CHAPTER 4

Locke's Conflicted Cosmopolitanism: Individualism and Empire

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1 Introduction

Locke is rightly a famous theorist of domestic politics and political revolution. His contributions to the theory of international law and international relations, however, are much less well-known. This is, on the face of it, perhaps somewhat odd. The tradition of seventeenth-century protestant natural law in which Locke wrote had long focused on the law of nations as a primary concern; Hugo Grotius and Samuel von Pufendorf, the leading lights of this tradition during the two generations prior to Locke's own, each devoted hundreds of pages to the topic.[1] Moreover, Locke's biography was tightly enmeshed with international affairs. He was attached as a secretary to an English diplomatic mission to the Elector of Brandenburg in 1665–1666, and he lived in the United Provinces of the

[1] For an authoritative treatment of Grotius's and Pufendorf's contributions to international thought and influence on later authors, see Tuck (1999).

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B. Bourcier and M. Jakonen (eds.), *British Modern International Thought in the Making*, International Political Theory,
https://doi.org/10.1007/978-3-031-45713-5_4

Netherlands for six years during (and on account of his association with) the political intrigues preceding the revolution of 1688.[2] Furthermore, Locke was involved as both secretary and owner in the nascent Carolina Company and its slave trade (Armitage 2012, 87–88), and he contributed to colonial economic policy as a member of the Board of Trade under Queen Ann (Pinheiro 2020, 20–26). We should expect, then, to find a doctrine of international relations in Locke's corpus. But what is that doctrine, and how does it relate to Locke's interactions with the economic and imperial structures of the English Restoration and Augustan periods?

It is always tempting to read Locke through the lens of his great predecessor, Thomas Hobbes. Even if, as Peter Laslett argued long ago (Laslett 1960, 67–91), this exegetical choice is sometimes deeply mistaken, it is not always or necessarily so. Locke did, after all, read Hobbes carefully over many years, despite his protests to the contrary.[3] Some scholars have found in Locke's treatment of international relations little more than a rehashing of Hobbes's doctrine of bellicose international competition against an essentially amoral background. According to Pangle and Ahrensdorf (1999, 153–157), Locke, no less than Hobbes, saw the international scene as anarchic and brutally competitive. The most obvious difficulty with this Hobbesian reading is Locke's claim, central to his entire political project, that the state of nature "has a law to govern it," a law that calls not just for self-preservation but also for the preservation of other human beings simply as such (Locke 1960, II §6, 289). It is possible to read this aspect of Locke's account as a purely rhetorical move aimed at cloaking a neo-Hobbesian worldview behind a palatable (for his intended audience) appeal to morality and its God.

Nevertheless, I do not believe that the Hobbesian reading captures the shape and purpose of Locke's international thought. To the contrary, Locke's vision of states, citizens, and the relationships between them reflects a basically Ciceronian doctrine of moral cosmopolitanism. However, Locke did not consistently adhere to his own philosophical commitments on this front. In several significant political works spanning the length of his career, Locke endorsed policies of colonial imperialism and enslavement at odds with the cosmopolitan moralism of the *Second*

[2] For extensive discussion of these features of Locke's biography, see Woolhouse (2009, 60–66, 197–265). See also Armitage (2009, 33–34).

[3] On the depth and significance of Locke's literary relationship to Hobbes, see Collins (2020).

Treatise. Ultimately, Locke was a complicated and more than slightly Janus-faced figure who opened doors of cosmopolitan equality with one hand only to slam them shut with the other.

2 Cosmopolitanisms Before Locke: Ciceronian and Pauline

Like most core concepts in political theory, the idea of cosmopolitanism is dynamic rather than static; it has been contested, reimagined, claimed, and reclaimed since its arrival on philosophical scene during the classical period of Greek thought. Consequently, we should not assume that it had for Locke the same sense that it has for those of us working in a context heavily influenced by Charles Beitz (2005), Thomas Pogge (1992), and other contributors to contemporary political theory.[4] We must instead attempt to understand the variety of ways in which philosophers and polemicists deployed the idea of cosmopolitanism during the early modern period. Only then will it be possible to assess the ways in which Locke's conceptions of natural law and international relations are (and are not) cosmopolitan.

The English word "cosmopolitan" derives from the Greek "*kosmopolites*," or "citizen of the world ," where "world" has the sense of "ordered totality" rather than any merely physical space.[5] The earliest uses of the term in Greek philosophy—by members of the Cynical school—endowed it with core features that it would retain through its many permutations during the early modern period and beyond. The language of cosmopolitanism reemerged as part of the early modern conceptual lexicon with Erasmus of Rotterdam's famous assertion, in reply to an offer to become a citizen of Zurich, that he wished instead to be a "citizen of the world (*mundi civis*)" (quoted at Penman 2020, 2). From the beginning, the cosmopolitan idea challenged the notion that a person's identity is entirely, or even primarily, a function of the political, familial, or religious circumstances of their birth. While few, if any, cosmopolitans sought to replace these particularistic dimensions of identity with a totally uniform

[4] This methodological point tracks Skinner's (2002, 76–79) advice to take care about the changing senses of our political language.

[5] According to Diogenes Laertius, Diogenes the Cynic claimed: "I am a citizen of the world (*kosmopolites*)." Quoted at Penman (2015, 290) and Nussbaum (1997, 5).

human identity, they did insist that every person is most fundamentally a human being subject, along with all other human beings, to a single moral law or, in some cases, a single (actual or potential) relationship with God. One need not, by cosmopolitan lights, renounce one's identity as an Athenian, for example, to embrace one's membership in the human community. But one must see one's civic, familial, and even religious identities as secondary to and imbedded in a more basic universal identity.

Soon after its inception in classical Greece, the idea of cosmopolitanism became highly contested, and several distinct cosmopolitan traditions emerged from the late Roman republic onward. Two of these conceptions of cosmopolitanism developed into forms that would shape divergent threads of social and political thought during the seventeenth century. First, and most famously, Roman authors associated with the Stoic school developed the seeds of Greek cosmopolitanism into a full-blown doctrine of natural law. The most significant writer in this vein—and certainly the most influential for Locke—was Cicero.[6]

Roman Stoic cosmopolitanism, though an eclectic doctrine with diverse textual and traditional sources, is grounded in three core commitments. First, all human beings share a high and equal rank, or dignity of man ("*dignitas hominis*"), in virtue of their rational nature, which elevates humanity above the other animals.[7] Cicero writes in *De Officiis and De Legibus*:

> It is essential to every inquiry about duty that we keep before our eyes how far superior man is by nature to cattle and other beasts: they have no thought except for sensual pleasure and this they are impelled by every instinct to seek; but man's mind is nurtured by study and meditation. (1913, 107)

[6] Locke repeatedly affirmed his appreciation for and commitment to Cicero as a source of moral wisdom (Marshall 1994, 157–204). Moreover, he recommended the study of Cicero to young men, not (as was then common) primarily as model of good Latin style, but a guide to moral and political thought and behavior (Locke 2000, 31, 239). As Peter Garnsey observes, Cicero was an eclectic thinker who did not hew exclusively to the doctrines of a single ancient school (Garnsey 1996, 129). However, his doctrine of natural law is paradigmatically Stoic, even if, as Stuart-Buttle argues, his epistemology was significantly more empirical—and even skeptical—than classical Stoicism's (Stuart-Buttle 2019, 46–47).

[7] On dignity as a status concept, see Waldron (2012). For detailed discussion of Cicero's conception of dignity, see Griffin (2017).

> It is on account of humans' superior rank as rational beings that human beings, regardless of origin or social or political rank, share a common moral citizenship of the universe "as though of a single city (*quasi Unius Urbis*)" (Cicero 1928, 367).

Second, human beings' common high rank as rational moral citizens of the universe grounds the moral law and every person's accountability under it. Cicero explains just a few lines later in *De Officiis*:

> We must realize also that we are invested by Nature with two characters, as it were: one of these is universal, arising from the fact of our being all alike endowed with reason and with that superiority which lifts us above the brute. From this all morality and propriety are derived, and upon it depends the rational method of ascertaining our duty. The other character is the one that is assigned to individuals in particular. (Cicero 1913, 109)

Just as the scope and force of the dignity-based natural law comprehends all humankind, its content directs every human being to be concerned for every other human being as a member of the universal moral community. Nature, Cicero asserts, "ordains that one man shall desire to promote the interests of a fellow-man, whoever he may be, just because he is a fellow-man" (Cicero 1913, 295).

Third, the moral law that flows from human nature permanently binds all people and is superior even to duly established political law. Cicero writes in *De Legibus*: "Justice is one; it binds all human society, and is based on one Law, which is right reason applied to command and prohibition. Whoever knows not this Law, whether it has been recorded in writing anywhere or not, is without Justice" (Cicero 1928, 345).

According to Ciceronian cosmopolitanism, then, human beings are subject to a single moral law that flows from their common rational nature. Just over a century after Cicero's death, a very different form of cosmopolitanism, which we may follow Leigh Penman in calling "Pauline" cosmopolitanism, began to develop in eastern parts of the Roman empire (Penman 2015, 290–296). Like Ciceronian cosmopolitanism, Pauline cosmopolitanism insists that our truest identity is one we can share with people across the entire world, regardless of origin, social status, or nationality. But unlike the Ciceronian conception, the Pauline doctrine derives this conclusion not from a common rational nature but from a common ability to accept spiritual citizenship in Christ's kingdom. We read in the *Letter to the Ephesians*:

> But now in Christ Jesus you who once were far away have been brought near by the blood of Christ… Consequently, you are no longer foreigners and strangers, but fellow citizens with God's people and also members of his household, built on the foundation of the apostles and prophets, with Christ Jesus himself as the chief cornerstone. (Ephesians 2:13, 20–21: NIV)

Pauline cosmopolitanism is notable—and distinct from Ciceronian cosmopolitanism—in that the human community it posits is only potentially universal. Insofar as some fail to accept Christ's grace, they are foreigners with respect to the only kind of citizenship that ultimately matters. The very terms that potentially include everyone actually exclude many—if not most—people.[8]

As Penman has ably demonstrated, Pauline cosmopolitanism and related doctrines constituted a major intellectual force in Europe during the sixteenth and seventeenth centuries. Moreover, Locke shows interest in ideal communities of "Pacifick Christians" who would enact many of the features of universal Christian citizenship that figure into the Pauline texts.[9] Nevertheless, there can be no doubt that Ciceronian cosmopolitanism was also alive and well in seventeenth-century European natural jurisprudence, not least in Locke's political works.[10] It is this Ciceronian conception of natural law that grounds Locke's doctrine—or, rather, his official, philosophical doctrine—of international law no less than his understanding of domestic law.

3 Locke's Ciceronian Natural Law

We saw above that Cicero's cosmopolitan conception of natural law is characterized by three core commitments: (1) All people are morally equal because they are rational; (2) Human moral equality yields a natural moral law; and (3) The natural moral law is a higher authority than any political

[8] On the dual character of Pauline cosmopolitanism as at once universal and exclusive, see Penman (2015, 303–305).

[9] In 1688, Locke sketched his framework for a religious society of "Pacifick Christians" who would live together on terms of genuinely Christian peace and mutual acceptance in the face of disagreement on adiaphora. See Locke "Pacific Christians" (1997, 304–306).

[10] For instance, Grotius's formulation of the source and content of natural law and the law of nations was deeply indebted to Cicero's natural-law doctrines (Straumann 2015, 37–50).

law. Locke endorses all three of these commitments, and in doing so, he lays the groundwork for his conception of international relations. It will be useful to consider in turn how each of these three cosmopolitan foundation stones emerges from Locke's text.

Locke's *Two Treatises* is an extended response to Robert Filmer's *Patriarcha* (1680), an early seventeenth-century pro-monarchist and anti-egalitarian tract that remained unpublished until Stuart allies resurrected it during the Exclusion Crisis of 1679–1681 (Cuttica 2015, 187–211). The details of Filmer's account are somewhat byzantine and more than a little odd, but they needn't concern us here.[11] What matters for our purposes is that in rejecting Filmer's anti-egalitarianism, Locke sought to establish the natural moral equality of human beings on grounds much like Cicero's in *De Officiis*. The natural condition of human beings, Locke explains, is one of

> Equality, wherein all the Power and Jurisdiction is reciprocal, no one having more than another: there being nothing more evident, than that Creatures of the same species and rank promiscuously born to all the same advantages of Nature, and the use of the same faculties, should also be equal one amongst another without Subordination or Subjection. (Locke 1960, II §4, 287)

This common equal rank—or, to use the language Locke approvingly quotes from Hooker on the very next page, this common "dignity"—is a status that people possess not as members of a special religious community but rather as rational agents. And, as Locke stated explicitly in his *Thoughts Concerning Education*, this dignity is the "dignity and excellency of a rational creature" (Locke 2000, 31, 103).

Locke followed Cicero in positing a natural law as a logical consequence of the equal dignity of rational persons. Like Cicero, Locke held that the law of nature is rational in its content and divine in its promulgation. We read in Locke:

[11] As Michael Zuckert has shown, though, Filmer's argument is perhaps not so foolish as Locke would have us believe, and Locke certainly makes no serious effort to present it fairly (Zuckert 1994, 55). Laslett suggests (plausibly) that James Tyrrell's 1681 response to Filmer, *Patriarcha non Monarcha*, is much stronger than Locke's as a reply even if it is somewhat weaker as a stand-alone work of political theory (Laslett 1988, 68).

> 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 all equal and independent, no one ought to harm another in his Life, Health, Liberty, or Possessions. For men [are] all the Workmanship of one Omnipotent, and infinitely wise Maker; all the Servants of one Sovereign Master, sent into the World by his order, and about his business. (Locke 1960, II §6, 289)

We may compare these lines from Locke to Cicero's remarks in *De Legibus*:

> That animal which we call man, endowed with foresight and quick intelligence, complex, keen, possessing memory, full of reason and prudence, has been given a certain distinguished status by the supreme God who created him… And since right reason is Law, we must believe that men have Law also in common with the gods… as a matter of fact they do obey this celestial system, the divine mind, and the God of transcendent power. (Cicero 1928, 321, 323)

Locke also followed Ciceronian precedent concerning the content of natural law, at least in some important respects. Cicero, we earlier observed, insisted that the natural law commands each person to "promote the interests of a fellow-man, whoever he may be, just because he is a fellow-man" (Cicero 1913, 295). Sounding a similar note, albeit with a nod to self-preservation reminiscent of Hobbes, Locke wrote: "Every one, as he is bound to preserve himself, and not to quit his station wilfully, 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" (Locke 1960, II §6, 271).[12]

Nevertheless, Locke's understanding of natural-law's content departs from its Ciceronian roots on (at least) two very important points. First, Locke offers an account of natural private property rights that is, if not wholly original, at least absent from Cicero and other sources of Roman

[12] According to Hobbes, the first law of nature is "To seek Peace, and follow it" (Hobbes 1994, 1.14.5, 80). However, this is not because people have a natural right to be preserved but rather because peace furthers everyone's fundamental interest in self-preservation.

Stoicism.[13] According to Locke, individuals in the state of nature may acquire private property rights in naturally common resources by laboring on them (Locke 1960, II §27, 287–288).[14] These natural property rights survive the transition to political societies wherein people seek to secure them more effectively. Although Cicero and other Roman Stoics certainly defended civil property rights, no such account appears in their works. Second, unlike Cicero, whose philosophical works contain no extended discussion of slavery at all (Manning 1989, 1254; cf. Garnsey 1996, 131, n. 4), Locke argued at length that slavery is immoral on the very grounds of equal dignity we have been discussing (Locke 1960, II §22–§24, 301–303). The sole exception to Locke's proscription of slavery is the right of conquerors in just wars to hold "despotic" power over the wrongdoers who willingly took up arms in violation of the natural law.

4 International Law as Natural Law: Individualism

Locke's Ciceronian conception of natural-law grounds—and, in the final analysis, is identical to—his cosmopolitan conception of international law and relations, which I call *individualism*. To see how and why this is so, it will be useful to begin not with international affairs but rather with domestic politics. The more familiar territory of Lockean domestic political theory offers a conceptual scaffold for understanding Locke's individualism about relationships between distinct states and their respective members.

According to Locke, individuals create commonwealths, and thus political relationships, by consenting to alienate their executive rights to a common legislative authority (Locke 1960, II §87, 341–342). This sovereign legislative authority, which is originally vested in the whole body of consenters (and reverts to that body in the event of tyranny or usurpation), is a trustee; it holds its members' executive rights on the condition that it use them to protect their other rights (Locke 1960, II §96–§98,

[13] Tyrrell published a similar account in 1681 (Tyrrell 1681, Chapter 4, especially 110–12). By Laslett's dating, this is about the time Locke was adding passages to his already-drafted *Two Treatises* (Laslett 1960, 60–61).

[14] Hill and Nidumolu (2021) argue that Locke's conception of self-ownership, which grounds the moral power of labor to create private property rights in common resources, is grounded in the Stoic doctrine of "self-guardianship."

349–350, II §211–§222, 424–432). Political relationships, therefore, do not arise from unilateral acts. A political alteration to the natural-law relationship between two or more people requires mutual consent on equal terms from all parties involved. This necessary condition on political changes to natural-law relationships follows from the conception of equality that structures Locke's entire political theory. If one person could unilaterally introduce a whole new structure of human authority into her relationship with another person, Locke's basic commitment to equal standing would be in tatters.

Now consider the legal relationship between two people, only one of whom consents to join a particular civil society. Prior to the consenter's decision to join, we may suppose that neither person was a member of any civil society and that their mutual rights and duties were governed solely by unaltered natural law. It is clear how the consenter's decision to join a political community unproblematically alters her legal relationship to her fellow political citizens; all of them decided on equal footing to entrust the same civil community with their rights. But it is far less clear how the consenter's decision could alter her natural-law relationship to the person who remains outside the civil community. They are equals, after all, and only the consenter has decided to make any kind of change to her natural-law situation. It would therefore seem that the consenter must have the same rights and duties with respect to the outsider that she had before she consented to her political community. And this is exactly what Locke suggests when he writes that "men living together…without a common superior on earth, with authority to judge between them, is properly the state of nature" (Locke 1960, II §19, 298). The consenter and the remainer are in a state of nature with respect to one another, and that condition, as we have seen, has a law to govern it. The political relationship that the consenter now bears to her fellow political citizens is neither here nor there.

Imagine, now, a slightly altered version of this case. Unlike the first version, in which one person joins a political community while the other does not, each person in this version of the story joins a commonwealth, but not the same one. Although each of our characters now has a new set of legal relationships with her fellow citizens, there is no reason to suppose their legal relationship to one another has changed. Just as in the previous version of the case, they lack a "common superior on earth" and so remain in the natural legal condition with respect to one another. Consequently, each has the same rights and duties toward the other that she had before

either joined a commonwealth. Now, in Locke's time no less than in ours, every person (or almost every person) has a set of political-legal relationships within a political community of some kind. Thus, Locke did not imagine that anyone relates to all human beings solely as a fellow subject of natural law. But this in no way entails that people do not relate to *most* other human beings solely as fellow subjects of natural law. Indeed, any two people who are members of distinct political communities lack a "common superior on earth" and so remain in the state of nature with respect to one another. This in turn can only mean that any two such people have all the same natural-law rights and duties with respect to one another that they would have had if both had remained politically unaffiliated.

If the members of distinction political communities retain their full natural-law relationships to one another, then commonwealths must be obligated to fulfill their members' natural-law duties to outsiders and respect outsiders' natural-law claims against their members. For commonwealths are nothing more or less than guarantors of their members' rights and executors of their members' duties. Thus, Locke is committed to *individualism*: international relations are, at normative bottom, natural-law relations among individual members of distinct political communities.[15] Distinct commonwealths are empowered to manage those relations on their behalf, but this does nothing to alter the basic normative character of those relations.[16]

There are two textual grounds on which the liberal cosmopolitan reading of Locke may seem to err. Both of these prima facie problems dissolve under closer inspection, but it will clarify and strengthen the case for the cosmopolitanism reading to consider them in some detail.

According to the liberal cosmopolitan reading I have been defending, international rights and duties resolve into natural-law rights and duties among individuals. However, Locke makes it clear that commonwealths as such can acquire rights and duties via treaties. He explains that

[15] I thus agree with Michael Doyle and Geoffrey Carlson's claim that "Locke explicitly analogizes the international system's condition to that of equal, rational, and independent men in the state of nature" (Doyle and Carlson 2008, 660). I disagree, however, with their suggestion that Locke's international system is anarchic, as I take the law of nature to constitute genuine law as Locke understands it (Doyle and Carlson 2008, 660).

[16] For a similar understanding of Locke's approach to international relations, albeit framed in terms of the twenty-first-century frameworks of "liberalism" and "realism," see Ward (2006).

the commonwealth's "federative" power—from *foedus*, or "treaty"—possesses "the power of war and peace, leagues and alliances, and all the transactions, with all persons and communities without the commonwealth" (Locke 1960, II §146, 383). Moreover, the federative power to transact treaties plays an essential role in the very constitution of commonwealths insofar as treaties between political communities determine their borders (Van der Vossen 2015). Early societies, Locke explains, "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" (Locke 1960, II §38, 313). Similarly, Locke writes that "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" (Locke 1960, II §45, 317).

These texts leave no doubt that states can create and bear rights and duties distinct from those of their members. But this is no reason to doubt that Locke embraced *individualism*. Indeed, there is no more reason to doubt the fundamental individualism of states' outward-looking rights and duties toward other commonwealths than that of their inward-looking contractual rights and duties with respect to their own members. It is the Lockean commonwealth as such that has a right to enforce its laws against its members and a duty to protect their rights by doing so. But this is because its members have entrusted the commonwealth with these rights and duties for the sake of their preservation. Consensual political relations create public rights and duties with respect to the people who share in those relations, but this does not mean that states are fundamental bearers of rights and duties, or bearers of rights and duties whose force and normative explanation is independent of individuals' rights and duties. Just as members entrust the state with their rightful preservation against internal threats, so too do they empower the state to execute treaties—and, thus, to acquire rights and duties—pursuant to securing them against external threats. In both cases, the law of nature, which governs human beings as such, is "drawn closer" without being replaced (Locke 1960, II §135, 376).

One might grant that conventional rights and duties among commonwealths are compatible with *individualism* but harbor concerns about Locke's claim that the distinct members of a commonwealth constitute "one body in the state of nature" (Locke 1960, II §145, 383). Locke's

language here may, on the face of it, seem to suggest that the rights and duties of commonwealths cannot reduce to those of their individual members, which would in turn count against *individualism*. However, Locke helpfully explains that the members of a commonwealth stand as one body to outsiders not because people lose their natural rights and duties toward outsiders when they join a state but rather because the commonwealth is entrusted to "manage" those rights and duties. It is "under this consideration" of "manage[ment]" that "the whole community is one body in the state of nature" (Locke 1960, II §145, 383). Moreover, this is the same consideration that makes the people of a commonwealth one body with respect to security and mutual preservation among themselves. Thus, insofar as the law of nature endures within commonwealths, it endures between the members of distinct commonwealths as well.

5 Conquest: Individualism in Action

Perhaps the single most illuminating application of individualism in Locke's philosophical texts is his extensive treatment of conquest in the *Second Treatise*. Locke knew that most of his readers would take it for granted that at least some, if not all, successful conquests gave conquerors a right to rule over the conquered people and territory. Moreover, conventional wisdom—and many seventeenth-century theorists (Hobbes, for instance)—held that it made no difference to the rights of individual members of conquered states what actions they may have taken or omitted during the preceding hostilities.[17] Locke recognized that violent conquest conducted on these assumptions accounted for most of the political power in the world (Locke 1960, II §175, 402–403). But such assumptions are manifestly at odds with individualism: If the rights of states are simply the rights of individuals held in trust, sovereignty must be much more permeable than the conventional model of conquest assumed. Thus, we should expect Locke to reject the conventional model of conquest for one that rejects non-consensual political authority and apportions the rights of conquerors according to the guilt of individual actors.

[17] According to Hobbes, all that matters is that the conquered in fact transfer their rights to the conqueror. Neither the duress the conqueror might impose on them nor their past actions make any difference (Hobbes 1994, II.xvii.15, 109–110).

That is precisely what Locke did. In a chapter devoted solely to conquest, Locke rejected wholesale the conventional model of conquest in favor of one that simply extends the logic of natural executive rights to the special case of conflicts involving states. A few tenets of Locke's individualistic conception of conquest are especially illuminating as examples of Locke's more basic individualism.

First, unjust conquerors, or conquerors who are not fighting to defend against or avenge a violation of natural right by the other party (and so, e.g., ordinary expansionist conquerors, such as the European powers in North America) are not entitled to any rights whatsoever over the conquered (Locke 1960, II §176, 403–404). This is true no matter how long an unjust conqueror remains in power; the Greek Christians, for instance, were entitled throw off the "Turkish yoke" under which they had by 1680 suffered for more than two centuries (Locke 1960, II §192, 412). The only way a conquering power can attain legitimate political rights is by receiving free and uncoerced public consent once the conquering group and the conquered group have "incorporate[d] into one people" (Locke 1960, II §178, 405) subject to "equal laws of freedom" (Locke 1960, II §192, 412).

Second, even a just conqueror does not acquire any political rights in virtue of his conquest. This follows from the logic of natural executive rights, of which conquerors' rights are—and can only be—an application. If one unaffiliated individual in the state of nature violates the law of nature and another uses force against him, the enforcer does not thereby acquire any political rights over him. The enforcer may acquire a right to kill the violator and a fortiori a right to "make use of him to his own Service," but in no event does the enforcer gain standing to rule the violator politically (Locke 1960, II §23, 302). Locke affirmed the same position with respect to conquerors that are commonwealths or their leaders rather than unattached individuals; even a winner of an impeccably just war acquires no right to crown himself king of the vanquished, even if he may kill them (Locke 1960, II §180, 406).

Third, just conquerors' despotic rights extend only to the individuals who took part in unlawful aggression against others (Locke 1960, II §179, 406). Rather than considering all members of a polity as parts of a corporate body, Locke treated members of polities as moral individuals and assigned the rights and duties of conquest accordingly. This, too, follows from individualism. According to Locke, states act on behalf of individuals only within the scope of rights justly transferred to the former,

and no just transfer of a right to violate natural law can ever occur for the simple reason that no person can ever possess such a right in the first place. Consequently, unjust warriors do not act in a political capacity and so bear no special relationship to any person solely in virtue of political membership.

Fourth, and finally, victory even in just war does not entitle the victor to the property of the defeated, at least not beyond what the victor needs to recoup his losses (Locke 1960, II §182, 407–408). This is because natural individual executive rights, of which rights of conquest are an instance, and natural individual property rights are entirely distinct in their aims and conditions. Since property rights serve to secure individuals and families in their independent preservation, the property of an aggressor, justly killed by the victor, proceeds normally to the family of the deceased.

In sum, we see Locke's individualism turning conventional thinking about conquest on its head. As nothing more than an instance of individual executive rights, rights of conquest, to the extent they exist, ground no political rights over offending individuals, let alone over the whole body of a conquered people.

6 Colonialism: Individualism Betrayed

Locke's doctrine of conquest as spelled out in the *Second Treatise* is a case study in how Locke's cosmopolitan individualism is designed to operate on the world stage. But we should not conclude from that example that Locke's writings on international affairs consistently accord with the *Two Treatises*' philosophical arguments. To the contrary, in texts written before, during, and after the composition of the *Two Treatises*, Locke actively contributed to England's burgeoning colonial empire, including its slave trade and its economic exploitation of colonies such as Ireland.

There is no better place to begin on this front than Locke's infamous contributions to the *Fundamental Constitutions of Carolina*. The first English joint stock plantation in the region of eastern North America immediately south of Virginia had been established in 1663 only to collapse five years later.[18] In 1669, Sir Anthony Ashley Cooper, later 1st Earl Shaftesbury, a Carolina proprietor, was deeply invested in restarting the Carolina project on more stable (and lucrative) footing. Having met

[18] Here I follow Armitage's (2004, 607–615) reconstruction of the events surrounding Locke's involvement with Carolina and its constitution.

Locke in his capacity as a physician in Oxford some years earlier, Shaftesbury brought Locke to London as his secretary and sometime physician, and it was from this position that Locke assumed the position of Secretary to the Lords Proprietors of Carolina in 1669.[19] In this secretarial capacity, which he occupied until 1675, Locke played a significant—and possibly decisive—role in drafting the new Fundamental Constitutions that would structure the colonial venture in Carolina during the rest of the seventeenth century. Moreover, as David Armitage has shown, we may not relegate Locke's activities with the Lords Proprietors—in whose venture he owned shares and by whom he was created Landgrave of Carolina—to an immature period preceding the composition of the *Two Treatises* (Armitage 2004, 610–615). To the contrary, Locke was actively drafting new versions of the *Fundamental Constitutions* and scoping out new agricultural possibilities for the Carolina plantations during the period from 1679 to 1682 that saw Locke composing the bulk of the *Two Treatises*.

The *Fundamental Constitutions* directly contradicts the cosmopolitan individualism of the *Second Treatise* in numerous ways. Perhaps most obviously, the *Fundamental Constitutions* countenances the chattel slavery of kidnapped Africans and their descendants. We read there that despite the right (and duty) of every free and enslaved person in Carolina to practice in public the religion of their choice, "Every freeman of Carolina shall have absolute power and authority over his negro slaves of what opinion or religion soever" (Locke 1997, *Fundamental Constitutions* §110, 180). Moreover, the document assigns to many whites in Carolina the permanent, hereditary status of "leet man," or serf attached to the Plantation's land as governed by its leet, or property court (Locke 1997, *Fundamental Constitutions* §22–§25, 166). Both chattel slavery and serfdom directly contradict the moral equality of rational persons that anchors Locke's philosophical account of natural law.

Slavery and serfdom in the Carolinas are, of course, quite enough to cast into serious doubts Locke's commitment to cosmopolitan natural law. But the trouble does not stop there. Slightly later in the *Fundamental Constitutions*, we read that white Carolinians may not hold any property by "purchase or gift" from Native Americans. Even if, as Barbara Arneil and others have argued, Locke meant to limit the scope of Native Americans' landed property by casting doubt on whether they labored

[19] For discussion of Locke's medical study and practice in Oxford during this time and his initial encounter with Shaftesbury, see Woolhouse (2009, 58–59, 70–73).

productively on the land, his account of property in the *Second Treatise* explicitly extends property rights in the fruits of labor to Native Americans (Arneil 1996, 132–167; e.g., Locke 1960, II §30, 307). These property rights unambiguously incorporate rights of contract and exchange (Locke 1960, II §66, 318). In excluding contracts with Native Americans from due recognition in Carolina, the *Fundamental Constitutions* abrogated an individual right under natural law for the purpose of achieving the economic and imperial goals of the Lords Proprietors and the Crown. This expressly violated the individualism that constitutes the core of Locke's Ciceronian cosmopolitanism as developed in the *Second Treatise*.

I have been arguing here that the provisions of the *Fundamental Constitutions* constitute a betrayal of Locke's philosophical principles. But perhaps this is wrong, and Locke always intended his philosophy, facially cosmopolitan and individualistic though it may have been, to carry water for colonial imperialism.[20] Armitage, for instance, argues in detail that Locke's property doctrine in the *Second Treatise* is both Locke's only available conceptual resource for grounding the Lords' Proprietors takings of Native American lands and the one that he in fact meant to deploy for this purpose (Armitage 2012, 106–109). Perhaps Armitage is right about this. But even if he is, we still face Locke's wholly unjustified—at least by the terms of his official conception of natural law—endorsement of chattel slavery, serfdom, and limited proprietary contract rights for Native Americans.

Locke similarly violated his own natural-law principles with respect to international affairs in his "Encouragement of Irish Linen Manufacture," which he composed in 1697 in his capacity as a member of William III's Board of Trade. In this short address, Locke sketched a plan for at once heavily discouraging Irish competition with England in the wool trade and encouraging the development of Irish linen manufacturing as an alternative path of economic development (purportedly) more aligned with English interests. According to Locke, Irish wool exports (except for frieze cloth brought to market in England) competed with England's exports in this sector and thus threatened the kingdom's

[20] This "imperial reading" of Locke has risen to prominence over the last several decades through important work by Arneil (1996), (Armitage (2004, 2012), and others. James Farr (2008) argues that Locke contributed to racist, colonial imperialism despite the absence of foundations for such imperialism in his theory of just war.

economic growth. This, in Locke's judgment, was sufficient grounds for the Irish wool trade to be "restrained and discouraged with impositions, penalties, and all other ways which together may be sufficient to hinder it" (Locke 1876, 364). Locke realized, though, that it wouldn't do to simply penalize the Irish wool trade without instituting in its place an alternative source of employment and economic growth for the colony. Moreover, he did not think it best to treat Ireland as just another agricultural colony on the model of Carolina and other North American possessions (Pinheiro 2020, 23–26). Instead, he urged England to encourage Irish linen manufactures through such schemes as work schools and contests, among others.

The economic details of the proposal, though they illuminate the development of proto-industrial theory within early capitalist colonial thought, are not what concern us here.[21] Rather, what stands out in the present context is how Locke takes for granted in his recommendations to the Board that Irish workers may be coercively regulated for the express purpose of enriching England. He does so even though England's relationship to Ireland between the Anglo-Norman conquest of Ireland in 1177 and Irish Independence in 1922 was a paradigmatic case of tyranny by conquest, a relationship of sheer force that violated the law of nature—and thus international law—and so could not generate any rights whatsoever. As we earlier observed, Locke argues in the *Second Treatise* that the only way for legitimate political power to arise in the wake of aggressive conquest is for conquerors and conquered alike to "become one people" under "equal laws of freedom" to which we may suppose all have consented and on whose consent their authority depends. The Anglo-Irish relationship manifestly met none of these conditions. As Locke clearly recognized, England stood to Ireland as a master to an underling from whom resources could usefully be extracted on the terms best suited to the master's interests. Thus, Locke's attitude toward Ireland and the economic questions of its colonial administration was flatly incompatible with his philosophical doctrine of just a few years earlier.

[21] For detailed discussion of Locke's recommendations for Ireland as a dimension of his contribution to proto-industrial colonial thinking, see Pinheiro (2020, 20–28).

7 Conclusion: Which Locke?

It seems, then, that there is not one Lockean conception of international relations but rather (at least) two mutually incompatible conceptions. In the philosophical serenity of the *Second Treatise*, we encounter Locke the Ciceronian cosmopolitan, champion of robust individualism and natural rights across the entire world stage. But in the political and economic tracts, we meet Locke the colonial *apparatchik*, a dubiously principled *realpolitiker* willing to sacrifice his most basic philosophical commitments for the sake of national interests. Future research may, perhaps, make more progress in unifying the two halves of Locke's international thinking than we have here been able to achieve.[22] But there is a real possibility that Locke, like most of us, harbored within his thinking contradictions that he learned, for better or worse, to live with.

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[22] As Skinner reminds us, though, understanding past thinkers correctly does not always amount to, or even involve, rendering them coherent (Skinner 2002, 67–72).

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