

# Locke and the Fundamental Right to Preservation: on the Convergence of Charity and Property Rights

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**Abstract:** Looking to the relatively recent “religious turn” in Locke scholarship, this paper argues for an interpretation that reconciles two apparently contradictory aspects of his thought: on the one hand, property rights, thought absolute by many of Locke’s readers; on the other hand, Locke’s notion of duties of charity. On the basis of a rereading of the “Essay on the Poor Law,” I argue that Lockean charity may ground coercively enforceable distributive obligations. Nevertheless, I contend that the redistributive poor-relief system grounded on the principle of charity does not infringe property rights. The reason for this is that the right to charity and the right to property are both based on Locke’s theological commitment to the right of each man to the means of preservation.

For a long time Locke’s theory of property was understood as a justification of unlimited capitalist appropriation (Marx, Strauss, Macpherson, Nozick). A serious flaw in this “standard interpretation” is that it neglected the influence of religion on Locke’s political and moral thought. Relatively early (1969), John Dunn challenged this secular interpretation in *The Political Thought of John Locke*, where he showed that Locke’s political ideas are strongly shaped by Calvinism.<sup>1</sup> However, it was only towards the beginning of the

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<sup>1</sup>John Dunn, *The Political Thought of John Locke: An Historical Account of the Argument of the “Two Treatises of Government”* (Cambridge: Cambridge University Press, 1969). In the same year, a little-noticed article by Richard Ashcraft also argued for the importance of religion in understanding Locke’s political thought. See Richard Ashcraft, “Faith and Knowledge in Locke’s Philosophy,” in *John Locke: Problems and Perspectives*, ed. John W. Yolton (Cambridge: Cambridge University Press, 1969), 194–223.

1980s that the “religious turn” (Sigmund) on Locke scholarship became a widespread interpretive trend.<sup>2</sup> Since the early eighties, studies that stress the religious aspects of Locke’s theory have been put forward, many of which defend the relevance of this theory to current discussions of different subjects. One of the areas most revitalized by the religious turn is Locke’s theory of property.

The standard, nonreligious interpretation of Locke’s theory of property had concentrated exclusively on the two limitations on private appropriation mentioned in the *Second Treatise*: the spoilage and the sufficiency limitations.<sup>3</sup> In the early 1950s C. B. Macpherson and Leo Strauss based their readings of Locke on an examination of these two constraints. They both argued that Locke first posits these constraints in order cunningly to “transcend” them through the introduction of money. In 1974 Robert Nozick put forward a non-literal interpretation of the sufficiency limitation which, in his view, captures the real intention of the Lockean condition. This Nozickian reading made the “enough and as good” clause—renamed by Nozick the “Lockean proviso”—compatible with an unlimited appropriation.<sup>4</sup> Even some of the first writers to reject the conclusions of the standard conception adopted what we may call the *Second Treatise* limitations-approach. Before making his own religious turn, Waldron in 1979 published an important article stressing that the

<sup>2</sup>Paul E. Sigmund, “Jeremy Waldron and the Religious Turn in Locke Scholarship,” *Review of Politics* 67, no. 3 (2005): 407–18. Ironically, this turn, which did so much to reanimate discussion of Locke’s political thought in recent decades, received its initial impulse from the intellectual historians of the Cambridge School. These writers argue that the religious (and political, intellectual, and economic) context of Locke’s writings is indispensable to properly understanding them but, at the same time, they contend that this very fact makes these texts irrelevant to contemporary philosophical debates. See Dunn, *Political Thought of John Locke*, ix–xi; “What Is Living and What Is Dead in the Political Theory of John Locke,” in *Interpreting Political Responsibility: Essays 1981–1989*, ed. John Dunn (Oxford: Polity, 1990), 9–25. Curiously, the neo-Lockean philosophers who, beginning in the 1970s, gave Locke’s political theory greater relevance in contemporary discussions left to one side those elements which come from religion (and from natural law). See Robert Nozick, *Anarchy, State and Utopia* (Oxford: Blackwell, 1999); Hillel Steiner, “The Natural Right to the Means of Production,” *Philosophical Quarterly* 27, no. 1 (1977): 41–99; Michael Otsuka, *Libertarianism without Inequality* (Oxford: Oxford University Press, 2003). In this sense, both historians and philosophers implicitly agreed in their assessment of Locke’s contemporary significance: the religious Locke has nothing to do with our concerns, questions, or problems.

<sup>3</sup>John Locke, *Second Treatise, in Two Treatises of Government*, ed. Peter Laslett (Cambridge: Cambridge University Press, 2008), §31 and §27.

<sup>4</sup>Nozick, *Anarchy, State and Utopia*, 178–82. David Gauthier did something similar in *Morals by Agreement* (Oxford: Clarendon, 1986), chap. 7. Nozick considered that literally understood, Locke’s “enough and as good” condition was impossible to fulfill (even in conditions of abundance).

condition of leaving enough and as good is not really restrictive.<sup>5</sup> A. John Simmons in 1992 and Gopal Sreenivasan in 1995 also based their readings of Locke's theory of property on reinterpretations of the limitations.<sup>6</sup>

When the debate about the scope and meaning of the *Second Treatise* limitations seemed exhausted, the religious turn opened the door to a new approach. Several new inquiries pointed to the importance of the Lockean doctrine of charity (Tully, Winfrey, Simmons, Waldron),<sup>7</sup> according to which, in certain circumstances, property owners have an obligation to cede some of their surplus possessions, so that they can be used to satisfy the pressing needs of the very poor.<sup>8</sup> However, few writers developed thorough analyses of the subject (Lamb and Thompson, Forde).<sup>9</sup>

This paper seeks to further develop the implications of this charity approach in the substantive content of Locke's political theory. Specifically, I will offer a particular insight into how the reflection on charity favored by the religious turn entails an egalitarian turn in the understanding of Locke's theory of property. To do this, it will be necessary to place the interpretive turn in perspective. With this purpose, in the first section of the paper I will

<sup>5</sup>Jeremy Waldron, "Enough and as Good Left for Others," *Philosophical Quarterly* 29, no. 117 (1979): 319–28. In his paper, Waldron argued that the "enough and as good" proviso was not really restrictive but only descriptive and advanced the idea that "Locke has a stronger constraint limiting the property of the rich in favour of those who have been left incapable of providing for themselves" (328).

<sup>6</sup>A. John Simmons, *The Lockean Theory of Rights* (Princeton: Princeton University Press, 1992); Gopal Sreenivasan, *The Limits of Lockean Rights in Property* (New York: Oxford University Press, 1995).

<sup>7</sup>James Tully, *An Approach to Political Philosophy: Locke in Contexts* (Cambridge: Cambridge University Press, 1993); J. C. Winfrey, "Charity versus Justice in Locke's Theory of Justice," *Journal of the History of Ideas* 42, no. 3 (1981): 423–38; Simmons, *Lockean Theory*; Jeremy Waldron, *God, Locke, and Equality: Christian Foundations in Locke's Political Thought* (Cambridge: Cambridge University Press, 2002).

<sup>8</sup>John Locke, *First Treatise*, in *Two Treatises of Government*, ed. Laslett, §42. Strictly speaking, the duty of charity is not a limitation to appropriation, that is, a principle which discriminates between those things which are appropriable by an individual and those which, in contrast, must remain common or belong to others. It is rather a condition which operates by limiting the exercise of property rights legitimately acquired in accordance with independent standards (the mixing of one's labor and the spoilage and sufficiency limitations). The surplus which a person A is expected to donate to a needy person B belongs to A without any doubt. The duty of charity does not circumvent the ownership of goods legitimately acquired, nor does it stipulate whether resources which still remain common are appropriable. In this sense, the nature of the duty of charity is quite different from that of the *Second Treatise* limitations.

<sup>9</sup>Robert Lamb and Benjamin Thompson, "The Meaning of Charity in Locke's Political Thought," *European Journal of Political Theory* 8, no. 2 (2009): 229–52; Steven Forde, "The Charitable John Locke," *Review of Politics* 71, no. 3 (2009): 428–58.

present the standard interpretation of Locke's theory of property. Afterwards, I will show how the analysis of charity threw that interpretation into crisis. Taking into account the work "An Essay on the Poor Law" (1697),<sup>10</sup> which has been little discussed and which has been understood in a rather one-sided manner, I will argue, contrary to Lamb and Thompson and to Forde, that charity is not a mere benevolent disposition. In my view, Locke understands charity as a principle from which it is possible to derive coercively enforceable obligations. Interestingly, we will see that the redistributive system derived from charity does not infringe property rights, as a Nozick-style libertarian would maintain. This will become evident after investigating the foundations of charity, which will lead to a reconsideration of the foundations of property rights. I will argue that the right to charity and the right to property are both based on the same principle (convergence thesis). This principle is not, as is often argued, labor, but the natural right to the means of preservation. In this sense, the rights of the dispossessed are built into Locke's theory of property as an internal part of its justificatory structure.

## I. The Standard Conception: Locke as Possessive Individualist

In the mid-twentieth century, Strauss and Macpherson consolidated an interpretation of Locke's theory of property which remained almost unquestioned for at least three decades.<sup>11</sup> This view places Locke among the most prominent seventeenth-century philosophers of an individualist tradition that Macpherson qualified as distinctively "possessive." In accordance with this idea, it conceives Locke's theory as a justification of unlimited appropriation in a context of emerging capitalism. Strauss and Macpherson had not read each other's work and came from opposite political traditions—while Strauss is a conservative, Macpherson adopts a Marxist perspective.<sup>12</sup> Even

<sup>10</sup>Its original title was *A Report to the Board of Trade to the Lords Justices 1697, Respecting the Relief and Unemployment of the Poor*. The text was first published in *An Account of the Origin, Proceedings, and Intentions of the Society for the Promotion of Industry* (Louth: Lincolnshire, 1789), 101–49. Mark Goldie included it in a compilation of Locke's political essays with the title "An Essay on the Poor Law." See John Locke, *Political Essays*, ed. Mark Goldie (Cambridge: Cambridge University Press, 2004), 182–98. Hereafter, I will refer to this document as *Report*.

<sup>11</sup>Leo Strauss, *Natural Right and History* (Chicago: University of Chicago Press, 1953); C. B. Macpherson, *The Political Theory of Possessive Individualism: Hobbes to Locke* (Oxford: Oxford University Press, 1964). At first, this interpretation was considered "alternative" or "nontraditional." See John W. Gough, *John Locke's Political Philosophy: Eight Studies* (Oxford: Clarendon, 1950), 80; Charles H. Monson, "Locke and his Interpreters," *Political Studies* 6, no. 2 (1958): 120. But it soon became dominant.

<sup>12</sup>Strauss and Macpherson shaped the standard interpretation in a series of conferences and articles which were published almost simultaneously. Strauss's book *Natural Right and History* is based on his Walgreen Foundation lectures delivered at the

so, they both arrived at very similar conclusions. As we shall see, their accounts were both focused on the *Second Treatise* limitations and sought to show that, in fact, these do not impose any limits.

This reading had an important precedent in Marx, who in 1861 had characterized the theory of Locke as “the classical expression of bourgeois society’s idea of right,” claiming that “his philosophy served as the basis for all the ideas of the whole of subsequent English political economy.”<sup>13</sup> In subsequent decades, Leslie Stephen (1876), Harold Laski (1920), Richard Tawney (1920) and Charles Edwyn Vaughan (1925),<sup>14</sup> without associating Locke’s theory with the spirit of capitalism, emphasized its individualism and considered that his theory of limited government was, in its essence, a defense of unrestricted property rights.

In *Natural Right and History*, Strauss’s main claim regarding Locke’s political philosophy is that Locke does not confer on natural law true normative force. In this sense, there would be a profound rupture between the Lockean concept of natural law and the Thomistic conception endorsed by Locke’s declared referent, Richard Hooker. According to Strauss, the main responsibility for this discontinuity would lie with the “impious” Thomas Hobbes, to whom he attributes the introduction of modern political atheism. Hobbes, claims Strauss, exerted a decisive influence on Locke which the latter would have tried to hide.<sup>15</sup>

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University of Chicago in 1949. A condensed version of the book section dedicated to Locke had previously been published in *Philosophical Review* in October 1952. See Leo Strauss, “On Locke’s Doctrine of Natural Law,” *Philosophical Review* 61, no. 4 (1952): 475–502. In a footnote in the book Strauss declares that it was only after finishing his chapter on Locke’s conception of natural right that he read one of Macpherson’s articles about the subject and admits to find “a considerable agreement between Mr. Macpherson’s interpretation of the chapter on property” and his own. See Strauss, *Natural Right and History*, 234n106.

<sup>13</sup>Karl Marx, *Werke*, vol. 26, *Theorien über den Mehrwert, Teil 1* (Berlin: Dietz Verlag, 1965), 343 (translation from the German is my own).

<sup>14</sup>Leslie Stephen, *History of English Thought in the Eighteenth Century* (New York: Harbinger, 1962); Harold J. Laski, *Political Thought in England from Locke to Bentham* (London: Thornton Butterworth, 1932); Richard H. Tawney, *The Acquisitive Society* (London: Bell, 1952); C. E. Vaughan, *Studies in the History of Political Philosophy before and after Rousseau* (Manchester: Manchester University Press, 1925). Nevertheless, these authors conceive Locke as an advocate of constitutionalism, an interpretation that, in Macpherson’s view, leaves unexplained too many contradictory aspects of Locke’s theory.

<sup>15</sup>In this sense, Strauss contended that Locke concealed the extent to which he was departing from a religious view. Recently, this very controversial approach to Locke was revived by Michael Zuckert in *Launching Liberalism: On Lockean Political Philosophy* (Lawrence: University Press of Kansas, 2002). Echoes of Strauss’s esotericism thesis are also evident in Ross Corbett, “Locke’s Biblical Critique,” *Review of*

To support the thesis of Locke's crypto-Hobbesianism, Strauss focuses on the two natural-law constraints put forward in the *Second Treatise*. The requirement not to waste, he says, is restrictive but only in a very early stage of the state of nature. Given the nonexistence of money, perishable goods cannot be accumulated indefinitely without waste.<sup>16</sup> By contrast, he adds, the condition that there remain enough and as good for others is never restrictive. Its demands can be met even if men do not worry about anyone else than themselves. For in the original state the world is still sparsely populated and, in spite of the "misery" of those times, there remains enough and as good for others which has not yet been appropriated by anyone.<sup>17</sup>

After the introduction of money, which takes place at an advanced stage of the state of nature and permits accumulation without waste, there is no longer plenty but rather scarcity. In the face of this new scenario, says Strauss, one would have expected that the original law of nature be replaced by positive rules imposing more severe restrictions on appropriation. However, this does not occur, and the limitations cease to operate just when equity would have had most need of them. According to Strauss, Locke justifies this "eman-cipation" of acquisitiveness by showing that, ultimately, it leads to general prosperity.<sup>18</sup>

Strauss argues that Locke's theory of property should be regarded as "the classic doctrine of the spirit of capitalism" and that, in it, the natural-rights framework (which was supposed to limit private ownership) is only a facade. Indeed, Strauss argues that Locke "occasionally. . . and apparently approving[ly]" echoes "the older view" inherited from medieval Christian thought. In Strauss's view, this can be seen, for example, when Locke links the introduction of "larger possessions and a right to them" with "the desire to have more than man needs" or with an increase in "covetousness," inclinations which Locke condemns as "evil concupiscence." But, on the other hand, Strauss also argues that most of Locke's statements are in a completely

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*Politics* 74 (2012): 27–51; and in Stanley C. Brubaker, "Coming into One's Own: John Locke's Theory of Property, God, and Politics," *Review of Politics* 74 (2012): 207–32. Brubaker, however, contends that "despite the severity of Locke's critique of Christianity, one need not conclude he was an atheist," and that "Locke inclined towards a deism of sorts" (231). A similar stand is taken by Robert Faulkner in "Preface to Liberalism: Locke's *First Treatise* and the Bible," *Review of Politics* 67, no. 3 (2005): 451–72.

<sup>16</sup>In this sense, Strauss notes, "the terrors of the natural law" no longer strike the covetous but the waster. Strauss, *Natural Right and History*, 236–37.

<sup>17</sup>Misery is not the same as scarcity. "In the first ages of the world," says Locke, "Men were more in danger to be lost by wandering from their Company, in the then vast Wilderness of the Earth, than to be straitened for want of room to plant in" (*Second Treatise*, §36).

<sup>18</sup>Strauss, *Natural Right and History*, 242.

different vein. Thus, he concludes, the burden of chapter 5 in the *Second Treatise* "is that covetousness and concupiscence, far from being essentially evil or foolish, are, if properly channeled, eminently beneficial and reasonable, much more so than exemplary charity."<sup>19</sup>

For Macpherson too, the turning point at which the limitations are "transcended" coincides with the introduction of money. Money not only makes it possible for men to appropriate more than they can consume before it spoils (whereby the spoilage limitation is removed). It also makes this attractive, for it awakens in men "the desire to have more than is necessary,"<sup>20</sup> to accumulate money and land no longer as mere commodities, but as capital to be invested in trade. Macpherson recognizes that it seems less obvious how the sufficiency limitation could become neutralized by the introduction of money. Yet he maintains that Locke considered it too to be transcended. He reconstructs Locke's argument as follows: an effect of the consensual introduction of money is the development of a commercial economy; a commercial economy continuously creates new markets in which to sell the products of the earth; and thus the private appropriation of land, hitherto valueless, becomes highly attractive. As consenting to the use of money implies consent to its consequences, with the introduction of money, unlimited land appropriation would tacitly be endorsed. Moreover, Locke would also offer a more explicit argument: whoever appropriates land by means of his labor does not reduce but rather increases the common heritage of mankind.<sup>21</sup>

Another reason for considering Locke a "possessive individualist" would lie in his concept of labor as alienable property, that is, as something which men may sell for a wage. Macpherson believes that Locke's insistence that a man's labor is his own has almost the opposite significance to that generally attributed to it. Far from guaranteeing to the individual the ownership of the product of his labor, it provides a moral foundation for capitalist appropriation, as expressed in Locke's famous assertion that "the turfs my servant has cut. . . become my property."<sup>22</sup> Labor becomes the property of the person who buys it, the capitalist, who has also the right to appropriate the *product* of that labor. This alienable nature of labor, Macpherson maintains, also contributes to neutralizing the sufficiency limitation. If labor is conceived this way, the demands arising from this condition can be satisfied even without leaving

<sup>19</sup>Ibid., 246–47. The view that Locke was simply erratic or inconsistent in his use of traditional conceptions had also been challenged by R. H. Cox, *Locke on War and Peace* (Oxford: Clarendon, 1960). For Cox, Locke's use of Hooker was rather part of a highly systematic attempt to disguise or soften his real Hobbesian position and Locke's contradictory statements about the state of nature were deliberately contrived as part of this attempt.

<sup>20</sup>Locke, *Second Treatise*, §37.

<sup>21</sup>Macpherson, *Possessive Individualism*, 203–14.

<sup>22</sup>Locke, *Second Treatise*, §28.

enough and as good *land* for others: those who do not own land can always secure their preservation by selling their labor for a wage.

As a result of the arguments outlined above, Macpherson considers it unjustified to conceive the chapter on property in the *Second Treatise* as an argument in favor of a natural right to property “within the limits of the natural law.” For him, this chapter does exactly the opposite: it removes the limits of natural law, freeing the natural right to property of all normative limitations. In Macpherson’s words, this was Locke’s “astonishing achievement.”<sup>23</sup>

Of course, there are also differences between Strauss’s and Macpherson’s analyses. Macpherson finds real ambivalences in Locke’s thought. On the one hand, Locke would take up positions inherited from the Christian tradition. On the other hand, he would express a new “bourgeois conception of society.”<sup>24</sup> For Macpherson, these ambivalences are to be attributed to the transitional nature of Locke’s society.<sup>25</sup> Moreover, Macpherson’s analysis also considers the social assumptions of Locke’s theory of property. There, he believes, lies the justification for the unequal social structure characteristic of capitalism. For Strauss, however, the inconsistency that he sees in Locke’s thought results from his “prudent” efforts to conceal his departure from previous natural-law thinking.

In 1974 Robert Nozick went back to Locke’s theory of property with the aim of finding a basis for rejecting distributive justice. According to Nozick, redistribution is immoral, for it violates the most fundamental human rights—among them, the right to property. In particular, it would violate the first of the three principles which make up Nozick’s “retributive” conception of justice, the “principle of justice in acquisition.” The condition which this Nozickian principle stipulates for the legitimacy of an act of appropriation is taken from Locke’s theory: the request of leaving enough and as good for others, interpreted by Nozick in the weakened sense of a nonworsening requirement that demands compensating others sufficiently for the act of appropriation.<sup>26</sup> Thus, a person who acquires a holding in a way which fulfils this requirement, or by means of a voluntary transfer from someone who has fulfilled it, is supposed to have a right to this holding (and no one is entitled to a holding except by means of these pathways).

Nozick explicitly links his neo-Lockean entitlement theory to the rejection of redistribution. The key to his argument, stressed at the beginning of *Anarchy, State and Utopia*, is that “individuals have rights, and there are things no person or group may do to them (without violating their

<sup>23</sup>Macpherson, *Possessive Individualism*, 199.

<sup>24</sup>Ibid., 246–47.

<sup>25</sup>Ibid., 269–70.

<sup>26</sup>Nozick, *Anarchy, State and Utopia*, 176–82. In fact, Nozick believes that a literal understanding of Locke’s “enough and as good” clause would render it so restrictive as to make illegitimate every single act of appropriation, as he intended to show with his well-known retrospective argument.

rights).<sup>27</sup> One of these fundamental rights that a just society should respect is the right of self-ownership.<sup>28</sup> In accordance with the strong interpretation of the Lockean self-ownership thesis on which Nozick bases his argument, each individual is the full owner of his person, his actions and capabilities. Consequently, each individual should enjoy an equal liberty to make use of these capabilities and to benefit from them as long as this does not harm others.<sup>29</sup> From this perspective, any redistributive policy involves the removal of benefits which someone has achieved through the use of his capacities. In this sense, such a policy should be considered as much a violation of self-ownership as one which calls for the removal of those capabilities themselves.<sup>30</sup> Thus, inspired by the theory of Locke, Nozick advocates a minimal state as the guarantor of a full ownership-rights system. Of course, he does not offer, strictly speaking, an interpretation of Locke. However, the fact that he refers to the theory of Locke so as to challenge any form of distributive justice amounts, in some way, to placing Locke as cornerstone of a nonegalitarian tradition.

## II. The New “Charity Approach” to Locke’s Theory of Property

The religious turn introduced a new perspective in the analyses of Locke’s theory of property. The examination of the two limitations on appropriation put forward in chapter 5 of the *Second Treatise* began to be challenged by a new interest among Locke scholars in the *First Treatise* principle of charity. This is not to say that the old, mostly uniform, standard interpretation was definitively replaced by a new, but also quite unanimously accepted, interpretation. Indeed, in spite of renewed scholarly attention to Locke’s religious views, many authors still advocate a secular reading of Locke and the character of Locke’s theory of property remains highly controversial.<sup>31</sup> But the

<sup>27</sup>Ibid., 7.

<sup>28</sup>Ibid., 44.

<sup>29</sup>I call this interpretation of the self-ownership thesis “strong” because it presupposes that the unlimited liberty to benefit from one’s own capacities is *intrinsic* to self-ownership.

<sup>30</sup>It is well known that in *Anarchy, State and Utopia* Nozick claimed that “taxation of earnings from labor is on a par with forced labor” (ibid., 169).

<sup>31</sup>See, for example, Ross J. Corbett, *The Lockean Commonwealth* (New York: State University of New York Press, 2009); “Locke’s Biblical Critique”; Brubaker, “Coming into One’s Own”; Michael P. Zuckert, “Locke—Religion—Equality,” *Review of Politics* 67, no. 3 (2005): 419–31. Brubaker, for instance, highlights “the severity of Locke’s critique of Christianity” and considers, furthermore, that “Locke coherently justifies a right to property that is unlimited in scope but not rapacious” (216). In any case, Macpherson’s influence seems to have remained more powerful *outside* Lockean scholarship narrowly construed. A good example of this would be the posthumous publishing of John Rawls’s *Lectures on the History of Political Philosophy*, ed. Samuel Freeman

religious turn definitively paved the way for a new approach—the charity approach—which would emphasize in an unprecedented way the distributive duties implicated in Locke’s theory of property.

Here too, in this change of perspective, Dunn was the pioneer. In 1968 he published and commented on a previously unpublished essay, “Venditio” (1695). In this work, Locke argued that, in certain situations, charity should prevail over justice and stressed that allowing a person to die in a famine when one has access to food is comparable to murder.<sup>32</sup> Years later, the topic was taken up by other scholars. In *A Discourse on Property*, Tully questions Macpherson’s placing “the wrong emphasis on labour.”<sup>33</sup> In the *First Treatise*, Tully argues, Locke seems to deploy a premodern (Thomist) concept of charity according to which proprietors of surpluses have a duty to transfer them to the needy persons. This entails putting the title to goods based on need on a plane with the title to property derived from labor. Simmons also stresses that Locke’s concept of charity “seems to approximate the familiar Thomistic conception.” Though he believes that in Locke’s writings it is not very clear how the demands of justice and those of charity should be balanced, he programmatically challenges “the persistence of the view that Locke denies or is uninterested in rights and duties of charity.”<sup>34</sup> Similarly, in his book on the Christian foundations of Locke’s “basic egalitarianism,” Waldron refers to the principle of charity as “a much more

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(Cambridge, MA: Harvard University Press, 2008), 138–55, where Rawls reanimated key elements of the possessive individualist reading of Locke.

<sup>32</sup>“But though he that sells his corn in a town pressed with famine at the utmost rate he can get for it does no injustice against the common rule of traffic, yet if he carry it away unless they will give him more than they are able, or extorts so much from their present necessity as not to leave them the means of subsistence afterwards, he offends against the common rule of charity as a man and if they perish any of them by reason of his extortion is no doubt guilty of murder” (John Dunn, “Justice and the Interpretation of Locke’s Political Theory,” *Political Studies* 6, no. 1 [1968]: 68–87).

<sup>33</sup>Tully, *Approach to Political Philosophy*, 131.

<sup>34</sup>Simmons, *Lockean Theory*, 327–36. The authors challenged by Simmons, defenders of the idea that Locke does not give importance to rights and duties of charity, are Strauss, *Natural Right and History*, 236–39, 242–44; Macpherson, *Possessive Individualism*, 221; Cox, *Locke on War and Peace*, 170–71; R. A. Goldwin, “John Locke,” in *History of Political Philosophy*, ed. Leo Strauss and Joseph Cropsey (Chicago: University of Chicago Press, 1987), 484–85; Edward Andrew, *Shylock’s Rights: A Grammar of Lockian Claims* (Toronto: University of Toronto Press, 1988), 56–65; Thomas L. Pangle, *The Spirit of Modern Republicanism: The Moral Vision of the American Founders and the Philosophy of Locke* (Chicago: University of Chicago Press, 1988), 143–44, 161, 306–7; Gerald Cohen, “Marx and Locke on Land and Labour,” in *Self-ownership, Freedom and Equality*, ed. Gerald Cohen (Oxford: Oxford University Press, 2005), 165–94.

fundamental condition" than the sufficiency and spoilage limitations. If this principle is given its proper weight, Waldron maintains, it changes the complexion of Locke's theory quite significantly.<sup>35</sup>

Robert Lamb and Benjamin Thompson developed a detailed and insightful analysis of the meaning of "charity" in Locke's work. Their thesis is that a sufficiently comprehensive reading of the Lockean corpus makes it clear that Locke conceived charity primarily as a virtuous Christian disposition akin to tolerance, rather than as an outward behavior. Additionally, in their opinion, a more complete reading of Locke's work would show that Lockean charity involves only negative duties, as would be expected from a standard conception of charity; and that, although being mandatory in a moral sense, such duties cannot be coercively enforced by the magistrate.

Another notable contribution to a more nuanced understanding of Locke's attitude towards property rights is Steven Forde's article "The Charitable John Locke." In it Forde compares Locke's theory of property to those of Thomas Aquinas, Hugo Grotius, and Samuel Pufendorf and argues that, unlike these philosophers, Locke has a "tiered" moral theory that separates justice from charity. Earlier theories of property such as those of Aquinas, Grotius, and Pufendorf, Forde argues, had charity and the rights of the destitute built into them, that is, as an internal part of their logical structure. Locke's presentation of his theory in the *Second Treatise* does not. Forde rightly recognizes that, despite the less systematic and consequently more veiled treatment Locke gives to charity, his endorsement of a duty to share with those in need is "stronger, in some respects, than found in his predecessors."<sup>36</sup> It is for the purpose of supporting this claim that Forde attempts to patch together Locke's account of charity. But in Forde's reconstruction of the Lockean charity puzzle, there is still a piece missing. He takes notice of the fact that the model Poor Law drafted by Locke in 1697 "makes provision for the poor a government responsibility." Nevertheless, he considers that Locke's proposals on the Poor Law suggest "a limited role for government in relief of the needy."<sup>37</sup>

This "charity approach" has, indeed, a promising central point, but this has not been fully developed. As I will argue, it is possible to draw stronger conclusions regarding the distributive implications of charity than those which have been suggested since the emergence of the religious turn. Furthermore, going deeper into the foundations of charity shows that charity has to be considered organically as part of Locke's theory of property rights rather than as an antithetical anomalous doctrine.

<sup>35</sup>Waldron, *God, Locke, and Equality*, 177.

<sup>36</sup>Forde, "The Charitable John Locke," 429–30.

<sup>37</sup>*Ibid.*, 456.

### III. The Duty of Charity in the *First Treatise*

The question whether human beings have any duty of charity or economic assistance to the needy appears in several of Locke's writings. Locke does not mention charity in the *Second Treatise* chapter on property but he does so, at least implicitly, in other passages of that work. In §6 he maintains that "when his own preservation comes not in competition" every man ought "as much as he can, to preserve the rest of mankind." In §70 he affirms that we may all owe "relief and support to the distressed" and in §93 he refers to "the charity. . . we owe all one to another."

Similar references can be found in other works. In the *Essays on the Law of Nature* (1663–64), for example, Locke affirms that "there are things of which the outward performance is commanded, for example. . . the consoling of a distressed neighbor, the relief of one in trouble, the feeding of the hungry."<sup>38</sup> In *Some Thoughts concerning Education* (1693), he underlines the importance of teaching children "to part with what they have easily and freely to their friends."<sup>39</sup> In "Venditio," as already mentioned, Locke balances the demands of justice with those of charity and argues that in cases of extreme need the latter ought to prevail.<sup>40</sup>

However, Locke's most explicit allusion to charity is to be found in a passage from the *First Treatise*:

We know God hath not left one Man so to the Mercy of another, that he may starve him if he please: God the Lord and Father of all, has given no one of his Children such a Property, in his peculiar Portion of the Things of this World, but that he has given his needy Brother a Right to the Surplusage of his Goods; so that it cannot justly be denied him, when his pressing Wants call for it. And therefore no Man could ever have a just Power over the Life of another, by Right of property in Land or Possessions; since it would always be a Sin in any Man of Estate, to let his Brother perish for want of affording him Relief out of his Plenty. As Justice gives every Man a Title to the product of his honest Industry, and the fair Acquisitions of his Ancestors descended to him; so Charity gives every Man a Title to so much out of another's Plenty, as will keep him from extreme want, where he has no means to subsist otherwise.<sup>41</sup>

This passage shows how the Lockean concept of charity departs from contemporary liberal accounts. Contemporary liberals generally conceive charity as a

<sup>38</sup>John Locke, "Essays on the Law of Nature," in *Political Essays*, ed. Goldie, 123.

<sup>39</sup>See John Locke, "Some Thoughts concerning Education," in *The Educational Writings*, ed. James L. Axtell (Cambridge: Cambridge University Press, 1968), §110. See also Nathan Tarcov, *Locke's Education for Liberty* (Chicago: University of Chicago Press, 1984), 141–45.

<sup>40</sup>John Locke, "Venditio," in *Political Essays*, ed. Goldie, 339–43.

<sup>41</sup>Locke, *First Treatise*, §42.

supererogatory practice, that is, as an act that is good but not morally binding. Even when understood as a duty, it is generally considered that the duties of charity do not imply correlative rights. It is also widely held that duties of charity cannot be enforced and that they are indeterminate in two senses: the kind and amount of aid, as well as the choice of a recipient, are left to the discretion of the benefactor. Finally, it is generally considered that duties of charity are positive duties (duties to render aid).<sup>42</sup>

Locke's assertions contradict most of these widely accepted ideas about the duties of charity (except the last one). For Locke the duty of charity does imply a correlative right. This becomes evident when he maintains that "God the Lord and Father of all, has given no one of his Children such a Property, in his peculiar Portion of the Things of this World, but that he has given his needy Brother a *Right* to the Surplusage of his Goods."<sup>43</sup> (In fact, Locke speaks more explicitly of a right to charity than of a duty on the part of the well-off.)<sup>44</sup> Moreover, Locke does not present the duty of charity as completely indeterminate with respect to the profile of the beneficiaries and the kind and amount of the assistance it requires. In accordance with the *First Treatise*, the duty of charity would oblige every owner of a surplus of subsistence goods. Potential beneficiaries would be any and every person facing a situation of "extreme want," that is, one which endangers their preservation. To this requirement of extreme necessity Locke adds the condition that the needy person really does have "no means to subsist otherwise." In other words, in order to benefit from charity, a needy person should be unable to work or prevented from doing so, whether by a physical or an intellectual disability or by lack of employment. The only aspect of the Lockean conception which does coincide with the contemporary liberal conception lies in considering charity a positive duty. Indeed, in Locke's account, the proprietor of surpluses ought to "afford to the wants of his brothers"<sup>45</sup> and not simply to step

<sup>42</sup>For a philosophical discussion of the standard liberal concept of charity, see Allen Buchanan, "Justice and Charity," *Ethics* 97 (1987): 558. See also Jeremy Waldron, "Welfare and the Images of Charity," in *Liberal Rights: Collected Papers 1981–1991* (Cambridge: Cambridge University Press, 1993), 225–49.

<sup>43</sup>Locke, *First Treatise*, §42 (emphasis added). It would be, then, a "claim right," that is, a right which entails responsibilities, duties, or obligations on the part of other parties regarding the right-holder. See W. N. Hohfeld, *Fundamental Legal Conceptions as Applied in Judicial Reasoning and Other Legal Essays* (New Haven: Yale University Press, 1923), 38.

<sup>44</sup>Nevertheless, in §42 there are statements that can be taken as equivalent expressions. For instance, Locke's statement that "it would always be a Sin, in any Man of Estate, to let his Brother perish for want of affording him relief out of his Plenty," or his reference to the "Relief, God requires him [who has plenty] to afford to the wants of his Brother."

<sup>45</sup>Locke, *First Treatise*, §42. This idea is confirmed by the seventh of the "Essays on the Law of Nature" and by the *Report*.

aside so that the needy can meet their needs by helping themselves to the goods which others acquired legitimately.<sup>46</sup>

#### IV. Locke's "Essay on the Poor Law": Enforceable Charity as Redistributive Policy

Curiously, the charity approach ignored a work which would have decisively underpinned the egalitarian nature of Locke's thought which has been stressed in many of the recent interpretations: Locke's 1697 proposal to reform the Poor Law.

Before discussing Locke's *Report* in depth, however, I will first consider two important objections to its use. First, focusing on one particular work of an author carries the risk of falling into what Stanley Brubaker described as "the hazards of cut-and-paste scholarship": "the smaller the unit one takes from a work and the more literally one combines such unit with others," Brubaker warns, "the easier it is to make an author say something quite different from what he intends."<sup>47</sup> The second objection applies more particularly to my purpose of drawing philosophical conclusions from a public document such as the *Report*. Locke wrote this *Report* in a public capacity, at the behest of the Board of Trade. Consequently, runs the argument, we do not know whether the *Report* is colored by Locke's need to accommodate himself to that context, or even if he was given a mandate that limited or even invalidated what he would have recommended had he been left to his own devices.

Certainly, these are very sound reasons to exercise caution and seek to reconcile Locke's essay with other pertinent writings, but not to discount it entirely as a relevant source when addressing the question of Locke's attitude towards distributive duties. On the one hand, as we will see, the two leading ideas of the *Report* (disciplining of the "idle poor," assistance for the "deserving poor") can also be found in other of Locke's less circumstantial writings. The repressive character of some of the measures Locke proposes to deal with the idle poor was already present in his essay "Atlantis" (1676–79). Far from being a public document, this is a utopian essay describing an ideal city, and in it Locke had already suggested the necessity of isolating the poor and controlling all their movements.<sup>48</sup> The charitableness of the measures

<sup>46</sup>It was in this weaker way that Hugo Grotius and Samuel Pufendorf conceived the so-called right of necessity, a right that may be considered a precedent of Locke's right to charity. See Forde, "The Charitable John Locke," 428–58; John Salter, "Grotius and Pufendorf on the Right of Necessity," *History of Political Thought* 26, no. 2 (2005): 284–302.

<sup>47</sup>Brubaker, "Coming into One's Own," 208n2.

<sup>48</sup>Whether *Atlantis* is really to be read as a utopian essay is, in fact, a matter of controversy. Mark Goldie asserts that it is not, arguing that "Locke's remarks [in *Atlantis*] are closely related to ideas expressed in the *Fundamental Constitutions of Carolina* and in

intended to deal with the “deserving poor” was also behind Locke’s assertions in “Venditio,” where he strongly condemned the crime of letting someone starve in a context of relative abundance. On the other hand, the relatively few discussions of the *Report* show that it was read in a one-sided manner and taken as evidence for supporting what, in my view, is a misconception of Locke’s attitude toward the social duties of the proprietors. This is sufficient reason for me to go back over this document and seek to undertake a more comprehensive reading of it.

Indeed, Macpherson had used Locke’s *Report* to support his thesis—based mostly on a reading of *The Reasonableness of Christianity*—of Locke’s assumption that the workers belonged to an inferior order of men (the so called “differential rationality of classes thesis”). His argument stresses that, insofar as the repressive measures proposed in the *Report* contributed to providing the docile and disciplined workforce the capitalists needed, these paved the way for the emergence of capitalism.

E. J. Hundert discusses the *Report* as an intervention in the seventeenth-century English debate over “the employment of the poor.” To this end, he focuses mainly on Locke’s proposals to educate the “idle poor” in the virtue of industriousness, discipline them, and put them to work. Like Macpherson, Hundert also emphasizes the *Report* as evidence that “Locke saw laborers pursuing an animal existence tempered by deference and respect, and extremely prone to irrational behavior.”<sup>49</sup> But he does not mention charity nor does he address the set of distributive measures to assist the “deserving poor,” which Locke, as I want to emphasize, also supports in the *Report*.

For Ai-Thu Dang, the *Report* is interesting in two senses: “on the one hand, it reveals an unexpected aspect of Locke’s thought, its authoritarian and hierarchical side. On the other hand, it makes evident that the economy in Locke cannot be understood independently of the puritan theology.”<sup>50</sup> Contrary to Macpherson and Hundert, Dang rightly acknowledges the fact that in Locke’s *Report* “there are regulations, measures, aimed at assuring a minimum subsistence to certain categories of persons” and questions Macpherson’s thesis about Locke prefiguring capitalist production.<sup>51</sup> Nevertheless, she also focuses her discussion of the *Report* more on the repressive measures than

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his essays on naturalisation and the Poor Law.” See Locke, *Political Essays*, ed. Goldie, 253. Whatever the merits of Goldie’s argument, the important point here is that *Atlantis* is not a document written by Locke in the exercise of a public office.

<sup>49</sup>E. J. Hundert, “The Making of *Homo Faber*: John Locke between Ideology and History,” *Journal of the History of Ideas* 33, no. 1 (1972): 6.

<sup>50</sup>Dang, “Fondements des politiques de la pauvreté,” *Revue économique* 45, no. 6 (1994): 1423 (translation from the French is my own).

<sup>51</sup>In fact, she begins her paper by presenting Locke’s *Report* as “a supplementary milestone” on the way to contemporary welfarist proposals for a basic income policy.

on the distributive ones, conceiving the *Report* as, essentially, a crusade *against* the poor.<sup>52</sup>

More recently, Nancy J. Hirschmann has brought Locke's *Report* to the American contemporary public debate on welfare policy. In particular, Hirschmann wants to show how contemporary American liberal conservatism dates back to Locke. With this aim, she establishes a parallel relationship between the poor-relief-system reform proposed by Locke (which she considers essentially conservative and repressive) and contemporary neoconservative arguments for drastically reducing social aid in America during the 1990s. As could be expected, this results in a nonwelfarist reading of Locke. But it can be argued that Hirschmann's focus on the *reform* of the poor-relief system put forward by Locke understandably deflected her attention from what I think is the main objective of *the poor-relief system* itself, namely, the preservation of the lives of all members of the commonwealth (even of those who are not "rational and industrious"). The core of *the reform* was, it is true, to make the existing poor-relief system more efficient and to put an end to a highly objectionable state of affairs, namely, the fact that increasing numbers of persons were unnecessarily living off of the hard work of others. Nevertheless, although in need of reform, the main purpose of *the poor-relief system* was, definitively, granting a livelihood to all human beings, independently of their capacity or willingness to work, for, as Locke argued, "everyone must have meat, drink, clothing, and firing. So much goes out of the stock of the kingdom, whether they work or no."<sup>53</sup> Because the harshness of the measures proposed to deal with the "idle poor" is well known, I will rather highlight another aspect of it, which has not yet been fully appreciated, namely, the redistributive core of the system intended to grant universal access to the means of preservation.

At the beginning of the *Report*, Locke stresses the need to classify the poor into three main groups (in order to give each of them differential treatment and use the public resources set aside for social assistance as efficiently as possible). First, he identifies the group of "those who can do nothing at all towards their own support" owing to severe physical or mental disabilities which prevent them from working. The second group is made up of "those who, though they cannot maintain themselves wholly, yet are able to do something towards it." Finally, the third group is formed by "those who are able to maintain themselves by their own labour" but do not do so. Starting from this classification, Locke sketches two complementary relief systems: one intended to deal with the "idle poor," the other with the "deserving" ones.

On the one hand, he stresses, those who really can guarantee their own subsistence (fully or partially) and yet do not do so, should be set to work. They

<sup>52</sup>Dang, "Fondements des politiques de la pauvreté," 1430.

<sup>53</sup>Locke, *Report*, 189.

had to be seized, brought before the nearest justice of the peace or guardian of the poor and sent to a “house of correction” or to another public institution and kept there at “hard labour.” Begging without permission was to be punished with forced labor or with monetary fines. Even the children of poor families above three years of age could be obliged to get their livelihood at “working schools” set up in each parish with this purpose.

According to Locke, not even unemployed persons who looked for work and failed to find it should be left to their fate. On the contrary, the guardian of the poor in every parish had to make public the situation of these persons and request that local landowners voluntarily employ them “at a lower rate than is usually given.” If nobody in the parish voluntarily agreed to hire the unemployed, it should be in the power of the guardian to oblige the landowners of the parish to do so. If they refused to comply with the orders of the guardian of the poor, they would be obliged to pay the unemployed person a living wage, whether they employed him or not.<sup>54</sup>

On the other hand, Locke claims that those individuals who are totally unable to work should be guaranteed access to what is necessary to live through the granting of subsidies. Without prodigality, public-housing provision was also contemplated: “those who are not able to work at all, in corporations where there are no hospitals to receive them, [had to] be lodged three or four or more in one room, and yet more in one house, where one fire may serve, and one attendant may provide for many of them.” As it was “to the shame of Christianity” to let the “idle poor” live off of the industrious, so was it also against God’s will to let a person die for want of due relief. According to Locke’s report, “if any person die for want of due relief in any parish in which he ought to be relieved, the said parish [had to] be fined according to the circumstances of the fact and the heinousness of the crime.”<sup>55</sup>

To finance this system Locke suggested imposing on proprietors a poor rate to be collected “by one equal tax throughout the whole corporation.”<sup>56</sup> With these public funds he planned to finance the whole poor-relief system: the subsidies for the disabled and the materials for setting the unemployed to work, as well as the wages of the numerous public officials involved in overseeing the system.<sup>57</sup>

It might be objected that only the granting of subsidies for the disabled should be considered (public) “charity” and that the set of measures intended to deal with the “idle poor” and the unemployed—the compulsory assignment of jobs—is rather a system intended to reduce the universe of beneficiaries of public economic aid. However, in the sixteenth and seventeenth

<sup>54</sup>Ibid., 184–88.

<sup>55</sup>Ibid., 197–98.

<sup>56</sup>Ibid., 195.

<sup>57</sup>Locke also agreed in tolerating the parallel subsistence of the old almsgiving practice, provided that it was strictly regulated by the political authority, which would be obliged to give passes to the authorized beggars and punish the infractors.

centuries the word "charity" exhibited this very ambiguity of meaning. By this time, the medieval practice of giving alms indiscriminately had been replaced by a sober and rational calculation of what most benefited the community. It was widely accepted that, whereas that old practice promoted vice and was essentially a selfish act by which the benefactor sought to clear his conscience, true charity urged those who deserved it to help themselves and, thus, to benefit the whole community.<sup>58</sup> Locke deploys this broad concept of charity when he says that "the true and proper relief of the poor" consists in "finding work for them and taking care they do not live like drones upon the labour of others."<sup>59</sup>

Let us now examine the substance of this proposal. In the first place, the *Report* shows that for Locke, the positive laws of civil society must preserve and channel the normative content of what in the state of nature appeared as a natural right, namely, the right of access to the means of preservation. How to secure universal access to the means of preservation (hitherto abundant and common) once men, in the context of a monetary economy, apply their differential labor-forces to the natural resources available (with the result that some come to own very much and others very little or nothing)? The redistributive measures proposed in the *Report* constitute a response to this problem. In the second place, it makes it clear that Locke believes that the assistance demanded by the principle of charity can be enforced by the political authority. In the third place, the proposal to classify the beneficiaries of economic assistance according to their needs and their capacity for laboring is an indication of how Locke believed that the natural right to the means of preservation (charity) should be balanced with the rights of property acquired through labor (justice). In accordance with the poor-relief system sketched by Locke, the transfer of the means of preservation to the needy only applies when these latter are unable to work. Everyone who could work should do so; those who could not work had to be assisted and if any person died owing to lack of relief, the parish responsible should receive a fine.<sup>60</sup> On the one hand, this underlines the priority Locke gives labor as a way of fulfilling the divine mandate of preservation. On the other hand, the fact that Locke believes that, ultimately, we have a duty to help all those in need, whether they work or not, shows that the right to the means of preservation is not subordinated to labor. Finally, the *Report* also shows how the poor-relief system which Locke endorses sets limits on the exercise of the property rights: proprietors may not only be forced to give up their own resources to finance the relief of the former, but they may also be forced to hire unemployed laborers.

<sup>58</sup>See Wilbur K. Jordan, *Philanthropy in England, 1480–1660: A Study of the Changing Pattern of English Social Aspirations* (New York: Routledge, 1959).

<sup>59</sup>Locke, *Report*, 189.

<sup>60</sup>*Ibid.*, 198.

## V. The Common Foundations of Charity and Property Rights

Finally, in this section I will address the question whether charity and the redistributive system which Locke sketches in the *Report* are consistent with his justification of property rights. At first sight, as a right-libertarian would maintain, the duties of charity and the rights of property may seem antithetical. Nevertheless, I think they are not. Indeed, as I will argue, they are both grounded in the same fundamental principle: the natural right to the means of preservation. This suggests not only that property rights are compatible with the duties of charity, but also the more radical idea that they actually require each other. The meaning of this convergence thesis, as I call it, will become evident after discussing the foundations of charity. This, in turn, will entail a reconsideration of the very foundations of property rights.

The fundamental connection between the natural right to the means of preservation and charity is made evident simply by taking into account the context in which Locke introduces the duty of charity. Indeed, in the *First Treatise*, Locke postulates the duty of charity in the context of his refutation of Robert Filmer's political theory. According to the interpretation of the Bible that Filmer puts forward in *Patriarcha*, God gave the world and all the creatures in it (including the rest of mankind) to a particular man, Adam, as his private property.<sup>61</sup> From this original situation, Filmer deduces his theory of natural inequality as well as the doctrine of the divine and absolute right of kings.

Locke puts forward two arguments for rejecting Filmer's theory. The first consists in offering a different interpretation of the book of *Genesis*. According to Locke's reading, God gave Adam dominion over the inferior creatures but not over the rest of mankind. Moreover, Locke holds that this dominion was given to all men in common, not exclusively to Adam.

Locke's second argument against Filmer's position, in the context of which he introduces the duty of charity, has the form of a *reductio ad absurdum*. He makes a concession to his adversary by assuming, for the sake of argument, that God gave the world and all the creatures in it exclusively to Adam and shows how this assumption leads to an absurd situation, namely, that a "curious and wonderful piece of Workmanship [i.e., Man] by. . . want of Necessaries, should perish. . . after a few moments continuance."<sup>62</sup> What Locke is trying to show is that even if God had given the world to Adam as his private property, it would still have been unjust of him to threaten to withhold resources from others unless his political dominion was acknowledged. In other words, Locke is not prepared to concede absolute rights to any owner. Not only has the owner of a surplus no right to withhold it in

<sup>61</sup>Robert Filmer, *Patriarcha and Other Writings*, ed. Johann P. Sommerville (Cambridge: Cambridge University Press, 2004), 7.

<sup>62</sup>Locke, *First Treatise*, §86.

face of the pressing need of another man; neither has he a right to make its offer subject to certain conditions—such as political subjection. The reason for this lies in Locke’s primary theological commitment to the right of each man to the means of his preservation. Moreover, it is worth noting that, in the context of the controversy with Filmer, not only the justificatory basis but also the binding character of Locke’s duty of charity become clearer, for Locke presents it as a demand that could not be ignored even by someone who has the most absolute power.

Although this right of charity is almost absent in the *Second Treatise*, it is organically connected to Locke’s theory of property. Locke reaches his conclusion that the wealthy ought to assist the very poor on the basis of the same theological and teleological premises from which he sets off when justifying property rights. The first of these theological premises is the donation, made by God to all men in common, of all the natural resources and inferior creatures of the world.<sup>63</sup> When assessing the distributive implications of Lockean private property, it is crucial to consider the specific nature of this original community of goods.

Starting from a positive community, left-libertarians justify welfare rights in terms of compensation for loss of access to the means of preservation which occurred after the abandonment of the original positive community. As all men were initially the proprietors of everything (or each was the proprietor of an unspecified portion of the common), they argue, each private act of appropriation amounts to an act of expropriation and so it gives rise to legitimate claims on the part of the rest of the commoners.

In principle, Locke’s original community would not have these radical redistributive implications. Locke departs from a *negative* community of goods: all men have a right of use but, originally, nobody has exclusive rights over particular portions of the common. However, a second theological premise in Locke’s argument is the doctrine that the world was intended by its creator for human use. And, for Locke, the observation of this divine command necessarily leads to the institution of exclusive property rights. The resources donated by God can serve the preservation of men only if men appropriate them privately:

God, who hath given the World to Men in common, hath also given them reason to make use of it to the best advantage of Life, and convenience. The Earth, and all that is therein, is given to Men for the Support and Comfort of their being. . . . Yet being given for the use of Men, there must of necessity be a means to *appropriate* them some way or other before they can be of any use, or at all beneficial to any particular Man.<sup>64</sup>

<sup>63</sup>Locke, *Second Treatise*, §26.

<sup>64</sup>Locke, *Second Treatise*, §26. For Locke, “common” and “wasted” seem to be interchangeable expressions. See *Second Treatise*, §37 and §42.

Thus, for Locke the idea that common property should fall under the control of private individuals has its origins in God's intentions.

The doctrine that the world was intended by its creator for human use comes together with a second theological premise, namely, the idea that being God's workmanship, men are his property and, therefore, they must subsist for the time that God provides, not for the time that they themselves desire. For this reason, man "is bound to preserve himself and. . . when his own preservation comes not in competition, ought he, as much as he can, to preserve the rest of the mankind."<sup>65</sup> This may be demanded because God, having endowed man, like other creatures, with a strong desire for preservation, also gave him the means to that end. Thus, the duty and the right which men have to preserve themselves carry with them a right to the means of preservation. All the property rights men acquire through labor flow, in the last resort, from this more fundamental right to the means of preservation. Thus, property in labor's product may be seen as the actualization of that prior right to the means of preservation.

God's will would be disobeyed and his grant of the earth for mankind's subsistence would be in vain if individuals were not able to take from the common. Thus, the obligation to preserve themselves prompted individuals to appropriate:

Reason, which was the voice of God in him, could not but teach him. . . that pursuing that natural inclination he had to preserve his being, he followed the will of his Maker. . . . And thus Man's Property in the Creatures, was founded upon the right he had, to make use of those things, that were necessary or useful to his Being.<sup>66</sup>

The aim of preservation lies, then, at the very foundations of Lockean property rights and explains all the limitations on private appropriation Locke puts forward within his theory. Once money is introduced, as rightly pointed out by the standard interpretation, the sufficiency and the spoilage limitations become easily transcended. However, Locke's property rights are not absolute. What the standard interpretation ignored is that the normative content of the natural right to the means of preservation still persists in the form of a right to charity intended to safeguard a decent minimum to those unable to fulfill God's command to preserve themselves and, as far as possible, the rest of mankind. The purpose of private property is the preservation of men and so private property can never be permitted to become an obstacle for the fulfillment of this end.

Why is this safeguard necessary? As emphasized by the standard interpretation, once money is introduced, some men come to own very much and others come to own no productive resources other than their labor. Under ideal conditions, this would not go against God's purposes: the person who

<sup>65</sup>Locke, *Second Treatise*, §6. See also *First Treatise*, §42.

<sup>66</sup>Locke, *First Treatise*, §86.

sells his labor in a developed economy, a day laborer, is better off than even the most privileged in a premonetary economy. Nevertheless, under nonideal conditions—when not everybody is able bodied or sufficiently predisposed to be part of the labor force—Locke’s notion that all are better-off and well-enough-off fails. The right of charity is then Locke’s response to these less than ideal conditions.

All this does not mean, though, that Locke develops a purely utilitarian justification of private property or that he is a kind of what Nozick once called a “utilitarian of rights.”<sup>67</sup> Although Locke’s argument contains some utilitarian-based strands, it is fundamentally a rights-based justification.<sup>68</sup> Locke speaks of preservation not only as a divine intention but also as a natural right. And according to him, property rights are themselves constrained by a more fundamental right which each man has to the necessities for his preservation. In Locke’s system this fundamental right constitutes the basis of both the rights of property and the rights of charity.

To answer the question of the consistency of Locke’s theory of property, it is important to establish whether this right to the means of preservation is directly a consumption right or only a right of access to the materials necessary to produce the livelihood through one’s own labor. On the basis of a literal reading of a passage from the *Second Treatise*, the traditional account of Tully and Ashcraft concludes that the right to the means of preservation is *itself*, immediately, a consumption right.<sup>69</sup> As a basis for this interpretation both Tully and Ashcraft invoke the passage in which Locke says that “men, being once born, have a right to their preservation, and consequently to meat and drink, and such other things as nature affords for their subsistence.”<sup>70</sup> From this perspective, there would exist three parallel ways for actualizing the right to the means of preservation: labor, charity, and inheritance.<sup>71</sup>

This entails that the right to consume the necessities of life is independent of labor, an interpretation which may seem plausible but only if the passage in question is taken out of context. It would be more accurate to conceive the right to the means of preservation as a right to *produce* what is necessary to live, that is, as a right not to be excluded from access to the natural resources abundantly provided by God so that men can preserve themselves. It is true that God “gave the world to men in common.” But it is more exact to say that “he gave it to the use of the industrious and rational (and *labour* was to be his title to it) not to the fancy or covetousness of the quarrelsome and contentious.”<sup>72</sup> Labor has a lexical priority over need. A lexical order is an order

<sup>67</sup>Nozick, *Anarchy, State and Utopia*, 28–29.

<sup>68</sup>Jeremy Waldron, *The Right to Private Property* (Oxford: Clarendon, 1998).

<sup>69</sup>See Tully, *Approach to Political Philosophy*, 131–32; Richard Ashcraft, *Locke’s Two Treatises of Government* (London: Allen and Unwin, 1987), 127.

<sup>70</sup>Locke, *Second Treatise*, §25.

<sup>71</sup>Tully, *Approach to Political Philosophy*, 131.

<sup>72</sup>Locke, *Second Treatise*, §34.

which requires that a first criterion be fully satisfied before we can move on to a second one (and the second before we consider a third, and so on). In other words, from this perspective, a principle does not come into play until those previous to it are either fully met or no longer apply (or have but a limited application). For Locke, this seems to be the case with labor and need as criteria for legitimating private appropriation: labor must be exhausted as a criterion for legitimating appropriation in order for need to be considered. As is clearly shown by Locke's *Report*, everyone must work and get his livelihood through his own labor. Only someone who is involuntarily prevented from working has a claim-right to direct (that is, not mediated by his own labor) access to the means of preservation. In the *Report*, Locke emphasizes this condition, very probably fearing that the publicity of such a "safety net" as proposed by him could disincentive labor and turn out, in the end, counterproductive. However, the ultimate foundation of property rights is not labor but the right to the means of preservation. This explains why, in certain cases, the demands emanating from charity may be considered to have priority over property rights.

## VI. Final Remarks

In the first part of this paper I addressed the standard interpretation of Locke's theory of property. That interpretation ignored the significance of Locke's theological commitments and focused exclusively on the two *Second Treatise* limitations, claiming that, in fact, these do not impose any effective limits on appropriation. As a result, this account presented Locke's theory as a justification of unlimited capitalist appropriation completely indifferent to the well-being of the dispossessed (Strauss, Macpherson) or, similarly, as a defense of unrestricted property rights, which by construction are incompatible with any form of patterned redistribution (Nozick). In fact, this conclusion is neither completely right nor completely wrong. The invention of money, it is true, made possible and permissible the development of disproportionately unequal possessions. This does not, however, preclude that property rights are of a limited nature.

In sections III, IV, and V, I put forward my own account of the relation between charity and the limited character of Lockean property rights. After analyzing the treatment of charity in the *First Treatise*, I examined Locke's "Essay on the Poor Law" to show how this writing allows us to draw stronger conclusions regarding the distributive implications of charity than those already suggested with the emergence of the religious turn. In particular, it confirms that Locke does endorse a redistribution of subsistence goods—intended to ensure the preservation of all men—which can be enforced by the political authority. This poor-relief system clearly sets limits on the exercise of property rights, proprietors being liable to paying an obligatory poor tax and to being forced to hire unemployed persons in need.

Nevertheless, the central point of my analysis is that the redistributive system which Locke sketches in the *Report* is consistent with his justification of property rights. As we saw, the key to answering the question of the consistency of Locke's theory lies in evaluating the place occupied by the natural right to the means of preservation, on the one hand, and labor, on the other. If we were to understand that labor is the *ultimate* foundation of property rights, these would be considered absolute: their foundation would not impose any further limit than the appropriator's capacity to work. When things are seen in this way, the right to charity appears to be exogenous to the theory of property; in fact, it seems to be in competition with it. However, the property rights introduced by Locke are not the full libertarian rights that Nozick assumes. For Locke, men have no right to do absolutely anything they please with their property. For instance, they do not have the right to gratuitously destroy or spoil it. Nor do they have the right to withhold it when others have very urgent needs. This is because Locke conceived property rights as grounded, ultimately, in the natural right to the means of preservation rather than in labor. Consequently, the demands following from justice (the guarantee of property rights) and the demands emanating from charity (redistribution of the means of preservation) do not give rise to conflicting demands within the theory. They are grounded on the same principle (the right to the means of preservation) and so are complementary rather than contradictory to each other. In this sense, charity does not violate Lockean property rights; property rights are intrinsically limited.

At least textually, Locke's theory of property seems to be grounded in Christian theism, and in section V, I showed that the theological premises of the theory have egalitarian implications. The natural rights arising from God's will, like the right to the means of preservation, contain the necessary conditions to protect and preserve men. In virtue of these laws men have property in a broad sense (life, liberty, and goods) and, in virtue of these laws, they also have duties, and their rights and liberties are limited. Because they are creatures of God, men are born free, but because they are creatures of God, they cannot alienate their freedom completely and irreversibly—as in the case of a contract of slavery—or commit suicide.<sup>73</sup> As creatures of God, men can acquire ownership by applying labor to the natural resources that God gave them so as to preserve their lives. For the same reason, they are obligated to give up some of the goods they acquired if the life of another human being is in danger.

This does not necessarily mean, though, that it is only in the context of the Lockean conception of natural law as an expression of the divine will that Locke's theory of property is fully intelligible. The idea of a secular neo-Lockean who supports redistribution is not only intelligible but also plausible, as illustrated by the accounts of contemporary left-libertarian

<sup>73</sup>Ibid., §23.

philosophers.<sup>74</sup> I have located my argument in the context of the religious turn. In this sense, my argument could be considered an indirect endorsement of this interpretive turn, insofar as it evidences the fruitfulness of taking Locke's theological premises into account. However, I did not intend to engage in the polemic for or against a secular or a religious Locke and I do not preclude the plausibility of a Lockean argument basing property rights on a secular right to the means of preservation. The relation between the religious turn and the egalitarian turn in Locke scholarship may be contingent. What I have tried to show is that, by pointing to the importance of charity, the religious turn in Locke scholarship provided a specially propitious framework for the emergence of a more nuanced understanding of Locke's liberalism and of Locke's conception of property rights vis-à-vis distributive duties. By establishing the existence of a conceptual link between property rights and the preservation of men, the religious turn unveiled the potential of Locke's argument to defend not only the position that private property and redistribution are compatible, but also the more radical idea that, as suggested by the convergence thesis, they require each other.

<sup>74</sup>See Steiner, "The Natural Right to the Means of Production," and Otsuka, *Libertarianism without Inequality*. See also Michael Zuckert, "Two Paths from Revolution: Jefferson, Paine, and the Radicalization of Enlightenment Thought," in *Paine and Jefferson in the Age of Revolutions*, ed. Simon P. Newman and Peter S. Onuf (Virginia: University of Virginia Press, 2013), 252–76. In this article, Zuckert shows how Paine derived a right to welfare on completely secular Lockean grounds, and explores the foundation for the assertion of such a right in Locke's own writings.