

Liberalism and Locke's Philosophical Anthropology

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Abstract: Perhaps in part because of an issue related to chronology of publications, the connections between Locke's liberalism and philosophical anthropology are underappreciated. This essay addresses that issue and re-examines Locke's account of the person, treating it as an interpretive key to Locke's political thought. Locke's *person* is, contra the standard readings, a relational concept that refers to beings capable of law in terms of their accountability to law; descendants of Adam are equal as persons in that they hold identical rights (or prerogatives) and duties under the divine law. This philosophical anthropology leads to a principle—eschatological accountability delimits legitimate moral and political authority, so authority over a person is necessarily limited by that person's accountability to God—that helps to clarify certain misunderstandings of the status of moral authority within Lockean liberalism and to explain how Locke set the terms of subsequent debates about the limits of political authority.

First of all, we must define man.

—Marcus Varro

The secondary literature on Locke, in part owing to the influence of John Dunn's seminal work a generation ago, has made striking advances in leaving behind what had been common misunderstandings of Locke's views on the human person, not least by emphasizing the theological and jural aspects of his view. Still, perhaps in part because of an issue (discussed below) related to chronology of publications, the importance of Locke's conception of the person to his liberalism has not received sufficient attention.¹

Locke became the father of liberalism by building a politics appropriate for eschatologically accountable beings, and that he did so casts at least some

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¹Throughout I use *liberalism* to refer to classical liberalism, that set of ideas related to limited government, religious tolerance, and free market economics of which Locke is rightly considered a father.

doubt on the popular idea of liberalism as part of a secularizing trend that developed in response to religious wars.² It suggests liberalism developed less as a rejection of Christian politics than as a refinement of it.

Locke's *person* is neither a substance nor a mode, as much of the recent literature claims, but a relation. A person, I will argue, is what may be termed a juridical unit—a being capable of law considered in relation to law.³ Persons can be related to at least three types of law: the divine (or moral) law, the civil law, and the philosophical law (set by a given community's opinions about what is virtuous or vicious).⁴ Accountability to the divine law takes precedence both because of its relation to divine and human natures and because of the weightiness of divine rewards and punishments. Because descendants of Adam are equal *as persons* in that they have identical rights (or prerogatives) under the divine law, each individual descendant has a significant level of authority relative to philosophical and civil laws. Eschatological accountability delimits legitimate moral and political authority, so authority over a person is necessarily limited by that person's accountability to God.

In what follows, I establish my interpretation of Lockean persons by arguing that *person* is a relation, that Locke intends his views on the self to inform reading of his ethical and political works, and that Locke holds descendants of Adam to be equal *as persons*. I then argue that seeing how Locke builds an ethics appropriate for juridical units shows how two opposing criticisms of Locke's liberalism are mistaken. One of these suggests

²Of course, Locke was not necessarily orthodox in all his theological positions. Locke's view of original sin, for example, was not a standard one. See Kim Ian Parker, *The Biblical Politics of John Locke* (Waterloo, ON: Wilfrid Laurier University Press, 2004), 147–50. Even with regard to eschatological judgment, aspects of Locke's view were unorthodox for his era—his denial that the *same* body would need to be resurrected, for example—but Locke's overall goal was one he shared with many of his contemporaries, namely, to explain how people after the Resurrection can be accountable for actions in this life. See Nicholas Jolley, *Locke's Touchy Subjects* (New York: Oxford University Press, 2015), 100–105. On how Locke's subjective approach to diachronic identity fit into early modern philosophical trends, see Udo Thiel, *The Early Modern Subject* (Oxford: Oxford University Press, 2011), 61–93.

³Several authors use similar terms to capture the idea that *person* is a forensic term, but by not reading it as a relation, their interpretations end up rather convoluted. For example, Boeker uses "subject of accountability," while Strawson uses "unit of accountability" (Ruth Boeker, "The Moral Dimension in Locke's Account of Persons and Personal Identity," *History of Philosophy Quarterly* 31, no. 3 [July 2014]: 239; Galen Strawson, *Locke on Personal Identity* [Princeton, NJ: Princeton University Press, 2011], 22).

⁴Locke seems dissatisfied with his names for this third law. Introduced in the heading for E 2.28.10–11 as the "Philosophical Law," it is referred to in the body of the text as "the Law of Opinion or Reputation." Later Locke calls it the "Law of Fashion" (E 2.28.13). The second of these names being burdensomely long, I generally use the first (philosophical law), judging it imperfect but superior to "Law of Fashion."

Locke's view of the self is part of a modern rejection of authority, the other that it is implicated in the emergence of a Foucauldian system of psychological control. Finally, I argue that seeing Locke to be building a politics appropriate for juridical units clears up confusion about a core element of Locke's liberalism, namely, whether and how Locke places limits on legitimate political power.⁵ People lack authorization to give up the freedoms necessary to carry out the responsibilities for which God will hold them accountable; therefore political authority is limited by inalienable individual rights, including especially rights relating to political revolution and religious freedom.

What Is a Person?

Locke's philosophical anthropology has been enormously influential,⁶ but debate persists over the concept at the center of it, namely, *person*. Quite

⁵Locke differentiates between justified power (authority) and raw power, but he uses the word *power* to refer to both concepts. Context, for the most part, makes clear which he intends. See 2nd T: 2–3, 17.

References to Locke's works will be abbreviated as follows. All emphasis is Locke's, unless otherwise noted.

- 1st T Book I of John Locke, *Two Treatises of Government*, ed. Peter Laslett (Cambridge: Cambridge University Press, 1988), 137–263. Citations are by paragraph number.
- 2nd T Book II of John Locke, *Two Treatises of Government*, ed. Peter Laslett (Cambridge: Cambridge University Press, 1988), 265–428. Citations are by paragraph number.
- CE John Locke, *Some Thoughts concerning Education*, ed. John William Adamson (Mineola, NY: Dover, 2007). Citations are by section number.
- CT John Locke, *Locke on Toleration*, ed. Richard Vernon (New York: Cambridge University Press, 2007). Citations are by letter number and page number.
- E John Locke, *An Essay concerning Human Understanding*, ed. P. H. Nidditch (Oxford: Clarendon, 1971). Citations are by book, chapter, and section.
- ELN John Locke, *Essays on the Law of Nature*, in *Locke: Political Essays*, ed. Mark Goldie (New York: Cambridge University Press, 1997). Citations are by essay number and page number.
- RC John Locke, *The Reasonableness of Christianity*, ed. I. T. Ramsey (Stanford, CA: Stanford University Press, 1958). Citations are by paragraph number.

⁶Thiel recounts how Locke's approach "sparked off" the eighteenth-century discussions of personal identity in terms of "inner-directed consciousness" (Thiel, *Early Modern Subject*, 31). As Ayers has somewhat hyperbolically claimed, "the debate on personal identity has hardly moved on since the innovations of the seventeenth and eighteenth centuries" (Michael Ayers, *Locke* [New York: Routledge, 1991], 2:281).

obviously a complex (rather than simple) idea, *person* must fit into Locke's taxonomy of ideas as a substance, mode, or relation. Recent commentators argue either that it is a mode or that it is a substance. But there are strong reasons to think Locke's *person* is a relation.⁷

It is odd that this possibility has gotten so little attention, given that several commentators reference with approval Edmund Law's early interpretation of Locke.⁸ Despite the fact that Law does not clearly observe the distinction between modes and relations, Law is best read as explaining persons to be relations. He writes that when we apply "the word *Person* ... to any man, we do not treat of him absolutely, and in gross; but under a particular relation."⁹ And again: when we refer to persons, we do not consider what "particulars, whether mental or corporeal, contribute to the formation of this intelligent Being" but only consider those "Beings under such a *moral* relation, as makes them properly accountable to some superior for their course of action."¹⁰

To see what Law means, consider Locke's definitions of relation and person. A relation is "the considering of one thing with another, which is extrinsical to it," as "*Father, Brother, King, Husband*" all "together with the thing they denominate, imply also something else separate, and exterior to the existence of that thing" (E 2.25.10). Locke says "there is *no one thing... which is not capable of almost an infinite number of Considerations*, in reference to other things" (E 2.25.7). Then Locke tells us that *person* "is a Forensick Term appropriating Actions and their Merit; and so belongs only to intelligent Agents capable of a Law, and Happiness and Misery" (E 2.27.26). The term *belong* is an interesting clue, since Locke says that relations "belong" to

⁷To my knowledge, only one recent commentator argues that Locke's persons are relations, but his position is quite different from mine. Simendić holds that *person* is the relation between present consciousness and the various temporal iterations of that consciousness. He claims that *person* is a relation but *man* is not because "person is defined by its temporal extension and this serves a specific forensic purpose" (Marko Simendić, "Locke's Person Is a Relation," *Locke Studies* 15 [2015]: 93). Simendić is certainly right that Locke dwells on the diachronic identity of persons and that this identity serves a specific forensic purpose. But given that Locke thinks we form the idea of identity when we compare "*any thing* as existing at any determin'd time and place" with "it self existing at another time," it is unclear what it would mean for diachronic identity to be *more* definitive of one type of thing than another (E 2.27.1, my emphasis). And Locke's interest in eschatological accountability is sufficient to explain the extended attention he gives to the identity of persons. Simendić does, it should be said, make a passing gesture toward something like my position at the end of his essay (*ibid.*, 94).

⁸See, for example, Antonia LoLordo, *Locke's Moral Man* (Oxford: Oxford University Press, 2012), 85; Strawson, *Locke on Personal Identity*, 2–4; Thiel, *Early Modern Self*, 108.

⁹Edmund Law, "A Defence of Mr. Locke's Opinion concerning Personal Identity," in Strawson, *Locke on Personal Identity*, 236.

¹⁰*Ibid.*, 243.

substances (E 2.25.8). Regardless, *person* clearly fits Locke's definition of relation. To refer to some being as a person is to imply also the existence of a law exterior to the existence of that being to which the being will be held accountable. All and only "thinking intelligent Being[s]" with "reason and reflection" are persons, since these beings and no others are capable of law (E 2:27.9). A person is a being capable of law considered in relation to law.¹¹

Several considerations commend this interpretation; to begin with, it avoids a very serious weakness of the mode interpretation. Locke says explicitly that persons have powers and that "*Powers ... are Attributes only of Substances*" (E 2.21.10, 16), so it is hard to see how persons could be modes.¹² But relations (unlike modes) quite clearly possess the powers of the substances to which they belong. If *brother* is a relational term that refers to an agent with powers, *person* can be as well.¹³

Taking *person* to be a relation also avoids the most serious problem facing the substance interpretation. It is difficult to see how *person* could be a substance, because *person* plays a central role in Locke's deductive science of morality.¹⁴ Locke thinks such a science is possible because moral concepts, like mathematical concepts, are adequate. Their real and nominal essences correspond perfectly because they are created in our minds and intended to refer to nothing other than themselves. Simple ideas, modes, and relations are adequate and therefore helpful in constructing a deductive ethics (E 2.31.2–3; 2.25.8). With regard to relations, Locke takes the trouble to put the point in layman's terms, writing, "the *Ideas* which relative Words stand for, are often clearer, and more distinct, than of those Substances to which they do belong... . It is very easy to frame the *Ideas* of Brothers, without having yet the perfect *Idea* of a Man" (E 2.25.8). Substance concepts are always inadequate because there is a gap between the nominal essence that defines the

¹¹Using the term *person* to refer to beings in relation to law has a long historical precedent. In Roman law, "'Persona' simply referred to the individual human being insofar as he stands in a relationship to legal matters," and the "person as a bearer of rights and duties is also central to the Christian tradition of natural law" (Thiel, *Early Modern Subject*, 27).

¹²See Samuel Rickless, "Are Locke's Persons Modes or Substances?," in *Locke and Leibniz on Substance*, ed. Paul Lodge and Tom Stoneham (New York: Routledge, 2015), 124–25; Jessica Gordon-Roth, "Locke on the Ontology of Persons," *Southern Journal of Philosophy* 53, no. 1 (March 2015): 100–102.

¹³Gordon-Roth points out that the fact that "fathers, constables, and dictators have powers, even though they are not substances" cannot work as a defense of the mode interpretation, since these terms name relations not modes ("Ontology of Persons," 103).

¹⁴See LoLordo, *Locke's Moral Man*, 85; Ruth Mattern, "Moral Science and the Concept of Persons in Locke," *Philosophical Review* 89, no. 1 (January 1980): 33–39. For the argument that parts of the *Second Treatise* are intended as a demonstrative science, see Ruth Grant, *John Locke's Liberalism* (Chicago: University of Chicago Press, 1987), 198–205.

substance concept in our minds and the real essence of the substance as it exists in the world (E 2.31.13).

Locke does expect the “Names of Substances” to be used in moral or mathematical discourses (E 3.11.16), and some take him to mean that substance concepts can be so utilized because their real essences can safely be disregarded in such contexts. On this basis, the argument goes, *person* could be a substance despite its role in ethics.¹⁵ But a defining feature of substance concepts is the relationship between the nominal essence we create and the real essence that exists outside of our minds. In Locke’s system, it may be contradictory to say that one is using the name of a substance to refer directly to that substance concept while simultaneously disregarding the real essence of that substance.

Locke has another way to discuss substances, one that does not invoke their real essences and involves only adequate ideas: we can talk about substances in terms of the relations that belong to them. To explain how the names of substances show up in moral and mathematical discourses, Locke gives the example of a mathematician speaking of a “Globe of Gold” (E 3.11.16). Globes and gold are substances. But we all understand the mathematician to be using these terms to reference a relational concept, namely, the collection of points in three-dimensional space equidistant from a single point. Locke’s other example is “Man” (E 3.11.16). *Man* is a substance, but the term *man* in moral discourses, Locke tells us, is a metonymy for the concept “moral man,” which refers to a being capable of and therefore “subject to Law, and, in that Sense ... a Man” (E 3.11.16). There is some debate as to whether *person* is equivalent to *moral man*, but taking *person* to be a relation makes their meanings indistinguishable.¹⁶ Both refer to beings capable of law in terms of their relation to law, considering them morally rather than in terms of their real essences.

This same interplay between substances and relations explains how God shows up in moral discourses. Locke is clear both that God is a substance and that God figures centrally in moral discourse, suggesting perhaps that *person* could be a substance as well.¹⁷ But consider how Locke references God in the example he gives of deductive moral reasoning.

The *Idea* of a supreme Being, infinite in Power, Goodness, and Wisdom, whose Workmanship we are, and on whom we depend; and the *Idea* of our selves, as understanding, rational Beings, being such as are clear in us, would, I suppose, if duly considered, and pursued, afford such Foundations of our Duty and Rules of Action, as might place *Morality amongst the Sciences capable of Demonstration.* (E 4.3.18)

¹⁵Rickless, “Locke’s Persons,” 122; cf. Gordon-Roth, “Ontology of Persons,” 109–10.

¹⁶LoLordo also thinks *person* and *moral man* are equivalent (*Moral Man*, 65). For the opposing view, see Thiel, *Early Modern Subject*, 129.

¹⁷See Gordon-Roth, “Ontology of Persons,” 113–14; Rickless, “Locke’s Persons,” 120–21.

The term "supreme Being" is relational (because superlative). Also relational are the concepts creator ("whose Workmanship we are") and sustainer ("on whom we depend"). We "certainly do not know" God's essence (E 2.23.35), but we can talk about God in ethics by referencing God in relation to us, as supreme being, creator, sustainer, legislator, judge, redeemer, and so on. Similarly, when we discuss ourselves in ethics, we intend to refer to ourselves in relation to the "Duty and Rules of Action" enjoined upon us as "understanding" and "rational" beings capable of law. That is, we intend to refer to ourselves as persons.

Understanding *person* as a relation helps us to see how the chapter on personal identity (2.27) fits seamlessly into the section of the *Essay* to which it was added. Clearly, Locke thinks of *identity* as a relation, so a discussion of personal identity fits into a section on relations for that reason (E 2.27.1, 9). However, 2.27 is no open-ended discussion of identity in general; the chapter quickly moves into a lengthy argument about the identity of persons in particular, culminating with the identification of *person* as a forensic term. The very next chapter, "On Other Relations," then explains that moral good and evil are relative terms that relate actions to law and describes three laws to which persons are related in moral discourses. These three are the divine law, which is "the only true touchstone of *moral Rectitude*"; the civil law, set by the commonwealth to determine what actions are criminal; and the philosophical law, or the law of opinion that determines what actions "in each Country and Society are in reputation or discredit" (E 2.28.8). Taken together, 2.27 and 2.28 establish that to reason morally about humans is to talk of them as persons, beings capable of law considered in relation to the divine, civil, and philosophical laws to which they are accountable.

Moreover, this understanding of *person* makes it perfectly logical that personal identity would consist in "Identity of *consciousness*" as proven by an intelligent being's ability to "repeat the *Idea* of any past action with the same consciousness it had of it at first" (E 2.27.10, 19). We know so little about metaphysics, Locke argues, that we cannot prove that a single person might not flit from one material substance or immaterial spirit to another (E 2.27.25). But if we consider how to delimit the identity of a person, given that a person is a being capable of law considered in relation to law, the relevant factor would necessarily be what the person can legitimately be held legally accountable for. And, because the divine law is far weightier than the civil or philosophical, most relevant to the identity of a person would be what the person can be held accountable for under the divine law. It makes sense, then, that Locke defines personal identity not in terms of what can be appropriated at any given moment but in terms of what can be appropriated at the moment of eschatological judgment.¹⁸ A person

¹⁸I agree with Winkler that personal identity is determined by what a consciousness can appropriate (Kenneth Winkler, "Locke on Personal Identity," in *Locke*, ed. Vere

comprises all and only those thoughts and actions (and the characteristics and habits that produced them) that can be appropriated “at the Great Day” (E 2.27.26). Legal accountability and therefore also the diachronic identity of a person are ultimately explained by the fact that each person is a single juridical unit accountable by God. Juridical, of course, refers to the administration of justice. *Juridical unit* is my term to capture what it means to think of *person* as a relation.

Beings to whom the term can appropriately be applied will be juridical units foremost in relation to the divine law and then secondarily in relation to any other laws to which they are accountable, including especially the civil and philosophical laws. Accountability to the divine law therefore sets limits on the legitimate scope of the lesser forms of law. And because it does, Locke’s ideas about persons are an interpretive key to his moral and political thought.

This relationship has been somewhat overlooked in part, perhaps, because of an issue related to the chronology of publications. Locke’s most significant thoughts on the person appear in the chapter on personal identity added to the second edition of the *Essay* (1694), published after several major ethical and political works, including the *Two Treatises* (1689), *Some Thoughts concerning Education* (1693), and three of his *Letters concerning Toleration* (1689–93). Caution always needs to be exercised when interpreting an author’s earlier works in terms of later ones. But the chapter in question sharpens into publishable form ideas Locke had long held about what it means to consider

Chappell [New York: Oxford University Press, 1998]). People will not be judged for anything they cannot themselves recognize their responsibility for. But there is also an external, objective standard of personal identity that this internal standard is brought to match on the Great Day. At that time, “*the secrets of all Hearts shall be laid open,*” meaning that God will fix any forgetfulness that would artificially prevent a being from repeating the idea of a past action with the same consciousness it had of it at first (E 2.27.26). Several commentators have noticed that Locke often seems to suggest a continuous metaphysical reality unifies each consciousness over time, even though “Locke does not spell out what the metaphysical constitution of the unifying component of consciousness is” (see E 2.27.14, 19–20, 23, 25). Ruth Boeker, “Locke on Personal Identity: A Response to the Problems of His Predecessors,” *Journal of the History of Philosophy* 55, no. 3 (July 2017): 427; cf. Don Garrett, “Locke on Personal Identity, Consciousness, and ‘Fatal Errors,’” *Philosophical Topics* 31 (2003): 107–8, 116–17; Shelley Weinberg, *Consciousness in Locke* (Oxford: Oxford University Press, 2016), 154–63. If *person* is a relation, then beings that are persons (like those that are brothers) clearly have a metaphysical reality that can provide an external standard of personal identity. Of course, Locke talks about such beings as persons precisely in order to avoid metaphysical puzzles, so he would not attempt to spell out their metaphysical constitutions. Overlooking this objective standard of personal identity leads to odd ideas such as Strawson’s suggestion that persons are metaphysically gappy entities (Strawson, *Locke on Personal Identity*, 60).

humans morally. Unpublished notes (1682–83) show that the basics of Locke's thoughts on the person were in place quite early.¹⁹

Moreover, the famous *moral man* passage (E 3.11.16) was part of the first edition of the *Essay* (1689). In that passage, Locke says that *all* ethical treatises use terms like *man* (we could add *humans*, etc.) to refer to *moral man*, so surely Locke expects us to read his own ethical works in this manner. And, as noted above, interpreting persons as juridical units makes *person* plainly equivalent to *moral man*. *Person* and *man* are not interchangeable terms, as *brother* and *man* are not interchangeable terms. But to talk about a man in relation to his siblings just is to talk about a brother. So also to reason morally about a man—that is, to relate him to law—just is to talk about a person. Reading Locke's ethical and political works with this understanding of his philosophical anthropology in mind makes apparent the consistent centrality of the principle that personal accountability to and equality before divine law sets limits on lesser forms of law.

Personal Equality

If a person is a juridical unit and the most relevant system for administering justice in relation to which humans might be considered persons is the divine one, then it might matter quite a lot whether humans are equals relative to that divine system of justice. If they are, then humans would be fundamentally equal *when considered as persons* in a way that would impact how they relate to the various possible systems of civil and philosophical law. The natural equality of humans has been standard doctrine since the early days of the church.²⁰ To be equal is just to be in some way the same. And to describe something as natural is to say that humans did not make or cause it. A large number of recent scholarly efforts have been focused on the various ways humans can be made equal.²¹ But natural equality refers to the sense in which humans are already equal before or apart from any

¹⁹John Locke, *Identity [sic] of Persons* (June 5, 1683), Bodleian Library, MS Locke f.7, p. 107; facsimile in Udo Thiel, *John Locke* (Berlin: Akademie Verlag, 2000), 89; John Locke, *An Early Draft of Locke's Essay, together with Excerpts from His Journals*, ed. Richard Aaron and Jocelyn Gibb (Oxford: Clarendon, 1936), 121–23. See the discussion in Thiel, *Early Modern Subject*, 97–100.

²⁰Augustine can be taken as representative of the church's general position on the natural equality and liberty of humans when he says, "By nature, as God first created us, no one is slave either to man or to sin" (*Civitate Dei* §19.15).

²¹Rae captures the concerns of the contemporary literature on equality: "The complexity that interests us does not arise *within* the abstract idea of equality but in its confrontation with the world" (Douglas Rae, *Equalities* [Cambridge, MA: Harvard University Press, 1981], 5). Rae means that studying equality itself is less interesting than examining different attempts to establish forms of equality in particular times and locations. But looking to Locke's view of the person in order to better understand

human intervention or institutions. For Locke, humans are naturally equal by virtue of legal—rather than psychological, physical, historical, or national—attributes. In other words, humans are equal *as persons* in that they share the same rights and duties relative to the divine law.

Waldron, then, is not quite correct to think Locke locates natural equality in the psychological attributes humans share. Seeing where Waldron goes wrong will help us both to specify Locke's position and see its political-theoretical implications. Waldron locates Locke's view of natural equality in the introduction to the *Essay*, where Locke writes that all humans "have Light enough to lead them to the Knowledge of their Maker" (E 1.1.5).²² Locke's position, according to Waldron, is that anyone with the "capacity for abstraction" (the ability to form general concepts) is potentially capable to "reason to the existence of God" and to grasp, by reason, that there may be a law according to which God will judge her conduct. Any creature capable of grasping God's existence and moral authority by the use of reason must be a special kind of creature, one who stands in "a special *moral* relation to God." Humans, because they have "light enough," Waldron suggests, "can be conceived as ... the servants of one Sovereign Master," granting them special consideration.²³

While Waldron is right that Locke puts much weight on the ability to reason, the manner in which Locke appeals to shared human capacities in the *First Treatise* helps us to see the problem with Waldron's analysis. Locke writes that, if Filmer is wrong about a long list of things—including especially the claim that in Genesis 1:28 God grants Adam private dominion over the world—then "Man has a *Natural Freedom* ... since all that share in the same common Nature, Faculties and Powers, are in Nature equal, and ought to partake in the same Rights and Privileges, till the manifest appointment of God ... can be produced to shew any particular Persons Supremacy, or a Mans own consent subjects him to a Superior" (1st T 67). To see the relevance of this passage, consider a criticism of Waldron raised by Stolzenberg and Yaffe. They write, "To say that you and I were both intended by God to appreciate natural law and guide our conduct in accordance with it isn't to say that I wasn't intended by him to have dominion over you," especially given that "he made us very different" in some respects.²⁴ The part of Locke's argument that Waldron focuses on—the appeal to shared human capacities—is, when isolated from Locke's other arguments, quite weak. Certainly all humans

Locke's liberalism leads to a different conclusion: the complexity within the abstract idea of equality, within the idea that humans *are* equal, is worthy of attention.

²²Jeremy Waldron, *God, Locke, and Equality* (Cambridge: Cambridge University Press, 2002), 6.

²³*Ibid.*, 79–80.

²⁴Nomi Stolzenberg and Gideon Yaffe, "Waldron's Locke and Locke's Waldron," *Inquiry* 49, no. 2 (2006): 204.

might stand in special moral relations to God because all are capable of law; nevertheless, God might reasonably be thought to have delegated to a certain person or group (say either Adam's heir or those of exceptional intellect) authority over all others. Those under authority would have capacity for law and indeed be governed by it. But they would still be under authority, naturally unequal to those licensed by God to interpret the natural law and create fitting civil laws. The ability of all healthy adult humans to reason to God's existence and the natural law is fully compatible with Filmer's position. Locke's claims about human capacities fail as an independent argument; they were never intended to be an independent argument. Equal capacities become relevant, according to Locke, *only if* we can reference God's legal pronouncements to show that he did not delegate authority to humans in the way Filmer imagines, with Adam and his heirs as supreme rulers over the rest of humanity.

We can fully grasp Locke's views of equality and the individual only by beginning with Adam. Locke's goal in the *First Treatise* is to disprove Filmer's argument that God established in Adam a hereditary monarchy with "Divine Right to absolute power" (1st T 3). Locke holds, together with Filmer, that God has granted dominion over the world to creatures. But Filmer argues for an authority structure that has God at the top, the Adamic monarchs below, then the rest of the world (including all other humans) underneath.²⁵ Locke argues for an authority structure with God at the top, Adam and all other humans together on the next level, then the rest of the world below humans. Filmer claims that the grant of dominion in Genesis 1:28 is directed to Adam alone. Locke counters that it is clearly directed to all humans. Locke reasons that, because "it was spoken in the Plural Number, God blessed *them*, and said unto *them*, Have Dominion," Genesis makes clear that God granted Adam not a "*Private Dominion*, but a Dominion in common with the rest of Mankind" (1st T 29). Locke concludes that it is "impossible for any sober Reader" to come to any understanding of Genesis 1:28 other than as "the giving to Man, the whole Species of Man, as the chief Inhabitant, who is the Image of his Maker, the Dominion over the other Creatures" (1st T 40).²⁶

²⁵Mitchell also emphasizes the importance of this disagreement, as both Locke and Filmer hold that the "original of *political truth*" is to be "found in Adam" (Joshua Mitchell, *Not by Reason Alone* [Chicago: University of Chicago Press, 1993], 82).

²⁶Here we find the linkage between the idea that humans are made in the image of God and the grant of dominion to humans so frequently commented on in the history of the church. And, although Locke does not make frequent use of the language of the image of God, we can see that it does no injustice to his thought to read him as developing a particular version of the classic Christian position that humans are naturally equal because all made in the image of God.

The Lockean person is therefore not at all, as Deneen has recently suggested, “naturally ungoverned and even nonrelational.”²⁷ Far from existing in “a condition of complete absence of government and law,”²⁸ all humans, like Adam, come into being in a world structured by a fully functional divine legal system that sets us a cooperative task and puts conditions on the exercise of that task. To see what I mean by a fully functional legal system, contrast Locke’s view of the legal conditions of the state of nature with Hobbes’s. Hobbes holds that there is insufficient access to the natural law in the state of nature;²⁹ Locke thinks it has been sufficiently promulgated (ELN 6, 117). Hobbes thinks neither any human power nor God himself will punish infractions against the natural law in the state of nature;³⁰ Locke argues not only that God will punish such infractions but that all humans are licensed to as well (2nd T 2.9). The Lockean person is not, as Deneen claims, “a whole apart” rather than “part of a whole.”³¹ Descendants of Adam each have all the authority and responsibility associated with our “dominion in common” precisely because we are part of a whole, enjoying the same position in the divine legal system that Adam did, making us equal vicegerents of God. As we will see presently, we also are each crucially but not completely reliant on our families and communities to help us to exercise our commission with excellence.

The Person and Moral Authority

The way in which Locke elevates the authority of the individual person is frequently misunderstood, leading to erroneous claims about moral authority within Lockean liberalism. In particular, two opposing errors arise from a failure to recognize that Locke is building an ethics suitable for juridical units. The first involves claiming that Locke offers a reductive view of the self that leads to the rejection of moral authority and the elevation of interest over virtue.³² For example, Taylor thinks Locke’s self is “extensionless,”

²⁷Patrick Deneen, *Why Liberalism Failed* (New Haven, CT: Yale University Press, 2018), 47.

²⁸*Ibid.*

²⁹Thomas Hobbes, *Leviathan*, ed. Richard Tuck (Cambridge: Cambridge University Press, 2012), §1.15

³⁰*Ibid.*

³¹Deneen, *Why Liberalism Failed*, 47.

³²In perhaps the most influential version of this story about modernity, Hirschmann argues that whereas medieval people conceived of a battle between virtues and vices, early moderns conceived of a world in which interest subdues passions, making people predictable and tractable. Locke is part of this story, according to Hirschmann, because his understanding of freedom as security against arbitrary rule supposedly fits with the expectation that men will be “steadfast, single-minded, and methodical” in pursuit of their interests (Albert O. Hirschmann, *The Passions*

existing only in the power to disengage from and change the things that happen to characterize the self at a given moment.³³ The influence of Locke's view partially explains modern reason's "essential opposition to authority," Taylor claims, because such an abstracted self is necessarily distanced from nature, undermining the Aristotelian connection between nature and virtue.³⁴ Similarly, MacIntyre thinks that Locke's person is a "character abstracted from a history" that is therefore also abstracted from social relationships of moral authority governed by natural law, relationships that are necessary to the development of virtue.³⁵

The second error I have in mind involves analyzing Locke's view of the self as part of an emergent modern system of psychological discipline and control. For example, Mehta characterizes Locke's project as one of promoting uniformity through "the artificing of a particular kind of individuality."³⁶ Mehta's "central claim" is that Locke's liberalism can only be coherent and stable if it is able to "embed[] individuals within liberal institutions, including, most centrally, liberal education" and thereby "sanitize and calibrate" the "willful, the eccentric, and the mysterious" through "an elaborate regime of individual and social discipline."³⁷ These two opposite readings—Lockean liberalism as implicated in the modern rejection of authority and as involved in the development of a Foucauldian system of control—are both made possible by the way persons relate to the divine and philosophical laws.

The Foucauldian reading of Locke is possible for the same reason that the reading of Locke as a contributor to the rejection of moral authority is mistaken: because we all equally are accountable to the same divine law, we all equally rely on exemplars and teachers of the philosophical law to help us overcome natural tendencies that promise danger when the time for final judgment arrives. The suggestion that Locke's view of the self is reductive misses the reality about the person revealed on the Great Day, the moment at which the self is finally fully visible, when the self is shown to inescapably comprise everything the self *cannot* change, namely, all its history extended

and the Interests [Princeton, NJ: Princeton University Press, 2013], 21, 52, 53–54). But Locke's educational and psychological writings show him to expect humans to be inconstant pursuers of whatever desires are momentarily strongest and to therefore have a profound need to cultivate virtue.

³³Charles Taylor, *Sources of the Self* (Cambridge, MA: Harvard University Press, 1989), 171–72.

³⁴*Ibid.*, 167–71.

³⁵Alasdair MacIntyre, *After Virtue* (Notre Dame, IN: University of Notre Dame Press, 2007), 61, 217; Alasdair MacIntyre, *Dependent Rational Animals* (Peru: Open Court, 2010), 156.

³⁶Uday Singh Mehta, *The Anxiety of Freedom* (Ithaca, NY: Cornell University Press, 1992), 6.

³⁷*Ibid.*, 170–74.

over time for which it will be held accountable. We will be held responsible for how we have carried out our duty as defined by divine law; to move us to carry out this duty, God has made us to be spurred to action by uneasiness caused by absent pleasures or present pains (E 2.21.43). But we are short-sighted creatures in need of help to overcome our tendency to miscalculate what will make us happy. Locke therefore insists repeatedly that we rely on parents and exemplars to help us overcome “our natural propensity to indulge corporal and present pleasure, and to avoid pain” and to build virtuous habits (CE 48; see also CE 40–66). Practically speaking, the authority of scripture is likewise indispensable in our movement toward virtue and truth. Although Locke thought that morality could potentially be demonstrated in the same way as mathematics, he held to the standard Calvinistic idea that the moral law is in principle knowable by reason but in practice largely unknown apart from revelation (E 4.4.7; RC 238, 241).³⁸

Moreover, Locke’s treatment of the person’s accountability to law does not, as some have argued, undermine virtue and elevate interest by disconnecting morality from nature.³⁹ It was once taken for granted that the type of nominalism that posits such a disconnect was central to the thought of the early moderns. But this understanding has recently been seriously questioned.⁴⁰

³⁸Against the standard interpretation that Locke tried to produce a demonstration of morality and then found it to be impossible, Tuckness argues convincingly that Locke held a consistent position: all of morality is *in principle* demonstrable, but the human mind in its present condition can only uncover a portion of it (Alex Tuckness, “The Coherence of a Mind: John Locke and the Law of Nature,” *Journal of the History of Philosophy* 37, no. 1 [Jan. 1999]: 78–81). Schneewind is an influential proponent of the standard interpretation. See J. B. Schneewind, *The Invention of Autonomy* (New York: Cambridge University Press, 1998), 154–59.

³⁹See, e.g., Taylor, *Sources of the Self*, 161; Schneewind, *Invention of Autonomy*, 150.

⁴⁰Peter Harrison has offered a compelling criticism of the standard account of the role of nominalism in the Reformation and early modern periods. Aquinas distinguished the *potentia dei absoluta* from the *potentia dei ordinata* in order to make the point that there are things God hypothetically could do but never actually does. Certain late medieval voluntarists are said to have operationalized this distinction by holding that, as Harrison puts it, “God reserved for himself the possibility of cutting across the ordained order of events through an exercise of his absolute power.” And the reformers and early moderns are said to have made much of this distinction. Locke especially is implicated in this account of the history of ideas, since the empirical science Locke took part in developing is supposed to have been motivated in part by the type of voluntarism that relies on the operationalized distinction between God’s absolute and ordained powers. But, as Harrison shows, Calvin and the Reformers explicitly rejected the notion of operationalized absolute power. And such empiricists as Newton, Boyle, and Locke also are far from offering clear support for the notion. What motivated their empiricism, Harrison argues, was not that they rejected a link between God’s reason and his will but that they thought the fall of man had noetic effects. Because of the noetic effects of sin, humans cannot

Locke's own statements support this reappraisal, since Locke insists on a natural fit between the moral law and both divine and human natures. Locke, like Calvin, links God's will with his reason.⁴¹ He understands the "eternal law of right" as arising from "the purity of [God's] nature," and sees "the duties of that law" enjoined upon man as "arising from the constitution of his very nature," such that these duties cannot be "taken away, or dispensed with, without changing the nature of things" (RC 180). Indeed, Locke sharply criticizes the practice of training children to do their duty by offering them rewards, because doing so will "accustom [a child] to place his happiness" in the rewards rather than in virtue and duty (CE 52).

Locke thinks God acts toward us as we ought to act toward our children: reward and punishment are condescensions to flawed characters that are useful insofar as they can help us to appreciate the true connections between virtue, happiness, and the divinely created natural order of things (see CE 99).⁴² Christ's teachings about eternal reward and punishment "changed the nature of things in the world" because these teachings made it so that "virtue now is visibly the most enriching purchase, and by much the best bargain" in addition to being "the perfection and excellency of our nature" and "herself a reward" as "the philosophers" taught (RC 245). Because Lockean selves rely on moral teachers and exemplars to help them control and reform themselves in preparation to be judged against a law closely connected to God's nature and their own, it is a mistake to see Lockean liberalism as opposed to virtue and moral authority but possible to read Locke as contributing to a system of psychological control.

However, the view of Locke as a contributor to a Foucauldian system is mistaken for the same reason that the view of Locke as one who undermined

know exactly how much our reason will tell us about the natural world, so we must investigate it empirically (Peter Harrison, "Voluntarism and Early Modern Science," *History of Science* 40 [2002]: 8–18). While Locke did not think guilt or the necessity of sinning was transmitted from Adam to his progeny, he did nonetheless think humans to be, practically speaking, noetically limited sinners.

⁴¹Calvin "gives no countenance to the fiction of absolute power," for God is not "lawless" but rather "a law to himself"; while Calvin insists that there is nothing "greater and more sublime than the will of God," Calvin nevertheless follows Aquinas in refusing to divorce God's will from his reason (*Institutes*, §3.23.2). The laws God has set are expressions of his reason. For God to violate them would be to contradict himself, and divine self-contradiction is impossible. On this line of thought, God works miracles through his ordained power.

⁴²Despite Locke's hedonism, Yaffe is right that Locke thinks there is value in the world that we are to respond to. And "when we respond to it appropriately ... we have liberty worth the name" (Gideon Yaffe, *Liberty Worth the Name* [Princeton, NJ: Princeton University Press, 2000], 139). We also move closer to "the highest perfection of intellectual nature" and therefore toward similarity to "God almighty himself" (E 2.21.50–51).

moral authority is possible: the extent to which accountable selves can safely rely on any human moral authority is limited by the fact that our ultimate accountability is to the divine rather than the philosophical law. The philosophical law is each community's provisional estimate of what morality demands; the divine law alone defines morality. It can never be safe for any person descended from Adam to blindly accept the philosophical law, because we are each equally authorized to interpret and responsible to obey the divine law.

A contrast with Hobbes will help to show how Locke's position guarantees that individuals cannot safely conform to the standards of the societies they find themselves in. Hobbes wrote *Leviathan* to prevent civil war, and he thought the "most frequent praetext for ... Civill Warre" had long been the claim to be obeying God over and against the "lawful Sovereign."⁴³ Because he accepts that it would be madness to put oneself in danger of "Eternal Death" by disobeying God, Hobbes takes pains to prove that God requires only faith in Christ and obedience to the laws of the commonwealth.⁴⁴ In contrast, by the time Locke has arrived at his mature position, he thinks faith in Jesus requires a sincere attempt to live in obedience to his commands (RC 220, 252).⁴⁵ And what Jesus commands, each of us individually has ability, authority, and responsibility to determine. Whereas Hobbes thinks the civil sovereign has authority to distinguish genuine from fallacious divine communications,⁴⁶ Locke insists that what Jesus "expects from his followers, he has sufficiently declared as a Legislator" (RC 220). The moral law according to which all will be judged—a law that all people can know but through our own laziness and viciousness often fail to grasp—Christ again made plain.⁴⁷

Thus no one can afford to simply submit to the type of "elaborate regime of individual and social discipline, a specification and encouragement of conformity" that Mehta thinks Locke calls for.⁴⁸ Beings that can be rightly considered persons are such in relation first to the divine law, meaning the relationship to God as legislator and judge is always primary for every person. And God has declared descendants of Adam equal relative to himself and his law. In relation to the philosophical law, therefore, each person has a certain weightiness. Neither any one of us nor all of us together can have complete authority to dictate to any other of us what is virtuous and

⁴³Hobbes, *Leviathan*, §3.43.

⁴⁴*Ibid.*

⁴⁵On Locke's development, see Richard Ashcraft, *Revolutionary Politics and Locke's Two Treatises of Government* (Princeton, NJ: Princeton University Press, 1986), 75–99.

⁴⁶Hobbes, *Leviathan*, §3.43.

⁴⁷The idea of the sufficient declaration of God's legislative will through reason is a long-settled position of Locke's, seen as early as his *Essays on the Law of Nature* (ELN 6, 117; 7, 121).

⁴⁸Mehta, *Anxiety of Freedom*, 170.

vicious. Even properly helping a person grow in virtue requires taking into account the individuality of that person in relation to God; “possibly scarce two children ... can be conducted by exactly the same method” (CE 216). “God has stamped certain characters upon men’s minds” that can perhaps be “a little mended” but never “totally altered,” so the task of education is to carry as far as possible “every one’s natural genius” (CE 66).

The Person and Political Authority

In Locke’s system, political authority, like moral, is limited, and for the same reasons. The received understanding of Locke’s political thought is that Locke sets some limits on political authority but does a somewhat poor job of specifying and justifying these limits. Dunn, for example, writes that it is wrong to read Locke as Hobbesian but that it is nevertheless difficult to say precisely what constitutes legitimacy for Locke.⁴⁹ But much of this confusion can be cleared up by attention to how accountability to the divine law sets limits on legitimate political power and the civil law.

Indeed, there is a rather straightforward principle upon which rest the limitations Locke places upon political authority: the scope of authority that any person or political body can have over any individual person is limited by that person’s accountability to God. As a juridical unit, a person is defined primarily by the ultimate juridical encounter with the divine judge. This divine judge, as we have seen, enjoins certain duties upon each person. Since all persons descended from Adam are equal relative to a single divine legal system that exists prior to and underneath all humanly created legal systems, the duties that each of us has to God create rights relative to others. That is to say, if a person has a duty to God to do something, God must have given that person a prerogative to do that thing that can be claimed against other people who might potentially interfere with the performance of the duty. Locke gives a paradigmatic example of the point: no “Law of the Magistrate” can “give a Child liberty” to not honor father and mother, because this demand to honor is “an Eternal Law annex’d purely to the relation of Parents and Children, and so contains nothing of the Magistrates Power in it, nor is subjected to it” (1st T 64).⁵⁰ The child has a duty (to God) to honor father and mother that the child has no power to renounce, so the child also must have a right to honor father and mother that can be claimed against attempts by wielders of political power to interfere with the performance of the duty.

⁴⁹John Dunn, *The Political Thought of John Locke* (New York: Cambridge University Press, 1969), 145.

⁵⁰Note how Locke relies on relational terms (magistrate, child, parents) to reason morally about humans.

One upshot of this principle—that authority over a person is necessarily limited by that person’s accountability to God—is that, contra Simmons, Locke does provide us with an account of politics in which political power is limited by inalienable individual rights. Simmons is certainly correct that Locke thinks that humans can, by entering by consent into covenantal relationships, alter “the specific rights and duties granted originally to each under natural law.”⁵¹ Rights that could not be altered or transferred would be inalienable rights. And Simmons is also correct that the only right Locke explicitly denies to be “alienable” (using that precise term) is the parental “duty of honor” (2nd T 69). But Simmons is wrong to deny that this same logic of inalienable rights is operating with regard to revolution and religion.⁵²

Take first the issue of inalienable rights with regard to revolution. Simmons claims that, in resisting tyrannical government, people exercise neither an “inalienable right of revolution” nor “an inalienable right to ‘judge for themselves.’”⁵³ Instead, such people exercise “only the (perfectly alienable) natural right to be free of (unauthorized) interference by others, which has been returned to them by the government’s failure to respect the people’s trust.”⁵⁴ But Locke does describe an inalienable right here: individuals always retain the “liberty to appeal to Heaven, whenever they judge the Cause of sufficient moment” (2nd T 168). Whenever “the Body of the People” or even “any single Man” is “deprived of their Right, or is under the Exercise of a power without right,” they retain, “by a Law antecedent and paramount to all positive Laws of men,” the right to “judge whether they have just Cause to make their Appeal to Heaven” (2nd T 168). The right to appeal to heaven is not the same as what Simmons describes as “the right to judge” that was “held by each individual in the state of nature, and alienated by individuals to the society.”⁵⁵ The right to judge that is alienated upon entering society is the executive power of the law of nature, the authority to punish infractions against the natural law (2nd T 89). Simmons is correct that this right can be given away and then taken back up.

But the right, or liberty, to appeal to heaven is different. It is the right that each person has to appeal to the highest court against any claim to authority over her that seems unjust. To appeal to the highest court simply involves refusing to submit to rule, not necessarily taking up arms (although Locke does expect armed conflict to generally result from appeals to heaven).⁵⁶

⁵¹A. John Simmons, *On the Edge of Anarchy* (Princeton, NJ: Princeton University Press, 1993), 25.

⁵²*Ibid.*, 113.

⁵³*Ibid.*, 114.

⁵⁴*Ibid.*

⁵⁵*Ibid.*

⁵⁶Locke uses Jephtha’s war with the Ammonites (Judges 11) as the paradigmatic case of the appeal to heaven. Jephtha is “forced to appeal to Heaven” because there

Whether the appeal is won or lost is decided not by the outcome of any conflict that results but by God on “the Great Day” when both parties will be held eternally accountable (2nd T 241). The right to make such an appeal is one that Locke says the individual “cannot part with”—it is a right that is in principle inalienable—since he has a duty to “God and Nature” to never “abandon himself, as to neglect his own preservation” (2nd T 168). Locke’s claim that this right cannot be parted with is logical, given his understanding of the person. We will all need to give an account to God of how we have carried out his will, regardless of what political authorities demand from us, and we lose our ability to carry out God’s will if we are either dead or completely under the power of another (2nd T 6). So our responsibility to God gives us the inalienable right to reject attempts to gain absolute power over us, along with the correlated right to determine when it is time to appeal to the High King because some earthly ruler is threatening to gain such power.

Taking into consideration Locke’s philosophical anthropology also helps us to see that Locke has a strong basis for claiming that individuals cannot alienate their right to religious toleration. Simmons suggests that it is an extension of Locke’s argument—something Locke perhaps has in mind but does not claim—to hold that a dissenter who believes “proper worship ... to involve a certain outward performance” cannot “surrender the right to free religious practice without making impossible fulfillment of the duty to sincerely worship God.”⁵⁷ Moreover, Simmons claims that even this “extension” of Locke’s argument is too weak to prove that the right to religious freedom is “*in principle* inalienable,” because anyone who either is part of the established church or believes “that private worship is adequate and possible” will be readily able to alienate her right.⁵⁸ What Simmons describes as an “extension” of Locke’s argument, though, is close to a fair paraphrase of part of Locke’s argument, and that argument does demonstrate the right to religious freedom to be in principle inalienable.

Locke applies the principle I described above—that authority over a person is necessarily limited by that person’s accountability to God—quite directly to religion early in the *Letter Concerning Toleration*. He compares finding the path to salvation to finding a cure to a serious disease, and asks, “Will it be safe to follow the ruler’s instructions?” (CT 1, 19). Clearly, the answer is no, since, despite possessing political power, the ruler is “equal by nature” to other

is no “superior Jurisdiction on Earth, to determine the right between *Jephtha* and the *Ammonites*,” and *Jephtha* “prosecut[es]” his appeal by “lead[ing] out his Army to Battle” (2nd T 21). But appealing to the Lord to judge could simply mean withdrawing tacit consent. Recent research demonstrates that the nonviolent withdrawal of support from a regime is often enough to topple it. See Erica Chenoweth and Maria J. Stephan, *Why Civil Resistance Works* (New York, NY: Columbia University Press, 2011).

⁵⁷ Simmons, *Edge of Anarchy*, 133.

⁵⁸ *Ibid.*

people (CT 1, 19). As we have seen, all humans have the same access to as well as duties and rights under the law to which God will hold us accountable. Moreover, Locke argues, "If my efforts are misdirected" with regard to "the future life," then "no ruler can make good the damage, lessen the evil, or repair my loss in whole or in part" (CT 1, 19). Since we are subject to judgment before "the supreme judge of all men," we have inescapable responsibilities that give us inalienable rights (CT 1, 14).

We need, then, to make a slight revision to Simmons's "extension" of Locke's argument: it is not so much that Locke is thinking that if people were to "surrender the right to free religious practice," they would render "impossible fulfillment of the duty to sincerely worship God"; Locke is claiming that people simply *cannot* surrender the right to free religious practice. And the issue is not that "any attempt to alienate (transfer) certain kinds of rights is necessarily and profoundly irrational, bringing into play the defeating condition of insanity (or some related notion)."⁵⁹ Simmons considers and, rightly, rejects as an appropriate reading of Locke this idea of inalienable rights based on defeating conditions. A person cannot alienate the right to free religious practice for a different reason. Someone attempting to give away her right to determine her own religious practice would be like a locality attempting to change a federal law. The attempted change would have no legal effect because the party attempting to make the change has no jurisdiction over the issue. Even if I solemnly agree to abide by the established religious ceremonies, God will hold me accountable for performing what he has required of me. It is irrelevant whether I am part of the established church or of the opinion that private worship is adequate. Whatever my religious beliefs and whether I encounter resistance in abiding by them or not, accountability for them remains with me alone. Under the fully elaborated divine legal system that structures human life both before and after the establishment of political societies, then, I must inescapably retain the right to determine those beliefs and the practices required by them. (With regard to the link between beliefs and practices, recall my discussion above of Locke's claim that God's law requires a sincere attempt at obedience as well as faith. That discussion matters here because, as in the exploration of natural equality, Locke thinks the only way to determine the legal attributes of people under God's law is to figure out the content of that law.)

Because Locke thinks the person has inalienable individual rights that arise from inescapable accountability, Locke is extremely interested in the question of jurisdiction. Locke's way of thinking about the relationship between "the jurisdiction of ... the civil governor, which is the ruler and the individual governor, which is conscience" is truly path-setting (CT 1, 31). Insofar as this way of understanding the scope of political authority is accepted, the absolutism of, for example, a Jean Bodin is categorically ruled out. Or consider the

⁵⁹Ibid., 137.

ancients: for all Aristotle's praise of moderate government, he conceived of nothing like this question of jurisdiction between the individual and the prince. Locke certainly does not answer every question that may arise in relation to settling jurisdictional disputes between the individual and the wielder(s) of political power, although he does think "this whole issue" can be settled by giving "due weight to the principles we laid out above about their respective limits" (CT 1, 31).⁶⁰ These limits can continue to be debated. Indeed, much of Supreme Court jurisprudence on free exercise can be seen as a continuation of that debate.

But Locke set the terms of the discussion, and, in doing so, he captured in a particularly clear manner what I term *the disjunction between authority and priority*. The disjunction can be briefly summarized: it is one thing to say that a certain action is a priority (in the sense that it would be good if it were done) but quite another to say whether any particular person or institution has the authority to take the action. This disjunction (although of course not my term for it) surfaces frequently in Locke's back-and-forth with Jonas Proast, because Proast claims that "commonwealths are instituted for the attaining of all the benefits which political government can yield."⁶¹ To take that position is to deny the disjunction between authority and priority. According to Proast, if there is some good that it lies in the power of wielders of political authority to do, then they can (and should) do it. Proast's position is

⁶⁰Emphasizing how this jurisdictional question emerges out of Locke's view of the individual helps us to see why Hannah Pitkin is not quite right to think "the doctrine of hypothetical consent" is "the truth toward which [Locke was] striving, but which [he] saw only indistinctly." According to this doctrine, Pitkin tells us, "Legitimate government acts within the limits of the authority rational men would, abstractly and hypothetically, have to give a government they are founding" (Hannah Pitkin, "Obligation and Consent—I," *American Political Science Review* 59 [1965–66]: 999). Minogue takes a similar position; see Kenneth Minogue, "The Foundations of Liberalism," in *John Locke and Immanuel Kant*, ed. Martyn P. Thompson (Berlin: Duncker & Humbolt, 1991), 275. But on my reading of Locke, no government can be legitimate apart from the actual consent of the people, since one legally equal vicegerent can only have power over another if it is actually granted. As long as there is a government, though, and no one is appealing to heaven against it, everyone can be assumed to have actually granted authority to it. No government has authority, however, to take actions beyond its jurisdiction. And it is ultimately up to each individual to determine when her own jurisdiction has been violated severely enough to warrant an appeal to heaven. Alex Tuckness's concept of "legislative consent" is more helpful than Pitkin's hypothetical consent, since Tuckness is merely attempting to capture one method Locke uses to reason about the natural law: if it would make no sense for God, as the "legislator of the natural law," to make a certain demand, then God can reasonably be assumed to not have made the demand (Alex Tuckness, *Locke and Legislative Point of View* [Princeton: Princeton University Press, 2002], 74–84).

⁶¹Jonas Proast, "Argument of the Letter Concerning Toleration, Briefly Considered and Answered," in CT 62.

eminently reasonable, from a certain position, and something like it is visible in many political debates, in which proving that something would be beneficial is generally taken to also prove that it is justifiable. The jurisdictional issue, of course, does come up in polities like the United States in which governments are delegated only certain powers constitutionally. And Locke's influence on the framers of such constitutional regimes is far from coincidental. Consider just one of Locke's many rejections of Proast's position. Locke writes, "But suppose force, applied your way, were as useful for the promoting of true religion, as I suppose I have showed it to be the contrary; it does not from hence follow that it is lawful and may be used ... because, as the author [Locke] says, the magistrate has no commission or authority to do so" (CT 2, 82).⁶² If people are juridical units, beings that are radically individually accountable for all of their actions, then those wielding political power cannot undertake an action simply because it seems likely to produce good results. Instead, the sphere of legitimate political power will be limited by the jurisdiction of each of God's equal vicegerents.

Conclusion

Locke says of the Christian doctrine of final judgment that this "one truth changed the nature of things in the world" (RC 245). Locke's manner of thinking through the implications of this doctrine led him to the position that to reason morally about human life is to think of humans as persons, that is, to think of them in relation to law. The most important law for persons is the divine one, upon which final judgment will be based. The divine legal system in which descendants of Adam exist commissions each as a vicegerent of God, equal in legal prerogatives and duties to all the other descendants of Adam.

Because people are primarily accountable to God's law, they can only be secondarily accountable to the civil and philosophical laws. We rely on the help of moral authorities, traditions, and communities to help us respond appropriately to God's law, but neither any one person nor even all people taken collectively can speak with complete moral authority to even the least impressive among us. Lacking full moral authority, people also need to justify political undertakings in a particular way. Before undertaking some action, wielders of political power must ask not only whether they have political authority in general but also whether they have the jurisdiction necessary to authorize the action under consideration. The jurisdiction people

⁶²Locke explains, in this same paragraph, the relation between this principled claim and his often-repeated claim about the inefficacy of force. The two arguments are complementary. Because force *will not* work to produce belief, God clearly did not authorize its use. But even if force *did work*, it still would not be authorized, on the basis of the argument explained above (as well as several related ones).

descended from Adam have relative to the divine law gives each individual authority over moral and religious matters, limiting the scope of legitimate political power. It is not hard to see how this jurisdictional approach could justify not only religious liberty but also related liberties (such as freedom of speech and assembly) and rights to property (at least if individuals rely on property to carry out God's will, as Locke thinks they do). Recognizing that Locke became the father of liberalism in this way should perhaps help us to see just how challenging it might be to complete the task many recent liberal theorists have taken up, namely, to build a liberal politics on the basis of a philosophical anthropology in which people are *not* assumed to face divine judgment.