

Locke's state of nature

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ABSTRACT

Scholarly discussion has treated the account of the state of nature which Locke presents in his *Second Treatise* as neither an hypothesis nor a description but rather as a fiction. John Dunn, for example, claims that it is a 'theoretical analysis of the fundamental relations of right and duty which obtain between human beings, relations which are logically prior to the particular historical situations in which all actual human beings always in fact find themselves'. Here Dunn presents a misleading account of Locke's argument, presumably, as the title of his paper suggests, in order to mount an argument of his own about the 'political relevance' of Locke's work to a time when no one takes seriously the early modern idea of the state of nature. However, this article also has a more serious concern. I argue that the representation of the state of nature as a merely imaginary, 'theoretical analysis' of social relations obscures the significance of the early modern idea of a state of nature, not only for the work of Locke and his near contemporaries, but also, more importantly, for the broader development of western social and political thought. The idea of an original condition of freedom and equality played a central role in Locke's argument, serving as a means both to undermine the view that humans were born into a natural condition of subjection to the rule of others and to justify European expropriation of land in the Americas. It also represented one end of a developmental continuum, running from the original, most primitive, condition of humanity through to the societies of contemporary western Europe, which was thought to encompass all sections of humanity. While the idea of an original asocial condition on which this continuum

was based was later brought into question, a closely related developmental framework nevertheless informed later movements in history and the social sciences. After being abandoned in its original form, this category was finally revived in 20th-century political theory, this time precisely in the form that Dunn mistakenly ascribes to Locke. The article concludes by speculating on the relationship between these normative and empirical perspectives on the state of nature.

Key words development, indigenous peoples, John Locke, modern social thought, state of nature

A recent article in this journal documents the demise of the myth of the primitive in western scholarly thought (Kurasawa, 2002; see also Kurasawa, 2004). The author laments this development, arguing that the myth played an important part in enabling modernity to cultivate a cross-cultural mode of critique, and consequently that its passing has shattered 'one of the mirrors through which western thinkers were able to interrogate their own societies', thus opening up the prospect of a 'withdrawal of the western human sciences to their own cultural horizons' (Kurasawa, 2002: 3, 15).

Kurasawa's interesting and provocative discussion invites two sceptical responses. First, we could ask whether the cross-cultural mode of critique to which he refers might not be seen as purveying precisely the narcissism which has been neatly skewered in the title and opening chapter of Dipesh Chakrabarty's *Provincializing Europe* (2000) and again in Ranajit Guha's *History at the Limit of World History* (2002). This has encouraged western thinkers to see other cultures as minor, and often lesser, variations on their own. Accordingly, we might wonder why the collapse of this narcissism should be viewed in negative rather than positive terms, that is, as presenting a problem for western social thought and not as a sign of improvement. We might suggest, second, that the narcissism of modernity relies less on the idea of a primitive other than it does on the cosmopolitan gesture of appropriating for the West the position as the highest stage yet achieved in a line of progressive development which is seen as including all sections of humanity.¹ Unlike the myth of the primitive, this cosmopolitan vision is alive and well (Helliwell and Hindess, 2005).

This article focuses on one aspect of the early development of this modern conceit. Kurasawa places the early modern contract theorists, Hobbes, Locke and Rousseau, at the heart of his account of the first stage in the modern history of the myth of the primitive (Kurasawa, 2002: 3–7). My discussion focuses on John Locke's account of the state of nature, arguing that it represented one end of a developmental continuum stretching from the simplest human condition to the relatively civilized condition of western Europe.

The most influential discussions of the 'state of nature' in the academic literature on Locke have treated it in other terms. A recent paper by John Dunn (2001) reaffirms his long-held view (Dunn, 1969: 97, 101, 113) that the account of the state of nature which Locke presents in his *Second Treatise of Government* is neither an hypothesis nor a description. Rather, he claims, it is a 'theoretical analysis of the fundamental relations of right and duty which obtain between human beings, relations which are logically prior to the particular historical situations in which all actual human beings always in fact find themselves' (Dunn, 2001: 43–4). Similarly, Ashcraft argues that Locke's state of nature should be seen as a 'fiction'. It is 'a logical construct' which sets out 'the logical and moral conditions of human existence' and thus serves as a 'critique of existing society'. He suggests that this fiction is derived from 'actual human history' but is not intended as an historical description of actual conditions (1969: 901, 901 n. 14, 914). Far from presenting the state of nature as an historical description, an alternative to Filmer's description which he criticizes in his First Treatise, Locke 'shifts the ground of his argument' and begins his Second Treatise with a legal-moral definition of the state of nature (1969: 900). Ashcraft insists that Locke's conception of the state of nature is 'not static, but developmental'. A developmental continuum of the kind I have suggested is certainly envisaged here, but, in Ashcraft's view, it is to be found within the state of nature itself: 'One must visualize men [within this state] passing through several stages of economic and social development' (1969: 908–9). Simmons, too, stresses the moral flavour of Locke's account of the state of nature. Indeed, he argues, the 'primary point of the state of nature is . . . to describe a certain moral condition of man', the condition into which he was placed by God. Or the moral condition of not being a citizen (1989: 463–4).

Dunn concludes his argument with the claim that 'the idea of civil society draws its power from . . . the analytically prior and altogether less anodyne category of the state of nature' (ibid.: 57). This claim seems to me broadly correct, except for one substantial qualification which I introduce in a moment. Yet it suggests that, if we tamper with the category of the state of nature, this is likely to interfere with our understanding of civil society itself. It is all the more important, then, to be clear about the category of the state of nature.

I argue, in fact, that the representation of the state of nature as a 'fiction', as a merely imaginary, 'theoretical analysis' of social relations or as an account of the moral condition of not being a citizen, obscures the significance of the early modern idea of a state of nature, not only for the work of Locke and his near contemporaries, but also, more importantly, for the broader development of western social and political thought. The idea of an original condition of freedom and equality played a central role in Locke's argument, where it served as a means both to undermine the view that humans were

born into a natural condition of subjection to the rule of others and to justify European expropriation of land in the Americas. It also represented one end of a developmental continuum, running from the original, most primitive, condition of humanity through to the societies of contemporary western Europe, which was thought to encompass all sections of humanity. The early modern understanding of this developmental continuum was taken up most profoundly by the great 18th-century project of conjectural history.² While the idea of an original asocial condition on which this continuum was based was later brought into question, a closely related developmental framework nevertheless informed subsequent movements in history and the social sciences. This, in effect, is my qualification of Dunn's claim regarding the link between the idea of state of nature and of civil society: it is the developmental perspective which the category of the state of nature represents and which it helped to establish, rather than the category itself, which underlies contemporary discussion of civil society. After being abandoned in its original form, this category was finally revived in 20th-century political theory, this time precisely in the form that Dunn mistakenly ascribes to Locke.

The first part of the article suggests that the idea of the state of nature performs several functions in Locke's argument. This is followed by an extended discussion of the epistemological status – as description, hypothesis, 'fiction' or 'theoretical analysis' – required of the state of nature in its performance of these functions. I conclude by speculating on the significance of the differences between these two very different perspectives on the state of nature.

FOUR FUNCTIONS OF THE 'STATE OF NATURE' IN LOCKE'S DISCUSSION

Let me begin, then, with a preliminary response to the view that Locke's account of the state of nature was neither an hypothesis nor a description, but rather a 'fiction' or a 'theoretical analysis of . . . fundamental relations of right and duty'. Perhaps the most obvious difficulty with this claim is that, throughout his dispute with Filmer in the First Treatise which Ashcraft's discussion of Locke's state of nature emphasizes, and again in important parts of the Second (especially in chapters 2, 5 and 8), which Ashcraft does not discuss, Locke himself is clearly concerned to establish the historical reality of this condition. Locke's well-known assertion that 'in the beginning all the World was *America*, and more so than it is now' (1988: 2, # 49), which appears in his discussion of money in the Second Treatise, is an affirmation of precisely this claim.

Yet there is also a more serious point to be made here, which is that the idea of the state of nature performs a number of functions in Locke's discussion,

and there is no reason to suppose that it has the same argumentative standing – as hypothesis, description, ‘fiction’ or ‘theoretical analysis’ – in all of them. In some of the arguments he develops, Locke’s account of the state of nature appears just as Dunn and Ashcraft suggest, as neither hypothesis nor description, but in others its descriptive character is clearly fundamental. At least four functions of the state of nature can be identified in the *Two Treatises*. I outline these functions here before turning to the epistemological statuses which the state of nature assumes in Locke’s various arguments.

The first function is to offer an alternative to Filmer’s patriarchalist account of the origins of government, and especially to the view that men are and have always been born under government, the biblical foundations of which the First Treatise had set out to undermine, and thus that subjection to others is a natural human condition (Ashcraft, 1969: 900). Here Locke’s account of the state of nature is intended to show that ‘all Men are naturally in . . . a State of perfect Freedom to order their Actions, and dispose of their Possessions and Persons as they think fit. . . . A State also of Equality, wherein all the Power and Jurisdiction is reciprocal, no one having more than another’ (ibid.: 2, # 4). The equality that is at issue here, Locke insists, applies only to ‘Jurisdiction or Dominion, one over another’. He acknowledges that, in other respects, there have always been significant differences between people: ‘Age or Virtue may give Men a just Precedency: Excellency of Parts and Merit may place others above the Common Level’ (ibid.: 54). Locke argues that this state of freedom and equality was the original human condition, and that it preceded the formation of government and the rule of some men over others. It remains the condition in which people find themselves whenever their actions are not subject to government: the condition of ‘Princes and Rulers of Independent Governments’ and also, for example, a Swiss and an Indian interacting ‘in the Woods of America’ (ibid.: 2, # 14). The political theory of patriarchalism which Locke opposes here has few significant supporters in the West today, and Dunn ignores it, not unreasonably, in his paper on the contemporary political relevance of Locke’s argument.

Second, the idea of the state of nature provides foundations for Locke’s account in this Treatise of the Law of Nature, which, as we shall see and as Simmons (1989) suggests, also draws on theological foundations. As Locke presents it, this law sets the boundaries to our natural liberty, and of the character of government. Locke sometimes seems to run these first two functions together, as if the weakness of Filmer’s account establishes the strength of his own alternative. Yet it also requires a separate argument, and much of Locke’s discussion of the state of nature is devoted to this task. A third, closely related, function is to support the distinctive analysis of property which Locke sets out in chapters 2 and 5 of the Second Treatise, arguing that it is based, in rather different ways, on both labour and legislation. (Ashcraft, 1969: 910ff.). This analysis was used, in other contexts, to justify

the expropriation of land in the Americas. Grotius's and Pufendorf's accounts of differentiated property, which describe it as based on agreement, cannot be bent so easily to this purpose. There were, of course, other elements in Grotius' work which provided the Dutch East India Company with a useful rationale for expropriation by conquest (Tuck, 1999).

Finally, the most elementary form of Locke's state of nature occupies a region around one pole, the historical starting point, of a developmental *telos* which encompasses all sections of humanity.³ The rather special civil societies of the kind which had emerged in parts of western Europe are assumed to be located near the other pole. Locke's discussion, in chapter Five of the Second Treatise, of the emergence and development of property shows that these poles are separated, in his view, by a considerable period of historical development. His treatment, in chapter Eight, of the beginning of political society reinforces the point:

Government is every where antecedent to Records, and Letters seldom come in amongst a People, till a long continuation of Civil Society has, by other more necessary Arts, provided for their Safety, Ease, and Plenty. (1988: 2, # 101)

The state of nature appears here as a condition in which many of the major institutions of the modern world do not yet exist. Locke refers explicitly to the absence of government and of private property in land. He presents property of other kinds, to the extent that it exists at all, as having hardly developed beyond usufruct. We might also note that Locke treats the term 'civil society' as referring to any substantial body of people who are subject to the one legitimate government (Ashcraft, 1969: 910ff.). Here, in contrast to our current usage, civil society and government are assumed to be co-extensive. The long development of government and private property leading up to the establishment of liberal regimes is not a pre-condition of civil society, but something that may well take place within it.⁴

There are elements in Locke's analysis here of the developmental understanding of humanity which, while it was an important part of Europe's classical heritage, re-emerged in European discussion in the aftermath of the invasions of the Americas (Brandon, 1986; Cro, 1990; Haase and Reinhold, 1993; Jahn, 2000; Pagden, 1982; Ryan, 1981; Waswo, 1996, 1997). This aspect of his argument was hardly disputed at the time. Moreover, while Locke's location of the Amerindian peoples of North America at a pre-political stage of human development had important and destructive consequences, his discussion has not been especially influential in the elaboration of developmental histories of humanity. More empirically secure and intellectual sophisticated developmental histories were widely available at the time, José de Acosta's work (which Locke cites at 2, # 102) being perhaps the most important (Pagden, 1982).⁵ Partly for these reasons, this aspect of Locke's

work has not often been picked up in discussions by political theorists and historians of political thought, and the papers cited earlier, by Ashcraft, Dunn and Simmons, on Locke's state of nature are certainly no exceptions.⁶

However, the fact that Locke's developmental history was relatively unsophisticated and had little impact on its subsequent elaborations should not be taken to mean that it plays no significant part in his argument. We have just noted its role, for example, in his discussions of property and of government. Developmental assumptions are at the heart of Locke's accounts, both of the state of nature, as Ashcraft notes, and of civil society. The same, or closely related, assumptions pervade the contemporary social sciences, with anthropology and related areas of linguistics providing a number of significant exceptions (Fabian, 1983). This, of course, suggests another reason why the developmental assumptions at work in Locke's arguments have received little critical attention from political theorists and historians of political thought, which is that few of them have seen these assumptions as being in any way problematic. These, or closely related, developmental assumptions also underlie our own conception of civil society, which is rather different from Locke's. Consequently, they play a central role in the geo-political understandings that dominate the contemporary system of states.⁷ Thus, contrary to the explicit political claims of Dunn's paper, in which these issues have no place, the developmental aspects of Locke's concepts of the state of nature and civil society have considerable political relevance today.

DESCRIPTIONS AND IMAGINATIVE CONSTRUCTIONS

What can we say of the epistemological status of the idea of the state of nature – whether as hypothesis, description, 'fiction' or 'theoretical analysis' – in these different parts of Locke's argument? As far as the first function is concerned, the answer is straightforward. If Locke's account of an original condition of freedom and equality is to serve as an effective alternative to the patriarchalist view that subjection to others is the natural human condition, then it has to work as a description of the true natural condition of humanity. Indeed, as Barbara Arneil points out, one of Locke's main criticisms of Filmer is that he fails to provide reliable evidence in support of his analysis of the real character of government (1996: 16). Thus, for Locke to have argued against Filmer that we might like to imagine a world in which all people were free and equal, and, further, as Dunn's interpretation of Locke's argument would have him claim, that this imaginary world is the most appropriate starting point for a 'theoretical analysis of the fundamental relations of right and duty which obtain between human beings', would not have been productive. Locke's account of the state of nature has to work as a description, not

only of the condition in which 'Rulers of Independent Governments' find themselves in their dealings with each other (which Filmer's argument could accommodate without much difficulty), but also of the early historical condition of humanity itself.

Locke tries to establish the reality of this condition in various ways. He does so, first, through the attack on Filmer's interpretation of the book of Genesis which dominates his First Treatise. Filmer's reading of Genesis is highly tendentious, and Locke's arguments against it are strong. Yet the limitations of Filmer's interpretation do little to establish the truth of Locke's alternative. Second, he appeals to Greek and Roman sources and the classical myth of a Golden Age, which had enjoyed a significant revival in Europe following the early reports of conditions in the Americas.⁸ Finally, as noted above, he draws on recent or contemporary evidence from the Americas. The first and last of these are clearly the most important for Locke's argument, and he often runs the American material together with his interpretations of scripture. Paragraph 144 of the First Treatise, for example, moves from ridiculing Filmer's patriarchal reading of the lines 'These are the Sons of Shem after their Families, after their Tongues in their Lands, after their Nations', which it does by reference to the diverse national backgrounds of Hannibal's army and again of the colonists of Carolina, to a brief description of an America in which 'every little Tribe was a distinct People, with a different Language'.

Here, and at other points in his discussion, Locke uses recent evidence from the New World to reinforce his claims about the ancient peoples of the Old. Systematic comparison between the customs of the New World and those of the ancient peoples of the Old can be found in the work of European writers as early as the publication of Las Casas' *Historia de las Indias*, which began in 1527. Yet, as Peter Mason notes, there is a fine line between this practice and the use, as in Locke's discussion, of apparent parallels to suggest the existence of 'a more deeply seated isomorphism'.⁹ By the early 18th century, if not before, the European belief in the existence of such an isomorphism was well established. We find Lafitau, for example, filling in details about the New World 'by "reading them off", as it were, from the better documented old World'¹⁰ and Fontenelle reversing the procedure, using the New World to throw light on the old.¹¹ The assumption of a parallelism, or even isomorphism, between the contemporary peoples of the New World and ancient peoples of the Old is the first step in the early modern elaboration of a broader kind of parallel, this time between the historical and the contemporary geographical dispersions of peoples, which soon became remarkably influential in European thought. We might think, for example, of Edmund Burke's well-known letter to William Robertson, in which he observes that all human conditions are now 'under our view' on the surface of the globe,¹² or Freidrich von Schiller's more elaborate proclamation, in his inaugural lecture as Professor of History only a few years later, that the European discoveries

... afford us a spectacle which is as instructive as it is entertaining. They show us societies arrayed around us at various levels of development, as an adult might be surrounded by children of different ages, reminded by their example of what he himself once was and whence he started. A wise hand seems to have preserved these savage tribes until such time as we have progressed sufficiently in our own civilization to make useful application of this discovery, and from this mirror to recover the lost beginning of our race.¹³

The most striking, and also the most disturbing, feature of this perception is the combination of a developmental view of humanity with the suggestion that many of our contemporaries, living in distant parts of the world, really belong to an earlier historical epoch. Locke's *Two Treatises* appear at an early stage in the elaboration by educated Europeans of this self-serving view of their own historical significance. This 'denial of coevalness',¹⁴ remains influential, even today, not only in the treatment by western states of their indigenous inhabitants but also in the broader geo-political order.

If the reality of Locke's state of nature is required for the first of the functions it performs in the *Two Treatises*, things become vastly more complicated when we turn to the second and third functions outlined above. Locke's arguments here suppose that Filmer's patriarchalism has already been cleared out of the way, and thus that the state of nature, more or less as Locke describes it, offers an alternative, more realistic, picture of the original human condition. On the one hand, then, the descriptive character of his account of the state of nature is already assumed in Locke's more detailed discussions of government and of property.

On the other hand, though, in addition to the undermining of Filmer's patriarchalism, these discussions are also designed to further other political and intellectual objectives. Among the most important of these are: to explain how particularization of the property which God gave to mankind in common is possible; to establish that there is no natural right to private property in land; and to deny or, at least, 'to obscure and downgrade the distinctive features of Amerindian polity and property'.¹⁵ Locke's analysis, we might say, is severely overdetermined. It is a mark of his rhetorical skills that he pursues these various objectives as effectively as he does within the one text. We should hardly be surprised, however, to find that there are tensions between the different parts of his argument or, which is the issue that most concerns us here, that his analysis of the state of nature does not always conform to what either the empirical evidence at his disposal or his philosophical arguments would lead us to expect.¹⁶ In this respect, at least, Dunn's claim is incontrovertible: Locke's account of the state of nature simply does not work either as description or as hypothesis.

Locke, in fact, tries to have it both ways. If there are few recorded instances of governments being established in the manner he suggests, this, he tells us,

is simply because 'Government is every where antecedent to Records' (1988: 2, # 101). He nevertheless cites three, rather dubious, historical examples – the founding of Rome, Venice and Tarentum – which, as he presents them, show 'People free and in the State of Nature . . . [who] met together incorporated and began a Commonwealth' (ibid.: 2, # 103). These debating points might work as a response to Filmer, but they hardly let him off the empirical hook in other respects. While Locke cites evidence from the Americas to establish the reality of the state of nature, for example, his usage is highly selective, ignoring, in other parts of his argument, the established forms of government and settled agriculture which could be found in many Amerindian communities.¹⁷ This, of course, is precisely what his concern, just noted, to downgrade 'distinctive features of Amerindian polity and property' would lead us to expect.

Yet there is a more substantial reason for the shortage of empirical evidence to support Locke's account. It concerns the character of the law of nature, and thus of the development of government and of property which he presents as taking place under its auspices. The law of nature, as Locke and other natural law theorists describe it, sets out the obligations under which we all exist. It is not, and is not intended to be, a description of the laws that were actually followed by people in the earliest stages of human development. The state of nature, he tells us

. . . has a Law of Nature to govern it, which obliges every one: and Reason, which is that Law, teaches all Mankind, who will but consult it, that being equal and independent, no one ought to harm another in his Life, Health, Liberty, or Possessions. (1988: 2, # 6)

The phrase, 'who will but consult it', warns us that this passage should not be read as a description of how people conduct themselves in the state of nature. It tells us that the teachings of the law of nature are available to humanity, at least in principle, not that all humanity can be expected to acknowledge them. Indeed, other parts of Locke's argument suggest that most of those who live in the state of nature will be unfamiliar with their obligations under this law. Immediately following the lines just quoted, he explains:

For Men being all the Workmanship of one Sovereign Master, sent into the World by his order and about his business, they are his Property, whose Workmanship they are, made to last during his, not one another's Pleasure.

This sets the scene for Locke's analysis of property, which I consider briefly below. It also suggests that the content which Locke ascribes to the law of nature is the product of a particular, monotheistic world-view. Locke does not claim that adherents of other religions or of no religion at all, will refuse

to acknowledge the law of nature. However, his discussion does suggest that the content he ascribes to this law is most likely to be accepted by those who share his view of the relationship between the world and its creator. Thus, if we find that there are people, like the indigenous peoples of the New World, who do not share this world-view, neither should we be surprised if they fail to acknowledge the particular obligations which they have under the law of nature.

In the *Essay*, Locke goes even further:

... hath not navigation discovered ... whole nations ... amongst whom there was to be found no notion of a God, no religion? ... These are instances of nations where uncultivated nature has been left to itself, without the help of letters and discipline, and the improvements of arts and sciences. But there are others to be found who have enjoyed these in a very great measure, who yet, for want of a due application of their thoughts this way, want the idea and knowledge of God. (1957: book 4, ch. 4, # 8)

The discussion from which this passage is taken is disturbing for many reasons. Locke insists on the importance of the belief that God is to be worshipped, but maintains that even this principle is not innate and has to be reasoned out. His discussion suggests, not only that there are whole nations ignorant of their obligations under the law of nature, but also, in a sense, that their ignorance results from a failure to apply their thoughts in the appropriate fashion. In a sense, it is their own fault.¹⁸ The practical significance of this point derives from the familiar claim that the law of nature gives us a right to use force against those who, if only through ignorance, fail to acknowledge their lawful obligations towards us. Locke's law of nature, like Vitoria's christianized *jus gentium* before it, thus allows ample scope for justifying the conquest of non-Christian peoples by Christian nations.¹⁹ More importantly, for our purposes, Locke's account of the law of nature is not open to correction by empirical evidence regarding the practices of peoples without what he would recognize as government. It is not intended either as a description of, or an hypothesis about, the obligations that would in fact be recognized by those who belong to nations 'where uncultivated nature has been left to itself, without the help of letters and discipline'.

Yet, if Locke's account of the law of nature is neither hypothesis nor description, this will also be the case for his accounts of the origins of government and the development of property, both of which take place under its auspices. Here are the opening lines from 'Of the Beginning of Political Societies':

Men being, as has been said, by Nature, all free, equal and independent, no one can be put out of this Estate, and subjected to the Political power of another, without his own *Consent*. The only way whereby

any one devests himself of his Natural Liberty, and *puts on the bonds of Civil Society* is by agreeing with other Men to join and unite into a Community . . . (1988: 2, # 95)

This is a statement about rights and the legitimacy of political power. It is neither an hypothesis about how people unfamiliar with their rights and obligations under the law of nature might be expected to behave, nor a description of how the earliest institutionalized relations between ruler and ruled have in fact been established. In this respect, the evidence of settled relations of this kind among many Amerindian peoples has no bearing on his argument.

I have already noted that Locke's analysis of property has a number of objectives. One of these, which he shares with other natural law theorists, is to explain how particularization of the common property of mankind is possible. Grotius and Pufendorf try to deal with this question by reference to agreement among men. While their arguments are rather different, both suggest that differentiated forms of property have a conventional character, and thus that they might be amenable to historical investigation, at least in principle. Locke takes a different tack, distinguishing between the property that exists under government, which does have a legal and conventional character, and property in the state of nature, which does not.²⁰ In the latter case, Locke argues, property resides primarily in the product of one's own labour, which one might choose to transfer to another, and in a right to the use of land and other natural resources. This last is always subject to the condition that enough of this common property of mankind must remain for others to use. Since these rights exist under natural law, they must also be preserved by the legal and conventional forms of property that are established under government.

This argument has a number of consequences, which also serve the political objectives of Locke's analysis. It shows, in particular, that there is no natural right to private property in land, and that, apart from usufruct and the product of one's labour, there can be no differentiated property where there is no government. Thus, while differentiated private property has a conventional character, and its forms are therefore amenable to historical investigation, such property cannot exist among people living in the state of nature. The conventions established by the indigenous peoples of North America have nothing to do with property as Locke understands it here. In this case, too, evidence of settled arrangements among Amerindian peoples has no bearing on his argument.

Finally, I suggested that the idea of the state of nature performs a fourth function in Locke's analysis, which is to occupy an extended region around one end of a developmental continuum. Its epistemological status in this respect – as description, hypothesis or 'fiction' – has been addressed in the course of my discussion of its other functions, and it can be dealt with very

briefly here. On the one hand, the state of nature represents the real historical condition of the early part of humanity. It is a condition in which, with the exception of the Jews, who have a special relationship with God, people are generally ignorant of their rights and obligations under the law of nature. Moreover, as Locke describes it in the *Essay*, this is also a condition in which 'uncultivated nature has been left to itself, without the help of letters and discipline, and the improvements of arts and sciences'. In contrast to the highly cultivated civil societies of the western parts of Europe in Locke's time, the state of nature represents the primitive, barely cultivated, human condition.

On the other hand, in his accounts of the development of government and of property, the state of nature is a condition in which people are in fact governed by the law of nature, and thus by reason. It is these hypothetical people who agree to subject themselves to government in order to rectify the inconveniences of their natural condition. Here, too, the state of nature represents a primitive condition in contrast to the civil societies of Locke's time, but in this case, as Dunn suggests, it is clearly a theoretical construction. There are, in fact, two states of nature at work in Locke's analysis, and two developmental continua which depart from it, one historical and the other purely hypothetical. Both are necessary to his overall argument, but only one of them has any foundation in the empirical materials available to him at the time.

CONCLUSION: THE STATE OF NATURE IN MODERN SOCIAL THOUGHT

My opening discussion suggested that the representation of the state of nature as a merely imaginary, 'theoretical analysis' of social relations obscures the broader significance of the early modern idea of a state of nature, not only for the work of Locke and his near contemporaries, but also, more importantly, for the broader development of western social and political thought. I conclude this article by briefly addressing these two claims. I have indicated some of the complexities and ambiguities, one might almost say 'evasions' or 'confusions', that appear in Locke's use of this idea. I noted, in particular, that there are places where his account of the state of nature cannot be understood as a merely imaginary, 'theoretical analysis' and places where it hardly makes sense to understand it otherwise. We have seen that 'the fundamental relations of right and duty' which Locke identifies in these latter cases derive from a monotheistic world-view which, as Locke interprets it, renders the greater part of humanity in his time – and a still significant proportion in our own – ignorant of their rights and obligations under the law of nature, and thus leaves them vulnerable to the actions of those who treat breaches of this

law as grounds for punitive response. Locke compounds this problem by effectively blaming the victims of such punitive actions, attributing their ignorance to 'want of a due application of their thoughts'. This sectarian aspect of Locke's 'theoretical analysis' is hardly acknowledged in Dunn's discussion. Locke's account of civil society may well appeal to comfortable denizens of the secure and prosperous civil societies of the modern West, few of whom are likely to be familiar with its sectarian foundations, but it remains dangerous and destructive in many political contexts. We should be wary of any account of 'the fundamental relations of right and duty which obtain between human beings' that appears to rely on such a tainted source.

As for my second claim, concerning the place of the idea of the state of nature in the development of modern social thought more generally, it may be useful to distinguish between two contemporary styles or traditions of social thought. One presents a normative account of government, and sometimes of other social institutions, providing criteria which can be used to justify and to criticize political rule. The other tradition is that of an empirical history or social science which is universal in its aspirations. While often focusing on developments in a particular time and place, writers in this tradition nevertheless locate their work within an empirical and conceptual frame which claims to encompass all of humanity. The idea of an original human condition of freedom and equality occupies an important position in the early stages of both traditions.²¹ Locke appears as a significant figure in the first of these traditions, and as rather less significant in the second, but, as we have seen, each of them plays an important part in his arguments.

When normative argument appeals to an original condition, the attributes of freedom and equality appear in what we might call a positive sense. People are presented as being aware of their rights and obligations under the law of nature, and thus also of the sense in which they are free and equal. In order to overcome the inconveniences of this condition, which, after a time, they also clearly recognize, they agree to come together into a commonwealth. This state of nature is the condition which Locke invokes in the passage, quoted earlier, from the Second Treatise, which tells us that the state of nature

... has a Law of Nature to govern it, which obliges every one: and Reason, which is that Law, teaches all Mankind, who will but consult it, that being equal and independent, no one ought to harm another in his Life, Health, Liberty, or Possessions. (1988: 2, # 6)

However, when this normative perspective is no longer dominant and the original condition of freedom and equality is invoked in the course of empirical analysis, these same attributes appear in a negative sense. The fact that the early condition of humanity is one of freedom and equality is now seen as reflecting the absence of complex social institutions, and the absence, in particular, of institutionalized relations between rulers and ruled. We have

seen, for example, that the equality which Locke identifies in this condition applies only to 'Jurisdiction or Dominion, one over another'. 'Age or Virtue may give Men a just Precedency: Excellency of Parts and Merit may place others above the Common Level' (ibid.: 2, # 54). The absence of other social institutions is reflected in the condition of nations whose people are unfamiliar with their obligations under the law of nature, 'where uncultivated nature has been left to itself, without the help of letters and discipline, and the improvements of arts and sciences' (1957: book 1, ch. 4, # 8). This more empirical variant of Locke's state of nature roughly corresponds to what Acosta and other authorities at the time described as the least advanced condition to be found among the peoples of the Americas. Locke's discussion here also conforms to Acosta's analysis of what distinguishes these peoples from those who appear to be more advanced.²² Acosta insists that we all share a common humanity, but some peoples have institutions – language, writing, government – which others do not. According to this view, their condition can be improved through cultivation and the establishment of appropriate institutions.²³ Thus, what distinguishes the more from the less cultivated peoples, is simply the level of cultivation and the social institutions of which that cultivation is the result. The early condition of humanity appears in these writings as the asocial starting point of a developmental continuum which leads, through the progressive formation of social institutions, up to the civil societies that had emerged in the western part of Europe.

Although the historical state of nature takes these two distinct forms in Locke's work, he does not clearly distinguish between them and at times he seems almost to run them together. He maintains, for example, that the teachings of the law of nature are available to anyone 'who will but consult it' (1988: 2, # 6). This suggests that the ignorance of the law of nature which characterizes his second, empirically based, variant of the state of nature, is simply the result of a failure to consult it. His *Essay* argues, as we have seen, that the same failure can be observed even amongst more cultivated people who, 'for want of a due application of their thoughts this way, want the idea and knowledge of God' (1957: book 1, ch. 4, # 8). However, what concerns us here is the relationship between the two variants of the state of nature. There are places where Locke seems to suggest that what distinguishes them is little more than the culpability of those who inhabit the second. Here he clearly indulges in an all too familiar way of thinking about western encroachment on the peoples of the non-western world, which is simply to blame the victims.

With the refinement and consolidation of the empirical tradition – with the emergence, in other words, of what we now think of as the disciplines of social science and history – the tensions between the normative and empirical variants of the state of nature became more difficult to sustain. A century after Locke, we find David Hume arguing that there is little sense in appealing to

the idea of the formation of government through an original contract since (as Locke in empirical mode could have told him) the capacities required for such a contract are clearly not sufficiently developed among uncultivated peoples.²⁴ Kant, in what now seems to have been a rearguard action, hangs on to the idea of an original contract by turning it into a regulative idea, not an historical event. The original contract, he tells us, is the act

... by which the people constitutes a state for itself, *or more precisely, the mere idea of such an act* (which alone enables us to consider it valid in terms of right).²⁵

Thereafter, the idea of an original condition was abandoned by normative theory, only to emerge again in different forms in the works of Robert Nozick and John Rawls in the latter part of the 20th century. It appears now as a theoretical analysis, with no descriptive pretensions, 'of the fundamental relations of right and duty which obtain between human beings' – that is, in precisely the form that Dunn ascribes to Locke. We have seen that there are parts of Locke's discussion in which the state of nature cannot be understood as a 'theoretical analysis' of this kind, and parts where it makes no sense to understand it otherwise. In the latter case, however, its claim to address relations that are fundamental rests on a sectarian religious foundation. Yet Nozick and Rawls are unwilling to rely on any such foundation. The latter rests his argument, at least in his later work, on the empirical, but unsubstantiated, claim that the principles reflected in the design of his original condition are in fact embedded in the major institutions of contemporary western societies. These principles are fundamental, but only for those whose conduct is already organized around them.

The idea of a developmental continuum, along which different portions of humanity move from an original asocial condition through the progressive establishment of social institutions, reached its fullest development in the great 18th-century projects of conjectural history and the 19th-century systems which built upon them.²⁶ The idea of an original asocial condition was abandoned under the influence of evolutionary ideas, but the social sciences and history have nevertheless generally retained their allegiance to the idea of a single developmental continuum, albeit one in which the starting point is now conceived rather differently. There has also been some resistance to this idea, of course, with many authors insisting that movement along the continuum is not always to the good, and others (for example, Diderot and Herder²⁷) advancing the more radical claim that the attempt to locate all human communities on a single continuum should itself be abandoned.²⁸ This last claim has been taken up by a number of contemporary anthropologists.²⁹ Elsewhere in the social sciences and history, both the idea of a single developmental continuum (or at least, of a single destination) and the relegation of many of our contemporaries to an earlier historical period have

largely retained their hold. They also retain their hold over the government of indigenous peoples, the governing institutions of the contemporary international order, and the programmes of political and economic development that take place within it. The modern understanding of civil society may be rather different from Locke's – mainly because it is thought to be located further along the developmental continuum – but it rests on a no less problematic, developmental understanding of humanity.

NOTES

- 1 Supporters of modern cosmopolitanism would do well to remember that its attractively inclusive vision of a cosmopolitan future relies on the less appealing, but no less inclusive, idea that all sections of humanity can be located in the one universal history whose character is exhibited most clearly in the development of the modern West.
- 2 Dugald Stewart (1980) introduces the term 'conjectural history' and provides a clear statement of its ambitions. Cf. Wokler (1995).
- 3 Ashcraft (1969, especially section 2) insists on the developmental character of Locke's account of the state of nature. Cf. Simmons (1989: 458f.).
- 4 See note 3.
- 5 Laslett's Introduction to the Cambridge edition of Locke's *Two Treatises* suggests that 'Locke may be said to have done more than anyone else to found the study of comparative anthropology' (1988: 99, n.). A far stronger case, as Pagden (1982) shows, could be made for Acosta. Locke's use of the empirical materials available to him is tendentious and misleading. Laslett goes on to describe Locke's position as being that, while natural man cannot be proved to have existed in peace and sociability, the evidence does not make such a view impossible. This is the view of Locke's state of nature as an hypothesis, which is one of the targets of Dunn's analysis.
- 6 But see Arneil (1996), Tully (1993) and, on the state of nature more generally, Brandon (1986) and Jahn (2000).
- 7 Pagden (1998) makes a similar point starting from Kant's elaboration of the same developmental theme, which is rather more sophisticated than Locke's.
- 8 Cro (1990, 1993); Levin (1969).
- 9 Mason (1993: 154).
- 10 (*ibid.*: 155).
- 11 Iacono (1993); Ryan (1981).
- 12 Burke to Robertson, 9 June 1777.
- 13 Schiller (1972: 325).
- 14 Cf. Fabian (1983).
- 15 Tully, (1993: 139). Cf. Armitage (2004).
- 16 His tendentious and highly selective use of American materials is documented in Arneil (1996). Grant (1988) and Waldron (1989) point out that anthropological evidence does not support his analysis of government.
- 17 Again, see Arneil (1996); Tully (1993).

- 18 His comment on the unlettered king Apochancana reinforces this last point. 'And if he had not any idea of a God, it was only because he pursued not those thoughts that would have lead him to it' (1988: 2, # 12).
- 19 Tully (1993: ch. 5). Arneil (1996: 163f.) concedes the point but argues, on the basis of the Second Treatise, ch. 16, 'On Conquest', that Locke does not recognize conquest as a basis for the appropriation of property in America. Perhaps, but Locke's account of property provides all the justification he needs.
- 20 These three natural law accounts of property are discussed in Tully (1993); Arneil (1996).
- 21 There is an irreducible element of retrospective construction in the identification of these traditions, as there is, in fact, with all traditions. Thus, in noting that we can now distinguish between them, I do not intend to suggest that, in their earlier stages, they either could or should have been distinguished by people living at the time.
- 22 Cf. Batz (1974).
- 23 Pagden (1982).
- 24 'On the Original Contract' in Hume (1987).
- 25 Kant (1970: 140; emphasis added).
- 26 Cf. Wokler (1995).
- 27 See the discussion of these figures in Muthu (2003) and of Herder in Denby (2003).
- 28 Cf. Boas (1940: 282).
- 29 Fabian (1983) and, more recently, the contributions by Marc Pinkoski and Michael Asch to Barnard (2004) and Pluciennik (2005).

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