *as our Condition needs*. For our Faculties being suited not to the full extent of Being, nor to a perfect, clear, comprehensive Knowledge of things free from all doubt and scruple; but to the Preservation of us, in whom they are; and accommodated to the use of Life: they serve to our purpose well enough, if they will but give us certain notice of those Things, which are convenient or inconvenient to us.⁵

Significantly, knowledge depends on 'the right use' of the powers that nature had bestowed on us, human beings.⁶ Thus both the *burden* and the advantage of knowledge lie in the reasoning subject.⁷ This demand for

⁴ Priselac, *Locke's Science of Knowledge*, p. 15. On Locke as an 'indirect realist' to whom ideas are 'the immediate objects of perception' through which our mind reaches out to the real world. Walter Ott, 'Locke on Sense Perception', in Jessica Gordon-Roth and Shelley Weinberg (eds.), *The Lockean Mind* (Abingdon, New York: Routledge, 2022), Ch. 15.

⁵ Locke, *An Essay Concerning Human Understanding*, IV. 9. §8, p. 634.

⁶ 'But this only by the bye, to shew how much our *knowledge depends upon the right use of those Powers Nature has bestowed upon us*, and how little upon such innate Principles, as are in vain supposed to be in all Mankind for their direction,' Locke, *An Essay Concerning Human Understanding*, I. 4, §22, p. 100.

⁷ 'Since it is the Understanding that sets Man above the rest of sensible beings, and gives him all the Advantage and Dominion, which he has over them; it is certainly a Subject, even for its Nobleness, worth our labour to inquire into.' Locke, *An Essay Concerning Human Understanding*, I, p. 43.

the correct use of reason constitutes, in an important sense, Locke's theory of the burden of freedom. He shares with Boyle the awareness of the immensity of unknown things – created, after all, by an omnipotent God. There are many phenomena that our senses cannot perceive, of which we consequently know nothing.⁸ However, Locke writes, in this 'Globe of Earth allotted for our Mansion' we know what we need to know.⁹

The infinite wise Contriver of us, and all things about us, has fitted our Senses, Faculties and Organs, to the conveniences of Life and the Businesses we have to do here.¹⁰

Senses allow us to distinguish things and examine them in a manner that allows us to 'apply them to our Uses' and diversely 'accommodate the Exigencies of this Life'.¹¹ Hobbes had declared that the fool is wrong. In turn Locke would defend that 'the skeptic is wrong'.¹² In this endeavour human necessities appear to be instrumental. Furthermore, the rejection of innate principles in the theory of knowledge that Locke presented in *An Essay* may be paralleled with Boyle's rejection of a metaphysical concept of nature as mentioned in Chapter 7. Both concepts were (in their view) of doubtful authority and provenance and prevented the advancement of science. Locke regarded innate principles as putting difficulties in the way of acquiring better understanding of how the faculty of reasoning works.

On this faculty of Distinguishing one thing from another, depends the evidence and certainty of several, even very general Propositions, which have passed for innate Truths; because Men over-looking the true cause, why those Propositions find universal assent, impute it wholly to native uniform Impressions; whereas it in truth depends upon this clear discerning Faculty of the Mind, whereby it perceives two Ideas to be the same or different.¹³

⁸ Anstey, *John Locke and Natural Philosophy*, Chs. 2 and 3.

⁹ Thousands of changes happen in the bodies we may handle that we may 'never suspect, because they never appear in sensible effects.' Locke, *An Essay Concerning Human Understanding*, II. 23. §9, p. 301; §12, p. 302. By contrast others like Robert Hooke (1635–1703) or Benjamin Worsley highlighted the relevance of invisible nature for science and faith, see Chapter 7 and Wragge-Morley, *Aesthetic Science*. On the humorous critique arising against this latter view that Jonathan Swift and his *Gulliver's Travels* exemplify see Denys van Renen, *Nature and the New Science in England, 1665–1726* (University of Oxford, Voltaire Foundation: Liverpool University Press, 2018).

¹⁰ Locke, *An Essay Concerning Human Understanding*, II. 23. §12, p. 302; Kochiras, 'Locke's Philosophy of Science'.

¹¹ Locke, *An Essay Concerning Human Understanding*, II. 23. §12, 302.

¹² See, Priselac, *Locke's Science of Knowledge*, p. 15.

¹³ Locke, *An Essay Concerning Human Understanding*, II. II. §1, pp. 155–156; II. II. §15, p. 162.

Further, in his important discussion of liberty and necessity in the context of power (Book II, chapter IX), Locke concedes that human beings necessarily want happiness and considers that perfection lies in the determination of human will by choosing what is good.¹⁴ One could argue that these two claims resemble in practice a description of innate principles, but Locke consistently adheres to the terminology of an elusive principle of *necessity*. My intention, however, is not to contest Locke's extraordinary analysis of human morality but to highlight the instrumental role played by human necessities in his epistemological and moral method. *An Essay* may well be read as an extremely accomplished effort to appease the anxiety of the era struggling to grapple with disparate elements left over from a past theological period by means of a rational moral philosophy. Timothy Stanton has emphasized that Locke took the view that God was the foundation of all morality and that an atheist could accordingly have no morality.¹⁵ A 'company of poor insects' is the comparison Locke used to describe what would become of humanity without God.¹⁶ At the same time his moral theory is superbly empirical and thus rational, and that is of course its strength. In that empirical perspective the importance of human necessities cannot be doubted because human beings' sole motivation for action lies in 'uneasiness' of mind or body.¹⁷ 'Uneasiness' represented by desire might be natural, such as thirst, hunger, or indeed love, or 'fantastical', such as honours.¹⁸

That the desire for self-preservation moves everyone to act and that the assumption that human needs bring people together, we might recall, appear in the *Essays on the Law of Nature* and they embody the elements for beginning a political society specified in the *Two Treatises of Government* – these are necessity, convenience and inclination, as we will see in this chapter.¹⁹ Desires are numerous, either through natural wants or custom and habit.²⁰ At any rate, the most pressing uneasiness,

¹⁴ Locke, *An Essay Concerning Human Understanding*, II. 21. §48, p. 264.

¹⁵ Stanton is quoting from Locke's, *An Essay Concerning Toleration*, in his exchange with John William Tate, Stanton, 'On (Mis) Interpreting Locke: A Reply to Tate', p. 232.

¹⁶ 'Supposing them only like a Company of poor insects; whereof some are Bees, delighted with Flowers and their sweetness; others Beetles, delighted with other kinds of Viands, which having enjoyed for a season, they would cease to be, and exist no more for ever.' Locke, *An Essay Concerning Human Understanding*, II. 21. §55, p. 270.

¹⁷ Pleasure and pain indicate to the human being the divine design for human beings according to Rossiter see for this, Elliot Rossiter, 'Hedonism and Natural Law in Locke's Moral Philosophy' 54 *Journal of the History of Philosophy* (2016).

¹⁸ Locke, *An Essay Concerning Human Understanding*, II. 9. §7, p. 145.

¹⁹ Locke, *Essays on the Law of Nature*; Harris, *The Mind of John Locke*, p. 99.

²⁰ Locke, *An Essay Concerning Human Understanding*, II. 21. §45.

for instance a terrible pain, an addiction to alcohol or a passionate love or hunger determines action in the absence of conflicting desires.²¹

Moreover, everything starts with necessities as he noted in the argument on the origin of ideas set out in Book II.

Therefore I doubt not but *Children*, by the exercise of their Senses and Objects, that affect them *in the Womb*, receive some few Ideas, before they are born, as the unavoidable effects, either of the Bodies that environ them, or else of those Wants or Diseases they suffer, amongst which, (if one may conjecture concerning things not very capable of examination) I think the *Ideas* of Hunger and Warmth are two: which probably are some of the first that Children have, and which they scarce ever part with again.²²

He took the view that the order and variety of ideas that a child receives after their birth is very uncertain.²³ However, he asserted that a certain process occurs when the child is still in the mother's womb. Intellectual perception accordingly starts through surrounding bodies, necessities and diseases, and specifically with necessities.

12.1.2 *Between Aquinas and Henry of Ghent*

The aim of freedom, whose existence Locke strongly defends, is that we attain the good we choose. The only determinations in human beings' moral action that he admits are first that when faced with a decision, the will necessitates (a) to will this or (b) not to will it – *tertium non datur*;²⁴ and second, that individuals will always choose what they think best for themselves in order to achieve happiness. Experience and observation show that people choose the good that they regard as constituting a necessary part of their happiness, which might or might not be 'the greatest good'.²⁵ However, the true perfection of an intellectual nature is to achieve true and solid happiness, and such a person accordingly chooses 'the proper Object of desire', that is to say, one that identifies affection and truth.²⁶ Locke follows Aquinas in this description of how the objects

²¹ Locke, *An Essay Concerning Human Understanding*, II. 21. §40.

²² Locke, *An Essay Concerning Human Understanding*, II. 9. §5, p. 144.

²³ Locke, *An Essay Concerning Human Understanding*, II. 9. §7, p. 145.

²⁴ He meant to want this or not to want this. Locke, *An Essay Concerning Human Understanding*, II. 21. §24.

²⁵ Locke, *An Essay Concerning Human Understanding*, II. 21. §54.

²⁶ Locke, *An Essay Concerning Human Understanding*, II. 21. §51. On the question of the harmonization of desire, see recently Juan Andrés Mercado y Pía Valenzuela, 'L'armonizzazione del desiderio per la fioritura umana', in S. Langela, M. S. Vaccarezza, M. Croce (eds.), *Virtù, legge e fioritura umana. Saggi in onore di Angelo Campodonico* (Milano: Mimesis, 2022).

of desire move to action.²⁷ In fact, what Locke accomplished in *An Essay Concerning Human Understanding* may be understood as recovering a Christian moral language and as transmuting self-interest into terms of necessity, and hence as a vocation to perfection.

Every Man is put under a necessity by his constitution, as an intelligent Being, to be determined in willing by his own thought and judgment, what is best for him to do.²⁸

Anything else, Locke concluded, would be determination by some else and thus lack of freedom. In his understanding, the ‘necessity of being happy’ contains a preference for eternal happiness, rather than a present but transient happiness.²⁹ However, misjudgements of reason about happiness abound. Moreover, according to Locke, freedom was also honoured when an individual willingly opted for the lowest good, a present pleasure that however causes that individual to lose the chance of eternal bliss – it was a madman’s freedom, but freedom nonetheless.³⁰ Locke commented in this context on the classical case of the prisoner who suddenly realized that he had no chains.

Famously, in one of his three solutions to this case contained in *Questio* 26 of his *Quodlibet* IX produced in Lent of 1286, the Parisian theologian Henry of Ghent had attributed to the man sentenced to death a licit power (*licit potestas*) to flee.³¹ On the strength of this solution, Henry is often mentioned as an introductory author in the histories of natural rights, since he utilized a remarkably novel language in this

²⁷ ‘So it is clear that there is ultimately one mover, the object desired. For this both moves appetite and affords a starting point for the practical intellect – the two motive principles which have been assumed. And it is reasonable that these two principles should be reduced to unity in the object of desire; for if both intellect and appetite are principles with respect to one and the same movement they must, as such, share the same specific nature; since a single effect implies always a single cause of precisely one effect. Now it cannot be said that appetite is a moving principle through sharing the specific nature of intellect, but rather e converso, for intellect only moves anything in virtue of appetite. It moves by means of the will, which is a sort of appetite. The explanation of this is that the practical reason is essentially balanced between alternatives; nor can it initiate movement unless appetite fixes it exclusively upon one alternative’ *Aristotle’s De Anima with the Commentary of St. Thomas Aquinas*, trans. By Kenelm Foster, and Silvester Humphries, with an Introduction by Ivot Thomas, (New Haven and London: Yale University Press, 1951) §823–825, p. 472

²⁸ Locke, *An Essay Concerning Human Understanding*, II. 21. §48, p. 264.

²⁹ Locke, *An Essay Concerning Human Understanding*, II. 21. §49, p. 265.

³⁰ Locke, *An Essay Concerning Human Understanding*, II. 21. §70, p. 283

³¹ Henrici de Gandavo, *Opera Omnia*, Macken ed. v. XIII, *Quodlibet* IX: ‘Utrum condemnatus morti licite possit abire, si tempus et locum habeat’, pp. 306–310.

regard.³² In answering the question of whether ‘one man sentenced to death can licitly flee if he has the time and place’, Henry declared that if the circumstances of place and time were favourable – for instance ‘he would be without chains and the door would be open’ – the criminal was a ‘homicide’ if he ‘did not provide for himself as he should’ and fled, as necessity compelled him to do. Unlike the necessity of the judge to punish him, the prisoner’s necessity was of a higher calibre and compelled him to search for his freedom.³³ The condemned man ‘had like a power of using the same body’ in order to guard his life as had the judge in order to punish him.³⁴ However, as custodian of the life dwelling in the body, the soul’s power over the body was greater than the judge’s. Henry posed the problem as the criminal’s licit *power* of using his body, which was also his right (*ius suum*) according to the law of nature, and if necessary of exercising that right (*exsequendi ius suum*). ‘Over a certain thing’ Henry had stated ‘there can be a power or right’ (*potestas sive ius*) in two ways. One, like the ownership in the substance of the thing. In the case of the body, ‘only the soul under God has property in the substance of the body’, and ‘the other like a use in determined actions that can be exercised over the thing,’ hence the judge’s right to enchain etc. (*ius in vinculando etc.*).³⁵

³² Marialucezia Leone, ‘Henry of Ghent on Divine Law, Natural Law and Divine Law’, pp. 383–398, pp. 390–391; and Virpi Mäkinen, ‘Duty to Self-Preservation or Right to Life? The Relation between Natural Law and Natural Rights’ (1200–1600), pp. 457–470, p. 466, both in Andreas Speer and Guy Guldentops (eds.) *Das Gesetz – The Law – La Loi* (Berlin: De Gruyter, 2014); Tierney, *The Idea of Natural Rights*, pp. 78–89; Porro, ‘Individual Rights and Common Good: Henry of Ghent and the Scholastic Origins of Human Rights’.

³³ ‘quia iudex non tanta necessitate compellitur eum detinere aut occidere, quanta necessitate propter iustum metum mortis compellitur damnatus quod sibi provideat, ne vitam et perfectionem suam in corpore amittat, quia, si in hoc non provideret si posset invenire locum et tempus, ut si forte esset sine vinculis et ostia essent aperta, nec adesset impedimentum abeundi et per hoc vitam salvandi, sui ipsius homicida esset, non providendo sibi sicut deberet.’ Henrici de Gandavo, *Quodlibet IX*, p. 309.

³⁴ ‘quoad animam potestatem super idem corpus utendi eo ad vitae suae in corpore custodiam, in qua consistit eius perfectio sine iniuria alterius. Et hoc non solum aequitate naturae quae fas est circa rem alienam, sed quae licitum est. Et non solum licitum tamquam a lege naturae indultum in aliquale alterius praeiudicium, sed quae ius est secundum legem naturae. Et non solum ius, sed in casu necessitas exsequendi ius suum.’ Henrici de Gandavo, *Quodlibet IX*, p. 309.

³⁵ ‘Ad cuius intellectum sciendum est quod supra rem aliquam dupliciter haberi potest potestas sive ius: una quoad proprietatem in substantia rei, alia quoad usum in actione aliqua exercenda circa rem. Primam potestatem aut ius nullatenus habet iudex saecularis super corpus damnati plus quam super animam illius, sed secundam tantum, quae consistit in tribus, scilicet in corpus capiendi, in vinculando sive incarcerando, et in occidendo. Potestatem autem quoad proprietatem in substantia corporis sola anima habet sub Deo, et tenetur ius suum in hoc custodire absque iniuria alterius.’ *Quodlibet IX*, p. 309.

In his discussion of the text, Brian Tierney situates Henry's novel language in the context of the dawn of the idea of natural rights in the late Middle Ages, tracing how this solution was taken up by another Parisian theologian, Jacques Almain, in around 1500.³⁶ Furthermore, Aquinas had discussed the case, explaining that someone sentenced to death ought to act according to reason and not only be guided by the natural instinct of survival. A just individual would escape if he or she was innocent and stay in prison if guilty.³⁷

Reason has been given to human beings in order to carry on what nature inclines them to, not randomly, but according to the order of reason. Hence not all defense of themselves is licit, but only that which is done with due guidance.³⁸

Instead, preservation of life and the natural rights of *the soul* over the body took precedence in Henry's discussion. His goal was to determine the criminal's rights and duties. What is plain, however, is that while Aquinas transferred the moral decision to the individual sentenced to death in the particular situation, and to his or her capacity of reasoning, Henry's solution is that of the casuistic theologian who determines who had always

³⁶ See the series of articles and chapters by Brian Tierney, in particular, Brian Tierney, 'Natural Rights in the Thirteenth Century: A *Quaestio* of Henry of Ghent' 67 *Speculum* (1992), pp. 58–68; 'Historical Roots of Modern Rights Before Locke and After' 3 *Ave Maria Law Review* (2005); 'Dominion of Self and Natural Rights Before Locke and After', in Virpi Mäkinen and Petter Korkman (eds.), *Transformations in Medieval and Early-Modern Rights Discourse* (Springer, 2006). In his study on natural rights, also dealing with Henry's 26 *Quaestio* on the 'ownership of self', Tierney considers Hobbes an 'aberration' in the tradition of natural rights and Grotius, Locke and Pufendorf followers of that tradition, Tierney, *The Idea of Natural Rights*, pp. 83–89; ch. 13; p. 340.

³⁷ 'Respondeo dicendum quod aliquis damnatur ad mortem dupliciter. Uno modo, iuste. Et sic non licet condemnato se defendere, licitum enim est iudici eum resistentem impugnare; unde relinquitur quod ex parte eius sit bellum iniustum. Unde indubitanter peccat. Alio modo condemnatur aliquis iniuste. Et tale iudicium simile est violentiae latronum, secundum illud Ezech. XXII, *principes eius in medio eius quasi lupi rapientes praedam ad effundendum sanguinem*. Et ideo sicut licet resistere latronibus, ita licet resistere in tali casu malis principibus, nisi forte propter scandalum vitandum, cum ex hoc aliqua gravis turbatio timeretur.' Aquinas, *Summa theologiae*, II^a-IIae q. 69 a. 4 co.

³⁸ 'Ad primum ergo dicendum quod ideo homini data est ratio, ut ea ad quae natura inclinatur non passim, sed secundum rationis ordinem exequatur. Et ideo non quaelibet defensio sui est licita, sed quae fit cum debito moderamine.' Aquinas, *Summa theologiae*, II^a-IIae q. 69 a. 4 ad 1. Comparing Aquinas and Henry on this issue see Porro, 'Individual Rights and Common Good: Henry of Ghent and the Scholastic Origins of Human Rights'.

the better right and even the obligation to exercise the natural right of preservation.³⁹

No matter how general the view may be, Tierney has rightly noted the impossibility of regarding Locke's famous position in the *Two Treatises* on the right of property over one's person as a radical departure of scholasticism.⁴⁰ In this context, critiques emphasizing links between the slavery system and Locke's natural right of property over one's person (rather than with slavery as the classic institution of *ius gentium*) need to be complicated with studies on Scholasticism and with perceptions as to how Neoplatonism made it conceptually possible in the first place for this type of appropriation by the soul of everything material, even one's body.⁴¹ It is also clear that at the outset people like Henry pursued the autonomy of individuals by means of a robust dualism connecting the soul and God, with no authority in between – certainly the opposite project to slavery. Locke asserted that 'every Man has a *Property* in his own *Person*. This no Body has any Right to but himself. The *Labour* of his Body, and the *Work* of his hands, we may say, are properly his'. If taken literally, these statements amount more to an anti-slavery manifesto than a justification for it.⁴² In an era in which commercial exploitation of natural resources and enslavement of human beings became of paramount economic importance, the development of a natural law mingled with civil law notions of property rights seems to have played an ambiguous role. But with a view to what key theologians like Henry wrote on the natural rights of individuals, Locke appears less an original thinker on the question and more a continuator of a tradition favouring autonomy, especially of classic Parisian theologians.⁴³

Brian Tierney mainly analysed Locke's position on natural rights in the *Two Treatises*. However, in *An Essay* the philosopher's use of the prisoner

³⁹ Compare with Mäkinen who argues that natural law and natural right 'are both derived as correlative doctrines from the same fundamental view of human personality.' Mäkinen, 'Duty to Self-Preservation or Right to Life? The Relation between Natural Law and Natural Rights' (1200–1600), p. 460.

⁴⁰ Tierney, 'Natural Rights in the Thirteenth Century'.

⁴¹ This type of connection between Locke's property on one's person and modern slave capitalism in the piece by Jennifer Rae Greeson, 'The Prehistory of Possessive Individualism' 127 *PMLA* (2012); O'Brien, *Literature Incorporated. The Cultural Unconscious of the Business Corporation, 1650–1850*, p. 32; p. 48.

⁴² Locke, *Two Treatises of Government*, II §27, pp. 287–288.

⁴³ This fact should not come as a surprise, since whatever else he did in France during around four years, he certainly passed many hours studying. Milton, 'Locke's Life and Times'. Maurice Cranston gives a lively description of the years in France. Although he wrote that Locke wanted to get 'away from the vague glamour of medieval things, from reverence for tradition, from mysticism, enthusiasm and *gloire*' this is not what transpires from his

example was not about rights. Intriguingly it seemed to be more in line with Aquinas's theory of freedom of moral decision, but with an argument that evidences that naturalist ideas of self-preservation had attained centrality in his line of thinking. Locke's prisoner is all alone, and no one threatens him but the inhospitality of life outside the prison. He is able to decide what to do – but this is the most difficult part, for there is no normative principle that compels him to act beyond his necessary search for happiness. In *An Essay* this example serves to demonstrate the individual's power to suspend judgment and examine the morality of each situation before acting. While due examination of the good and evil involved, was 'all that [he] needs [to do]', the prisoner was no less free if he chose to 'stay in his Prison'. Locke depicts this choice as being prompted by the convenience urged by the prisoner's physical body, but crucially, not its necessities: 'the darkness of the Night', 'the illness of the Weather' or 'the want of other Lodgings' made him prefer to stay.⁴⁴ However, Locke remarked that the highest perfection of an intellectual nature demanded that a human being would be increasingly free from 'any necessary determination of our will or from a necessary compliance with our desire'.⁴⁵ Locke's employment of the classical case of the prisoner who finds himself without chains suggests that, in extreme cases, excessive care for the body beyond necessities may prevent people from attaining the superior freedom that awaits them.

12.1.3 *Necessary Happiness*

This *thing* that human beings have of searching for true happiness, Locke depicted as the 'necessity' of pursuing a higher happiness and 'the necessity' of suspending judgment in favour of deliberation in order to achieve that goal.⁴⁶ That he was more inclined to theological optimism is apparent in that in *The Reasonableness of Christianity* he rejected a parallel 'necessity of sinning', thus marking a distance between his ideas and those

recorded sightseeing. Rather Locke seemed to have been opened to everything French. Cranston, *John Locke: A Biography*, Ch. 13; 163; Locke, *Locke's Travels in France 1675–1679, as Related in his Journals*.

⁴⁴ Locke, *An Essay Concerning Human Understanding*, II. 21. §50, p. 266.

⁴⁵ Locke, *An Essay Concerning Human Understanding*, II. 21. §51, p. 266.

⁴⁶ 'Whatever necessity determines to the pursuit of real Bliss, the same necessity, with the same force establishes *suspence, deliberation*, and scrutiny of each successive desire, whether the satisfaction of it, does not interfere with our true happiness, and mislead us from it.' Locke, *An Essay Concerning Human Understanding*, II. 21. §52, p. 267.

of Calvinist influence.⁴⁷ Hence, Ian Harris, in his discussion of Locke's assessment of the consequences of original sin, writes that the capability of human beings to live as good Christians in *An Essay* is complementary to his theological convictions.⁴⁸ God cares tenderly for human beings. This is not the place to discuss whether John Locke, who was a physician, employs the figure of God the merciful Father – fundamental in any discussion of original sin – with a therapeutic or a theological purpose. However, I would be inclined to consider that both were relevant.⁴⁹

Nevertheless, experience also showed that many people chose the worse before the better, and not always guiltily.⁵⁰ Locke tones down Boyle's doctrine of 'scientist as priest' by teaching that at the end of the day everyone is an experimental philosopher in relation to his or her own moral conduct, which Michael Ben-Chaim has termed the doctrine of experience as a divine gift.⁵¹ In Locke's division of sciences, ethics was 'the skill of Right applying our own Powers and Actions, for the Attainment of things good and useful'.⁵² Bad choices stemmed from lack of skill and impossible situations. The 'bodily torments' of a person on the rack or suffering want or disease made it difficult to make a right moral decision. Necessity made one act disgracefully (*Necessitas cogit ad turpia*), noted Locke, as Robert Burton had also done in his scorn of poverty, which was the mother of all vices and ridicule.⁵³ Furthermore, there was the issue of time in the relationship between the distant, but 'greatest absent good' – the 'proper object of our desires' – and the present fulfilment of a desire.⁵⁴ Ignorance, rash judgment due to passion that prevented deliberation, and so on, resulted in our mistaking desire for a present pleasure for genuine good.

⁴⁷ J. Locke, *The Reasonableness of Christianity*, p. 8. 'For Calvin, despair had a necessary and unequivocally positive eschatological function' that if understood adequately was a sign of 'the punishment preceding redemption that manifested itself in the afflicted conscience'. Gowland, 'The Problem of Early Modern Melancholy', p. 105.

⁴⁸ Harris, *The Mind of John Locke*, Ch. 10.

⁴⁹ 'God, who knows our frailty, pities our weakness and requires of us no more than we are able to do, and sees what was and what was not in our power, will judge as a kind and merciful Father'. Locke, *An Essay Concerning Human Understanding*, II. 21. §53, p. 268.

⁵⁰ Again, following Boyle's steps, Locke adopted empiricism, observance of others' and one's experiences for understanding *what* is thinking, also in terms of moral action. Ben-Chaim, *Experimental Philosophy and the Birth of Empirical Science*.

⁵¹ Michael Ben-Chaim, 'Locke's Ideology of Common Sense', 33 *Studies in History and Philosophy of Science* (2000), pp. 473–501.

⁵² Locke, *An Essay Concerning Human Understanding*, IV. 21. §3, pp. 720–721.

⁵³ Locke, *An Essay*, II. 21. §57, 272; Robert Burton, *The Anatomie of Melancholy* (Oxford, Printed for Henry Cripps, 1651), p. 159.

⁵⁴ Locke, *An Essay Concerning Human Understanding*, II. 21. §61, 274.

As his repeated moral guidance in this direction shows in *An Essay*, rather than being glorified, 'desire' is dissected, isolated and scientifically anatomized. Pleasure could be in itself a way to God or a means to lose eternal life. It depended on the situation that proper reasoning must discern. Alexander Wragge-Morley argues that the Fellows of the Royal Society were of the view that the pleasure obtained through the human senses was both a way to nature and God.⁵⁵ In this regard defining Locke's discussion of pleasure in *An Essay* as having a purely hedonistic character ignores the depth of his theological and epistemological background.⁵⁶

Locke used the language of necessities in *An Essay* to present his position in relation to the weighty problem of liberty and necessity. His solution is rather classic and uncompromising on freedom and virtue, but methodologically novel. Necessities helped him to describe free individuals acting in the world and, as he was persuaded, freely choosing the gift of walking in the world or not towards their Creator.

12.2 Necessities, Dominion and Money in the *Two Treatises of Government*

12.2.1 *Dominion for Necessities*

In the *Two Treatises of Government* human necessities connect the arguments as to the divine design of the world, the obligation of natural law and the function of government. The fundamental law of nature in that text is an obligation of self-preservation directing human beings' lives – it is also practically the only one together with 'the *Fundamental Law of Property*'.⁵⁷ Human beings perceive that the desire to preserve themselves is implanted in their hearts. That understanding, in fact a law of reason, obliges an individual first to provide for his or her necessities, and then for those of humankind at large.⁵⁸ The remainder of natural rights derives from that fundamental law of nature. Human beings grasp this obligation quasi-rationally. Moreover, they understand that the obligation to obey the fundamental law of nature of preservation is the result of how

⁵⁵ 'Pleasure, as they saw it, was a symptom of the sensory encounter with specimens of God's wisdom and power'; and also 'Hooke proposed a form of inquiry in which pleasure accompanied the discovery of the truth.' Wragge-Morley, *Aesthetic Science*, p. 8; p. 13.

⁵⁶ Cfr. Wolfgang von Leyden, 'Introduction', John Locke, *Essays on the Law of Nature*.

⁵⁷ Locke, *Two Treatises of Government*, I §86; II §16; II. §140.

⁵⁸ 'For Law, in its true Notion, is not so much the Limitation as the direction of a free and intelligent Agent to his proper Interest, and prescribes no farther than is for the general Good of those under that Law.' Locke *Two Treatises of Government*, II §57.

the world has been designed by Someone Else.⁵⁹ To defy that design, to disobey the inner call to provide with the products of nature for human necessities, amounts to challenging the subjection owed to the Creator. Hence, human necessities became an important means by which Locke integrated faith and reason. Experienced empirically by everyone and thus showing to human beings the rationality of a creation free willed by God, human necessities are at once contingent and universal, prudential and theoretical. Locke constructed his doctrine of human necessities as the philosopher's companion to the theologian's argument of a Maker, hence intended, albeit not always successfully, to be compatible with theological tradition.⁶⁰

In the *First Treatise*, Locke emphasizes the polemical intent of uniting freedom and political obligation with human necessities. This is first done through a brief critique of the absolutist politics of necessity espoused by Filmer. Next, and more importantly, Locke unites the liberty of natural law and his preferred method of government – popular assembly – by placing the origin of property in the context of the natural desire for self-preservation. Robert Filmer had marked his absolutism by means of 'Laws of Necessity'. When Kings were absent in wars, subjects must find

⁵⁹ Kari Saastamoinen emphasises this aspect of Locke's understanding of equality rather than taken it to be also a political or moral project. Kari Saastamoinen, 'Natural Equality and Natural Law in Locke's *Two Treatises*', in Ian Hunter and Richard Whatmore (eds.), *Philosophy, Rights and Natural Law. Essays in Honour of Knud Haakonssen* (Edinburgh University Press, 2019), pp. 127–146.

⁶⁰ An important case in point of incompatibility of Locke's theory of human necessities with traditional natural law is Locke's proposal to further inquiry about the temporary nature of natural marriage, on the grounds that a natural lasting union would be only required as long as the issue needs to be provided for. In beasts of prey the union last longer than the mere act of copulation: 'The same is to be overserved in all Birds (...) whose Young needing Food in the Nest, the Cock and Hen continue Mates, till the Young are able to use their wing and provide for themselves. And herein I think lies the chief, if not the only reason *why the Male and Female in Mankind are tyed to a longer conjunction* than other Creatures, viz. because Female is capable of conceiving, and *de facto* is commonly with Child again, and Brings forth too a new Birth long before the former is out of dependency for support on his Parents help'. Locke notes that the lasting society of man and woman encourages industry, common interest and provision for the future for them and their children, but he continues. 'But though these are Ties upon *Mankind*, which make the *Conjugal Bonds* more firms and lasting in Man than the other Species of Animals; yet it would give one reason to enquire, why this *Compact*, where Procreation and Education are secured, and Inheritance taken care for, may not be determinable, either by consent, or at a certain time, or upon certain Conditions, as well as any other voluntary Compacts, there being not necessity in the nature of the thing, nor to the ends of it, that it should be always for Life; I mean, to such as are under no Restraint of any positive Law, which ordains all such Contracts to be perpetual.' Locke, *Two Treatises of Government*, II §79; §80; §81.

the sovereign's will 'in the Tables of his Laws'. Filmer sought to trace this slavery of 'Absolute Dominion' back to Adam and thus to God. Locke argued, however, that Filmer's purpose had in reality been to leave people with nothing, and thus appease their conscience and convince them by 'Undeniable proofs of its Necessity' that they must submit peacefully to that 'Absolute Dominion'.⁶¹ In this sense, such a reasoning of necessity annulled conscience. Filmer's theory had given a theological foundation to a political dominion with absolutist characteristics, that is, with absolute power and dominion of life and death. Against Filmer's idea that Adam was 'Proprietor of the world' with private dominion over it, Locke famously defended a common dominion of all humankind over animals, 'the dominion of the whole species of Mankind over the inferior Species of Creatures'.⁶² In this early part of the *First Treatise*, Filmer's absolutist political dominion soon becomes, in Locke's hands, a common property over inferior animals. This turns remarkably evident when Locke brings Eve into the picture: had she also not received God's grant as to be 'Lady', as Adam was 'Lord of the World?' Thus, Filmer's theory would have the result of hindering 'her *Dominion* over the Creatures or *Property* in them'.⁶³

The point is relevant in relation to the core function of human necessities. If there was someone that had private dominion over 'the Food and Rayment, and other Conveniences of Life' – i.e. who had an exclusive right of use – how could the rest of mankind fulfil the commandment of increasing and multiplying? If 'their Subsistence' depended on the will of one, dreary results could be expected, as Locke notes, recalling how the multitude are deprived of the 'conveniences of life' in 'the Absolute Monarchies of the World'.⁶⁴ That one had a natural right over another in that respect had been never God's design: 'we know God hath not left one Man so to the Mercy of another, that he may starve him if he please'.⁶⁵ The foundation of sovereignty could therefore not be 'another's necessity'. Instead, only the *consent* that someone in need gave – who ended up in

⁶¹ Locke *Two Treatises of Government*, I §10; Locke quotes from Filmer's *Patriarcha*: 'When Kings were either busied with Wars, or distracted with public Cares, so that every private Man could not have Access to their Persons, to learn their Wills and Pleasure, then were Laws of Necessity invented, that so every particular Subject might find his prince's Pleasure decypher'd unto him in the Tables of his Laws In a Monarchy, the King must by necessity be above the Laws' Locke, *Two Treatises of Government*, I. §8.

⁶² Locke, *Two Treatises of Government*, I, §16; §28–§30. Probably the best analysis so far of Locke's innovative way in Tully, *A Discourse on Property*.

⁶³ Locke, *Two Treatises of Government*, I §29.

⁶⁴ Locke, *Two Treatises of Government*, I §41.

⁶⁵ Locke, *Two Treatises of Government*, I §42.

that situation through human injustice, chance or lack of industriousness – was valid. That individual preferred to be a subject than to starve, while the sovereign could access only so much power as he or she consented to renounce.⁶⁶ Neither did this principle of sovereignty apply to children, born in need – as Locke wrote in the *Second Treatise*, ‘the necessities of his Life, the Health of his Body, and the Information of his Mind would require him to be directed by the Will of others and not his own’.⁶⁷ However, a small child’s precarious status never amounted to dominion over the person of the child. Rather the main intention of nature was that humanity be preserved and increased through the care of parents, while even animals may sometimes ‘neglect their own Private good’ in order to care for their baby animals.⁶⁸

Locke did what he was supposed to do in his exposition of natural law, that is, he acknowledged the philosophical tradition and wrote within it.⁶⁹ Although he had a novel contribution to make by arguing the centrality of labour as a means to acquire private property to provide for the necessities of human beings, Locke did not deviate remarkably in style from previous writings on natural law.⁷⁰ However, since his epistemology was radically new, the author of *An Essay Concerning Human Understanding* imbued his political theory with innovative depth through his scientific method. Reason, for Locke, is like a ‘dark room’, similar to ‘a Closet wholly shut from light’, with small openings through which ‘Ideas of things’ are brought in by means of sensation.⁷¹ Unconventionally, as we have seen already, he conceived neither of a weakened light of nature nor of reason as active sources of light in themselves. Instead, he regarded experience as crucial for human action. In terms of natural law, this leads to a concentration on questions of material self-preservation. Putting aside the tradition of practical moral reasoning, Locke’s moral reasoning is more about the individual human

⁶⁶ Locke, *Two Treatises of Government*, I §43; II §23; see Quentin Skinner’s discussion of this same point in Hobbes, Skinner, *Hobbes and Republican Liberty*, pp. 205–206.

⁶⁷ Locke *Two Treatises of Government*, II §61.

⁶⁸ And thus the beast forgot, ‘that general rule which Nature teaches all things of self Preservation’ putting first the Preservation of their Young’. Locke *Two Treatises of Government*, I, §56; §59.

⁶⁹ Tuck, *Natural Rights Theories*, Ch. 8.

⁷⁰ On the other hand, as Peter Laslett noted, when Locke established the preservation of each human being and the rest of mankind as the *fundamental* law of nature, Locke avoided the usual method of listing laws of nature, and thus turned into a ‘very unconventional natural-law writer, much more so than Hobbes’ Laslett, ‘Introduction’ to Locke, *Two Treatises of Government*, p. 98.

⁷¹ Locke, *An Essay Concerning Human Understanding*, II. II. § 17, pp. 162–163

being mastering 'the Dominion of Man in his little World of his own Understanding'.⁷² Moreover, the truth of things is *outside* the individual who thinks and must be discovered in the Maker's design.

It is important to note, however, that rights of dominion over the earth – and not virtue ethics, or other expressions of practical reason – are also at the core of the law of nature in the tradition of natural rights.⁷³ A. John Simmons is right in urging a reading of Locke's moral theory that is multifaceted and has a variety of levels, taking seriously duty-based, rights-based and virtues-based theory, but ultimately becoming none of them.⁷⁴ What Locke never did, however, was to dwell on matters of practical reasoning in the manner that had been understood at least since Aristotle's *Nichomachean Ethics*. In the *Two Treatises of Government* Locke follows the theological tradition of dominion rights of the type inaugurated early on by Henry of Ghent, as we saw in the previous section, imbuing it with his theory of an experiential discovery of God's will. This theoretical depth transformed his idea of property rights into a complex theme, so rich that it would be a hollow claim to label him a theorist of capitalism.⁷⁵ Property founded on self-preservation was central to a theological tradition of care for each individual that Locke evidently mastered and useful to address and oppose the already general commentary on self-interest, which, as we

⁷² Locke, *An Essay Concerning Human Understanding*, II, 2, §2, p. 120; Corneanu, *Regimens of the Mind*. Boyle, Locke, and the Early Modern Cultural Animi Tradition.

⁷³ Villey, 'Les Origines de La Notion Du Droit Subjectif'; Villey, 'La Genèse du droit subjectif chez Guillaume d'Occam'; Strauss, *Natural Rights and History*; Tuck, *Natural Rights Theories*; Simmons, *The Lockean Theory of Rights*; Ernest L. Fortin, 'On the Presumed Medieval Origin of Individual Rights', in J. Brian Benestad (ed.), *Classical Christianity and the Political Order: Reflections on the Theologico-Political Problem* (Lanham, Boulder, New York, London: Rowman & Littlefield Publishers, Inc., 1996); Brett, *Liberty, Right and Nature*; Finnis, *Natural Law and Natural Rights*; Mäkinen, *Property Rights in the Late Medieval Discussion on Franciscan Poverty*; Tierney, *The Idea of Natural Rights*; Peter Landau, 'Reflexionen über Grundrechte der Person in der Geschichte des kanonischen Rechts', in Heinrich J. F. Reinhardt, *Theologia et Jus Canonicum, Festgabe für Heribert Heinemann zur Vollendung Seines 70. Lebensjahres* (Essen: Ludgerus Verlag, 1995), pp. 517–532; Brian Tierney, 'Review Article – Medieval Rights and Powers: On a Recent Interpretation', 21 *History of Political Thought* (2000); Dan Edelstein, *The Terror of Natural Right: Republicanism, the Cult of Nature, and the French Revolution* (Chicago: University of Chicago Press, 2009); Jacob Giltaj and Kaius Tuori, 'Human Rights in Antiquity? Revisiting Anachronism and Roman Law', in Pamela Slotte and Miia Halme-Tuomisaari (eds.), *Revisiting the Origins of Human Rights* (Cambridge: Cambridge University Press, 2015), pp. 39–63; Dan Edelstein, 'Is There a "Modern" Natural Law Theory? Notes on the History of Human Rights', 7 *Humanity* (2016), pp. 345–364.

⁷⁴ Simmons, *The Lockean Theory of Rights*, p. 11.

⁷⁵ MacPherson, *The Political Theory of Possessive Individualism*.

saw in the Chapter 8, he rejected from the beginning. Given its capacity to connect the past and the future, property was very fitting a focus for a natural philosopher concerned with necessities. All begins by feeling in one's body the pain of need, for food and other necessities, and this awakens the desire, divinely implanted, for self-preservation.

The core doctrine about God's natural design for human beings, on which the concept of property is founded, appears in the crucial paragraph 86, on which the *First Treatise* hinges. In this way, Filmer's idea of Adam's being granted exclusive private dominion is definitively demolished. Locke devotes the remainder of the text to confute Filmer's argument as to a sacred authority that God granted to Adam. Thus the reader is led to the *Second Treatise* to read Locke's robust explanation of the origins and content of government, or in other words, of the origins of dominion as imperium and authority. Due to his close commentary on Filmer in the previous paragraph on the origin of property and in order to avoid confusion, Locke writes in paragraph 86, he would state plainly his own case.⁷⁶

God having made Man, and planted in him, as in all other Animals, a strong desire of Self-preservation, and furnished the World with things fit for Food and Rayment and other Necessaries of Life, Subservient to his design, that Man should live and abode for some time upon the Face of the Earth, and not that so curious and wonderful a piece of workmanship by its own Negligence, or want of Necessaries, should perish again, presently after a few moments continuance: God, I say, having made Man and the World thus, spoke to him, (that is) directed him by his Senses and Reason, as he did the inferior Animals by their Sense, and Instinct, which he had place in them to that purpose, to the use of those things, which were serviceable for his Subsistence, and given him as means of his *Preservation*.⁷⁷

The obligation to preserve oneself and mankind was not only the outcome of the design of nature, but the very will of God planted in our heart, a will that human reason could understand and pursue through a natural right to use things, or in other words, through property. Reason thus confirmed Revelation while the reality that reason grasped was antecedent to the letter of the Bible.⁷⁸ Moreover, all this revolved around the needs of human beings, the necessities created to satisfy them and God's plan that it ought to be so.

⁷⁶ 'But not to follow our A. too far out of the way, the plain of the Case is this.' Locke *Two Treatises of Government*, I §86.

⁷⁷ Locke, *Two Treatises of Government*, I §86.1–14.

⁷⁸ Locke, *Two Treatises of Government*, I §86.15.

And thus Man's *Property* in the Creatures, was founded upon the right he had, to make use of those things that were necessary or useful to his Being.⁷⁹

In the wonderful paragraph 86, Locke made much of the innate principle of self-preservation through necessities, the only innate principle he admitted on the grounds that it was not planted in reason. In the *Second Treatise* it exceptionally appeared 'writ in the Hearts of all Mankind' and gave certainty to the law of nature.⁸⁰ Human beings were therefore connected to their material surroundings through necessities. Here Locke dwelt as what in fact he was, a medical doctor, a philosopher of needs and a theologian too, in the original care of a God that was merciful to his creatures in providing them with necessities for their subsistence. Crucially that was the manner in which God had originally designed the world, governed by a fundamental law of nature that bound a man 'to preserve himself' and, as stated in the *Second Treatise*, 'when his own Preservation' came not in competition he ought 'as much as he can, to preserve the rest of Mankind'.⁸¹

The desire for (self)-preservation substantiated the law of nature that, as Locke repeatedly affirms, in turn generated the radical equality of human beings, endowed with similar faculties, a community of nature and, hence, without subordination among them. Since this was the reason and foundation of Adam's property, '[e]very Man had a right to the Creatures, by the Same Title Adam had'.⁸² Every creature 'of the same species' was 'born to all the same advantages of Nature'.⁸³ The question of subsistence and preservation, despite its naturalistic and Hobbesian overtones, was squarely placed within theological tradition, and more so in its connection with the right over natural things or necessities.

Whether we consider natural *Reason*, which tells us, that Men, being once born, have a right to their Preservation, and consequently to Meat and Drink, and such other things, as Nature affords to their Subsistence: or *Revelation*, which gives us an account of those Grants God made of the World to *Adam*, and to *Noah*, and his Sons, 'tis very clear, that God, as King *David* says, *Psal. CXV. xvj. Has given the Earth to the Children of men*, given it to Mankind in common.⁸⁴

⁷⁹ Locke, *Two Treatises of Government*, I §86. Compare Aquinas who states that these things they 'could use for their utility' Aquinas, *Summa theologiae*, II-II, q. 66, a.1. co; ad 1.

⁸⁰ Locke, *Two Treatises of Government*, II, §11.31; §12.10. See Peter Laslett's note, p. 274.

⁸¹ Locke, *Two Treatises of Government*, II, §7.1–22; Simmons, *The Lockean Theory of Rights*, pp. 38–66.

⁸² Locke, *Two Treatises of Government*, I §87; II, §7.14–15.

⁸³ Locke, *Two Treatises of Government*, II, §4.10.

⁸⁴ Locke, *Two Treatises of Government*, II §25.

The same idea appears, among others, in the famous *De vita spirituale animae* by the French theologian Jean Gerson (1363–1429).

There is the natural dominion, a gift of God, by which the creature has a right directly from God to draw other inferior things for her use and conservation, available to all equally and inalienably, according to the original justice or natural integrity.⁸⁵

M. J. Silverthorne writes that Hobbes held that self-preservation was a right, ‘*Turis naturalis fundamentum primum*’ and not a law; while Locke, sharing Pufendorf’s vocabulary of obligation, transformed it into a desire planted by God, which became both a law of preservation and a right.⁸⁶ Blending old Scholasticism with the thinking of Hobbes and Pufendorf in relation to natural law, natural rights and property, but also utilizing an original method based on natural sciences and theology, the process of Locke’s thinking generated the useful new idiom of necessities. Not fear, but necessities and convenience – and hence the hazard of protecting property from the uncertainties of the state of nature is Locke’s most peculiar principle, which he dovetailed with principles and theories drawn from the theological tradition.

12.2.2 *Private Property and Money*

Reason, evil passions, freedom under God, the public good and money at once heighten and shatter this divine natural law that the Creator wanted for his workmanship. Human beings entered societies gradually when they understood that the state of nature held difficulties and dangers, and that it would be more convenient for their preservation to unite

⁸⁵ ‘Erit igitur naturale dominum donum Dei quo creatura jus habet immediate a Deo assumere res alias inferiores in sui usum et conservationem, pluribus competens ex aequo et inabdicabile servata originali justitia seu integritate naturale.’ Iohannes Gerson, *Liber de vita spirituali animae*, in *Opera omnia*, L. Ellies du Pin (ed.), (Antwerpiae, 1706; Hildesheim: G. Olm Verlag, 1987) III, 26–27, p. 145. (my translation) On Gerson, see Brian Patrick McGuire, ‘Jean Gerson and the Renewal of Scholastic Discourse 1400–1415’, in Joseph Canning, Edmund King and Martial Staub (eds.) *Knowledge, Discipline and Power in the Middle Ages, Essays in Honour of David Luscombe* (Leiden Boston, 2011).

⁸⁶ M. J. Silverthorne, ‘Civil Society and State, Law and Rights: Some Latin Terms and Their Translation in the Natural Jurisprudence Tradition’ in Alexander Dalzell, Charles Fantazzi and Richard J. Schoeck (eds.), *Acta Conventus Neo-Latini Torontonensis. Proceedings of the Seventh International Congress of Neo-Latin Studies* (Medieval and Renaissance Texts and Studies, Binghamton, New York, 1991,) p. 686; there are many more instances on self-preservation as ‘a duty to God’ in the text, than as a right, see Dunn, *The Political Thought of John Locke*, p. 160.

for a common project of public good. They also established governments, whose end was the protection and preservation of their lives, liberties and estates – i.e. their property.⁸⁷ The property in their lives and liberty, and the private property in their estates is what individuals wanted to protect by uniting in civil societies. Private property was therefore usual in the state of nature, and so was its accumulation. As a matter of fact, as soon as human beings started to use the goods of creation, private property *begun*.

Both in the state of nature and in civil society human beings are free. Submission to an absolute power always entails going against the law of self-preservation.⁸⁸ For in order to survive, one must never subject oneself to ‘the inconstant, uncertain, unknown Arbitrary Will of another Man’, but only to legislative power that has been consented to, and only to the extent of the trust put in it.⁸⁹ According to the *Two Treatises*, human beings have been created with all the potential to become prosperous and happy individuals. Hence, the freedom of human beings did not originate in government. Union in a society entrusted with a government became the most pressing and rational course of action due to the existence of ‘degenerate Men’ – corrupt individuals ‘biassed by their Interest’ – who were unable to apply the law of nature and that threatened the life and property of others with violence.⁹⁰ The state of nature lacked a settled and well-known law, an objective and known judge and a power to back the implementation of legal decisions, and all this was what people chose when they united in commonwealths under government to achieve ‘the Preservation of their Property’. In Locke’s often repeated triad, life, liberty and estate constitute ‘Property’. Correspondingly, a violator of the law of nature or a bad government would endanger property and ‘impoverish, harass, or subdue’ the members of the commonwealth.⁹¹

With all this Locke made clear that Filmer’s supposition that Adam was attributed private dominion was unnecessary. Perhaps with the aim of endowing private property with positive content that would not resonate with ideas of evil and sin, Filmer had defended its adamite and biblical origin, to explain how the earth and its goods, granted to the children of God, had become private. Instead, God had willed that in the world com-

⁸⁷ ‘Man being born, as has been proved, with a Title to perfect Freedom, and an uncontrouled enjoyment of all the Rights and Priviledges of the Law of Nature, equally with any other Man, or Number of Men in the World, hath by Nature a Power’ ... ‘to preserve his Property, that is, his Life, Liberty and Estate’ Locke, *Two Treatises of Government*, II §87; §124.

⁸⁸ Locke, *Two Treatises of Government*, II §23; §59; §104.

⁸⁹ Locke, *Two Treatises of Government*, II §22.

⁹⁰ Locke, *Two Treatises of Government*, II §124; §128.

⁹¹ Locke, *Two Treatises of Government*, II §124; §125; §126; §201; see also § 123; §173.

mon property becomes private property naturally when human beings *appropriate* for their use the goods necessary for their preservation.⁹² The human reason that God also gave to human beings in the moment of creation enables human beings 'to make use of it [the World in Common] to the best advantage of Life, and convenience', their 'support and comfort'.⁹³

Therefore, it is proper of the rationality of human beings to thrive in all respects and to make use of the earth in that sense. But it must be underlined that the entirety of creation has never been common. Each individual human being that has been created in history is master of their soul and body. His or her 'Person' is his or her 'Property'. As a consequence, 'Labour' is also 'the unquestionable Property of the Labourer'.⁹⁴ Thus 'labour' allows human beings to 'fix' their property in the necessities of life. 'Acorns', 'apples' and 'turfs' belong to the individual or the master and owner of servants and animals that picks, cuts and eats them.⁹⁵ In fact, Locke notes, since the commonality of property comprises necessities and conveniences that allow the subsistence of human beings, finding the origin of private property 'in the consent of all Mankind' would have meant the death of all, and an absurd death at that.⁹⁶ Instead, private property was founded in the individual's right to the necessities for her preservation, in the state in which 'Nature' has provided them, and by mixing them with her labour, making them her own. Locke's solution underlines the positive aspect of private property and he also emphasizes that it is not mere survival that is at stake under natural law, but people's 'benefit and the greatest Conveniencies of Life they were capable to draw from it'.⁹⁷ Human beings had therefore in themselves the 'great Foundation of property'.⁹⁸ Private property started with the appropriation of necessities and materialized through the hard work and ingenuity that multiplied the value of things. For 'Nature and the Earth furnished only the almost worthless Materials'.⁹⁹ In a word, God 'gave' the world 'to the use of the Industrious and Rational', not to the 'Fancy or Covetousness of the Quarrelsome and Contentious'. 'Labour' therefore constitutes human beings' title to the goods of the world necessary for their preservation. Locke added the caveat that natural law obliged one not to take more than

⁹² Locke, *Two Treatises of Government*, II §26; §39.

⁹³ Locke, *Two Treatises of Government*, II §25; §26; §39.

⁹⁴ Locke, *Two Treatises of Government*, II §27.

⁹⁵ Locke, *Two Treatises of Government*, II §28.

⁹⁶ Locke, *Two Treatises of Government*, II §28; §29.

⁹⁷ Locke, *Two Treatises of Government*, II §33.

⁹⁸ Locke, *Two Treatises of Government*, II §44.

⁹⁹ Locke, *Two Treatises of Government*, II §43.

one may consume and enjoy. Beyond that, a violation of the law of nature occurred if foods and goods spoiled in one's possession. That is, 'the measure of Property, Nature has well set, by the Extent of Mens *Labour and the Conveniency of Life*'.¹⁰⁰ Allowing fruit to rot or meat to putrefy was an offence against the law of nature that was, significantly, liable to be punished by anyone.¹⁰¹ By this means the concept of property escalates from being common property in the first natural stage to also being private property in a second natural moment, but still with a token of equality for preservation.

The passing from common to private property was meant to happen from the beginning and was not a consequence of the original sin. This is well highlighted by contrasting Locke's theory of the use of goods with an example drawn from English canon law of the Middle Ages. One of the special characteristics of canon law is that it regulates many aspects of the lives of persons called to perfection – i.e. to live in accordance with the law of the Gospel and within monasteries.¹⁰² What canon lawyers stated in these instances was not meant to be generalized because they would hardly make any sense in the absence of a monk's previous vows. The *Summa De iure canonico tractatus* to Gratian *Decretum* by the canonist Magister Honorius of Kent is one of the main works of the French and Anglo-Norman school of the last decade of the twelfth century. It contains one good example of the transition of common to private property within the bounds of the monastery, constituting a legal space under the imposition of a law of common property.¹⁰³ For canon lawyers, common property was a precept of natural law through monks' vows that meant that nothing is one's own, 'neither bread nor hood'. One ought to give only to a monk in need, otherwise one was always required to ask the prior before giving, because through the vow, monks 'did not only renounce property, but also pleasure' (of sharing). The interest in this issue lies in the level of detail with which it is presented. However, can the monk say that this bread is mine, when it is cut for his use (*fractus*), or chewed (*masticates*)? The canonist's radical answer was that the thing stops being common when use by another is no longer possible.¹⁰⁴

¹⁰⁰ Locke, *Two Treatises of Government*, II § 34; §36.

¹⁰¹ Locke, *Two Treatises of Government*, II § 37.

¹⁰² Honori Magistri Summa, *De iure canonico tractatus*, Ediderunt, Rudolf Weigand, Peter Landau, Waltraud Kotzur, adlaborantibus Stephan Haering, Karin Miethaner-Vent, Martin Petzolt, (Città del Vaticano: Biblioteca Apostolica Vaticana, 2004), p. 25.

¹⁰³ Peter Landau, 'Introduction' to Honori Magistri Summa, *De iure canonico tractatus*.

¹⁰⁴ Set quando potest dici panis proprius, vel fractus vel masticates? Resp.: Tunc desinet esse communis cum ad usum alterius est omnino inutilis.' Honori Magistri Summa, *De iure canonico tractatus*, p. 25

Certainly God had not imposed such a law of common property on human beings. But he obliged commitment to a personal law of self-preservation, fulfilled through private property and, to the extent that this was possible, in the service of the entire humankind. Preservation is at issue also in the case Locke presented concerning a conqueror in a just war who assumes the right to reparations from the vanquished. Despite having the law on its side, the victorious commonwealth could never gain dominion over what was needed to ensure the survival of children. Since the fundamental law of nature was 'that all, as much as may be, should be preserved', if there was not enough money available to compensate in full the losses incurred as well as ensure the survival of the children, the former must give way to the latter to the extent that their survival is secured.¹⁰⁵

It appears that big families and even cities emerged in the state of nature, and 'possessions enlarged with the need of them'.¹⁰⁶ However, in the beginning 'right and conveniency' worked together:

This left no room for Controversie about the Title, nor for Incroachment on the Right of others; what Portion a Man carved to himself, was easily seen; and it was useless as well as dishonest to carve himself too much, or take more than he needed.¹⁰⁷

This manner of living, still in the state of nature, 'out of the bounds of Societie', changed dramatically with the invention of something imperishable, *money*, and the 'tacit Agreement of Men to put a value on it'.¹⁰⁸ Now people started to desire goods beyond necessity, to long for things that were not really useful.¹⁰⁹ Such objects as diamonds or pieces of yellow metal could be exchanged for perishable things that have intrinsic value which 'depends only on their usefulness to the Life of Man'.¹¹⁰ Individuals could then possess more land than they needed and produce, dig and build more than they could use, with the purpose of exchanging the surplus for money, gold and silver. Hoarding up money could be done without violating the law of nature, and 'without injury to any one, these metalls not spoiling or decaying in the hands of the possessor'.¹¹¹ The *Two Treatises*

¹⁰⁵ Locke, *Two Treatises of Government*, II 138; §139.

¹⁰⁶ Locke, *Two Treatises of Government*, II § 38; §39.

¹⁰⁷ Locke, *Two Treatises of Government*, II § 51.

¹⁰⁸ An account of Locke's property, that includes labour but not yet money, Helga Varden, 'Locke on Property', in Jessica Gordon-Roth and Shelley Weinberg (eds.), *The Lockean Mind* (Abingdon, New York: Routledge, 2022), Ch. 44.

¹⁰⁹ Locke, *Two Treatises of Government*, II § 50; §36; §42.

¹¹⁰ Locke, *Two Treatises of Government*, II § 37.

¹¹¹ Locke, *Two Treatises of Government*, II § 50.

describes this entire process that a monetary economy enables mostly as a positive evolution, the result of the ingenuity and industriousness of human beings as rational creatures. In paragraph 43 of the *Second Treatise* Locke explains that it is 'Labour' that '*puts the greatest part of Value upon Land*'. That appears plainly from his calculation of the productivity of acres of wasteland in America as compared to that of fertile and well-cultivated soil in Devonshire (England) at least to be 10/1000.¹¹²

However, Locke seemed to be in two minds in his normative appraisal of the contribution of money in relation to human beings. With the employment and foundation of 'Labour', money was clearly the means that facilitated 'the Benefit of Mankind' by producing a greater amount of product from the same land. It was also money that made possible 'the desire of having more than Men needed'. Moreover, securing protection and encouragement 'to the honest industry of Mankind' was how the philosopher envisaged a wise and godlike Prince. Intriguingly, Locke noted that as soon as something that has the function of money appears, an individual 'will begin presently to enlarge his Possessions'.¹¹³ Was that something he considered to be *wrong* in the conduct of an individual? It does not seem to be Locke's opinion, since

the *exceeding of the bounds of his just Property* not lying in the largeness of his Possession, but the perishing of any thing uselessly in it.¹¹⁴

The chapter on 'Property' contains a long explanation to the effect that the function of private property is to provide for necessities. When money appears, 'the temptation to enlarge possession' beyond necessities accompanies it. However, this is apparently not merely to satisfy the evil concupiscence, *amor sceleratus habendi*.¹¹⁵ Despite Locke's proverbial ambiguity, it is possible to argue that the accumulation of property that money enables has ultimately a public function of providing for the necessities of the nation and even of mankind, if regulated by law. But this requirement seems to be only possible within a commonwealth – either on a domestic or a larger scale – that gives rise to an even more pressing need to leave the state of nature after the invention of money.

12.2.3 *Preservation, Government and the Public Good*

Indeed, money is not the last word in *Two Treatises of Government*. Locke's decisive proposal in that text is to put the public good at the centre both of the

¹¹² Locke, *Two Treatises of Government*, II § 43.

¹¹³ Locke, *Two Treatises of Government*, II § 43; §37; §42; §49.

¹¹⁴ Locke, *Two Treatises of Government*, II § 46.

¹¹⁵ Locke, *Two Treatises of Government*, II § 108; §111.

act of constituting a nation and its government. By constituting the end of government, necessities and preservation again serve the purpose of establishing the theoretical foundation in the *Second Treatise*. In this way, the private dominion of necessities of the *First Treatise* becomes the justification of imperialism and dominion as authority. In view of the extent of the critique of his individualism, it is surprising to ascertain that a communitarian and political Locke emerges from a textual analysis of the concluding part of the text second treatise. Furthermore, he arrived at that position by underscoring the law of nature of self-preservation of the people. The public good seems, therefore, to be the political articulation of the moral theory of self-preservation analysed so far.

Scholarship of the twentieth century tended to highlight the novelty of the centrality of labour in the *Two Treatises* and its influence on Adam Smith and Karl Marx.¹¹⁶ It was again Locke's wonderful ambiguity and the liberal use he made of his knowledge of economy and theology that emboldened him to describe labour as the main source of economic value. The background to this lay in the Book of Genesis: God 'put [Adam] in the Garden of Eden to work it and take care of it'.¹¹⁷ In response to Macpherson's pro-capitalist thesis about Locke, John Dunn noted how inadequate it was to view Locke as the 'convinced lyricist of the moral sufficiency of any system of economic production'.¹¹⁸ Dunn went on to describe Locke as a Calvinist calling to *labour*, and he introduces an incomparable quote from a letter from Locke to his friend William Molyneux dated 19 January 1694:

I think every one, according to what way Providence has placed him in, is bound to labour for the public good, as far as he is able or else he has no right to eat.¹¹⁹

Locke's argument on the theological centrality of labour is strong and consistent and, Dunn argues, he considered the human being with respect to

¹¹⁶ E. J. Hundert, 'The Making of Homo Faber: John Locke between Ideology and History' 33 *Journal of the History of Ideas* (1972); MacPherson, *The Political Theory of Possessive Individualism*.

¹¹⁷ 'Tulit ergo Dominus Deus hominem, et posuit eum in paradiso voluptatis, ut operaretur, et custodiret illum'. 'Genesis 2 will shortly develop the understanding of the human vocation in terms of a priestly care for God's garden' ... 'The wording of Genesis 2.15 is particularly significant in this context: "The LORD GOD took the man and put him in the Garden of Eden to work it and take care of it" – literally, 'to serve it and keep/guard it' (Hb. 'avad and shamar). This is religious language, which underlines the importance and sacred nature of the task.' Iain Provan, *Discovering Genesis: Content, Interpretation, Reception* (Grand Rapids, Michigan: Eerdmans Publishing Company, 2015), p. 66.

¹¹⁸ Dunn, *The Political Thought of John Locke*, p. 250.

¹¹⁹ Locke quoted in Dunn, *The Political Thought of John Locke*, p. 250

society and family as ‘a recipient of the commands of God’, and not merely as ‘economic producer, a proprietor of his labour’. However, it may be the case that Dunn’s answer on economic spiritualism was framed to a certain extent by the fact that he was responding to Macpherson’s argument concerning economic materialism.¹²⁰ To set this out plainly, in this quote, ‘labour’ and ‘public good’ are equally important and the latter has the greater textual relevance in the *Two Treatises of Government* overall.¹²¹

Locke started his discussion of political society with two principal forms of society – marriage and civil society – into which a human being enters ‘under strong Obligations of Necessity, Convenience, and Inclination’.¹²² It is tempting to suggest an analogy between commonwealth and marriage in the *Two Treatises*: where of the two the former demands more from a person than the latter. Both require express consent – tacit consent is not enough – and by incorporating him to the Commonwealth a man

by his uniting himself thereunto, annexed also, and submits to the Community those Possessions, which he has or shall acquire that do not already belong to any other Government.¹²³

However, it is not necessary to press this point further but only to highlight the level of life commitment that signifies membership of the commonwealth for Locke – far from the notorious ‘possessive individualism’.¹²⁴ The reason for renouncing the ‘Empire’ that human beings had in the state of nature and subjecting themselves to the power of another’s ‘Dominion’ was the insecurity involved in maintaining power over one person and possessions. The rights existed, but their enjoyment was always at potential risk of being threatened by others. After entering the commonwealth things change quite radically in the sense that one is no longer alone with one’s family, but

with others who are already united, or have a mind to unite for the mutual Preservation of their Lives, Liberties and Estates, which I call by the general Name, *Property*.¹²⁵

¹²⁰ Dunn, *The Political Thought of John Locke*, p. 261.

¹²¹ See Simmons, that Locke’s common good is distributive, unlike the additive common good of later utilitarians, Simmons, *The Lockean Theory of Rights*, p. 57.

¹²² Locke, *Two Treatises of Government*, II § 77.

¹²³ Locke, *Two Treatises of Government*, II § 119; §120.

¹²⁴ Armitage approaches the topic from a different angle, an analysis of whether Locke was theorising on the empire; he concludes similarly, that Locke was ‘a theorist of the commonwealth, or state, and not a theorist of empire.’ Armitage, *Foundations of Modern International Thought*, p. 125; see also Chapter 1 in this book.

¹²⁵ Locke, *Two Treatises of Government*, II § 123.

The preservation of property is now *mutual*. Self-preservation is easier in a commonwealth because there are laws, rulers and judges – individuals have given up their power to do whatever they thought appropriate in order to maintain self-preservation and to punish the crimes against the law of nature. However, the commonwealth represents a more complex situation because laws must be laid down to provide for the public good.¹²⁶ No one, moreover, after having given up equality, liberty and executive power, would be satisfied with mere survival in civil society. Instead, people seek to better their condition with respect to the state of nature: '[f]or not rational creature can be supposed to change his condition with an intention to be worse'. In fact, the ultimate state of a flawed government is exactly that, when things no longer function, and the situation is worse than the state of nature. It amounts to what we would call today a failed state, lacking proper administration of justice, power to direct the military and the capacity to 'provide for the Necessities of the publick'.¹²⁷ Legislation that is properly in force, objective judges, and executive power must be in place to achieve the goal of ensuring the '*Peace, Safety and publick good* of the People'.¹²⁸

Therefore, governments must carry out their role with care.¹²⁹ The more primitive and golden time with almost no covetousness of the first governments was over. In its place, 'Ambition and Luxury' would lead to constant attempts to increase power without attending to the business for which the government was established.¹³⁰ A good government ought to meet the obligations placed upon it by the people 'for their good, and the Preservation of their Property'.¹³¹ Human beings had no arbitrary power over their life or liberty, as this power lay with God. Furthermore, they only had power over the life, liberty and property of others to the extent required to meet the obligation of self-preservation. Consequently, they could not confer greater jurisdiction on the government than they had. That was, in a sense, the responsibility of rational creatures. Locke wrote of legislators in the following terms:

¹²⁶ Locke, *Two Treatises of Government*, II § 128.

¹²⁷ Locke, *Two Treatises of Government*, II § 219.

¹²⁸ Locke, *Two Treatises of Government*, II §131.

¹²⁹ This agrees with Mark Goldie's recent interpretation of Locke as defender of an active government, see Mark Goldie, 'Locke and Executive Power', in Jessica Gordon-Roth and Shelley Weinberg (eds.), *The Lockean Mind* (Abingdon, New York: Routledge, 2022), Ch. 46.

¹³⁰ Locke, *Two Treatises of Government*, II § 43; §111.

¹³¹ Locke, *Two Treatises of Government*, II § 171.

Their Power in the utmost Bounds of it, is *limited to the publick good* of the Society. It is a Power, that hath no other end but preservation, and therefore can never have a right to destroy, enslave, or designedly to impoverish the Subjects.¹³²

Remarkably, legislative power is not only immediately concerned with preservation of the commonwealth, but beyond the domestic limits it is bound to comply with a universal obligation: 'the fundamental law of nature' being 'the preservation of Mankind'.¹³³ Thinking with Hobbes that the whole community or commonwealth is, as a body, in the state of nature with respect to the other 'States or persons' outside the commonwealth, his conclusion is relatively un-Hobbesian.¹³⁴ The *Executive Power* and its prerogative (a 'Power to do good') acts together with the legislator. It intervenes in 'All Accidents and Necessities that may concern the Publick', sometimes acting in the absence of law, or even against the letter of the law, if it is 'for the publick good'.¹³⁵ Property must be respected in the commonwealth, in the sense that it cannot be touched without the owner's consent, which Locke justifies on two grounds. First, because individuals entered the political society to protect their property. Hence, they must have a right to their property in accordance with the laws of the community. Second, and more importantly, if supreme power lies with the legislator (in the form of either a lasting assembly or a monarch), situations may arise in which the individuals in the assembly or the monarch develop 'a distinct interest from the rest of the community' and seek to enrich themselves by taking from the people.¹³⁶ In fact this potential for abuse of power is the key reason why the people always remain the supreme power. Although he might have looked with personal disdain on the desire to accumulate riches, it does not seem that Locke was troubled by individuals' 'disproportionate and unequal possession', to which the people at large have consented and even facilitated by means of money

¹³² Locke, *Two Treatises of Government*, II § 111; §135.

¹³³ Locke, *Two Treatises of Government*, II §135; Simmons, *The Lockean Theory of Rights*, p. 38.

¹³⁴ Locke, *Two Treatises of Government*, II §145; Martti Koskeniemi, 'The Hobbesian Structure of International Legal Discourse', in Timo Airaksinen and Martin A. Bertman (eds.), *Hobbes: War Among Nations* (Avebury: Aldershot, 1989), pp. 168–177.

¹³⁵ Locke, *Two Treatises of Government*, II § 160; § 164.

¹³⁶ 'For if any one shall claim a Power to lay and levy Taxes on the people, by his own Authority, and without such consent of the People, he thereby invades the Fundamental Law of Property, and subverts the end of government. For what property have I in that which another may by right take, when he pleases to himself?' Locke, *Two Treatises of Government*, II §140; quote in §138.

and other artificial means of representing value.¹³⁷ However, Locke's conception of property cannot be merely fixed as 'property of unlimited amount as a natural right of the individual'.¹³⁸ What made Locke's case for the protection of property vital was that it offered the means to ensure people's preservation. And for that reason, in his view, the people could get rid of any government, even of the legislative power – whose end is 'the preservation of the Community' – that is perceived by the people, consistently and unequivocally, to go against 'this Fundamental, Sacred and unalterable Law of Self-Preservation'.¹³⁹ However, Locke asked, who can say whether the moment has arrived to overthrow a government that has abandoned the goals of safety and public good? *Quis iudicabit?* Since 'God and Nature' never allow the neglect of self-preservation, the response is that it is people who judge whether they must appeal to heaven in relation to their case.¹⁴⁰

The reasoning of Locke's *Two Treatises* is that *within* government, the purpose of which is the preservation of all, the accumulation of property through labour and money will provide for the necessities of the nation, and even of all mankind

¹³⁷ Locke, *Two Treatises of Government*, II § 50.

¹³⁸ C. B. Macpherson (ed.), *Property* (Toronto: University of Toronto Press, 1978), p. 14.

¹³⁹ Locke, *Two Treatises of Government*, II § 149; §160.

¹⁴⁰ Locke, *Two Treatises of Government*, II § 168.