

**Creation and Authority:
The Natural Law Foundations of Locke's Account of Parental Authority¹**

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I. Introduction

John Locke occupies a central place in the contemporary philosophical literature on parental authority, and his child-centered approach has inspired a number of recognizably Lockean theories of parenthood.² But unlike the best historically informed scholarship on other aspects of Locke's thought, those interested in his account of parental rights have not yet tried to understand its connection to debates of the period or to Locke's broader theory of natural law. In particular, Locke's relation to the seventeenth-century conversation about the role of generation in grounding 'paternal power' is not well-known. Understanding this background is interesting in itself, but more importantly, it can provide us with a deeper appreciation of what Locke is actually saying, as well as a useful vantage-point for surveying current debates about parental rights.

Ultimately, Locke's political thought is of abiding interest because his basic problem is ours as well: how is it possible to rationally justify the authority of particular individuals over others — including that

¹ Abbreviations: DC = Hobbes, *De Cive*; ECHU = Locke, *Essay Concerning Human Understanding*; ELN = Locke, *Essays on the Law of Nature*; Lev. = Hobbes, *Leviathan*; LNN = Pufendorf, *Of the Laws of Nature and Nations (De Jure Naturae et Gentium)*; RWP = Grotius, *Of the Rights of War and Peace (De Jure Belli ac Pacis)*; ST = Aquinas, *Summa Theologica*; STCE = Locke, *Some Thoughts Concerning Education*; WDM = Pufendorf, *The Whole Duty of Man (De Officio Hominis et Civis)*; 2T = Locke, *Two Treatises of Government*. Spelling has been modernized.

² Jeffrey Blustein, *Parents and Children: The Ethics of the Family* (New York: Oxford University Press 1982); David Archard, *Children: Rights and Childhood*, 2nd edition (New York: Routledge 2004); Richard Arneson and Ian Shapiro, 'Democratic Autonomy and Religious Freedom: A Critique of Wisconsin v. Yoder,' in *Nomos XXXVIII: Political Order*, Ian Shapiro and Russell Hardin, eds. (New York: NYU Press 1996); Samantha Brennan and Robert Noggle, 'The Moral Status of Children: Children's Rights, Parents' Rights, and Family Justice,' *Social Theory and Practice* 23 (1997), 1-26.

of parents over children — if everyone is fundamentally equal? Locke's answer relies crucially on the idea that, unlike personal property rights which exist for the benefit of the proprietor, legitimate rule over equals must exist and be exercised for the good of the governed. Although Locke is very clear that parental power is not the same as political power, they are for him nonetheless both species of this larger genus of governmental authority. Inasmuch as this constitutes a denial that children are the mere belongings of their parents, it is an attractive view. But it also raises the question as to how individuals come to be entitled, or obliged, to assume the 'office' of parent. I shall argue that Locke's own answer to that question rests heavily on his providential outlook. This is important for us to appreciate, for if we want to modernize and secularize Locke, we need to be aware of the argumentative gaps and fissures that will need filling in, once the original theological foundations have been dislodged.³

If, however, understanding the place of natural law in Locke's account of parental authority makes it seem more distant in some ways from modern thought, it also reveals it to be more coherent than interpreters have often supposed. In particular, we will be able lay to rest a widespread misunderstanding about the relationship between Locke's theories of parental rights and property acquisition. At least since Robert Nozick's influential discussion, many readers have believed that Locke provides 'a singularly unconvincing' argument (as David Archard puts it) to avoid the implication of his theory of property that parents own their children because they created them (see 2T: I.52-3).⁴ I shall argue here that Locke's argument has only seemed so pitiful because most readers have not understood what it really is.

I shall proceed as follows. After placing Locke in the context of the seventeenth-century conversation about parental rights in section II, I consider in section III his critique of Filmer's patriarchalism and Nozick's objection that Locke's labor theory of property acquisition actually

³ The central theme of Jeremy Waldron, *God, Locke, and Equality: Christian Foundations in the Political Philosophy of John Locke* (Cambridge: Cambridge University Press 2002).

⁴ Robert Nozick, *Anarchy, State, and Utopia* (New York: Basic Books 1974), 287-9. Archard, *Childhood*, 9-10.

commits him to something resembling Filmer's conclusion: that parents hold proprietary dominion in the offspring they 'make.' Section IV argues that Nozick's objection rests on a failure to appreciate Locke's implicit distinction between creation and production, which helps make clear why rational beings can have no right to exploit one another, even if they have 'made' them. But if human moral status depends on rationality, then how can children be the equals of adults? In section V, I show how Locke's theological ideas are pivotal to his way of answering that question. Having discussed the fundamental moral equality of children and adults, I turn in section VI to Locke's own account of the nature and assignment of parental authority.

Throughout I assume, somewhat controversially, that Locke's various writings shed light on one another and can be used to reconstruct a relatively coherent position. I do not deny the existence of tensions, contradictions, and changes-of-mind in Locke's corpus, but a principle of charity warrants an initial presumption of Locke's consistency. Because I read Locke as a philosopher, I shall mainly be interested in positioning his views in relation to those of other systematic thinkers, not within a broader intellectual history.

II. The Argument from Generation

1. Grotius on parental rights

I would locate the beginning of seventeenth-century philosophical debate about parental rights with Hugo Grotius's rather unguarded assertion in *The Rights of War and Peace* (1625) that 'parents acquire rights over their children by generation' (2.5.1).⁵ This claim seemed puzzling to many later philosophers for two reasons. First, it appeared anomalous in the context of the rest of Grotius's theory of acquired rights. For *Grotius*, individuals originally have rights only over their own persons and to use whatever no one else is presently using (2.2, 2.17.2). The acquisition of exclusive property rights in external things

⁵ Hugo Grotius, *The Rights of War and Peace (De Jure Belli ac Pacis)*, trans. John Morrice (London, 1738).

first arose from a tacit agreement of all to respect one another's claims of first seizure (2.2.2.3). Acquired rights over other persons generally result either from consent or as the consequence of wrongdoing or negligence (2.5, 2.17, 1.3.8). Against this background, then, Grotian parental rights are quite remarkable: they are the only acquired rights that do not originate in an act of will of the person whose liberty is somehow limited by the right.

This 'argument from generation' seemed peculiar in a second way too: it seemed completely unconnected to Grotius's influential account of the limited content and duration of parental rights. Grotius maintained that parental authority naturally assumes a different character in three different stages or 'seasons' of life.⁶ In the first stage, children 'being like the brutes' lack reason and thus 'need to be educated and conducted by the reason of another' for their own good. In the second stage, the youth has attained his use of reason, but is not yet economically independent and still forms a part of the parental household. As a consequence, the child remains subject to parental authority, but only concerning those actions that 'concern the state of the father's and mother's family.' (An interesting idea, I may add, rather neglected today.) Thus, the content of parental authority in these first two seasons of life is deduced from the child's dependence: rational and economic. In the third stage, once the child has moved out of the parents' household, he is 'at his own disposal.' Out of natural affection, respect, and gratitude, the grown child does continue to owe his parents honor and deference, but no longer obedience (2.2.1-6). As we shall see, most subsequent writers read Grotius to be invoking generation to explain why children must obey their parents. But it may be that Grotius thought this was explained by the child's rational and economic dependence, and that generation only accounted for why that authority vested in the procreators and not in other adults. In any case, Grotius did very little to elucidate how generation could be a morally significant relation at all.

⁶ This framework is found in Pufendorf, LNN: 6.2.7-11 and WDM: 2.3.5-6 and James Tyrrell, *Patriarcha non Monarcha* (London, 1681), ch. 1, 18-20. Locke's remark that paternal power 'terminates at a certain season' seems an allusion to it (2T: II.69).

2. Seventeenth-century reception of the argument

The anomalous role of generation in Grotius bothered several later philosophers. In *De Cive* (1642), Thomas Hobbes complained that those attempting to explain paternal power ‘have only come up with the argument of *generation*, as if it were self-evident that what I have *generated* is mine’ (9.1). In *The Law of Nature and Nations* (1672), Samuel von Pufendorf expressed his agreement with Grotius that *property rights* could only arise from an act of consent, and not from any ‘bare corporeal act’ like first seizure (2.4.5). But in that case, how could the *bare corporeal act of begetting* bestow rights over children? Perhaps for this reason, Pufendorf appears to take some liberties in interpreting Grotius’s argument. ‘The origin of this power,’ he writes, ‘Grotius and most writers refer to the act of generation, by which the parents do, in some measure, resemble the divine Creator, whilst they make a person really exist, who before had no being’ (6.2.1).⁷ Grotius does not appear to have actually exploited that connection,⁸ but we can see why Pufendorf thought the argument from generation otherwise mysterious.

Unhappy with the significance of generation in Grotius, a number of subsequent writers sought to eliminate or reinterpret it. The most radical strategy was to dispense altogether with the idea of *natural* parental authority and to assimilate it to the voluntarist paradigm of other Grotian acquired rights. Thus, Hobbes notoriously sought to derive ‘parental dominion’ from the child’s consent to submit to a stronger power, who — like a military conqueror — might otherwise destroy him, asserting there is no essential difference between ‘a great family’ and ‘a little monarchy’ (Lev: 20, ¶¶4, 15; DC: 9.2-3).

⁷ Samuel von Pufendorf, *Of the Law of Nature and Nations (Jure Naturae et Gentium)*, trans. Basil Kennett (London, 1729).

⁸ Unless we count this remark, which makes no mention of creation: ‘Amongst men, parents are as so many gods in regard to their children. Therefore the latter owe them an obedience, not indeed unlimited, but as extensive as that relation requires, and as great as the dependence of both upon a common superior permits’ (RWP: Prolegomena, xv).

Because the child is originally in the *de facto* power of his mother, Hobbes reasoned, the child will submit to her authority, and by implication, to any husband or sovereign who in turn has authority over *her* (DC: 9.5). In this way, although parental right is not truly derived from generation, it usually ‘follows the belly’ (DC: 9.3). By making parental authority purely conventional, Hobbes could jettison Grotius’s idea that it was naturally limited in content and duration. In the state of nature, the helpless child would consent to the absolute power of his parents and could regain his freedom only by their manumission. Subject to this despotic authority, the child resembles the bondsman, of whom the master may say ‘no less than of another thing, whether animate or inanimate, *this is mine*’ (DC: 8.5; cf. Lev: 20, ¶13). If we do not ordinarily attribute such unlimited power to parents, that is simply because in civil society it has been relinquished to the sovereign. Lest one object that infants cannot possibly give consent, recall that, because Hobbes conceives of the state of nature as a state of war, he need not justify the parent’s use of force — only the child’s obligation to obey. Therefore, Hobbes might be imagining that, until children have attained some modicum of rationality, they obey their parents like trained animals without having any true *obligation* to obey. Then, as children develop the ability to recognize obligations, their habitual obedience transforms into tacit consent to parental authority.

In any case, whereas Hobbes aimed to remove the incongruity in Grotius by bringing the foundations of parental rights into line with other Grotian acquired rights, writers like Pufendorf and Locke seized upon Grotius’s ideas about the seasons of life as the key to making sense of parental authority. Unlike Hobbes, these philosophers held that we have original obligations to respect others’ natural rights to life and liberty. However, because of the imperfection of their faculties, children need the care of adults at first. And, ‘that this care may be rightly managed,’ as Pufendorf explains, ‘it is requisite that [parents] have a power to order the actions of their children for their good’ (WDM: 2.3).⁹ This view,

⁹ Samuel von Pufendorf, *The Whole Duty of Man According to the Law of Nature (De Officio Hominis et Civis)*, trans. Andrew Tooke (London, 1735). Pufendorf also argued that, since no reasonable adult would object to having been subjected to limited parental authority as a child, that consent can be imputed to the child (LNN: 6.2.4).

therefore, retained the idea that parental authority is naturally a limited and dwindling right, while rendering generation morally rather unimportant.

I shall say more about Locke's version of this child-centered approach to parental authority in section VI, but first we should take note of one writer who *was* happy to follow Grotius in basing paternal power on generation: Sir Robert Filmer. In writings like *Patriarcha* (1680), Filmer had attacked contract theories of government and defended a theory of patriarchal absolutism consisting of essentially two theses: that political authority is identical to that of fathers, and that paternal authority is natural, divinely sanctioned, and originally absolute and perpetual.¹⁰

Although Filmer's case rested primarily on Scriptural interpretation, he claimed that the 'natural dominion of Adam may be proved out of Grotius himself, who teacheth that '*generationae jus acquiritur parentibus in liberos*' ['parents acquire rights over their children by generation']. Recognizing that parents are 'natural magistrates' and children, 'natural subjects,' Grotius simply erred in thinking parental authority was naturally limited and temporary — a thesis unconnected to the argument from generation anyway. After all, does not God's power derive from his being the *Father* of all creation?¹¹ Filmer conceded that the rights of fathers are now limited, but insisted that this is by the positive act of the sovereign, who is the 'parent paramount' in possession of Adam's original unlimited paternal power.¹² Once the true nature of paternal power is appreciated, moreover, it becomes apparent that men cannot be *born free* and cannot institute a government by their own consent.

Thus Filmer thought the argument from generation had far-reaching political implications. He believed it implied that Aristotle was wrong in holding that the authority of fathers, rulers, and masters

¹⁰ Cf. Gordon Schochet, *Patriarchalism in Political Thought* (New York: Basic Books 1975), 269. The position may be gleaned from *Patriarcha* (A edition), I.3-4, and *Observations Upon Aristotles Politiques*, Preface, pp. 235-240. Page numbers for Filmer refer to *Patriarcha and Other Writings*, ed. Johann P. Sommerville (Cambridge: Cambridge University Press 1991).

¹¹ *Directions For Obedience To Governments in Dangerous or Doubtful Times*, 280.

¹² *The Originall of Government*, 226-7.

differed from one another. Like Hobbes, Filmer thought that ‘a son, a subject, and a servant or a slave, were one and the same thing at first.’¹³ Locke, by contrast, wanted to defend in the *Two Treatises of Government* (1690) a version of the Aristotelian thesis that ‘the power of a *magistrate* over a subject may be distinguished from that of a *father* over his children, ... and a *lord* over his slave’ (2T: II.2). It was in this connection that he examined the argument from generation in Chapter VI of the *First Treatise*.

III. Creation and Authority

In examining Filmer’s argument, Locke asks — reasonably enough — *why* we ought to accept its key premise: that begetting a child naturally gives the father *absolute* power over it. As Filmer does little to explain this, Locke entertains a line of reasoning similar to Pufendorf’s reading of Grotius: ‘that fathers have a power over the lives of their children, *because they give them life and being*’ (2T: I.51-52). Apparently, the idea is that whoever would have no life at all but for me cannot object to how much life I allow him. Perhaps this argument would have some force when what limits a person’s life is something inextricably bound up with his personal identity and existence — like a life-shortening congenital disease.¹⁴ But that is very different from possessing the power of life and death over an existing person just because I happened to cause his existence. Hence, Locke’s initial rejoinder — ‘that everyone who gives another anything, has not always thereby a right to take it away again’ — seems quite sensible (I.52).

But is Locke really in a position to reject Filmer’s idea that parental rights are a kind of property right? Some have thought that Locke’s own theory of property commits him to this very thing. After all, Locke apparently believes we own what we make, so long as we don’t use materials to which anyone else has a claim, and that we may use up and destroy what we own (2T: I.42, 92; II.27-33). Since parents

¹³ Aristotle, *Politics* 1.1; Filmer, *Observations*, Preface, 237.

¹⁴ Cf. Derek Parfit, *Reasons and Persons* (Oxford: Clarendon Press 1984), ch. 16.

'make' their children, as Susan Okin observes, from 'a minute quantity of abundantly available and otherwise useless resources ... this example of production is unique in *not* involving the complications of most other cases.'¹⁵ So it seems to follow on Locke's principles that children *do* belong to their parents and *should* be at their disposal.

What lends further credence to this suggestion is that Locke appears to locate *God's* absolute authority in the fact that we are his 'workmanship' and therefore his 'property.' As he puts it in the *First Treatise*, 'he is *King* because he is indeed Maker of us all' (I.53; cf. II.6). And in the early *Essays on the Law of Nature* (1663-64), Locke suggests that it is as evident that 'all things are justly subject to that by which they have first been made,' as that a person can submit himself to another's will by contract (ELN: VI, p. 117).¹⁶ In fact, in the *First Treatise* Locke says quite explicitly that someone who has given life to that which as yet has no being, 'might indeed have some pretense to destroy his own workmanship' (2T: I.53). 'Who will deny,' he asks in another place, 'that the clay is subject to the potter's will, and that a piece of pottery can be shattered by the same hand by which it has been formed?' (ELN: IV, p. 105; cf. *Romans* 9:20-24)

So how *does* Locke explain why parents do not own their children as something they have made? He appears to argue that parents have not made their children in the requisite way:

How can he be thought to give life to another, that knows not wherein his own life consists?. Can any man say, he formed the parts that are necessary to the life of his child? Or can he suppose himself to give the life, and yet not know what subject is fit to receive it, nor what actions or organs are necessary for its reception or preservation? (2T: I.52)

According to Robert Nozick, Locke is saying that one does not own something one makes unless 'one understands all parts of the process of making it,' and that, because parents do not understand the whole process of making a child, they must (as Locke says) care for the children 'they have begotten, not

¹⁵ Susan Moller Okin, *Justice, Gender, and the Family* (New York: Basic Books 1989), 83.

¹⁶ Page numbers to ELN refer to Locke, *Political Essays*, ed. Mark Goldie (Cambridge: Cambridge University Press 1997).

as their own workmanship, but the workmanship of their own maker, the Almighty' (2T: 56). But this is very unsatisfactory, Nozick points out, for 'by this criterion, people who plant seeds on their land and water them would not own the trees that then grow.' Since cultivation is *paradigmatic* of mixing one's labor with the earth for Locke, this condition would be disastrous for his theory of property.¹⁷ So Locke seems to face a dilemma: either we can own almost nothing or else children are the property of their parents.¹⁸ Lawrence Becker makes a similar assessment:

If anything is clearly a product of (one's body's) labor, a child is. It seems unlikely that anything will be found in the nature of the *labor* involved in conception, gestation, birth, and nurturing which will distinguish it sufficiently from the labor involved in cultivating a garden to justify using the latter in a Lockean argument but forbidding the use of the former.¹⁹

Still worse, Nozick argues that the alternative routes of egress are closed to Locke as well. He cannot argue that human beings cannot be owned, since he says that they *are owned* — by God. Nor can he argue that God's prior ownership in human beings excludes our ability to own them, since that argument would make human ownership of any part of creation impossible.

IV. Creation and Production

The above reading, however, is based on a misunderstanding. Nozick and others interpret Locke as trying to distinguish between the kind of making involved in (for instance) planting crops, which confers ownership, and the kind of making involved in procreation, which does not. But Locke is not arguing that parents do not 'make' their children; he is arguing that parents do not resemble God in being the *creators* of their children. This distinction is important because the rights of a creator and the rights of a producer occupy completely different planes in Locke's thought. The basic idea is that a producer has

¹⁷ 'As much land as a man tills, plants, cultivates, and can use the product of, so much is his *property*' (2T: II.32).

¹⁸ Nozick, *Anarchy, State, and Utopia*, 287-8.

¹⁹ Lawrence C. Becker, 'The Labor Theory of Property Acquisition,' *Journal of Philosophy* 73 (1976), 653-664, 657.

rights according to the law of nature, whereas the will of the creator establishes what the law of nature is. This distinction is often missed, I suspect, because Locke so often uses craft metaphors in describing God's creation. But, on the most sympathetic reconstruction of Locke's views, creation and production must be distinguished.

1. Creation and the law of nature

Let's begin with the idea of creation. When Locke speaks of giving life 'to that which has yet no being,' he assumes, though does little to elucidate, a theological conception of creation central to the scholastic natural law tradition.²⁰ It is, therefore, useful to go back to Thomas Aquinas's fuller account. For Aquinas, *to create* is 'to produce being absolutely' from nothing. As this is wholly different from human production, which merely involves moving about preexisting things, 'creation is the proper act of God alone' (ST: I, Q. 45 a. 5., cf. a. 2).²¹ Locke draws the same distinction in the *Essay Concerning Human Understanding* (1690), observing that *creation*, as distinct from generation or alteration, refers to a thing 'wholly made new ... which before had no being' (2.26.2; cf. 2T: I.15) — language distinctly resonant with that of the sixth chapter of the *First Treatise*.²² Aquinas explains further that to create something and give it being is to frame its nature or form (in living things, its soul), which provides the rule or law according to which that thing characteristically acts (I-II, Q. 93., aa. 1,5). The harmonious system of the laws governing each thing for the common good is what Aquinas calls the 'eternal law,' or providence (Q. 91., a. 1).

²⁰ Cf. A.W. Sparkes, 'Trust and Teleology: Locke's Politics and his Doctrine of Creation,' *Canadian Journal of Philosophy* 3 (1973), 263-73. Whether Locke picked up such doctrines second-hand or actually read scholastics like Aquinas does not concern us here, but see the editorial introduction to *Essays on the Law of Nature*. W. von Leyden, ed. (Oxford: Clarendon Press 1954).

²¹ Thomas Aquinas, *Summa Theologica* (5 vols.), trans. Fathers of the English Dominican Province (Westminster, MD: Christian Classics 1947).

²² 'The argument, I have heard others make use of, to prove that fathers, by begetting them, come by an absolute power over their children, is this: that, *fathers have a power over the lives of their children, because they give them life and being...* But, they who say the *father* gives life to his children, are so dazzled with the thoughts of monarchy, that they do not, as they ought, remember God, who is *the author and giver of life: 'tis in him alone we live, move, and have our being'* (2T: I.52).

In the early *Essays*, Locke clearly accepts this connection between creation and eternal law:

All things observe a fixed law of their operations and a manner of existence appropriate to their nature. For that which prescribes to everything the form and manner and measure of working is just what law is. Aquinas says that all that happens in things created is the subject-matter of the eternal law...’ (ELN: I, pp. 86-87).

I submit that it is this idea of fixing a thing’s nature that Locke has in mind when he speaks in the *First Treatise* of giving ‘life and being’ to a child: ‘To give life to that which has yet no being, is to frame and make a living creature, fashion the parts, and mold and suit them to their uses, having proportioned and fitted them together, to put into them a living soul’ (2T: I.52, 53). However, as this language suggests, Locke does depart here from scholastic thought in one respect. Persuaded by the corpuscularian hypothesis, he supposes that the nature, or ‘real essence,’ of a thing consists solely in the arrangement of that thing’s parts — not in the thing’s partaking of some universal substantial form (ECHU: 3.3.17). The soul, in turn, he conceives not as the form of a living creature, but as mind, that which perceives and thinks, and which men share in some manner with the other animals (ECHU: 2.9-11). That said, Locke apparently did not regard this difference as requiring any revision in the basic doctrine about creation establishing the eternal law by determining the natures of things.

This doctrine, moreover, has important moral implications. As rational creatures, it is *our nature* to govern our actions by our understanding of the Creator’s commandments. While mere councils of reason may induce a person to act, Locke thought the binding force of morality could only be explained as subjection to the law of a superior with the power and authority to enforce it.²³ Those commandments which we can know without supernatural revelation make up the ‘natural law’ or ‘law of nature.’²⁴ And

²³ ECHU: 2.28.5-8; ELN: I; ‘Of Ethic in General,’ in Locke, *Political Essays*, 297-304.

²⁴ Throughout, I use these terms, as Locke does, in a moral sense, not to be confused with the now more common scientific, descriptive sense. Such scientific laws of nature would be part of the eternal law in the scholastic vocabulary, from which we infer the natural or moral law. Locke, ELN: I, p. 82; cf. Aquinas, ST: I-II, Q. 91, a. 2; Q. 93, a. 5.

we discover the content of the natural law by investigating our own natures and our position in the whole order of creation, and from these investigations we infer the Creator's rational purposes for each thing. Once again, Locke states the idea most clearly in the *Essays on the Law of Nature*:

What is to be done by us can be partly gathered from the end in view for all things.... Partly also we can infer the principle and definite rule of our duty from man's own constitution and the faculties with which he is equipped. For since man is neither made without design nor endowed with no purpose with these faculties which both can and must be employed, his function appears to be that which nature has prepared him to perform (ELN: IV, p. 105).

Therefore, divine creation grounds the eternal and natural laws. This, I submit, is what Locke ultimately means when he metaphorically describes creation as God's 'property': only a creator has an unbounded right to determine how the created thing should be treated and disposed of. Not being creators ourselves, we determine neither the nature nor the proper ends of things. Instead, we are to respect the designs the one true Creator has for each thing, and these must be discovered through an empirical study of nature.

The suggestion that we can discover our duties through an investigation of nature may seem inconsistent with Locke's skepticism in the *Essay Concerning Human Understanding* about our ability to discover the real essences of things (ECHU: 3.6.9). But Locke is careful to explain that his epistemic pessimism does not endanger practical knowledge. In fact, the *Essay* is partly an effort to detach natural law theory from Aristotelian natural philosophy and make it consistent with the new science. Hence, while we may never understand why things have the properties they do (4.3.23-26), Locke thinks God has given us faculties sufficient to discover from the order of creation the existence of a Creator and the duties he has set for us (ECHU: 4.10; cf. ELN IV). As we shall see, this requires an ability to distinguish between beings furnished with different kinds of faculties, but we need not understand the foundations of those faculties in the constitution of things (ECHU: 3.11.16).

2. Equality, labor, and property

Contrary to the standard reading, the argument from sections 52-53 of the *First Treatise* does not intend to show that parents do not *own* their children. It only shows that, because parents are not the authors of their children's natures and proper ends, parental authority does not resemble the absolute authority of the Creator.²⁵ Recall that *this* was the position Locke attributed to Filmer. It is important to observe, then, that Locke could have made the same argument about the farmer's relation to his crops: not having created the natures of plants, the farmer does not possess the unlimited authority of a creator over them. All created things are to be handled only in ways that are consistent with the purposes of the one Creator and ultimate Lawgiver. This does not rule out the permissibility of our using or owning some parts of creation. But, for Locke, property is not possession of an unlimited right to something. The proper use of all things is limited by natural law. So what *has* God authorized us to use and for what purposes? Ultimately, Locke's answer will be the one provided by Scripture: Having made man in his own image and 'a little lower than the angels,' God has given mankind the right to use all the rest of creation for his own benefit.²⁶ And, by the same token, because we are each made in the image of God, we are not to destroy one another.²⁷ Locke, however, wants to show that all of this can be known by natural reason — not by revelation alone. So let me explain how he does so.

As before, we can get our bearings by looking first at Aquinas. Aquinas held that the first precept of the natural law is that 'good is to be done and pursued.' And because creation is itself good, 'those things to which man has a natural inclination, are naturally apprehended by reason as being good' (ST: I-II, Q.94, a.2). Therefore, we can discover the content of the natural law by attending to the objects of our

²⁵ If advances in bio-engineering or artificial intelligence enabled us to design the nature of a rational being, would we then possess the rights of a creator? Locke may have been too pessimistic in assuming that we could never achieve that level of understanding. *Perhaps* he could have argued that, being the workmanship of God *ourselves*, anything we make is really God's creation as well and, therefore, still to be used only in accordance with his purposes. Admittedly, though, this move would make the argument of I.52-53 rather otiose.

²⁶ *Genesis* 1:28-30; *Psalms* 8:5-8. Cf. 2T: I.30, 40.

²⁷ *Genesis* 9:6.

natural inclinations. The point is not that whatever happens to *appear* good to us at any time is actually good, but that our inclinations are not fundamentally perverse.

Although Locke stresses the sovereignty of God's *will* more than Aquinas does, his basic approach to natural law is similar.²⁸ Upon investigation of our own natures, we discover that the 'first and strongest desire God planted in men [is] self-preservation' (2T: I.88). Reflecting on this, 'reason, *which was the Voice of God in [man]*, could not but teach and assure him, that [in] pursuing that natural inclination he had to preserve his being, he followed the will of his Maker' (I.86). This argument is perfectly compatible with Locke's denial of innate knowledge in the *Essay*.²⁹ For while the inclination is innate, our *knowledge* of the associated law is not and must be inferred by reason (cf. ECHU: 1.3.3). Locke nonetheless persists in employing potentially confusing innatist-sounding language in the *Two Treatises* because, like other natural law theorists, he is posing as an interpreter of St. Paul's famous saying that the Gentiles are not without the moral law, since God has 'written [that law] in their hearts' (*Romans* 2:15).³⁰

Self-preservation, then, is the first law of nature: 'Everyone ... is bound to *preserve himself* and not quit his station willfully' (II.6). But, since we cannot preserve ourselves without means of subsistence, reason further reveals that it must be the Creator's will that at least some parts of creation have been intended for our 'food, raiment, and other conveniencies of life' (I.86, I.41; cf. II.25-26). As Locke's mention of 'convenience' here indicates, he actually maintains that God intends, not only our bare preservation, 'but the preservation of every part and organ in its perfection,' that being the end toward

²⁸ Pace S.B. Drury ('John Locke: Natural Law and Innate Ideas,' *Dialogue* 19 [1980], 531-45), who maintains that 'Locke had to abandon the Thomist view of natural law because the latter derived the law of nature from human inclinations' (540).

²⁹ Pace Peter Laslett's introduction and note to II.11 in his edition of the *Two Treatises of Government* (Cambridge: Cambridge University Press 1988).

³⁰ Cf. Pufendorf: 'The Law of Nature is to be drawn from man's reason flowing from the true current of that faculty, when unperverted. On which account the holy Scriptures declare it to be written in the hearts of men.... Yet here we by no means think it necessary to maintain that the general laws of nature are *innate*..., yet the knowledge of the Law of nature is truly and really imprinted on human minds by God, as he is the first mover and director of them...That phrase in *Romans* ii.15 which is urged so hardly by some authors, is certainly figurative...' (LNN: 1.3.13).

which our desires and aversions are naturally directed (ECHU: 2.7.4). And yet, though some parts of creation must be intended for our consumption, reason also teaches us that a wise Creator would make nothing in vain, and from this we can infer that we are to waste nothing and destroy nothing 'but where some nobler use than its bare preservation calls for it' (2T: II.6, 31).

We discover when one use or purpose is nobler than another by attending to the order of creation which ascends from the less perfect to the more perfect, with the infinite perfection of God at the apex (ECHU: 3.6.12). As Locke sees it, every created thing approaches the perfection of the Creator insofar as it shares in his intellectual nature (2T: I.30; cf. ECHU: 4.10.5). In the *Essay*, Locke distinguishes several mental faculties of increasing sophistication and perfection. The first and most basic is perception, and this marks 'the distinction betwixt the animal kingdom and the inferior parts of nature' (2.9.10). Man also shares with the higher animals the faculty of retention and memory (2.10.10), and with some animals the capacity to compare and compound simple ideas (2.11.5-6). But it is the faculty of forming abstract and general ideas 'that puts a perfect distinction betwixt man and brutes' (2.11.10), and which 'sets man above the rest of sensible beings, and gives him all the advantage and dominion, which he has over them' (1.1.1). This dominion over the rest of creation is the basis of man's common property in the earth, the right of man 'to use any of the inferior creatures, for the subsistence and comfort of his life, ... [and] even to destroy the thing that he has property in by his use of it, where need requires' (2T: I.92).

This same line of reasoning which establishes man's dominion over 'inferior creatures' also makes evident the fundamental equality of all men. That is, if our greater perfection is what makes us nobler than the beasts and plants, then we must also recognize that God has *not* authorized beings 'furnished with like [rational] faculties ... to destroy one another, as if we were made for one another's uses, as the inferior ranks of creatures are for ours' (2T: II.6). Now someone might object: If it is true, as Locke himself allows, that 'there is a difference of degrees in men's understanding... greater... than [that] between some men and beasts' (ECHU: 4.20.5), then shouldn't the wise have proportionate dominion over the

simple? Locke's answer is that what reveals our equal worth in the eyes of God is not an equal *facility* in forming 'trains of thought and deduc[ing] proofs,' but merely a like ability to know that there is a divine Lawgiver and to sufficiently comprehend the law that is to guide our conduct. Of course, to even grasp concepts like law and duty, some capacity for forming abstract and general ideas is necessary. But Locke thinks that this competence is sufficiently undemanding that almost all adult human beings possess it. True, the ability to discover the moral law by natural reason seems *at best* suitable only to those with 'much leisure, improved understandings, and ... used to abstract reasonings.' But since reason also vouches for the truth of Scripture, 'the instruction of the people [can be] ... left to the precepts and principles of the gospel,' as these 'lie level to the ordinarist apprehension.'³¹ Ultimately, then, the equality of mankind consists in our common status as the appointed servants of the same master, who are individually 'sent into the world by his order and about his business' (2T: II.6).³² From this equality of station we are to infer what Locke calls the 'fundamental law of nature': that we are to '*preserve the rest of Mankind*' when our individual preservation permits (II.16).

It is against this background that Locke's labor-theory of property acquisition must be understood.³³ The moral significance of human production is governed by the law established by the act of the Creator. The purpose of the theory of acquisition is to explain how it is permissible for each of us to individually use and consume the materials of the earth, which are initially provided for mankind's common advantage, while respecting the like entitlement of our equals. This respect for human equality is the moral root of Locke's labor theory, not (as some have suggested) a deep reverence for the act of

³¹ Locke, *Reasonableness of Christianity in Works of John Locke*, 12th ed. (London, 1824): VI.146 ; ECHU: 4.19.21.

³² ELN: I, p. 82; 2T: II.63; ECHU: 4.20.3. Cf. Waldron, *God, Locke, and Equality*, 76-81.

³³ Here I agree with David C. Snyder, 'Locke on Natural Law and Property Rights,' *Canadian Journal of Philosophy* 16 (1986), 723-50.

production.³⁴ In ordinary circumstances, Locke thinks we can respect the entitlements of our equals when we recognize every person's original title to 'the product of his honest industry' and avoid taking unfair advantage of his labor (I.42; cf. II, ch. v *passim*). But the more important point is that, because property rights presuppose the equal moral status of other human beings, *there can be no question* of one person belonging to another as property³⁵ — even if one *has* somehow 'made' the other.

V. 'Creatures of the Same Species and Rank'

A natural question arises at this point: If moral equality is grounded in a common ability to understand and abide by God's law, then does that mean that human beings lacking that ability are not 'creatures of the same species and rank' as the rest of us (II.4)? That would seem to undermine the equal moral status of children, as well as that of adults with severe mental disabilities. Locke's rejection of Aristotelian metaphysics makes a real difference here. For Aquinas, creatures belong to species in virtue of their substantial form or soul, and characteristic of mankind is a rational soul.³⁶ This is not the same as having the *use of reason*. Living things naturally come into existence in an imperfect state and develop toward actualization of their substantial form.³⁷ Therefore, though the infant does not reason, its development toward rationality shows it has a rational soul. Some rational souls, moreover, never develop rationality at all. Although a profoundly retarded adult might literally seem an irrational animal, Aquinas insists that 'imbeciles lack the use of reason [only] accidentally, i.e. through some impediment in a bodily organ; ... not like irrational animals through want of a rational soul.' Having a human nature, then, they are as entitled to baptism as the other sons and daughters of Adam (ST: III, Q. 68, a. 12).

³⁴ According to Sparks, 'Locke regards the products of human creation with as much reverence as the products of divine creation' ('Trust and Teleology,' 273). See also James Tully, *A Discourse on Property* (Cambridge: Cambridge University Press 1980), 116-24.

³⁵ Or without having first forfeited that right through wrong-doing; see 2T: II.24, 172, 178-80.

³⁶ Thomas Aquinas, *Principles of Nature*, ch. 1; ST: I, Q. 76, a.1.

³⁷ *Principles of Nature*, §31; ST: I, Q. 99, a. 1; Q. 101, a. 2.

Having discarded the doctrine of substantial forms, Locke cannot follow Aquinas here. For him, the properties of each thing are explained simply by the arrangement of their parts. On this picture, no property is naturally essential or accidental to an individual (ECHU: 3.6.4). Hence, there is no metaphysical difference between the imbecile's lack of rationality and the beast's (3.6.22). Nothing being essential to individuals, moreover, we cannot discover the natural kinds by identifying individuals that share a common essence; we can only sort individuals according to the similarities that strike us as most salient. Therefore, as species are merely the 'workmanship of the understanding,' we cannot decide which individuals are *men* until we stipulate the criteria for membership.

Ordinarily, Locke claims, we sort creatures by shape (3.6.26). Therefore, though philosophers would define man as the 'rational animal,' someone encountering the shape of a man with no more reason than a parrot, or the shape of a parrot reasoning as well as a man, would probably say that 'the one was a dull, irrational man, and the other a very intelligent parrot' (2.27.8). The philosophical definition has merit, however, in moral discourses, for 'when we say that 'man is subject to law': we mean nothing by *man*, but a corporeal rational creature.' This means that, 'were there found a monkey, or any other creature ... that had the use of reason, to such a degree, as to be able to understand general signs, and to deduce consequences about general ideas, he would no doubt be subject to law, and, in that sense, be a *man*.' Conversely, 'whether a child or changeling [i.e., an 'idiot'] may be a *man* in a physical sense ... it concerns not at all the *moral man*' (3.11.16).

Does this imply that children and 'changelings' lack the natural rights of man? Children, Locke thinks, are nonetheless counted among the rank of men because they have the *potential* to become rational creatures (2T: II.55-56). Philosophers in our day have often made a similar argument.³⁸ But why should possession of a faculty and the potential for it have the same moral significance? Many writers in

³⁸ Cf. John Rawls, *A Theory of Justice* (Cambridge, MA: Harvard University Press 1971), § 77.

the abortion literature have thought that idea dubious.³⁹ *Locke*, at least, can account for this, given his providential worldview. Just as seedlings in an orderly garden are evidence of the gardener's will that they mature into plants, knowing that God has given children the potential to become moral agents is evidence of God's intention that they actually assume this station. Thus, we can infer that children have as noble a place in creation as adults. Since divine will is the ultimate source of all rights and duties for Locke, the moral status of children turns out to be just as secure as that of adults.⁴⁰ Whether we can continue to appeal to potentiality without also invoking Locke's providential outlook remains a live question. Where does all of this leave the severely mentally disabled, you might ask.⁴¹ We cannot pursue this question in detail, but as it is a valid concern to have about accounts that connect moral status to rationality,⁴² a few remarks are in order. First of all, different categories of mental disability need distinguishing. The most straightforward involve individuals suffering from intermittent 'madness,' for they *do* retain a potential for rationality. Accordingly, they can be regarded as experiencing cycles of infancy and maturity (2T: II.60). Next there are those permanently deprived of their reason by trauma or old age. Although Locke says virtually nothing about them, he could have likened their status to that of the dead. That is, though corpses do not have rights, we do have duties to once-living persons to honor their bequests and respectfully dispose of their bodies.⁴³ Similarly, we might have duties to once-existing rational persons to treat their enduring animal-selves with decency and kindness after the extinction of

³⁹ Michael Tooley, 'Abortion and Infanticide,' *Philosophy and Public Affairs* 2 (1972), 37-65; Tristram Engelhardt, Jr., 'The Ontology of Abortion,' *Ethics* 84 (1974), 217-34;

S.I. Benn, 'Abortion, Infanticide, and Respect for Persons,' in *The Problem of Abortion*. Joel Feinberg, ed. (Belmont, CA: Wadsworth Publishing 1984).

⁴⁰ The point is not that our duties to children are owed to God *rather* than to children. For Locke, all duties owed to other human beings are ultimately owed to God. I thank an anonymous referee for encouraging me to clarify this.

⁴¹ I thank an anonymous referee for suggesting I address this.

⁴² Cf. Martha Nussbaum, *Frontiers of Justice: Disability, Nationality, and Species Membership* (Cambridge, MA: Harvard University Press 2006).

⁴³ Locke assumes the duty to honor bequests, but never discusses duties to the dead. For this account, see Jean Barbeyrac's notes to Pufendorf (LNN: 2.3.23, n.9).

their rationality. The most difficult cases involve those born without the capacity to ever become rational. In the *Essay*, Locke says it would be reasonable to consider adults ‘without any appearance of reason’ as ‘something between a man and a beast,’ seeing as they conform to our idea of neither (ECHU: 4.4.13-14). But it is unclear what moral implications he thought this had. While he remains agnostic there about the ‘changeling’s’ eternal prospects, he suggests elsewhere that they should be treated like perpetual children (2T: II.60). Had Locke drawn on the ideas expounded in his educational treatise about reasoning with children (STCE: 81), he might have distinguished three categories: those incapable of moral reasoning; those capable of simple reasoning but not independent self-government; and those fully capable of self-government. If potential for the second category were considered sufficient to ground the status of moral agent, then Locke could have accounted for the basic equality of all ‘human beings’ except the most profoundly retarded. Toward them, Locke could probably only counsel moral caution, for (he warns) we cannot know how God regards them (ECHU: 4.4.14).

VI. Parental Authority and the Law of Nature

1. The office of guardian

Let us now turn to Locke’s own account of parental authority. As I’ve suggested, his approach to resolving the incongruity in Grotius is to minimize the importance of generation and to emphasize the importance of the child’s special needs and dependence. Locke, moreover, is clear that this is the *whole* justification of parental powers. This puts him in the position of being able to show that, far from being an anomalous right, parental authority is actually implied by the fundamental law of nature.

The fundamental law of nature, recall, is that we are to preserve mankind as much as possible (2T: II.16). Generally, God has made man capable of supporting himself by his own labor and honest exchange (II.32, 46). This ideal of independence does not mean that man is suited to a solitary or autarchic

existence; God created man such that his ‘necessity, convenience, and inclination’ would ‘drive him into society’ (II.77).

But, ideally, everyone works to pull his own weight. Where such ideal conditions obtain, justice only requires we refrain from injuring others and exploiting their toil (II.7). *Conscience* requires ‘charity, bounty, and liberality’ as well, but these are ordinarily imperfect, unenforceable duties, beyond the ‘narrow measures of bare justice.’⁴⁴ However, in non-ideal conditions where someone cannot secure the means to preserve his life, the fundamental law of nature gives rise to a *perfect* duty of charity: ‘Charity gives every man a title to so much out of another’s plenty, as will keep him from extreme want’ (I.44). Jean Barbeyrac, Locke’s younger contemporary, elaborates the doctrine in his notes to Pufendorf: ‘In case of extreme necessity, the *imperfect right* that others have to ... duties of charity from us, becomes a *perfect right*; so that men may by force be obliged to the performance of these duties at such a time, though on all other occasions the performance of them must be left to every man’s conscience and honor’ (WDM: 1.2.14 n.). This charity, moreover, must aim at restoring ideal conditions by making the recipient independent. As Locke observes, we cannot exploit another’s need to turn him into our dependent vassal (2T: I.44).

Adult duties to children are a special case of this perfect duty of charity. Unable to preserve themselves, infants are born in extreme want. And yet they lack, not just resources, but also the reason necessary to promote their interests and to profit as members of society. So, if their lives are to be preserved, they must be nurtured, governed, and educated by adults until they are able to govern and provide for themselves (II.56, 60-6, 79). Those fulfilling these responsibilities are thus invested with as much authority as their task requires (II.58), for Locke believes, like Pufendorf, that ‘Nature is supposed to give us a right to everything, which appears absolutely necessary to our fulfilling her commands’ (LNN 6.2.9).

⁴⁴ *Letter Concerning Toleration* in *Works*, IX.17.

Why does nature favor concentrating this authority over particular children in the hands of one or two adults, rather than dispersing it generally? Perhaps in part it is to avoid some of the inconveniences that spur adults to leave the state of nature and concentrate political power: If no one has final responsibility and authority to interpret and enforce the law of nature, then it may be neglected, or conflict and confusion may arise (2T: II.124-6, 82). No less important, though, are the considerations discussed in Locke's educational treatise: namely, that for childrearing to be effective, it must be conducted by a small number of adults, whom the child can love, revere, emulate, and become friends with (STCE: 40-4, 57, 71, 90, 95-9).

Locke summarizes his child-centered account by declaring that '*parental power* is nothing but that which parents have over their children to govern them for the children's own good' (II.170). The characterization is revealing, for Locke has very specific views about the natural law regarding government. Whereas natural property rights entitle a person to use inferior parts of creation 'for his own benefit and sole advantage,' governmental power is always attached to an office held in trust for the good of the governed and not to be used for the separate advantage of the governor (I.91, 100). By contrast, even Grotius and Pufendorf supposed official powers could be held as personal property (RWP: 1.3.11-12; LNN: 7.6.16-17). This difference is the root of Locke's most direct break with Grotius on parental authority. Whereas Grotius held that 'paternal authority be so personal and annexed to the relation of the father, that it can never be taken from him and transferred to another' and that 'none but parents are naturally entrusted with this charge' (RWP: 2.2.5), Locke says nearly the opposite:

this power so little belongs to the *father* by any peculiar right of nature, but only as he is guardian of his children, that when he quits his care of them, he loses his power over them, which goes along with their nourishment and education, to which it is inseparably annexed, and it belongs as much to the *foster-father* of an exposed child, as to the natural father of another: So little power does the bare *act of begetting* give a man over his issue, if all his care ends there (2T: II.65).

So, for Locke, parental authority is an official power belonging to a special kind of governor, not a personal right (II.86). Of course, parental authority is not *political* authority; all authority is determined by its specific ends (II.73, 149). Therefore, whereas *political power* has its origin in consent and is empowered to use lethal force to protect natural rights from external incursion, *parental power* exists by nature and reaches no further and lasts no longer than is necessary to protect children in their weakness and make them capable of exercising their own rights and responsibilities; afterward, children owe their parents only honor and gratitude (II.2-3, 64-66, 169-174). In spite of these differences, a full appreciation of the fact that parental authority is, for Locke, a kind of government opens up broad interpretative opportunities for a discriminate application of Locke's much more extensive analyses of tolerant and limited government to parental guardianship.

2. Who governs?

Characterizing parental guardianship as an office like the magistracy, however, also raises a crucial question: How do particular individuals come to occupy that office? Does the state delegate some of society's collective authority and responsibility over children to particular adults?⁴⁵ Or does it naturally vest in certain individuals? For instance, might procreators have a natural obligation to care for their children, because they have tacitly consented to it by their actions,⁴⁶ or because they are responsible for the existence of their offspring's vulnerable state?⁴⁷ Might procreators have a natural claim on their offspring, not as their property, but nonetheless as something in which they have invested their labor⁴⁸ or love?⁴⁹ Maybe generation does, after all, have moral significance in the *assignment* of parental rights,

⁴⁵ Arneson and Shapiro, 'Democratic Authority and Religious Freedom,' 381.

⁴⁶ Joseph Millum, 'How Do We Acquire Parental Responsibilities,' *Social Theory and Practice* 34 (2008), 71-93.

⁴⁷ Jeffrey Blustein, 'Procreation and Parental Responsibility,' *Journal of Social Philosophy* 28 (1997), 79-86. Pufendorf (LNN: 4.11.4) endorsed a version of both of the preceding arguments.

⁴⁸ Joseph Millum, 'How Do We Acquire Parental Rights?' *Social Theory and Practice* 36 (2010), 112-32.

⁴⁹ Anca Gheaus, 'The Right to Parent One's Biological Baby,' *Journal of Political Philosophy* 20 (2012), 432-55.

if not in determining their content.⁵⁰ On the other hand, perhaps our arguments should take a consequentialist form, such that parental rights or duties naturally belong to whomever is best able to promote the child's interests?⁵¹

Locke clearly believes that procreators are, by nature, initially entrusted with parental responsibility and authority, but he does not seem to rely much on any of the above arguments.⁵² Indeed, it might seem that Locke doesn't bother offering any arguments at all and that he just asserts the responsibility and authority of procreators over their offspring as a 'brute moral fact.'⁵³ But this is not quite right. Locke has, by his own lights, a perfectly good argument. He does not belabor it, I suspect, because he takes it so much for granted.

Near the beginning of the *Second Treatise*, Locke says that 'creatures of the same species and rank ... should also be equal one amongst another without subordination or subjection, unless the lord and master of them all should, by any manifest declaration of his will, set one above another, and confer on him, by an evident and clear appointment, an undoubted right to dominion and sovereignty' (II.4). Although Locke denies that the Creator has made any such 'manifest declaration' in the political sphere, he thinks that a study of nature reveals that this is precisely what God has done in the family. For just as the eye seems to have been furnished by a wise Creator as an instrument for seeing and navigating the world, procreators seem to have been fashioned as instruments for maintaining and governing the children they have begotten so that the human race may be perpetuated (II.66). That mothers spontaneously produce the milk their infants need, and that both parents tend to have a strong natural affection for their children, constitute evidence to Locke's mind that it is God's will, and for that reason

⁵⁰ As Barbeyrac observed (LNN: 6.2.4 n).

⁵¹ Peter Vallentyne, 'Rights and Duties of Childrearing,' *William and Mary Bill of Rights Journal* 11 (2002-2003), 991-1110; Nellie Wieland, 'Parental Obligation,' *Utilitas* 23 (2011), 249-67.

⁵² I do not imply that the above list of arguments is exhaustive.

⁵³ Nozick, *Anarchy, State, and Utopia*, 289.

obligatory, that procreators should take care of their own offspring (I.56; II.67, 79-80). This, then, is the chief moral significance of generation for Locke. It does not *ground* the obligations of procreators,⁵⁴ but in causally disposing them to care for their needy offspring, it reveals their larger role in God's harmonious plan.

That accounts for the special obligations of procreators. Do they also have a special entitlement to rear their offspring? If one conceives of parental authority as an office as Locke does, then it becomes difficult to argue that certain individuals are entitled to occupy it, simply because they have invested so much in it. That, anyway, would be an unusual principle to apply to political office. On the other hand, if one conceives of parental authority as directly bestowed by God, then it seems no human authority has the right to simply transfer it to someone else just because they think another arrangement superior. But this immunity does not imply that parents are answerable to God alone. Although Locke could not have foreseen the state having a large role in child-protection, he does argue that the law should protect children's property against parental misappropriation, and he insists that parents can forfeit their office by misdeed or neglect that threatens to undermine their basic responsibilities of nurture, protection, and education (I.100; II.65). As in the forfeiture of political power, loss of parental authority presumably comes from not occasional 'slips of human frailty,' but 'a long train of abuses' (II.225).⁵⁵ Moreover, if the executive is actually going to ensure that children's rights are respected, it seems the legislative power must have some authority (as it does regarding property) to specify what these rights entail in the concrete (II.52, 124).

⁵⁴ Nozick suggests Locke could not ground parental obligation in causal responsibility, because he denies that parents cause their children to exist (*Anarchy, State, and Utopia*, 289). That is incorrect. Although parents do not create their children, they are for Locke the 'occasions' or 'secondary causes' of their children's existence (2T: I.54; II.66). As God is the 'universal cause' of everything, this subordinate causation must be sufficient to ground liability.

⁵⁵ While we must keep in mind the differences between parental and political government, it would seem that a number of Locke's remarks on 'The Dissolution of Government' have application to the conditions for holding parental office.

Should the natural parents actually forfeit their authority, then the general duty of charity kicks in, and everyone is obliged to ensure that the child's needs are met somehow. Locke's friend James Tyrrell made this last point explicitly, holding that everyone is 'obliged by the laws of nature and humanity, if he be able, to breed up the [exposed] child he finds, and not let it perish.'⁵⁶ In civil society, of course, the law would presumably specify more regular procedures for securing foster-parents.

VII. Conclusion

My aim in this paper has been to show how a more adequate understanding of Locke's theory of natural law affords us a deeper insight into his account of parental authority and clarifies his conception of the relationship between parents as procreators and parents as guardians. On the whole, I believe this perspective reveals Locke to be a more consistent philosopher than his reputation allows. In addition, it highlights two central Lockean ideas that are still worth taking seriously. The first of these is that property rights are not morally basic, but are a way of giving due regard to human equality and human needs. Theories of property acquisition raise all sorts of intricate questions, but it is simply misguided to try to solve these without referring them back to the fundamental purpose and justification of property.

The second idea — that parental authority is best analyzed as a right of office — is more controversial. In emphasizing that children are not their parents' possessions, it is wholly salutary. But there are real questions as to whether the model does full justice to the parent-child relationship. Is it a useful paradigm for thinking about obligations to assume the role of parent? Can it make room for a recognition of parental interests in childrearing? Can it countenance the partial blurring of individual identities and interests in the family? Taking these matters into account may so expand the idea of an official role as to make it useless for directing our thought. Perhaps Locke's fiduciary model can appear strained to *us* because we have inherited a more sentimental, less utilitarian picture of the family.

⁵⁶ Tyrrell, *Patriarcha non Monarcha*, ch. I, 33.

Indeed, recent philosophers who have emphasized the parental interest in maintaining intimate relationships with children have rather more in common with Hegel than with Locke.⁵⁷ But it may also be that Locke's conception of the world, every part of which God has designed to work in harmony with the rest, prevented some of these questions from arising in a serious way. When two parts seem to have been *designed* to fit each other, one doesn't much trouble oneself with arguing against other ways of assembling things. That procreators are generally capable of providing children the government they require seemed like enough; there was little urgency to further justify the arrangement on the basis of parental interests or the intrinsic value of domestic relationships. However, if we are not going to rely on Locke's providential picture of the world, then this full array of questions about the moral bases of parenthood will have to be squarely faced.

⁵⁷ Ferdinand Schoeman, 'Rights of Children, Rights of Parents, and the Moral Basis of the Family,' *Ethics* 91 (1980), 6-19; Harry Brighouse and Adam Swift, 'Parents' Rights and the Value of the Family,' *Ethics* 117 (2006), 80-108; Matthew Clayton, *Justice and Legitimacy in Upbringing* (Oxford: Oxford University Press 2006).