

Original Ownership of the Globe and the Right of Relocation:

A Theoretical Inquiry into the Validity of International Borders with Respect to People *

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New York

Center for the Study of Human Rights Working Paper

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John Locke is deemed to be one of the early modern political philosophers most amenable to the right of relocation. That said, his seminal *The Second Treatise* is generally interpreted as a ringing endorsement of the right of revolution rather than the right of relocation. His stance on the right of relocation has not yet received adequate analytical treatment, although there are some contemporary works that devote attention to this aspect of his political project.¹

In this context, and in the light of the increasing importance of the ethical aspects of migration in the contemporary era, I expound a suitable, internally coherent Lockean theory of the right of relocation in this paper, based on a close scrutiny of Locke's political writings, especially *The Second Treatise*, sticking to the basic Lockean spirit but reinventing and reinterpreting some of Locke's ideas to tailor them to the post-agrarian scenario.² What can be suitably regarded as the best Lockean position with regard to the right of relocation when one strips Locke's worldview of its extraneous theistic overtones (i.e., when one takes *revelation* out of Locke's normative system and bases his normative system primarily on the *reason* component) and then interprets it in a post-agrarian scenario in a logically consistent fashion? This enquiry, in essence, forms the crux of this paper. This intellectual exercise is highly relevant in terms of making Locke's normative system (on this particular topic) relevant across ages, as Locke's writings are tinted with the theological framework and primarily pre-industrial context of his particular time and place.

¹ See, for example, A. J. Simmons, "'Denisons' and 'Aliens': Locke's Problem of Political Consent," in *Justification and Legitimacy: Essays on Rights and Obligations* (Cambridge, UK: Cambridge University Press, 2001), pp. 158-178; Hillel Steiner, "Libertarianism and the Transnational Migration of People," in Brian Barry and Robert E. Goodin, eds., *Free Movement: Ethical Issues in the Transnational Migration of People and of Money* (New York: Harvester Wheatsheaf, 1992), pp. 87-94.

² In this paper, to avoid confusion, I use the basic terminological template of reserving the possessive term *Locke's* to refer to the very theory held by the historical Locke (and related points) and using the adjective *Lockean* to refer to the theory that is in sync with the core of the logical framework of Locke's normative system, in a way somewhat similar to that used by Gopal Sreenivasan in his work. See Gopal Sreenivasan, *The Limits of Lockean Rights in Property* (Oxford, UK: Oxford University Press, 1995), pp. 4-6.

When one explores Locke's position on the right of relocation, two chapters from *The Second Treatise* particularly stand out as highly relevant: Chapter 5 ("Of Property") and Chapter 8 ("Of the Beginning of Political Societies"). In Chapter 5, Locke delineates the basic guidelines for the allotment of private property among various individuals in the state of nature; in Chapter 8, Locke primarily outlines the consensual character of individuals' citizenship in a political society. Given the special importance of these two chapters, I devote considerably high degrees of attention to them in this paper.

ALLOTMENT OF PRIVATE PROPERTY AND LOCKE'S PROVISOS:

NO SPOILAGE AND ENOUGH AND AS GOOD FOR OTHERS

From the seminal chapter on property (Chapter 5) in *The Second Treatise*, it is fairly obvious that property is essentially a natural, pre-political (rather than institutional) concept for Locke. Many scholars writing on Locke have pointed out that Locke endorses individuals' original appropriation of resources in the state of nature, provided two basic conditions are met: (I) the famous Lockean proviso of leaving enough and as good for others, and (II) the no spoilage condition.³

Locke subscribes to the notion of humankind's original common ownership of the earth but, having started from this fundamental premise, one of his main projects in *The Second Treatise* is to derive private property rights for the multitude from the condition of original community of resources in the state of nature. Here, it is pertinent to recall that Hugo Grotius and Samuel Pufendorf, Locke's illustrious seventeenth-century predecessors in the natural law and natural rights tradition, also start from the premise of the initial community of the earth's natural

³ See, for example, Sreenivasan, *Limits of Lockean Rights*, pp. 21-58; C. B. Macpherson, "Locke: The Political Theory of Appropriation," in *The Political Theory of Possessive Individualism: Hobbes to Locke* (Oxford, UK: Oxford University Press, 1962), pp. 194-262.

resources but rely on the notion of universal consent to derive private property rights from that premise. This consent theory of property, based on the idea of universal compact, comes under scathing attack from Sir Robert Filmer, who questions the very assumption of original community of resources in making his case for hereditary monarchy.⁴ In that regard, Locke's project of deriving private property rights from the premise of the initial community of the earth's resources seeks to counter Filmer's position by avoiding his intellectual forbears' reliance on universal consent.⁵ Locke's particular strategy behind the extraction of private property rights from the initial community of resources without using the discredited tool of universal consent takes up the bulk of Chapter 5.

How exactly does Locke derive private property rights from the original community of resources in the state of nature without resorting to good old universal express consent then? Here, it is essential to delve into the exact nature of the initial community of the earth's resources that Locke takes for granted. Locke's notion of initial common ownership is not equivalent to humanity's joint ownership of the earth (i.e., ownership directed by the owners' *collective* preferences); if Locke were to construe it as joint ownership, he would not be able to arrive at individual property from the initial community of resources without resorting to the owners' (i.e.,

⁴ See James Tully, *A Discourse on Property: John Locke and His Adversaries* (Cambridge, UK: Cambridge University Press, 1980), pp. 64-98. Also see Jeremy Waldron, *The Right to Private Property* (Oxford, UK: Clarendon Press, 1988), pp. 148-157; Stephen Buckle, *Natural Law and the Theory of Property: Grotius to Hume* (Oxford, UK: Clarendon Press, 1991), pp. 1-124, pp. 162-168.

⁵ It is evident in the first paragraph of Chapter 5 of *The Second Treatise*: "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 for 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 (Psalm 115.16), 'has given the earth to the children of men', given it to mankind in common. But this being supposed, it seems to some a very great difficulty how anyone should ever come to have a property in anything. I will not content myself to answer, that if it be difficult to make out property upon a supposition that God gave the world to Adam and his posterity in common, it is impossible that any man, but one universal monarch, should have any property upon a supposition that God gave the world to Adam and his heirs in succession, exclusive of all the rest of his posterity. But I shall endeavour to show how men might come to have a property in several parts of that which God gave to mankind in common, and that without any express compact of all the commoners." (II, 25) As it is a conventional practice to cite excerpts of Locke's *Two Treatises of Government* in terms of the number of the treatise, followed by the section/paragraph number, I also follow this tradition in this paper.

humankind's) universal consent. Here, Locke's notion of initial community of resources coincides, to a considerable extent, with the notion of common ownership used by Mathias Risse in the latter's differentiation between *common ownership* and *joint ownership*:

Common ownership is a right to use something that does not come with the right to exclude other co-owners from also using it. If the Boston Common were held as *common ownership* when it was used for cattle, a constraint on each person's use could be to bring no more than a certain number of cattle, a condition motivated by respect for other co-owners and the concern to avoid the infamous Tragedy of the Commons. Yet if they held the Common in *joint ownership*, each individual use would be subject to a decision process to be concluded to the satisfaction of each co-owner. Joint ownership ascribes to each co-owner property rights as extensive as rights of private ownership, except that others hold the same rights; each co-owner must be satisfied on each form of use.⁶

Locke understands the initial community of resources as entailing all human beings' inclusive natural rights in the earth's natural resources – i.e., the right not to be excluded from the use of the earth's natural resources. It is to derive certain degrees of exclusive right in – i.e., the right to exclude others from – shares of those natural resources in which all of humanity initially has inclusive rights that Locke has to employ his labor theory of property acquisition.⁷ As purely inclusive natural rights in the earth's natural resources would result in ownership rights reminiscent of a Hobbesian state of nature (in the sense that nobody would be under any duty to refrain from using resources that another person is/has been using as such), each individual's right to use the natural resources for his/her survival would not be complete without a logical transition from inclusive natural rights in the earth's natural resources to certain degrees of exclusive rights in portions of the earth's natural resources. In light of the fact that individuals possess distinct physical bodies, which need individual nourishment and care for survival, this transition from inclusive natural rights to certain degrees of exclusive rights is then dictated by

⁶ See Mathias Risse, "Common Ownership of the Earth as a Non-Parochial Standpoint: A Contingent Derivation of Human Rights," John F. Kennedy School of Government Faculty Research Working Paper Series RWP07-033 (July 2007), pp. 1-38, at p. 20.

⁷ For a rather detailed discussion of inclusive natural rights and exclusive rights, see Tully, *Discourse on Property*, pp. 53-79, pp. 95-130. Also see Sreenivasan, *Limits of Lockean Rights*, p. 30.

each individual's right of self-preservation (and each individual's correlative duty to respect other individuals' right of self-preservation):

God, who hath given the world to men in common, hath also given them reason to make use of it to the best advantage of life and convenience. The earth, and all that is therein, is given to men for the support and comfort of their being. And though all the fruits it naturally produces, and beasts it feeds, belong to mankind in common, as they are produced by the spontaneous hand of nature, and nobody has originally a private dominion, exclusive of the rest of mankind, in any of them, as they are thus in their natural state; yet, being given for the use of men, there must of necessity be a means to appropriate them some way or other before they can be of any use, or at all beneficial to any particular man. The fruit or venison which nourishes the wild Indian, who knows no enclosure, and is still a tenant in common, must be his, and so his (i.e. a part of him) that another can no longer have any right to it, before it can do him any good for the support of his life. (II, 26)⁸

Given this need for individuals' certain degrees of exclusive rights in portions of the earth's natural resources, the switch from the prior inclusive rights to exclusive rights is accomplished by employing the labor theory of property acquisition in conjunction with the two aforementioned provisos. In Locke's worldview, a person can acquire certain degrees of exclusive rights in portions of the earth's natural resources by investing his/her labor in them:

Though the earth and all inferior creatures be common to all men, yet every man has a property in his own person. This nobody has any right to but himself. The labour of his body, and the work of his hands, we may say, are properly his. Whatsoever, then, he removes out of the state that nature hath provided and left it in, he hath mixed his labour with, and joined to it something that is his own, and thereby makes it his own property. It being by him removed from the common state nature placed it in, it hath by this labour something annexed to it that excludes the common right of other men. For this labour being the unquestionable property of the labourer, no man but he can have a right to what that is once joined to, at least where there is enough and as good left in common for others. (II, 27)⁹

⁸ Here, it would be relevant to note that taking God out of this passage would not water down the important theme of each individual's right of self-preservation embedded in the passage. For each human being's right of self-preservation in the state of nature, also see II, 11.

⁹ In Chapter 5 of *The Second Treatise*, there are many other passages that underscore the labor theory of property acquisition. Here are some of the relevant excerpts from Chapter 5:

“ 'tis plain if the first gathering made them [acorns or apples a person has gathered/picked] not his, nothing else could. That labour put a distinction between them and common. That added something to them more than nature, the common mother of all, had done; and so they became his private right.... We see in commons, which remain so by

By investing one's labor in certain portions of the earth's common natural resources, a person takes them out of the great global commons, so to speak. How should one interpret this idea of investment of labor in certain portions of the earth's natural resources? Locke writes of *mixing* one's labor with the common natural resources to acquire them, but this phrase (*mixing* one's labor) covers a broad group of activities in Chapter 5, ranging from just the act of gathering apples from trees to the cultivation of land with the objective of producing food. While investment of one's labor in natural resources is included in all these activities, some activities included in this broad term can be construed as the production of new products using labor and the natural resources as the means of production (e.g., mixing one's labor with land to produce crops) though it would be quite a stretch of imagination to interpret some other activities

compact, that 'tis the taking any part of what is common, and removing it out of the state nature leaves it in, which begins the property; without which the common is of no use. And the taking of this or that part does not depend on the express consent of all the commoners. Thus the grass my horse has bit, the turfs my servant has cut, and the ore I have digged in any place where I have a right to them in common with others become my property, without the assignation or consent of anybody. The labour that was mine, removing them out of the common state they were in, hath fixed my property in them." (II, 28)

"Though the water running in the fountain be everyone's, yet who can doubt but that in the pitcher is his only who drew it out? His labour hath taken it out of the hands of nature, where it was common, and belonged equally to all her children, and hath thereby appropriated it to himself." (II, 29)

"Thus this law of reason makes the deer that Indian's who hath killed it; 'tis allowed to be his goods who hath bestowed his labour upon it, though before it was the common right of everyone. And amongst those who are counted the civilized part of mankind, who have made and multiplied positive laws to determine property, this original law of nature for the beginning of property in what was before common, still takes place; and by virtue thereof, what fish anyone catches in the ocean, that great and still remaining common of mankind, or what ambergris anyone takes up here is by the labour that removes it out of that common state nature left it in, made his property who takes that pains about it. And even amongst us, the hare that anyone is hunting is thought his who pursues her during the chase. For being a beast that is still looked upon as common, and no man's private possession, whoever has employed so much labour about any of that kind as to find and pursue her has thereby removed her from the state of nature, wherein she was common, and hath begun a property." (II, 30)

"But the chief matter of property being now not the fruits of the earth, and the beasts that subsist on it, but the earth itself, as that which takes in and carries with it all the rest, I think it is plain that property in that too is acquired as the former. As much land as a man tills, plants, improves, cultivates, and can use the product of, so much is his property. He by his labour does, as it were, enclose it from the common. Nor will it invalidate his right to say 'Everybody else has an equal title to it, and therefore he cannot appropriate, he cannot enclose, without the consent of all his fellow-commoners, all mankind.' "(II, 32)

"The law man was under [in the beginning and first peopling of the great common of the world] was rather *for* appropriating. God commanded, and his wants forced him, to labour. That was his property which could not be taken from him wherever he had fixed it. And hence, subduing or cultivating the earth and having dominion, we see are joined together. The one gave title to the other. So that God, by commanding to subdue, gave authority so far to appropriate. And the condition of human life, which requires labour and materials to work on, necessarily introduces private possessions." (II, 35)

subsumed in this umbrella term as making new products from the conjunction of labor and natural resources (e.g., plucking apples from trees).

Some scholars have interpreted Locke's labor theory of property acquisition as the *doctrine of maker's right* in the sense that Locke understands the investment of a person's labor in portions of hitherto common natural resources as conferring titles of property on resultant products because s/he makes new products by using his/her labor and those portions of hitherto natural common resources as the factors of production.¹⁰ However, this interpretation is very vulnerable to the aforementioned critique that many of Locke's examples of *mixing* labor with natural resources in Chapter 5 do not involve the use of labor and natural resources as raw materials for the creation of new materials as such.¹¹ After all, how different is an apple that is hanging from the branch of a tree in terms of its content from the same apple that a hunter-gatherer has just plucked from the tree and is about to bite?¹² Although James Tully posits that

¹⁰ See, for example, Sreenivasan, *Limits of Lockean Rights*, p. 5, pp. 59-92; Tully, *Discourse on Property*, pp. 35-38, p. 42, pp. 104-121.

¹¹ For a similar critique of the interpretation of *mixing* labor with natural resources as the *doctrine of maker's right*, see A. J. Simmons, "Makers' Rights," in *Justification and Legitimacy: Essays on Rights and Obligations* (Cambridge, UK: Cambridge University Press, 2001), pp. 249-270. It is indeed quite relevant to reproduce the following excerpt from that essay verbatim here:

"Locke's principal examples of the exclusive property in external goods that originates in labor are these: (1) acorns and apples (plums and nuts [II, 46], moss and leaves [II, 42]) 'gathered from the trees in the wood' (II, 26, 28, 31, 46), and timber cut in the wood (II, 43); (2) the grass my horse eats, turfs my servant cuts, and ore (iron, coal, stone, lime [II, 43]) I dig up (II, 28); (3) water drawn from a fountain (II, 29) or drunk from a river (II, 38); (4) deer killed (or animals caught or tamed [II, 37]), fish caught in the ocean, 'ambergriese' gathered from the water (II, 30); (5) land that is tilled, planted, improved, cultivated (II, 32, 37-38, 42-43); (6) bread, wine, cloth, bricks, masts, ropes that people make (II, 42-43); (7) shells, sparkling pebbles, diamonds that people pick up (II, 46).

Notice that (1), (2), (3), (4) and (7) – which includes *all* of the examples Locke uses in II, 26-31 to clarify his initial presentation of the labor theory of property acquisition – involve only gathering or catching things that are fully 'made' by nature/God. We establish exclusive properties for ourselves by gathering fruits, nuts, wood, or pebbles, by digging ore, by catching deer and fish. Locke's examples of agriculture, manufacture, and domestication of animals are all introduced *after* he has presented and given examples of the essentials of his theory. But there is simply no way that anyone (at least, anyone not in the grip of a theory) could take the activities of gathering and hunting to involve 'making' something new. The labor that grounds property *may* involve making for Locke, as when I make bread or grow a field of corn; but it plainly *need* not." See Simmons, "Makers' Rights," p. 265.

¹² While Sreenivasan admits that the *doctrine of maker's right* cannot account for Locke's conferral of property in "natural things prior to their entry in productive processes" to the appropriator of those things, he fudges the issue by dismissing it as "one which merely reflects a genuine difficulty in Locke's own account, one generated by his overly

the labor invested in gathering and hunting natural resources “transforms the earthly provisions provided *for* use into manmade objects *of* use,” such a position comes across as rather far-fetched, given the minimal kind of *making* involved in mere acts of appropriation such as gathering and hunting.¹³ A. J. Simmons’s critique of Tully’s position is quite apt in this regard:

I can establish a property in an acorn or in a sparkling pebble simply by picking it up with the intention of using it; but the “change” that I bring about in the object by moving it a few inches does not look like much of a “making.” And, of course, I can turn things into “objects of use” *without* making property in them, on Locke’s view: I can turn the North Star into an object of use by finding my way with it, or turn a tree into an object of use by moving into its shade. In neither case do I come to own the object. So the kind of “transformation” Tully describes to cover cases of gathering and hunting seems, in Locke’s own terms, neither necessary nor sufficient (even *within* the stated Lockean limits on takings) for property acquisition.¹⁴

Does the difficulty of placing Locke’s various examples of property acquisition in the state of nature within the confines of the *doctrine of maker’s right* then mean we should adhere to the literal interpretation of Locke’s labor theory of property acquisition that an individual, by laboring on an external object, irretrievably mixes an endowment s/he already owns (his/her own labor) with that external object and that act of mixing makes that individual’s appropriation of that particular external object legitimate? This literal interpretation has come under attack as well: for example, Jeremy Waldron notes that it does not make a whole lot of sense to talk of

extended application of the theory.” See Sreenivasan, *Limits of Lockean Rights*, p. 87, p. 88. However, as Simmons rightly notes, Sreenivasan’s dismissal of the issue is rather problematic, because a significant number of Locke’s examples in Chapter 5 fall under that category: “We are speaking of an interpretation that can make sense of *none* of the examples Locke initially uses to explain his theory, and only a minority of the examples he uses anywhere in chapter 5. And I, for one, do not share Sreenivasan’s opinion that Locke has plainly *overextended* his theory by trying to explain the baker’s property in the apples he has gathered (*before* he makes the apple pies) or the brewer’s property in the water he draws from the stream (*before* he begins to turn it into beer). These activities do plainly involve labor, and control over the objects of labor (i.e., that which is gathered) is clearly important to the viability of any subsequent production. These thus seem to me to be precisely the kinds of cases that a labor theory of property acquisition *should* be able to explain, but that it *cannot* explain on the workmanship model of such a theory.” See Simmons, “Makers’ Rights,” p. 266.

¹³ See Tully, *Discourse on Property*, p. 117. That said, it would be a different matter if one were talking about truly transforming the appropriated material(s) to something else by processing it (them), e.g., making apple pies from the gathered apples using the gatherer’s labor (and any other requisite raw materials) or making chunks of edible meat from a hunted deer using the hunter’s labor and any other requisite materials such as fire (or, say, sun’s heat), oil etc. (i.e., through the process of cooking or roasting or drying or any other requisite activity).

¹⁴ See Simmons, “Makers’ Rights,” pp. 265-266.

literally mixing labor with nature.¹⁵ Moreover, as Robert Nozick famously points out, it could be something of a puzzle why one would particularly own a thing instead of just losing one's labor when one mixes one's labor with that thing.¹⁶

Simmons furnishes a plausible reading of Locke's labor theory of property acquisition by interpreting the conventional labor-mixing thesis in a favorable light.¹⁷ He forwards the notion that Locke thinks of labor as "free, intentional, purposive action aimed at satisfying needs or supplying the conveniences of life" in the sense that mixing one's labor with an object is best construed as making purposive use of the object, i.e., *bringing the object within one's legitimate sphere of self-government by physically imposing one's plan for its useful employment upon it*.¹⁸ A firm idea of self-ownership – the notion that each individual has property in his/her person – undergirds this interpretation:

My labor "marks" the object ("removes it from the common") by thus usefully bringing it within the realistic sphere of my plans or projects. And this "marking" makes any use of the object by others (without my consent) a violation of my right to govern myself (within the bounds of morality) – what Locke calls my "natural freedom" or "natural liberty" (II, 22, 54, 191).¹⁹

As far as the issue of Nozick's puzzle is concerned, when an individual *mixes* his/her

¹⁵ See Waldron, *Right to Private Property*, pp. 184-188.

¹⁶ It is pertinent to reproduce Nozick's passage verbatim here: "Why does mixing one's labor with something make one owner of it? Perhaps because one owns one's labor, and so one comes to own a previously unowned thing that becomes permeated with what one owns. Ownership seeps over into the rest. But why isn't mixing what I own with what I don't own a way of losing what I own rather than a way of gaining what I don't? If I own a can of tomato juice and spill it in the sea so that its molecules (made radioactive, so I can check this) mingle evenly throughout the sea, do I thereby come to own the sea, or have I foolishly dissipated my tomato juice? Perhaps the idea, instead, is that laboring on something improves it and makes it more valuable; and anyone is entitled to own a thing whose value he has created... Why should one's entitlement extend to the whole object rather than just to the *added value* one's labor has produced?" See Robert Nozick, *Anarchy, State, and Utopia* (New York: Basic Books, 1974), pp. 174-175. Here, it has to be noted that Nozick operates within the logical realm of the concept of initial *no* ownership of natural resources rather than the concept of initial common ownership of natural resources, but there is no particular reason why his objection should be any less valid in the latter case than in the former.

¹⁷ See Simmons, "Makers' Rights," pp. 249-270.

¹⁸ *Ibid.*, p. 262. Also see Idem, *The Lockean Theory of Rights* (Princeton: Princeton University Press, 1992), pp. 271-277.

¹⁹ Simmons, "Makers' Rights," p. 262.

labor with a portion of natural resources, an individual would not lose his/her labor (instead of acquiring property in that portion of natural resources) in this interpretation because his/her labor extends his/her self into that portion instead of deserting him/her in this whole process of *mixing*:

Our labor extends our selves (that is, our legitimate spheres of self-government) into the natural world. Our purposive activities are inseparable from our selves. We come to own that part of what we labor on that is necessary to those activities (within the limits on property acquisition and retention set by the “Lockean provisos”). This typically includes the “object” on which we labor, and not just the value that we add to it, because adequate self-government and the living of a purposive existence typically require that sort of control over objects.²⁰

Simmons’s interpretation of the conventional labor-mixing thesis is persuasive because it addresses the key objections leveled against the literal interpretation of labor-mixing, besides evincing its capacity to accommodate within its broad umbrella *both* the appropriation of natural resources (prior to their entry into productive processes) from the global commons *and* the production of new materials resulting from the use of those natural resources as factors of production.²¹

However, subscription to Simmons’s interpretation of mixing labor with natural

²⁰ Ibid., p. 263.

²¹ Locke’s discussion of labor and property in Chapter 5 also has a value-addition component, displaying the rudiments of a labor theory of value. See II, 42, 43. Also see II, 36, 37, 40, 41. G. A. Cohen calls it the “value/appropriation” argument. As Cohen rightly points out, the “value/appropriation” argument and the labor mixture argument are two different arguments and should not be confused with each other, although Locke seems to employ both of them to boost the same *conclusion* – the legitimacy of private appropriation in the state of nature. See G.A. Cohen, “Marx and Locke on Land and Labour” in *Self-Ownership, Freedom, and Equality* (Cambridge, UK: Cambridge University Press, 1995), pp. 165-94, at pp. 176-177. Here, it is pertinent to note that the “value/appropriation” argument is vulnerable to Nozick’s critique regarding why adding value to an object should give rise to property in the whole thing instead of just the value-added component of the object. See fn 16 above. In that regard, it would be reasonable to subscribe to Karl Olivecrona’s interpretation that Locke brings the value-addition component to the fore in later parts of Chapter 5 not to justify initial appropriation of private property but to justify the inequality in the aftermath of original appropriation in the state of nature – the basic idea here is that labor (taken as a factor of production) adds the larger part of the value in the appropriated and improved portions of nature (as natural resources, left to themselves, are not of much value compared to those natural resources enhanced by labor) and thus different degrees of investment of labor (as a factor of production) can legitimately give rise to inequalities in property among different people. See Karl Olivecrona, “Locke’s Theory of Appropriation,” *Philosophical Quarterly*, Vol. 24, No. 96 (1974), pp. 220-234. Also see Cohen, “Marx and Locke,” pp. 177-178.

resources would still have to be supplemented with Locke's two provisos to complete the picture of the legitimacy of the original appropriation of the earth's natural resources. Surely, one wouldn't be allowed to *extend his/her sphere of self-government* into as much of the natural resources as s/he can if that extension of his/her sphere impairs other individuals' right of survival/self-preservation (and hence their right of self-government)?²² To make sure that each individual can realize his/her right of self-preservation, Locke introduces the proviso of leaving *enough and as good for others* in the course of the original appropriation of natural resources.²³ Moreover, an individual's *extension of his/her sphere of self-government* into more natural resources than s/he can employ for his/her use would be a waste of those extra resources s/he has appropriated. In that regard, Locke also introduces another proviso as a restriction on original appropriation in the state of nature: *no spoilage limitation*.²⁴ Here, it has to be noted that the exchange of appropriated resources for other goods and services would also count as useful employment of the appropriated resources to the extent that those goods and services would not

²² Here, it would be relevant to refer to a passage endorsing human beings' duty to respect other human beings' right of self-preservation in the state of nature: "The state of nature has a law of nature to govern it, which obliges everyone. And reason, which is that law, teaches all mankind who will but consult it that, being all equal and independent, no one ought to harm another in his life, health, liberty, or possessions....Everyone, as he is bound to preserve himself, and not to quit his station willfully, so by the like reason, when his own preservation comes not in competition, ought he, as much as he can, to preserve the rest of mankind, and may not, unless it be to do justice on an offender, take away or impair the life, or what tends to the preservation of the life, liberty, health, limb, or goods of another." (II, 6)

²³ Although Waldron interprets the *enough and as good for others* proviso as a sufficient condition, rather than a necessary condition, for the original appropriation of natural resources, his interpretation has already been convincingly refuted by Sreenivasan. There is enough material in *The Second Treatise* to support the notion that Locke envisaged this proviso as a necessary condition for appropriation. See II, 27, 31, 33-37; Sreenivasan, *Limits of Lockean Rights*, pp. 34-35, pp. 37-41. Also see Waldron, *Right to Private Property*, pp. 209-218; Idem, "Enough and As Good Left for Others," *The Philosophical Quarterly*, Vol. 29, No. 117 (Oct. 1979), pp. 319-328.

²⁴ It is pertinent to reproduce Locke's statement of the *no spoilage* proviso verbatim here: "It will perhaps be objected to this [i.e., the labor theory of property acquisition] that if gathering the acorns, or other fruits of the earth, etc. makes a right to them, then anyone may engross as much as he will. To which I answer: Not so. The same law of nature that does by this means give us property, does also bound that property too. 'God has given us all things richly' (I Tim. 6.17) is the voice of reason confirmed by inspiration. But how far has given it us? To enjoy. As much as anyone can make use of to any advantage of life before it spoils, so much he may by his labour fix a property in. Whatever is beyond this, is more than his share, and belongs to others. Nothing was made by God for man to spoil or destroy. And thus, considering the plenty of natural provisions there was a long time in the world, and the few spenders, and to how small a part of that provision the industry of one man could extend itself, and engross it to the prejudice of others; especially keeping within the bounds, set by reason, of what might serve for his use; there could be then little room for quarrels or contentions about property so established." (II, 31)

perish soon, but large-scale exchanges of goods and services would be absent prior to the introduction of money in the state of nature.

The introduction of money in the state of nature, in effect, nullifies the *no spoilage limitation* by making large-scale exchange possible, and hence expanding the realm of the use of resources (as exchange of one's extra resources with some other goods and services would also count as useful employment of those resources).²⁵ In that regard, money is supposed to temporally bifurcate the state of nature into the *age of abundance* and the *age of scarcity*.²⁶ In the light of the notion that it is in the *age of abundance* that money is introduced in the state of nature, it is pertinent here to wonder why exactly people in the age of abundance would (expressly or tacitly) agree to the introduction of money and usher in the *age of scarcity*. In Locke's worldview, the introduction of money is a part of the rational development of human civilization in the state of nature; in other words, the introduction of money in the state of nature is dictated by *reason*.²⁷ He emphasizes the inevitability of this development (II, 49), noting that it is essentially only the possible unavailability of any uncommon (hence valuable) and imperishable good that could delay the introduction of money in the state of nature (II, 48).²⁸

²⁵ See II, 46-47.

²⁶ See Olivecrona, "Locke's Theory of Appropriation," p. 220. Olivecrona uses these labels to refer to the availability of land (or natural resources).

²⁷ Needless to say, the advancement of human civilization (in the broad sense of the term "civilization") is possible even in Locke's state of nature. The introduction of money itself does not engender the transformation from the state of nature to civil society; it is only the formation of *political associations* through individuals' voluntary consent that marks the transition from state of nature to civil society. Commercial activities are indeed possible in Locke's state of nature (i.e., even before the transition to civil society). One need look no further than II, 6 for this: "... 'tis not every compact that puts an end to the state of nature between men, but only this one of agreeing together mutually to enter into one community, and make one body politic; The promises and bargains for truck etc. between the two men in the desert island mentioned by Garcilaso de la Vega, in his history of Peru, or between a Swiss and an Indian in the woods of America, are binding to them, though they are perfectly in a state of nature, in reference to one another. For truth and keeping of faith belongs to men as men, and not as members of society."

²⁸ Here it would be relevant to reproduce relevant portions of II, 48 and II, 49 verbatim:

"And as different degrees of industry were apt to give men possessions in different proportions, so this invention of money gave them the opportunity to continue and enlarge them. For supposing an island separate from all possible commerce with the rest of the world, wherein there were but a hundred families, but there were sheep, horses, and cows, with other useful animals, wholesome fruits, and land enough for corn for a hundred thousand times as many,

However, he does not exactly spell out the most plausible version of the deep Lockean rationale behind the introduction of money in the condition of plenty. The deep Lockean rationale would have to be spelled out along the following lines: in the basic Lockean scheme, every individual has a right of self-preservation. Although there are plenty of natural resources for everybody in the *age of abundance*, those natural resources do not constitute the whole gamut of goods and services essential for individuals' self-preservation. In the *age of abundance*, nature in its unimproved form can provide the food needed for every individual's self-preservation; each individual can also produce rudimentary forms of shelter and clothes by working (alone or with others) on the improvement of natural resources towards that end. However, each individual would want to preserve his/her life for as long as possible and hence would want to have access to appropriate provisions against old age, illness and natural adversities and calamities. S/he would want to have access to the means of preventing rapid aging and curing (and preventing) illnesses; s/he would want to have access to clothes warmer than the crude ones made out of leaves and other natural resources to protect him/her from inclement weather; s/he would like to have dam-like structures on the banks of the river near his/her residential area to prevent flooding in the future; s/he would like to have access to houses more robust than the crude ones built out of tree-branches, leaves and other rudimentary elements of nature in order to prevent strong gusts of wind from damaging his/her houses; s/he would like to have access to strong weapons as well as strong fences surrounding his/her area of residence to protect himself/herself from carnivorous animals. The basic theme behind these examples is that there are many natural

but nothing in the island, either because of its commonness, or perishableness, fit to supply the place of money: what reason could anyone have there to enlarge his possessions beyond the use of his family, and a plentiful supply to its consumption, either in what their own industry produced or they could barter for like perishable, useful commodities with others? Where there is not something both lasting and scarce, and so valuable to be hoarded up, there men will not be apt to enlarge their possessions of land, were it never so rich, never so free for them to take." (II, 48)
"Thus in the beginning all the world was America, and more so than that is now, for no such thing as money was anywhere known. Find out something that hath the use and value of money amongst his neighbours, you shall see the same man will begin presently to enlarge his possessions." (II, 49)

forces of destruction in operation and there would always be strong demands for better provisions against natural forces of destruction – and hence demands for better technologies – in the state of nature, the abundance of natural bounty notwithstanding.²⁹ Given the bounty of natural resources, then, there would be incentives for various individuals in the *age of abundance* to engage in the production of better technologies that can contribute to the prolonged preservation of human lives. Various individuals, as rational beings, would engage in the accumulation of knowledge/skill-sets (including some forms of engineering and medical care skills) needed to produce better technologies that can combat the natural forces of destruction more effectively. Then, even in a self-contained island with a huge amount of natural resources and small number of people, people would specialize in producing various different products and services essential for the preservation of life and exchange those goods and services with each other, using durable and not-very-common items as money. Thus, it is not surprising at all that Locke envisions people in the state of nature as (expressly or tacitly) consenting to the use of money.

Apparently, the crucial role of money in effecting the transition from the *age of abundance* to the *age of scarcity* in the state of nature lies in the fact that money facilitates large-scale exchanges of goods and services and any human being would want to have as much access to goods and services useful for self-preservation as possible to increase his/her chances of survival. When large-scale exchange of goods and services is possible, each individual would want to enlarge his/her appropriation of natural resources to the maximum extent possible so that s/he can exchange the surplus natural resources within the realm of his/her appropriation or the products coming out of the mixture of those surplus natural resources with other factors of

²⁹ Of course, there would also be needs for better provisions against possible human forces of destruction, resulting in the ultimate graduation from life in the state of nature to the formation of *political* associations.

production (such as labor or capital) for a variety of goods and services that contribute to the maximization of his/her chances of self-preservation. However, it has to be noted that within the fundamental Lockean system, the introduction of money alone cannot accomplish the task of turning the *age of abundance* into the *age of scarcity* in the state of nature; an account of population explosion or/and the deterioration of natural resources (i.e., decrease in the overall man-to-natural resources ratio, in each of these two cases) would have to supplement the introduction of money to accomplish that transformation. This is because while the possibility of large-scale exchange in the aftermath of the introduction of money essentially nullifies the *no spoilage* proviso, the *enough and as good* proviso remains intact even in the aftermath of the introduction of money – after all, *every* individual, not just the individual who happens to be among the people who first get the chances to appropriate natural resources, has the right of self-preservation.

Some scholars have interpreted Locke as arguing that the *enough and as good* limitation is applicable only in terms of access to the total means of production, not to the earth's natural resources *per se*. According to that interpretation, as long as the first takers of natural resources provide the latecomers access to the appropriated surplus natural resources to apply their (i.e., the latecomers') endowments – i.e., labor, or/and, one would think, capital goods (some sorts of machines) – to those surplus natural resources in order to produce goods and services needed for self-preservation, Locke holds the first takers' *unlimited* appropriation of natural resources in the aftermath of the introduction of money to be legitimate, assuming that the number of people who could be preserved by a given unit of natural resources lying in common would be less than the number of people who could be preserved by that unit of natural resources subsequent to its appropriation (as evident in II, 40-43). The latecomers who cannot appropriate any natural

resources (as there would be none left for appropriation in the event of the possibility of unlimited appropriation) can sell their wage-labor to those who have surplus natural resources to earn their means of subsistence (by being paid directly in terms of meat, drinks and whatnot, or money which enables them to purchase meat, drinks and whatnot) and those who have natural resources would be duty-bound to employ the latecomers to let them earn their means of subsistence for self-preservation.³⁰ In support of this interpretation, it could be pointed out that, in II, 50, Locke explicitly endorses unequal appropriation of natural resources in the aftermath of the introduction of money in the state of nature.³¹

However, I submit that Locke's statement about allowing unequal appropriation of the earth in the aftermath of the introduction of money in II, 50 should not be interpreted as

³⁰ See Sreenivasan, *Limits of Lockean Rights*, pp. 51-58; Macpherson, "Locke: The Political Theory of Appropriation," pp. 213-214. Some have even interpreted the Lockean right of self-preservation to imply the notion of everybody's guaranteed access to the requisite final goods and services that individuals consume for subsistence (meat, drinks and whatnot), regardless of working for the production of those goods and services or other goods and services that would be exchanged for them. See, for example, Richard Ashcraft, *Locke's Two Treatises of Government* (London: Allen and Unwin, 1987), p. 127. However, there are many passages in Locke's political writings that discredit this notion of right to charity for able-bodied folks (although Locke does endorse charity for disabled needy folks). In the Lockean worldview, one's application of his/her labor to the external world is his/her title to the means of self-preservation. Take, for example, the following passages:

"He [God] gave it [the world] to use of the industrious and rational (and labour was to be his title to it); not to the fancy or covetousness of the quarrelsome and contentious." (II, 34)

"Charity gives every Man a Title to so much out of another's Plenty, as will keep him from extream want, where he has no means to subsist otherwise." (I, 42)

"God sets him [Adam] to work for his living, and seems rather to give him a spade into his hand, to subdue the earth, than a scepter, to rule over its inhabitants. 'In the sweat of thy face thou shalt eat thy bread,' says God to him (verse 19). This was unavoidable, may it perhaps be answered, because he was yet without subjects, and had no body to work for him, but afterwards, living as he did above 900 years, he might have people enough, whom he might command to work for him; no, says God, not only whilst thou art without other help, save thy wife, but as long as thou livest, shalt thou live by thy labour." (I, 45)

"This, rightly considered, shows us what is the true and proper relief of the poor: it consists in finding work for them, and taking care that they do not live like drones upon the labour of others." See John Locke, "Draft of a Representation Containing a Scheme of Methods for the Employment of the Poor. Proposed by Mr Locke, the 26th October 1697" in David Wooton, ed., *John Locke: Political Writings* (Indianapolis: Hackett, 1993), pp. 446-461, at p. 452.

³¹ It is pertinent to reproduce the relevant excerpt from II, 50 here: "...it is plain that men have agreed to disproportionate and unequal possession of the earth, they having by a tacit and voluntary consent found out a way how a man may fairly possess more land than he himself can use of the product, by receiving in exchange for the overplus gold and silver, which may be hoarded up without injury to anyone, these metals not spoiling or decaying in the hands of the possessor. This partage of things in an inequality of private possessions, men have made practicable out of the bounds of society, and without compact, only by putting a value on gold and silver and tacitly agreeing in the use of money."

endorsing *unlimited* appropriation without any regard to other individuals' access to natural resources. This is because, first, Locke nowhere mentions explicitly that the *enough and as good* proviso is superseded by the introduction of money. Second, it has to be noted that the overplus in the above excerpt refers to *the product of the land, not the land itself*; in that sense, one could plausibly interpret the above excerpt as meaning that a person who appropriates vast amounts of land (i.e., more land than s/he himself/herself can *use of the product*) could exchange the surplus product of the appropriated land for money. In the Lockean scheme, even in the aftermath of the introduction of money, a person could not simply lay claim on a vast territory in the great global commons, saying *this vast tract of land from point A to point B is mine* and then sell a significant portion of that land (say, surplus land) for money immediately after that. As noted earlier in this paper, a person in the Lockean state of nature acquires property in external resources through free, intentional, *purposive action* aimed at satisfying needs or supplying the conveniences of life, and to acquire property in a vast tract of land, s/he would have to impose his/her physical action on the whole tract of land; i.e., s/he would have to work on utilizing the land in some way (using his/her own energy, or a capital good/machine s/he possesses or rents from somebody else for that purpose, or other people's wage-labor s/he purchases for that purpose) before being able to exchange the land's surplus products for money. In that light, Locke's stance on the possibility of unequal division of the earth's natural resources in the aftermath of the introduction of money in the state of nature should be understood as follows: everybody has a right to minimal shares of the earth's natural resources needed for the production of the most basic items needed for his/her subsistence (such as elementary food, drinks and rudimentary shelter) on his/her own, as these minimal shares provide each individual a degree of self-sufficiency and hence the capability of basic self-government. However, as social co-operation and a certain degree of social division of

labor are parts of Locke's state of nature, some people would focus on activities that primarily use land and labor as factors of production, (e.g., the production of food beyond what is needed for their own subsistence); some would focus on activities that need considerably less land than those activities, such as the development and refinement of some sort of human capital (e.g., expertise in some sorts of medical care). In that regard, Locke's position should be construed as meaning that those who want to engage in commercial agriculture should be allowed to appropriate more land than that needed for their own basic subsistence in the aftermath of the introduction of money as their engagement in commercial agriculture essentially only serves to enrich the lives of the whole humanity further, just like the practitioners of medical care end up enriching the lives of the whole humanity further. However, if all the folks want to engage in productive activities that primarily make use of land and natural resources, they should have access to the needed amount of land and natural resources too. As Locke's state of nature is not replete with advanced machineries that can be used to process vast amounts of land and natural resources (such as the kinds of very efficient machines used in cotton plantations in rich countries in today's world) in the process of production, the primary way land and natural resources could be used for large-scale commercial production would be through the use of wage-labor.³² In that regard, even if all the people in the state of nature want to engage in productive activities that primarily make use of land and natural resources rather than focusing

³² In II, 43, Locke mentions some machineries (capital goods) such as oven and ship but it is in the context of his comparison between the British and native American living standards of his time that he uses them to convey that a large amount of labor (obvious labor in the form of the ploughman's pains, the reaper's toil, etc., as well as labor stored in the form of capital goods, such as oven) goes into the production of food that comes out of the cultivated land (in Britain of his era).

It is quite obvious that Locke accepts the possibility of the existence of wage-labor in the state of nature. Take the following excerpts for example: "...the grass my horse has bit, the turfs my servant has cut, and the ore I have digged in any place where I have a right to them in common with others becomes my property, without the assignation or consent of anybody." (II, 28)

on other productive activities, the *age of abundance* would not be transformed into the *age of scarcity* without population explosion or/and some kind of deterioration of land /natural resources. If all the people want to engage in productive activities that primarily make use of land and natural resources in the aftermath of the introduction of money, the land and natural resources would have to be apportioned into fair (i.e., roughly equal) shares between them. Until the man-to-natural resources ratio increases significantly, even in that scenario, *the age of abundance* would still not turn into *the age of scarcity* unless advances in technology are so huge that a small number of very efficient/advanced capital goods can be used to process land and natural resources into more valuable products, i.e., unless there is possibility for activities such as capital-intensive farming, capital-intensive logging, etc. (instead of labor-intensive farming, labor-intensive logging, etc.) due to remarkable advances in technology.

I also submit that a suitable Lockean stance would take population explosion as an inevitable development in the state of nature. As Locke subscribes to a rudimentary form of labor theory of value, his worldview is in sync with the notion that capital is essentially a form of stored labor. Then the likelihood of large advances in the formation of capital goods preceding the increase in population from a small threshold is not very significant. In that regard, given the original bounty in the state of nature and the small man-to-natural resources ratio, every individual would want to have an increase in the population within his/her realm of accessibility (the expanse of the realm of accessibility, of course, contingent upon the ease of transportation and communication) to a certain extent, because the variety and quality of goods and services available to him/her would then be likely to increase with the corresponding increase in the

“By making an explicit consent of every commoner necessary to anyone’s appropriating to himself any part of what is given in common, children or servants could not cut the meat which their father or master had provided for them in common, without assigning to everyone his peculiar part.” (II, 29)
Also see II, 85 for Locke’s acknowledgement of wage-labor in the pre-civil society stage.

number of individuals who can specialize in various activities. Moreover, with increase in population, she could get assistance from others in putting the surplus land into productive use. Locke clearly notes that, in the state of nature, “*numbers of men are to be preferred to largeness of dominions*” (II, 42), because human beings’ work accounts for the greater value of the final product than do natural resources. In the state of nature, the population explosion would take place as the earth’s each generation of inhabitants would produce more people to utilize the earth’s natural resources up to a certain point.

How would the increase in population impact the distribution of natural resources in the *Lockean* state of nature? If those already in existence have already parceled out all the earth’s natural resources among themselves, they (or their inheritors) would have to downsize their hitherto legitimate holdings to provide fair shares to the latecomers/newcomers.³³

³³ It is pertinent to reproduce Simmons’s following example that sheds light on this kind of scenario here: “Property claims that were once perfectly legitimate may cease to be so with decreases in the pool of resources or increases in the number of persons needing to draw on those resources. Thus, even Nozick allows that his Lockean Proviso applies to holding as well as to taking goods. If I legitimately appropriate a desert water hole, and all the other water holes subsequently dry up, the content of my rights over the water hole changes with the changed circumstances. I can no longer charge whatever I wish for the water. Nor does my legitimate appropriation of a desert island permit me to later deny a new castaway access to the island’s meager resources. No historical rights theory can be even remotely plausible unless it incorporates some version of a Lockean Proviso for takings and holdings – that is, unless it limits historical rights by some reasonable requirement that we leave “enough and as good” in common for others. I take the appropriate Lockean position on this issue to be something like the following. Persons have rights of fair access to available land and natural resources. These rights are opportunity rights, not rights of property in a fair share of the earth. Property rights in the earth and its resources are acquired by the incorporation of things (falling within our share) into our legitimate purposive activities. But changes in circumstances may change what constitutes a fair share. Thus, both access (opportunity) rights and property rights may change in their extent or content as circumstances change. In the Nozickean example, simply imagine eight castaways, each of whom has an access right to one-eighth of the island’s land and resources. Each of the eight takes property in his or her full fair share. But children, grandchildren, and additional castaways increase the population without any corresponding increase in land or resources. The original eight must then “downsize” their previously legitimate holdings, giving the new population fair access to their shares of the island. If the original owners refuse to yield, those of their holdings that exceed their fair shares may be justifiably seized by those who have rights of access (that is, seized by incorporating that surplus into their legitimate projects)...the point to notice here is that the mandatory downsizing creates for the original owners of the island an historical right to a share of their original holdings. And again it is a right to what I called a “particularized share.” It is neither a right to just any fair share of the whole island nor a right to a particular piece of land or property. It is rather a right to some appropriate share of the specific original just holdings of that original castaway. ...first, the idea of a fair share used in this account is motivated not by the need to insure some pattern of holdings, but by the requirement that our appropriations and holdings not harm or unfairly

If every individual has rights to certain shares of natural resources even after the increase in population (unlike the scenario in Sreenivasan's interpretation of Locke, which allows for the presence of landless individuals in the state of nature after the introduction of money), why then would anybody want to sell his/her wage-labor to somebody else in the state of nature instead of working on his/her share of natural resources? This is an important question but not one that lacks appropriate answers. For example, some folks might sell their wage-labor to other landowners because the latter have come up with better institutions – say, resulting from better management skills or the application of some kinds of engineering devices – than the former in terms of utilizing equal units of natural resources, resulting in greater productivity from equal units of natural resources and hence the former's hours of work in those advanced landowners' land/natural resources under their instructions or within the context of their infrastructure could fetch the former greater amounts of goods and services in the form of wages than if they had applied the same hours of work on their own share of natural resources. Another case could be that a person might spend his/her fair share of natural resources after buying some rather expensive goods and services (e.g., medical care) or might simply gamble his/her fair share of resources away and then consequently have to depend on wage-labor to earn his/her means of subsistence.

Here, it has to be noted that although Sreenivasan interprets Locke himself as not

disadvantage others. Second, the idea of a fair division, on this model, is issued only in determining rights of access to land or resources. Actual property rights continue on this account to be based in the actual history of acquisitions and transfers, not in the desirability of achieving any favored pattern of distribution of property rights. While rights of fair access limit the possible scope of property rights, they do not determine the content of those rights or the relative sizes of individuals' shares of property. Who owns what (if anything) within his or her fair shares is determined by what has actually taken place, by the specific history of actions and transactions." See A. J. Simmons, "Historical Rights and Fair Shares," in *Justification and Legitimacy*, pp. 222-248, at pp. 233-235. For a similar stance regarding fair shares in natural resources, also see David Lyons, "The New Indian Claims and Original Rights to Land" in Jeffrey Paul, ed., *Reading Nozick: Essays on Anarchy, State, and Utopia* (Totowa, NJ: Rowman & Littlefield, 1981), pp. 355-379. A key difference between Lyons's and Simmons's positions is that Lyons mainly argues for fair shares while Simmons presses for *particularized* fair shares.

advocating the early appropriators' mandatory downsizing of their holdings of land (natural resources) to allow the latecomers fair shares in the event of the scarcity of land (natural resources), he takes the appropriate *Lockean* stance – and his own stance – in this regard to be roughly along the lines of Simmons's position above.³⁴

³⁴ Sreenivasan uses the terms “greatest universalisable share” and “universal share” instead of “fair shares”. See Sreenivasan, *Limits of Lockean Rights*, pp. 117-118. Hillel Steiner also understands the appropriate Lockean stance on this matter to be roughly similar to Simmons's and Sreenivasan's positions in the sense that he endorses each individual's right to an equal share of the basic non-human means of production. See Hillel Steiner, “The Natural Right to the Means of Production,” *The Philosophical Quarterly*, Vol. 27, No. 106 (Jan. 1977), pp. 41-49. In arguing for his position, Sreenivasan first identifies key differences between the position of commoners in the initial scheme of common ownership of the earth and the position of landless commoners under land scarcity in what he deems to be Locke's own stance: “In one sense [of Hohfeld's ‘entitlement’ or ‘right’], one is entitled to something if one has a *claim-right* to it, that is, if everyone else has a duty to refrain from interfering in one's enjoyment of it. In the other sense, one is entitled to something if one has a *liberty* – or, is at liberty – to enjoy it, that is, if no one else has a claim-right to interfere in one's enjoyment of it....Locke fails to recognize two salient differences between the position of commoners generally under common ownership and the position of landless commoners under land scarcity that justify the complaints of the latter. The first difference is that unlike landless commoners, commoners were generally *at liberty* to enjoy the fruits of the full potential of their labour. In other words, commoners were formerly at liberty to produce not merely their subsistence but a surplus. Moreover, they had a claim-right to keep whatever surplus they managed to produce, subject to the limits of natural property....This manifestly is *not* the position of landless commoners under land scarcity, for their standard of living is further constrained by an external limit set by the minimum measure of subsistence. A right of employment entitles them (in either sense) to no more than this. Landless commoners are not at liberty even to produce a surplus, since their access to the necessary materials depends on the permission of the landowners. Furthermore, where they are permitted to produce a surplus, not only do landless commoners have no claim-right to keep most, or perhaps even any, of the surplus they produce, but they are not at liberty to keep it either. The benefit of labour's abundance – which Locke so celebrates – is therefore placed at the exclusive disposal of the landowners. The second difference is that under common ownership the access to the common materials enjoyed by commoners generally is the same for each commoner. That is, they all enjoy *equal* access, whereas the access to those materials enjoyed by any and every landless commoner is, *ex hypothesi*, radically unequal to that enjoyed by any and every landowner...” See Sreenivasan, *Limits of Lockean Rights*, pp. 113-115. [Footnotes in the text have been omitted.] He then uses the identification of these crucial differences as an appropriate background to furnish an argument for limiting individuals' property in land (natural resources) to the *greatest universalizable share*: “In a Lockean context, a sufficiency condition will be adequate if and only if it conserves for each commoner the access to the materials of the earth to which he was originally entitled....In a Lockean state of nature, the sufficiency condition would be satisfied by a regime of Lockean property in land in which each able-bodied commoner had a claim-right to a share of land equal to that of every other able-bodied commoner....Naturally, the realisation of this prior inclusive right in actual Lockean ownership of a particular plot of land would depend on labour on the part of each able-bodied commoner. Under such a form of Lockean property, each commoner would evidently have sufficient access to the materials necessary to produce the means of subsistence. Significantly, each commoner would be at liberty to enjoy the fruits of the full potential of her labour: the benefit of labour's abundance would be at everyone's disposal....What is important to recognise here is that the legitimacy of this form of Lockean property does not turn on any actual or hypothetical initial equal division of land....It rests rather on the inclusive claim-right which entitles each commoner to an equal share of land. This right limits the *de jure* property which any commoner has in her *de facto* holdings to a share which is consistent with every commoner's having the same share. We might say that it limits property in land to the greatest universalisable share. Thus, in principle, the appropriation of land by individual commoners can proceed piecemeal as described by Locke, except that the Lockean property that appropriators thereby acquire is subject to the further condition that the size of the original holding is open to modification should it subsequently prove not to be universalisable.

My own stance on the distribution of land/natural resources in the *Lockean* state of nature in the age of scarcity is, for the most part, similar to Simmons's and Sreenivasan's *Lockean* positions reproduced above, but I make an important additional point, which becomes even more salient when the theoretical discussion graduates from the scenario of the state of nature to the scenario of a world parceled into several territorial states, especially in the post-agrarian age. I agree with Simmons and Sreenivasan that, in terms of ideal theory, land (natural resources) in the state of nature should generally be allotted proportionately to various individuals in line with the principle of fair shares in the age of scarcity. Given individuals' likelihood of attachment to particular plots of land within the realms of their appropriation, I am also particularly sympathetic to the notion of *particularized* fair shares, not just to the idea of any random allotment of fair shares. To the idea of allotment of fair shares of land (natural resources), I add this: any individual ought to have the right to pass to another's land and peacefully access the institutions operational in the latter's land to produce greater surplus for himself/herself by conjoining his/her endowments with those institutions if those institutions are better than the institutions s/he has been able to devise in his/her own land (i.e., his/her external realm of self-government) to the extent that the conjunction of his/her endowments with the better institutions in the other person's land (i.e., that person's external realm of self-government) does not impair those institutions. This right, I argue, is rooted in each individual's Lockean right of self-preservation as well as the particular character of the Lockean state of nature. While the notion of fair shares of natural resources for all individuals can broadly serve as a rough guarantee of every able-bodied person's right of access to the most basic items of subsistence (basic food,

Commoners who happen to find themselves without land in a context of land scarcity therefore have an enforceable claim to be accommodated out of the definitionally surplus land-holdings of other commoners by just such a modification." See *Ibid.*, pp. 115-117. [Footnotes in the text have been omitted.]

basic shelter, basic clothes, etc.), the notion of all individuals' right of self-preservation for as long as possible requires access to many other goods and services and hence there is essentially a need for each individual to have surplus products that s/he can sell in the market to buy those goods and services needed to prolong – and maximize his/her chances of – his/her survival (e.g., medical care, access to preventive devices that can avert, or protect oneself from, accidents and calamities, etc.). In light of the presence of multiple natural forces that can endanger one's survival, each individual has the broadest possible right to the amount of surplus than can be achieved without injuring other individuals. Second, the Lockean state of nature is essentially a peaceful condition, not a Hobbesian state of war of all against all; there is considerable social co-operation, including commerce, embedded in the Lockean state of nature. In the absence of that environment of considerable social co-operation, those who manage to come up with better institutions in their lands (their external realms of self-government) would most probably not have been able to develop those institutions as their lives themselves would have been constantly at risk and fending attacks from other individuals would have consumed most of their time and resources instead of being able to devote their time and resources to the development of those institutions. Thus, one could also legitimately conceive of other amicable folks' right to access better institutions in a person's land without impairing them as the premium for those other folks' social co-operation in a broad sense. What is more, institutions are essentially concrete forms of accumulated expertise (human capital) and the use of the accumulated expertise by others does not generally lessen the accumulated expertise.

TERRITORIAL STATES AND THE LOCKEAN RIGHT OF RELOCATION:

CONTRACT, CONSENT AND THE RIGHT TO GOOD, DESIRABLE INSTITUTIONS

Locke explicitly states that civil/political societies, or commonwealths, are formed when a group of individuals contract with each other to unite into a single body politic by surrendering their personal executive rights in the state of nature to that body politic.³⁵ While joining a civil/political society, an individual also annexes his/her material property or estate (including the land and other natural resources in his/her share) in the state of nature to the civil/political society because it is essentially for the preservation of his/her material property, along with his/her life and liberty, that s/he enters into the civil/political society.³⁶

In Locke's framework, the private plots of land each of the new citizens has in his/her share in the state of nature before entering into a commonwealth are pooled together to form that commonwealth's territory. Lockean states' territories are thus essentially derived from private property in the state of nature.³⁷ Here, it has to be noted that this process of formation of states' territories by pooling together each citizen's share of land in the state of nature can give rise to non-contiguous territories. This is because, in the state of nature, a person who has land in between the lands of those who unite into a political society might not want to join that political society, and, in Locke's worldview, s/he cannot be coerced to join that political society as a person's voluntary consent is essential for his/her entry into any political society. Following Hillel Steiner's minimal Lockean standard of contiguity, it could be plausibly stated that a commonwealth can be taken as having a contiguous territory as long as an unbroken line (of any shape) that connects any two points in that commonwealth's territory need not traverse any

³⁵ See II, 87-89, 95.

³⁶ See II, 120.

³⁷ For a similar interpretation of Locke's theory of territory, see A. J. Simmons, "On the Territorial Rights of States," *Philosophical Issues: Social, Political and Legal Philosophy*, Vol. 11 (2001), pp. 300-326; Hillel Steiner, "May Lockean Doughnuts Have Holes? The Geometry of Territorial Jurisdiction: A Response to Nine," *Political Studies*, Vol. 56, No. 4 (December 2008), pp. 949-956; Idem, "Territorial Justice," in Percy B. Lehning, ed., *Theories of Secession* (London: Routledge, 1998), pp. 60-72.

foreign territory.³⁸ It is important for a commonwealth's territory to fulfill this minimal standard of contiguity because the commonwealth's state apparatus ought to be able to enforce its notion of justice in its territory. To do so, the state ought to have the monopoly of violence in its entire territory, hence the need for the unhindered access of the state's security forces (and bureaucratic apparatus) to any part of its territory.

That still leaves the following question intact: in the process of the transition from the state of nature to the political/civil societies, what would happen if the lands of a political society's members and the lands of some folks who are not that particular political society's members are distributed in the state of nature in such a way that even Steiner's minimal Lockean standard of contiguity cannot be satisfied? In other words, what would be the appropriate Lockean solution to a tricky scenario in which the territory of another political society or the private land(s) of a person (or a group of persons) refusing to join any political society separates two or more portions of a political society's territory? In the appropriate Lockean scheme, this scenario would not be as tricky as it might, *prima facie*, seem to be. That is because, first, as noted in the preceding pages, all individuals have rights to particularized fair shares of land/natural resources in the state of nature. Even if some minimal plots from the lands of those entities standing in the way of the fulfillment of Steiner's minimal Lockean standard of the contiguity of a certain political society's territory were to be exchanged for some parts of the political society's territory with equal value, those entities would still retain particularized fair shares (as the larger portions of their previous lands would be intact and they would get the equivalent of the minimal plots of the land ceded to that political society). Thus such a minimal exchange designed towards fulfilling Steiner's minimal Lockean standard of contiguity for any

³⁸ See Steiner, "May Lockean Doughnuts Have Holes?" p. 954.

particular political society's territory would not *injure the freedom of the rest* as such. Second, as the Lockean state of nature is essentially a peaceful condition (and different political societies are in a state of nature with each other as well as with those individuals unaffiliated to any particular political society), it is reasonable to assume that the entities involved in this scenario would be amenable to the basic idea of exchanging their lands with each other to ensure the fulfillment of Steiner's minimal Lockean standard of contiguity. Locke himself quite clearly hints so in II, 38 and II, 45.³⁹

If some portions of the earth's land/natural resources have still not been appropriated in the state of nature when various individuals in the state of nature enter into political societies, what would happen to those unappropriated lands? According to Lockean logic, one could conceive of such a situation only when political societies spring up from the state of nature in the age of abundance; in the age of scarcity, there would not be any unappropriated land/natural resources left in the pure state of nature. When political societies do spring up from the state of nature in the age of abundance, they can appropriate the unappropriated portions of the lands/natural resources in the state of nature to the extent that they can put those newly appropriated virgin lands/natural resources into useful employment *and* they do not violate the

³⁹ In II, 38, Locke writes: "...at the beginning, Cain might take as much ground as he could till, and make it his own land, and yet leave enough to Abel's sheep to feed on; a few acres would serve for both their possessions. But as families increased, and industry enlarged their stocks, their possessions enlarged with the need of them; but yet it was commonly without any fixed property in the ground they made use of, till *they incorporated, settled themselves together, and built cities; and then, by consent, they came in time to set out the bounds of their distinct territories and agree on limits between them and their neighbours*, and by laws within themselves, settled the properties of those of the same society." [Emphasis added.]

In II, 45, Locke writes: "Men at first, for the most part, contented themselves with what unassisted nature offered to their necessities; and though afterwards, *in some parts of the world (where the increase of people and stock, with the use of money, had made land scarce, and so of some value)*, the several communities settled the bounds of their *distinct territories*, and by laws within themselves regulated the properties of the private men of their society, and so, by compact and agreement, settled the property which labour and industry began; and *the leagues that have been made between several states and kingdoms, either expressly or tacitly disowning all claim and right to the land in the other's possession, have, by common consent, given up their pretences to their natural common right which originally they had to those countries, and so have, by positive agreement, settled a property amongst themselves in distinct parts and parcels of the earth.*" [Emphasis added.]

aforementioned fair share doctrine vis-a-vis the rest of the world (i.e., other political societies and individuals in the state of nature).⁴⁰ A political society would also have the right to maintain Steiner's minimal Lockean standard of contiguity when it annexes the hitherto unappropriated plots of land in this fashion.⁴¹

In Chapter 8 (II, 121) of *The Second Treatise*, Locke states that those who unite into a political society through express consent do not have the right to exit voluntarily from that political society.⁴² A political society's founder members as well as those individuals who join the already formed political society as members with express oaths of loyalty to the political society would be considered express consenters. However, in II, 114-118, Locke explicitly argues that the children of these express consenters would have the right to switch to another (new or existing) political society from the political society of their parents upon adulthood.⁴³ If it is still the age of abundance and there are some unappropriated lands/natural resources in the

⁴⁰ These virgin lands/natural resources appropriated by a particular *political society* could then be the "commons" for citizens of that particular political society, or they could be apportioned into various private shares for the political society's citizens based on the political society's decision. However, it has to be noted that the share of land/natural resources in a political society's territory might have to be downsized in the future when the age of abundance gives way to the age of scarcity.

⁴¹ For a decent discussion of political societies' territorial rights in hitherto unappropriated plots of land in the state of nature, also see Simmons, "On the Territorial Rights of States," pp. 314-315.

⁴² Locke writes: "...he that has once by actual agreement and any express declaration given his consent to be of any commonwealth, is perpetually and indispensably obliged to be and remain unalterably a subject to it, and can never be again in the liberty of the state of nature, unless by any calamity the government he was under comes to be dissolved; or else by some public act cuts him off from being any longer a member of it." (II, 121) He briefly returns to this theme in Chapter 19 of *The Second Treatise*.

⁴³ Locke writes: "...they [governments] claim no power over the son because of that they had over the father; nor look on children as being their subjects by their fathers being so. If a subject of England have a child by an English woman in France, whose subject is he? Not the king of England's, for he must have leave to be admitted to the privileges of it; not the king of France's, for how then has his father a liberty to bring him away, and breed him as he pleases? And whoever was judged a traitor or deserter if he left, or warred against a country, for being barely born in it of parents that were aliens there? 'Tis plain then, by the practice of governments themselves, as well as by the law of right reason, that a child is born a subject of no country or government. He is under his father's tuition and authority till he come to age of discretion; and then he is a free man, at liberty what government he will put himself under, what body politic he will unite himself to. For if an Englishman's son, born in France, be at liberty, and may do so, 'tis evident there is no tie upon him by his father being a subject of this kingdom; nor is he bound up, by any compact of his ancestors. And why then hath not his son, by the same reason, the same liberty, though he be born anywhere else? Since the power that a father hath naturally over his children is the same, wherever they be born; and the ties of natural obligations are not bounded by the positive limits of kingdoms and commonwealths." (II, 118)

state of nature, the offspring who chooses to leave his/her parents' political society could appropriate a portion of those unappropriated lands/natural resources and acquire property in the state of nature and annex that property later to any particular political society s/he voluntarily unites into (should s/he choose to enter a political society at all). However, in the age of scarcity, there would be no virgin land for him/her to appropriate; in Locke's own view, the right of exit from a political society for any offspring of that political society's citizens in the age of scarcity would then mean the corresponding right for him/her to enter one of the already existing political societies as its new member. Actually, taking Locke's words literally, s/he would have the right to join *any* existing political society.⁴⁴

Here, it has to be noted that II, 117 and II, 121 seem to conflict with each other at first glance. II, 117 states that an offspring of a political society's citizens can inherit the ownership of his/her parents' property (including land) only by joining the political society of his/her parents as members.⁴⁵ The juxtaposition of II, 117 with the last sentence of II, 121 (footnote 42 above), along with an important line from II, 122, would seem to suggest that an offspring of a political society's citizens would not have the right to leave that political society for another if s/he accepts the inheritance of his/her parents' property upon adulthood. This is because II, 117 seems to require him/her to become that political society's member to accept his/her parents'

⁴⁴ In II, 121, Locke writes: "...since the government has a direct jurisdiction only over the land, and reaches the possessor of it (before he has actually incorporated himself in the society) only as he dwells upon, and enjoys that, the obligation any one is under, by virtue of such enjoyment to submit to the government, begins and ends with the enjoyment. So that whenever the owner who has given nothing but such a tacit consent to the government will, by donation, sale, or otherwise quit the said possession, he is at liberty to go and incorporate himself into any other commonwealth, or to agree with others to begin a new one, *in vacuis locis*, in any part of the world they can find free and unpossessed."

⁴⁵ In II, 117, Locke writes: "...commonwealths not permitting any part of their dominions to be dismembered, nor to be enjoyed by any but those of their community, the son cannot ordinarily enjoy the possessions of his father, but under the same terms his father did, *by becoming a member of the society*; whereby he puts himself presently under the government he finds there established, as much as any other subject of that commonwealth. And thus the consent of freemen, born under government, which only makes them members of it, being given separately in their turns, as each comes to be of age, and not in a multitude together, people take no notice of it, and thinking it not done at all, or not necessary, conclude they are naturally subjects as they are men." [Emphasis added]

property, a line from II, 122 states that express consent is essential for membership in a political society, and the last sentence of II, 121 states that an express consent to a political society's membership cannot leave it under ordinary circumstances.⁴⁶ On the other hand, most of II, 121 seems to suggest that an offspring of a political society's citizens can exit that political society even if s/he inherits property from his/her parents as long as s/he quits that property within the jurisdiction of that political society when s/he decides to relocate to another political society. The resolution of this conflict, then, essentially hinges upon one's understanding of whether Locke allows for the expression of *tacit consent* by an offspring of a political society's citizens to be sufficient for his/her membership in the political society (i.e., sufficient enough to inherit his/her parents' property) or deems expression of *tacit consent* to be insufficient in this scenario, pressing for nothing less than *express consent* instead.

Admittedly, going by the relevant passages in Chapter 8 and a couple of other relevant passages scattered elsewhere in *The Second Treatise* (e.g., II, 73), Locke's stance on this issue comes across as rather confusing for the most part, with palpable instances of inconsistency. That said, I submit that the best interpretation of Locke's own position in this regard would be the kind proposed by Simmons.⁴⁷ In this line of interpretation, Locke has essentially three categories of consent in mind: (I) express consent to be a member (citizen and subject) of the political society for those who are not yet full citizens of any particular territory (Type A), (II) revocable tacit consent to be a quasi-member and quasi-subject of that political society for those born into that society who do not want to be full citizens of that society by making express consent but have not already become full citizens of another political society either (Type B),

⁴⁶ The line from II, 122 that I refer to here is this: "Nothing can make any man so [subject or member of a commonwealth] but his actually entering into it by positive engagement, and express promise and compact."

⁴⁷ See Simmons, " 'Denisons' and 'Aliens'," pp. 158-178. Simmons's own typology is somewhat different from the one I outline here.

and (III) revocable tacit consent to be a quasi-subject of that political society for foreigners who are already full citizens of another political society (Type C).

A person's express oath of loyalty to a political society, along with the incorporation of all his/her possessions into that political society (while retaining the ownership of those possessions), would make him/her an irrevocable member of that political society, i.e., s/he would not be able to switch to another political society later (Type A). The formation of a political society by individuals in the state of nature through the medium of express consent could be an example of this. The case of an offspring of a political society's members who has not already given his express consent to membership in another political society inheriting any plot of real estate from his parents upon adulthood without indicating express consent to the membership of his/her parents' political society would fall under Type B; the inheritance, an expression of tacit consent, would make him a quasi-member and quasi-subject of the society; s/he would be free to leave his/her parents' political society to be a member of another political society but s/he cannot incorporate the land, along with his/her own self, into the latter. Even if s/he were not to join any other political society and simply exit from his/her parents' political society to which s/ he has given a tacit consent in the form of the inheritance of a plot of real estate, s/he cannot take the plot of real estate out of that political society's territory with him/her into the state of nature (i.e., s/he cannot secede from the political society's territory with the plot of real estate that has hitherto been under his/her ownership), because the political society has jurisdiction over all the plots of real estate that compose its territory. No individual in Locke's political society has meta-jurisdictional authority over his/her plot of real estate, as those who pool their private lands (private territories, so to speak) to form a territorial state in the first place surrender both the jurisdictional authority and meta-jurisdictional authority over their plots of

private property to the political society, creating the state's territorial rights over its entire territory).⁴⁸ According to this interpretation, then, an offspring of a political society's members has the right of relocation to another political society (or, possibly, the state of nature) but no right to secede his/her real estate in the political society's territory from that territory.

The enjoyment of the protection and privileges of the institutions within a political society's territory (including, possibly, the ownership of land in that territory through purchase) by another political society's citizens would count as revocable tacit consent just to be a quasi-subject of the former (Type C) as long as s/he enjoys the protection and privileges of the former.⁴⁹ A tourist who visits a political society's territory temporarily or another political society's citizen who resides there for a long time (or owns property there) without relinquishing his/her former citizenship would be an example of this type; by just being in the political society's territory or/and enjoying its protection and basic privileges, s/he becomes subordinate to its relevant institutions while s/he or his/her property is there and his/her subordination to those relevant institutions disappears after s/he or his/her property is no longer in that territory.⁵⁰

⁴⁸ Meta-jurisdictional authority is the "right to create or alter jurisdictions, including geographical jurisdictions." See Cara Nine, "A Lockean Theory of Territory," *Political Studies*, Vol. 56, No. 1 (March 2008), pp. 148-165, at p. 150.

⁴⁹ II, 122 delineates Type C fairly well: "But submitting to the laws of any country, living quietly, and enjoying privileges and protection under them, makes not a man a member of that society. This is only a local protection and homage due to, and from, all those who, not being in a state of war, come within the territories belonging to any government, to all parts whereof the force of its law extends. But this no more makes a man a member of that society, a perpetual subject of that commonwealth, than it would make a man subject to another in whose family he found it convenient to abide for some time; though, whilst he continued in it, he were obliged to comply with the laws, and submit to the government he found there. And thus we see that foreigners, by living all their lives under another government, and enjoying the privileges and protection of it, though they are bound, even in conscience, to submit to its administration, as far forth as any denizen, yet do not thereby come to be subjects or members of that commonwealth."

⁵⁰ One might then ask: why should the alien landholder in Type C be any different from an offspring of a political society's citizens who inherits land from his/her parents but refuses to make any express consent to that political society? Here, the key difference is that the alien landholder in Type C *already* owes his/her primary allegiance to another political society but the offspring who inherits land without making express consent to his parents' political society in Type B *is not yet* a member of any other political society and hence does not owe primary allegiance to any other political society. Simmons also furnishes a similar line of reasoning to differentiate these two sorts of landholders. See Simmons, " 'Denisons' and 'Aliens' ," p. 174.

As stated earlier, it is evident from *The Second Treatise* that Locke holds the right of entry to any other political society to be available to every human being who is born into a particular political society but has not yet *expressly* consented to the latter's membership, if s/he consents to live within the rules and regulations of the political society which s/he will enter as a citizen. Of course, in Locke's scheme, everybody within the league of civil/political societies has a right of entry to another society for the purposes of temporary visits or to stay there without citizenship (II, 122), but the right of citizenship of any political society for a person hitherto not affiliated to any political society as a citizen goes beyond this provision.⁵¹ One might wonder where this right of entry to an *already* existing political society – distinct from the right of exit from another political society – exactly comes from. Locke does not explicitly discuss the exact rationale behind a person's right to citizenship in any existing political society of his/her choice as such, but there are a couple of passages in *The Second Treatise* – particularly, II, 38 and II, 45 – that point towards Locke's conception of that rationale. In Locke's own worldview, the right of relocation to other territories is rooted in the amicable character of the state of nature. In II, 38, Locke states that after various political societies emerged from the state of nature, they demarcated, by consent, the "bounds of their territories" and agreed on "limits between them and their neighbours". Similarly, in II, 45, Locke states that the various political societies "settled the bounds of their territories" and "the leagues that have been made between several states and kingdoms, either expressly or tacitly disowning all claim and right to the land in the other's possession, have, by common consent, given up their pretences to their natural common right which originally they had to those countries, and so have, by positive agreement, settled a

⁵¹ The aliens' right sketched in II, 122 can be taken as analogous to the Kantian right of hospitality to a considerable extent. See Immanuel Kant, *Perpetual Peace: A Philosophical Sketch*, in H. Reiss (ed.), *Kant: Political Writings* (Cambridge: Cambridge University Press, 1970), pp. 93-130.

property amongst themselves in distinct parts and parcels of the earth.”⁵² Thus, it seems that, in Locke’s own worldview, the amicable character of the pre-political state of nature carries over into the state of nature that exists between various political societies and, while recognizing each other’s particular bounded territories, the political societies would include the duty to allow an alien who lacks full citizenship of another political society entry as a citizen to a political society of his/her choice (to the extent that s/he agrees to abide by the latter’s rules and regulations) as one of *the limits between them and their neighbours* (in II, 38) as a kind of rule-embedded compensatory mechanism for each political society’s *disowning all claim and right to the land in the other’s possession*. Thus, in Locke’s own opinion, although the political society of which an alien hitherto without any political society’s full citizenship becomes a member/citizen can impose its regulations on him/her regarding other things, it cannot form a rule not to allow such a person entry into it as one of its members in the first place.

Locke’s own pronouncements on the right of relocation aside, what would a polished *Lockean* theory of the right of relocation look like, especially in the post-agrarian scenario? First, going by the *Lockean* doctrine of fair shares discussed earlier, each individual himself/herself does not have the full meta-jurisdictional authority over his appropriated property even in the pre-political state of nature; the global humanity has a certain degree of meta-jurisdictional authority over his/her appropriated property in the state of nature too, in the sense that if the overall man-to-land/natural resources ratio in the world increases, the private holdings in the state of nature would have to be downsized to accommodate the latecomers in the world. Even when individuals in the state of nature unite into various political societies and surrender their previous meta-jurisdictional authority in their shares of lands/natural resources to those

⁵² See footnote 39 above.

respective political societies, the part of the meta-jurisdictional authority held by the whole global humanity would remain intact. What this retention of the global humanity's meta-jurisdictional authority even in a world of multiple political societies would translate into would be the need to readjust the territorial domains of various political societies according to the fair share doctrine based on changes in population-to-land/natural resources ratio in the age of scarcity. As constantly changing the territorial domains of political societies would be rather impracticable and tedious, it might seem that a better alternative would be to adopt Mathias Risse's doctrine of relative natural resource use-based theory of the right of relocation instead of re-configuring territories again and again. Risse states:

...organized groups of people are justified in excluding others from the space they occupy *only if* that space is populated by sufficiently many people. Specifically "sufficiently many people" describes when the number of people already occupying that space is proportionate to the value for human purposes of the resources thereby taken out of general use. For current purposes we can take as the reference point of these proportionality judgments the average population-to-space ratio across territorial states. If that ratio is smaller than the world average, it means that any given unit of resources is used by fewer people in that territorial state than the average unit of resources across the world; or, equivalently, it means that any given person in that territorial state has access to more resources than people on average do.⁵³

However, as Ryan Pevnick aptly articulates in his critique of Risse's position, migration in the contemporary, post-agrarian setting is not necessarily about resources; it is more about access to good and desirable institutions.⁵⁴ This is because, first, the quality of institutions is more important than the relative abundance of natural resources for production/economic growth in the contemporary era, and, second, even if one were not to value institutions from the viewpoint of economic production, an individual would want to have access to the institutions better suited to his/her taste if such institutions exist anywhere in the world other than the

⁵³ Mathias Risse, "On the Morality of Immigration," *Ethics and International Affairs*, Vol. 22, No. 1 (Spring 2008), pp. 25-33.

⁵⁴ See Ryan Pevnick, "Collective Ownership and the Morality of Immigration Restrictions: A Response to Mathias Risse," *Ethics and International Affairs*, Vol. 22, No. 3 (Fall 2008), pp. 241-248.

territory of his/her current residence or citizenship.⁵⁵

Risse himself does not make a case for outsiders' right to a political society's institutions as such, instead preferring to sideline the issue.⁵⁶ However, I have argued above that there exists a deep *Lockean* case for a person's access to better institutions in another person's property in the state of nature, as long as the former's use of those institutions does not impair the latter's institutions. There is no particular reason why this right should not carry over to the stage of political societies from the pre-political state of nature. Thus there is a *Lockean* rationale for positing that every human being has a right of relocation to a political society with better institutions as long as his/her use of those institutions does not impair them. If his/her use does impair them, then there might be a case for attaching some conditions to this right, such as the need for the new entrants to provide adequate compensation for such impairment. If there are legitimate reasons for the political societies to fear notable degradation of their institutions due to the immigrants' entrance, then they could also potentially even block those immigrants under extreme circumstances but they would have to compensate the would-be entrants for blocking their entry.

Despite the establishment of this basic right of relocation, there is no particular reason why this right of relocation should amount to full citizenship in the new political society instead of simply permanent residency (quasi-membership, but without voting rights) in that political society with broad access to its institutions. Thus it could be plausibly argued that a political society ought to be required to accommodate only the amount of people proportionate to its share

⁵⁵ For the great importance of the quality of institutions in production/economic growth in the contemporary era, see Dani Rodrik, Arvind Subramanian and Francesco Trebbi, "Institutions Rule: The Primacy of Institutions over Geography and Integration in Economic Development," *Journal of Economic Growth*, Vol. 9, No. 2 (June 2004), pp. 131-165.

⁵⁶ See Risse, "On the Morality," pp. 28-29; Idem, "The Morality of Immigration: A Response to Two Critics," *Ethics and International Affairs*, Vol. 22, No. 3 (Fall 2008), pp. 254-259.

of the world's land/natural resources (in the spirit of Risse's line of reasoning) as its citizens, but would have the obligation to allow as many people as possible for permanent residency as long as their entry does not impair its institutions.

The right of relocation in this Lockean scheme would not be restricted only to those who have not yet expressly consented to any political society's membership; it would instead be available to all categories of people. This is because the notion that those who have already expressly consented to the citizenship of a particular political society should not have the right to relinquish that political society's citizenship if s/he wants to be a member of another political society goes against the basic Lockean theme of liberty. Any entry into any socio-political formation ought to have provisions for a form of voluntary exit; entry into any formation without a possible mechanism for a form of voluntary exit amounts to nothing short of slavery. This is an even more salient issue because of the pronounced majoritarian streak in *The Second Treatise*; Locke argues that a person who becomes a citizen of a political society ought to follow the decision of that political society's majority (II, 95-99). It would obviously be against the liberty of a particular citizen if the majority of citizens in his/her political society consistently make important decisions that are not in sync with his own preferences. In that case, continuing in that society would impair his/her liberty to a considerable extent. Thus s/he should have the right to exit that political society for entry into another political society for a better life if s/he wants to. It could be legitimately argued that the exit of an express consenter from a political society should be accompanied by some sort of compensation to that political society for having used its institutions before leaving that society and the possible loss the political society could suffer (in the form of investment in human capital, etc.) because of his/her exit from that society but that

would not mean his/her exit from that political society for a political society more suited to his/her choice should be forbidden altogether.

On the whole, in this paper, I have tapped some deep Lockean themes, digging into Locke's original texts (primarily two important chapters from *The Second Treatise* – Chapter 5 and Chapter 8), agreeing with Locke's own position in some respects and updating and refining them in other respects to make a case for a fairly strong right of relocation in the contemporary, post-agrarian era.

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