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JOHN LOCKE AND THE NATURAL LAW
Yesterday and today: a critical analysis

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INTRODUCTION

The *Essays on the Law of Nature* of Locke first appeared in public in 1954, thanks to the relentless effort of Wolfgang von Leyden. Before that date, Lockean scholars had made few studies of Locke's natural law theory. Most of their studies were focussed of Locke's theory of Politics and Epistemology. The scanty inquiry into his concept of the natural law was, perhaps, due to the scarcity of direct and valuable sources, or maybe, modern thinkers were yet absorbed by the innovation of Locke's empiricism. However, after the first publication of the *Essays*, just about fifty years ago, the interest in the topic has increased remarkably.

As a consequence of the first publication of the *Essay concerning Human Understanding* and the *Two Treatises on Government* in 1890, many contemporaries of Locke in Oxford had already questioned his concept of the natural law. A clear proof this are the letters of Tyrell to Locke in which he mentions the critiques of the clerical conservatives, and much later, the accusations of the Sceptics and Epicureans¹. Since then, there had been a constant clamour from his friends, insisting that he publish his «lectures on the law of nature» in order to clarify his position and to give end to the growing controversy. Locke seemed to ignore them. He died without publishing.

The failure to publish the «Lectures», the long silence, and the apparent inattention to his friends' insistence became a big question. What could have been the reasons behind this failure? Definitely, it was hard to give any supposition, not unless the work itself –the *Essays*– would have been submitted to a thorough and direct scrutiny. This was made possible in 1954. From then on, his theory of natural law has been the object of new investigations.

1. See the letters of James Tyrell to John Locke, dated 30 June 1690 and 27 July 1690 in Mark GOLDIE, *John Locke Selected Correspondence* (Oxford: Oxford University Press, 2002), 147-149.

It is the primary object of this present work to look into the original conception of Locke on the natural law and to find its relevance in the contemporary times. The title of this thesis –*John Locke and the Natural Law, Yesterday and Today: A Critical Analysis*– describes best the main objective and the method employed in this work. At first sight, it gives the impression of a historical study, but in reality, what I intend to present here is a critical study of Locke's concept of the natural law. The two adverbial elements, *Yesterday and Today*, refer to the diverse understanding of his natural law theory in his major works and the interpretations that posterior Lockean scholars have made.

I intend to present, as much as possible, a clear, direct, and extensive exposition of the doctrine of Locke on the natural law, which he developed not only in the *Essays* but also in some parts of his major works, like the *Essay* and the *Two Treatises*. After which, I will try to point out the positive aspects of his natural law theory and to expose some of the vacillations, or weak points that may have caused some problems with respect to the integrity and consistency of his moral doctrines. Finally, I will offer a critical analysis of the whole exposition, taking into account not only my own understanding of the topic, but also some observations of other recent commentators. It is good to note, first, the continuity or discontinuity of his thoughts between the earliest *Essays* and the later mature works; and secondly, the different views, reactions, and relevance of Locke's concept of the natural law after the first publication of the *Essays*.

How important was the natural law theory in the entire moral program of Locke? Von Leyden admits that, «Locke's doctrine of natural law, was never in detail reconsidered by him in his later writings, though it became an important premise of several of his mature theories»². I admit the supposition of von Leyden that the doctrines of Locke on the natural law most likely connect his Epistemology with his tenets in the Moral Philosophy. It also appears convincing that his theory of the natural law stands out as an essential source in order to understand the entire Lockean moral program. We can only have a complete affirmation of this supposition after a thorough exposition of his natural law theory.

If the natural law theory was the spinal cord of his entire moral program, it only proves that he considered it with high regard. We pose now the question as to whether the primary importance that he gave it then will have the same acceptance nowadays. Will the natural law theory that he conceived then have the same significance and relevance in the moral and political situations today?

2. W. von LEYDEN, «Introduction», in John LOCKE, *Essays on the Law of Nature*. (Oxford: Clarendon Press, 1954), 82. Hereafter referred to as ELN.

We affirm that Locke's theory of natural law has never lost its value; indeed, it seems more indispensable and urgent in the recent intellectual and cultural progress. There is an obvious need of returning and insisting on the fundamental ground of morality, particularly in facing this multifaceted and novel idea of human rights, freedom, social and economic progress, and the newly conceptualised forms of human relationship. The lack of fundamental concepts of morality, and more concretely, the negligence of the natural law can lead inevitably to a kind of social malady. It is neither the collective agreement of the different leaders of the society, nor the formulation of any international law that can guarantee the full respect for human dignity and the preservation of peace, especially if such agreements and laws are against the fundamental natural law, or were defective.

The ignorance of the natural law brings indifferent cultural and ethical valuation which moral standards in jeopardy. The absence of an internal and absolute force in some claimed social and family values tends to disregard the authorship of the Creator of the universe. Moreover, it appears that the binding force of the law is limited only to the weakest members of the society, while those who are more powerful seem to be immune of its effects and sanctions. The rule of power and wealth for selfish interests and political ambitions seems to indicate a change in the pattern of social rule. Nowadays, there are also talks and debates on the justification of wars and revolutions. How can we consider them from the perspective of Locke's natural law theory? Will it still be relevant to take hold of those seventeenth century essays of Locke on matters of morals and politics?

Now, in order to obtain a sound critical analysis of the concept of the natural law, I find it exceedingly necessary to look into the main fount of his theory, that is, the *Essays*; and then, to compare it with some of his mature literary works, particularly the *Essay* and the *Two Treatises*. In this thesis, I have worked on the three major concerns, namely, the life and works of John Locke; the understanding of the natural law; and, the critical analysis of the natural law theory. However, in this excerpt, I will limit my presentation only to some significant and relevant points of the last two parts, which I think will sufficiently cover and answer all the inquiries I have proposed. In the following paragraphs, I will give a short descriptive sketch of each general heading of the excerpt.

1. *Understanding the natural law.* Locke's natural law theory is not limited to only one work, since it can be found in several of his philosophical writings. There are many scattered considerations in his works that are worthy of note and are of great importance in understanding his concept of the natural law. Since they were written at different times and in different contexts, the way in which Locke understood natural law was also very

different. His approach and objective do not square from one text to another. For that reason, I have divided the exposition into two separate stages of his thought, namely, his early conception of the natural law during his senior studentship in Oxford, and his mature scholarship. These two stages correspond to, first, his earliest *Essays*; and second, his later works, particularly the *Essay* and the *Two Treatises*.

The first stage manifests the indebtedness of Locke to the Christian classical notion of the natural law wherein the role of the divine will takes the primary place. That posture, likewise, situates him among the proponents of theological voluntarism. Nevertheless, his proposition of the knowability of the natural law by the light of nature puts in doubt as to whether his early thoughts were wholly of legal and theological traits. The second stage, however, is a clear affirmation of his deviation from the classical conception of the natural law. His strong inclination to empirical theories weakened the voluntarist aspect of his natural law theory. By then, he began to show a deeper appreciation of the power of rational faculties and the role of sense-experience. In this regard, most scholars have put him among the rationalists. Evidently, there is a notable change of mood in his discussion of ethical problems in later works. This change is reasonable because Locke had outlived the two critical stages of the history of England, that is, before and after the Revolution of 1688.

The other considerations in this section deal with the later theological concerns of Locke with the natural law. Particularly, in the *Reasonableness of Christianity*, he identified the natural law with the Law promulgated by Jesus Christ in the New Testament. Towards the end of his life, he did not change his conviction that God is the sole origin of the natural law. His approach to the problem, however, appears more religious than philosophical. With regard to his posterior conception of the natural law in *Ethics in General*, he used a plainly ethical approach that is closer in outlook to his hedonistic principles in the *Essay*.

II. *Analysis and Appraisal*. The second part of this excerpt deals with a short historical evaluation and a thorough critical analysis of Locke's concept of the natural law. At great length, I will consider several current ramifications of his natural law theory, which have direct implications in Moral Philosophy. In this section of the thesis, I have emphasized only the most innovative points of Locke's concept of the natural law, such as the distinguishing marks of the natural law, the individualism, the demonstrability of the natural law, and the theistic absolutism and moral relativism conflict.

Finally, it is of great importance that Locke's natural law theory find its place and relevance in the present global situation, especially concerning the moral life of man. How can we value his natural law theory today? What principles can it contribute, for example, to the communal fight

against terrorism, in the preservation of one's life, to, in the protection of cultural patrimony and religious tradition? Locke had to witness in his life the most complex political and religious situations, and he himself had to escape from imminent danger to his life. If he were living today, would he apply the same principles of his natural law theory, such as, an ultimate appeal to heaven in case of any tyrannical aggression, or, a right to kill for self-preservation?

In the *Seventh Essay*, Locke manifested himself not in favour of the utility basis of the natural law, nonetheless, the current philosophical and political trends seem to be inclined more and more on utilitarian moral theory. The common good is clothed with the attraction of a pleasurable and easy way of living, regardless of ethical principles. Will these situations be a sufficient reason to propose and revive Locke's moral tenets. Looking at the individual consciousness, there seems to be a deep personal concern for one's right and responsibility, however, in the context of Locke's «state of nature», the individual right is and can only be grounded on the principles of the natural law. How applicable is this theory in the present times?

In the conclusion, I have gathered the corresponding answers to the problems proposed in this work. The solutions are nothing but a result of the investigation, and I don't pretend to qualify them as an absolute and definite response to the current moral situation. The least that the present work can proudly expect is the growing awareness and concern for the basic knowledge of the natural law.

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UNDERSTANDING THE NATURAL LAW

1. THE CONCEPT OF THE NATURAL LAW IN THE ESSAYS

In the previous chapter on the *Works of John Locke*, I made a general introduction to the *Essays*, which I hope has served to situate us in its historical and literary contexts. Now, it is convenient to show the major elements that constitute the theory of the natural law which Locke developed in his earliest essays. It is also of great interest to know whether Locke conceived the natural law according to its classical notions or whether he introduced some innovative views. It is plain, however, that he explained it in a simple but descriptive way, intending primarily to impart it as part of his scholastic lectures during his censorship in Christ Church. In this section, I will underline the most salient points that surface after a thorough investigation of the *Essays*.

1.1. THE NATURE AND EXISTENCE OF THE NATURAL LAW

1.1.1. Proofs of the existence of law

Locke did not present a pre-established definition of natural law, but rather, following a more scholastic design, he delved into the core of the problem by drawing out inexhaustibly some of the basic elements that revolved around the concept of the natural law. His first attempt was to inquire as to its existence, which consequently led him to present its basic nature. What are the proofs that certain laws really exist?

(i) *The order and beauty of the universe*. In the *First Essay*, Locke relates the undeniable existence of law in the palpable beauty and order of creation. This is the most tangible proof that nobody can deny, that by a mere observation of the admirable things in the world, man can realize that all these things must be designed with inherent orderly laws. Locke ap-

peals to the traditional idea that there must be a divine Creator, all-wise and all-powerful that governs the world, who, by his heavenly design, has put the natural movements and operations of all created things. God has willed the beauty and wonder of His work.

(ii) *The life and destiny of man*. Next to the beauty of creation, Locke asserts that man is not exempted from any law, because God has also a designed plan for his life and destiny. The life and death of all living beings are under the laws of the Creator. It also indicates the work of the Intelligent God who shows much concern for the good of man.

It is clear, therefore, that in order to arrive at the knowledge of the law, the first assertion must be the existence of God. The wonders of the world are the proofs of the existence of an eternal design of God and His governance. Locke says,

It is by His order that the heaven revolves in unbroken rotation, the earth stands fast and the stars shine, and it is He who has set bounds even to the wild sea and prescribed to every kind of plants the manner and periods of germination and growth; it is in obedience to His will that all living beings have their own laws of birth and life; and there is nothing so unstable, so uncertain in this whole constitution of things as not to admit of valid and fixed laws of operation appropriate to its nature¹.

For Locke, it is such a folly to deny these very evident facts of the existence of the law. Curiously, Locke grounded his assertion of the existence of the law and its divine author on some observable facts, which some years later, in his collaboration with Boyle and Sydenham, he would affirm with more conviction that all knowledge of man, to establish its validity, must have an empirical foundation.

1.1.2. Various names of the law

Starting from the cosmological consideration, Locke presents various names by which this law is ordinarily known. He gives, at least, three concrete names of this law, namely, the moral good or virtue; the right reason; and the law of nature.

(i) *The moral good or virtue*, or in the words of Seneca, «that single good which man ought to be content with, to which appertains so much dignity, so much glory»². What really pertains to this kind of law is the

1. «nec quicquam sit in tota hac rerum natura tam vagum tam incertum quod [“quae” – von Leyden] ratas fixasque non agnoscit operandi naturae suae convenientes leges». ELN I, 108-109.

2. ELN I, 109.

idea of goodness that drives man towards it. It directs him towards the end, which is the good in itself.

(ii) The *right reason* is understood here by Locke not as «the faculty of understanding which forms trains of thought and deduces proofs, but certain definite principles of action from which spring all virtues and whatever is necessary for the proper moulding of morals»³. This name implies closeness to moral relations, because what really lies behind this denotation is the conformity of the action with the rule of reason. It can be said then that whatever is done according to the right reason is morally good or just.

(iii) The *law of nature* is the most widely used name especially by the Stoics, that is, «a law which each can detect merely by the light planted in us by nature, to which also he shows himself obedient in all points and which he perceives, is presupposed by the principle of his obligation; and this is the rule of living according to nature»⁴.

The third denotation shows a closer connection with the norms of morality and it adds an important element of the law, which is the role of the light of nature. That *solum lumine* is a prevalent idea in the work of Culverwel when he speaks of the candle of the Lord, which is considerably explained also by St. Thomas Aquinas when he refers to the participation of the natural light in the divine light. There are four basic elements of the natural law that Locke highlights in the third name, that is, the recognition of the law by the mere light of nature, the obedience to the law, the rational basis of the obligation, and the rule of living according to nature. All these elements reflect the mode of living that each man has to follow, and in a sense, delineate the reason of the existence of natural law.

3. *Ibid.*

4. «quisque eo solum lumine quod natura nobis insitum est detegere potest, cui etiam per omnia se morigerum praestat, officii sui rationem postulare sentit». «se morigerum praestat» was revised by von Leyden and he suggested the infinitive «praestare» instead of praestat; then as to the next word, he supposed to have put *et* or *quam* in order to clarify its sense. See ELN I, 110. Horwitz, (et. al.) similarly made a correction on it. They supplied the word *debet* and *quam* before the word, *officii*. So, in the translation by Horwitz it reads, «se morigerum praestare debet, quam...» that is, «he ought to show himself obedient...» See John LOCKE, *Questions concerning the Law of Nature*. Edited by Robert Horwitz, Jenny Strauss Clay, and Diskin Clay (Ithaca: Cornell University Press, 1992), 98-100. Hereafter direct quotations from Locke will be referred to as QLN, and the introductory analysis of the editors will be referred to as Horwitz, et. al., «Introduction».

1.1.3. Natural law is neither natural right nor natural light⁵

At first sight, these terms seem to refer to the same thing. Locke employs them both, «right and light», in the *Essays*; however, he makes it clear that these are distinct notions and one cannot be identified with the other. He also clarifies the distinction between the law and natural right both in its usage as well as in its meaning, and he says, «for right consists in the fact that we have a free use of something, but law is that which either commands or forbids some action»⁶.

In this context, Locke may have thought of the «limiting character» of the law, as Pufendorf and Hobbes thought it is that which limits the freedom of man. On the other hand, St. Thomas Aquinas affirms that in the strict sense, law and right cannot be identified with one another, since «natural right is only a part of the natural law». Evidently, natural law covers all the virtues, while natural right covers particularly the virtue of justice, or to say it more correctly, «right is the object of justice»⁷.

Is the light of nature the same as the light of reason? Apparently Locke uses both terms indistinctly, though sometimes he notes the precision of the term «the light of reason», for it better describes the particular faculty that rational beings possess. Natural light is understood as the light planted in us by nature, in that sense, it can be considered as coeval with the existence of man. Can there be a reason without natural light, so much so that it makes difficult the attainment of knowledge? It is just an echo of the objections that Locke poses in the *Second Essay*, where he admits that it is not the absence or the defect of the mind's faculty that impedes the attainment of knowledge, but rather the improper use of it. He insists that, «careful reflection, thought, and attention by the mind is needed in order that, by argument and reasoning,

5. Ruiz-Gallardon introduces another term for natural law in her translation of the *Essays*, that is, «una luz natural» assuming that Locke had used it to refer to the «ejercicio conjunto de la sensación y la razón». However, she did not specify where and when did John Locke use it as the natural law, which in fact is nowhere to be found in the *Essays*, for the reason that Locke always applied it as the «means» to attain the knowledge of natural law. The reference used by Ruiz-Gallardon is in the ELN II, 126, where Locke emphasizes the instrumentality of the light of nature: «legem scilicet naturae lumine naturae esse cognoscibilem». Ruiz-Gallardon (ed.), 82. See also its corresponding endnote on page 164.

6. «Jus enim in eo positum est quod alicujus rei liberum habemus usum, lex vero id est quod aliquid agendum jubet vel vetat». ELN I, 110. I prefer the English translation of the Horwitz' edition because it is more clear. QLN, 101.

7. In the introduction and commentary to the q. 57 of the Spanish edition of the *Suma Teológica*, the editors take note of the causality of the law with regards to the right. «La ley es la causa y fuente primordial del derecho, y es llamada tal por ser el principio formal y norma objetiva del mismo». S.T., II-II, q. 57, a.1, 196.

one may find a way from perceptible and obvious things into their hidden nature»⁸.

What then is the light of nature? Locke's notion of the light of nature is implied in his answer to the main problem that he poses in the *Second Essay*: «Can the law of nature be known by the light of nature?» His answer is affirmative. Definitely, Locke does not pretend to inquire into the meaning of the light of nature, because his objective is to propose the manner in which man comes to know the natural law. However, there is an assumption that he would wish also to make clear the notion of the natural light. He states,

By saying that something can be known by the light of nature, we mean nothing else but that there is some sort of truth to the knowledge of which a man can attain by himself and without the help of another, if he makes proper use of the faculties he is endowed with by nature⁹.

No doubt, Locke refers the light of nature to the faculty of the mind. Von Leyden noted, the identification of the light of nature with the discerning power of man's reason¹⁰ when he discussed the similarities of Culverwel and Locke. However, von Leyden asserts that Locke identifies «the law of nature as the *law of reason*, unwritten, and to be found only in the minds of men; since it is made known by reason only»¹¹.

Hence, it remains evident that the natural light plays the role of an instrument in attaining the knowledge of the natural law. It is the means that facilitates the discovery of the law; it assists the execution of the actions of man, especially in conforming them to the natural law. Nonetheless, there seems to be no inconvenience incalling the law of nature hyphen «the law of reason».

1.1.4. Descriptive definition of the natural law

Hence this law of nature can be described as being the decree of the divine will discernible by the light of nature and indicating what is and what is not in conformity with rational nature, and for this very reason commanding or prohibiting¹².

8. ELN II, 135.

9. «Homo recte utens iis facultatibus quibus a natura instructus est per se et sine ope alterius devenire potest». *Ibid.*, 123.

10. Similarly, St. Thomas Aquinas does not identify the natural light with the natural law, but rather he calls it the «light of the natural reason», participating in the divine light that is impressed in us. See S.Th., I-II, q. 91, a.2, 54.

11. VON LEYDEN, W., «Introduction», 80.

12. «Haec igitur lex naturae ita describi potest quod sit ordinatio voluntatis divinae lumine naturae cognoscibilis, quid cum natura rationali conveniens vel disconveniens sit indicans eoque ipso iubens aut prohibens». ELN I, 110-111.

I wish to underline the three major elements of this description, which Locke himself takes into account and seems to consider always as requisites of the natural law. He explains at length in the following arguments that these requirements square much with the necessary elements of the classical notion of the natural law, namely: (i) the decree of the divine will; (ii) the prescription of what is and what is not to be done; and, (iii) the binding force of its content¹³.

The first element refers to the source of the law, which Locke acknowledges it to be a superior power, that is, one that supersedes all human institutions. A little later, he identifies it as the formal cause of the law. The second element refers to the proper function of the law, which in the terms of his predecessors, it is called «indicative or prescriptive» law, that is to say, indicating what is and what is not to be done. The third element shows the binding force of the law, for it commands or prohibits that which is in conformity or not to the rational nature. Locke admits that its obligatory nature is sufficiently included in the content itself of the law.

There is another important element that Locke mentions in the definition, which can be attributed as his own distinguishing mark, that is, the cognoscibility by the light of nature. He refers to the possibility of knowing the law of nature by means of the special faculty endowed to man by the Creator and which is proper to his human nature. It is, indeed, an important element which Locke explains extensively in the *Essays*, first, by rejecting what others believed to be the means of obtaining the knowledge of the law, and by affirming afterwards his own views on this matter.

The descriptive definition takes into account the essential role of reason, though at the first sight, Locke sees it improper to call the natural law as the dictate of reason, because he believes that, «Reason does not establish nor pronounce this law of nature ... (but) search for it and discover it». Then, he continues enumerating the specific role of reason, namely, «Reason is not the maker of that law ...but rather its interpreter; Reason merely investigates that law; and, Reason cannot give us laws, since it is only a faculty of our mind and part of us»¹⁴.

The above statements show that Locke is fully convinced of the divine origin of the natural law. It does not imply, however, that he disregards the power of reason, but he simply shows the priority of the natural law over the light of nature.

13. The natural law consists in these three basic elements: (a) «declaratio voluntatis superioris, in quo consistere videtur legis ratio formalis; (b) quod legis est proprium, quid agendum sit vel omittendum praescribit; (c) homines obligat, omnia enim quae ad obligationem requiruntur in se continet». ELN, 110/112.

14. «Nec legis illius author est sed interpres; nisi supreme legislatoris minuendo dignitatem velimus rationi illam regem acceptam referre quam solum quaerit; nec enim ratio, cum facultas solum animi sit et pars nostri, nobis dare leges potest». ELN I, 110-111.

The natural law can only come from a superior will, therefore, it is something external to man. But, by the use of reason, man advances to the knowledge of it and he begins to have dominion over his actions thanks to the agreement of reason with the natural law. Man discovers the Lawgiver and acknowledges the purpose of his life hidden in the God-given law. In that sense, the law becomes the norms of living of every human being.

1.1.5. Five arguments to prove the existence of the natural law

This is an extension of the first section that I have exposed above about the proofs of the existence of the natural law, wherein I gave much emphasis on the first premise, that is, the existence of God. In this section, Locke amplifies these proofs with logical arguments and he develops them in a more scholastic way. In every argument, he presents first the main proposition, then, he follows it with some objections, replies, and examples. The most significant trait of these arguments is his explicatory *sed contra*, because in them, he shows the inconvenience and irrationality of not recognising the existence of the natural law.

The five arguments are grounded on the following facts or inferences: (i) from the Aristotelian teleological argument; (ii) from man's conscience; (iii) from the world's constitution; (iv) from the nature of the human society; and, (v) from the principles of virtue or vice.

First Argument. «The special function of man is the active exercise of the mind's faculties in accordance with rational principle»¹⁵. This proposition underlines the teleological principle of Aristotle that every being tends to its end. Likewise, Locke admits that there is a special sort of work each thing is designed to perform, which in the case of man, he concludes that, according to Aristotle, «the proper function of man is acting in conformity with reason, so much so that man must of necessity perform what reason prescribes»¹⁶.

After this, Locke gives two objections to the main proposition, that is, that such a law does not exist at all because it cannot be found anywhere, people still disagree as to its content; and, that even though the law is known by the natural light, not all people who possess reason have knowledge of it.

To these two objections, Locke gives his replies as follow:

15. Locke quotes here the passage from Aristotle's *Nic. Ethics*, Bk I, Ch. 7. ELN I, 113.

16. ELN I, 113.

I admit that all people are by nature endowed with reason, and I say that natural law can be known by reason, but from this it does not necessarily follow that it is known to any and every one¹⁷.

And then he enumerates the causes of this ignorance or denial of the natural law, that is, first, the improper use of the light of reason, or simply by not using it and preferring to remain in darkness; second, bad rearing of children, which results in a bad habit of life and evil customs, thus making it difficult to distinguish between good and evil; third, through natural defect, which weakens the use of faculties and the acumen of the mind becomes too dull; and, fourth, the violence of passions, carelessness, inducements of pleasure or the urges base instincts, which generally impede the exercise and dictates of reason. At the end, Locke finally suggests that, after seeing the case, «not the majority of people should be consulted but those who are more rational and perceptive than the rest»¹⁸.

Regarding the second objection, Locke affirms that disagreement on the matters of law or disputations on this subject is not an indication of its inexistence, but it rather proclaims the existence of the law. He says,

I answer that, although even the more rational of men do not absolutely agree among themselves as to what the law of nature is and what its true and known precepts are, it does not follow from this that there is no law of nature at all; on the contrary it follows rather that there *is* such a law, when people contend about it so fiercely. (...) This fact rather establishes the existence of the law more firmly, seeing that all the disputants maintain the same idea about the law itself.... and they differ only in their interpretations of it¹⁹.

Second Argument. The argument from the conscience of man, as von Leyden observes, is a suggestion to Locke in a letter by Gabriel Towerson, with whom Locke had corresponded and collaborated during his studentship in Oxford²⁰. Whether Towerson had persuaded Locke on this matter or not, I would say that both of them maintained the same argument, wherein a Pauline concept of conscience was drawn, that is, from *Romans 2:14-15*. Locke's reply is so clear, «no one who commits a wicked action is acquitted in his own judgment. Thus the sentence which anyone

17. *Ibid.*, 115.

18. *Ibid.*

19. *Ibid.*

20. W. von Leyden has included this letter in his introductory remarks on the *Essays*. See W. VON LEYDEN, «Introduction», 9.

passes on himself testifies that there is a law of nature. (...) This law, then, is not written, but innate, i.e, natural»²¹.

Third Argument. The very constitution of this world proves the existence of the natural law in two ways, that is, firstly from the prescriptions of form, manner and measure of working proper to the nature of all created things; and secondly, from the prescriptions on manner of acting suitable to the nature of man, that is, as a rational being. Locke asserts that the constitution of the world is a great proof of the existence of the natural law, because «all things observe a fixed law of their operations and a manner of existence appropriate to their nature»²².

Fourth Argument. Human society is another stronger source of argument with respect to the existence of the law of nature. Locke established this argument on two basic elements of society, «a definite constitution of the state and form of government, and, secondly, the fulfilment of pacts»²³.

Locke underlines here the important role of the natural law in the structure itself of human society and in the communal life of people. He shows the demoralizing consequences if the natural law were not observed both by the great mass of a society and by their leaders. This would imply the fall of the community and the failure of the constitution of the state, which would ultimately result in the rule of tyrannical and arbitrary leader(s).

Locke points out here some moral and political principles, which I believe remain valid through the course of time. I find it relevant to cite them here.

Certainly, positive civil laws are not binding by their own nature or force or in any other way than in virtue of the law of nature, which orders obedience to superiors and the keeping of public peace.

Thus, without this law, the rulers can perhaps by force and with the aid of arms compel the multitude to obedience, but put them under an obligation they cannot.

It is not to be expected that a man would abide by a compact because he has promised it, when better terms are offered elsewhere, unless the obligation to keep promises was derived from nature, and not from the human will²⁴.

Fifth Argument. «Without natural law there would be neither virtue nor vice, neither the reward of goodness nor the punishment of evil: there is no fault, no guilt, where there is no law»²⁵.

21. ELN I, 117.

22. *Ibid.*

23. ELN I, 119.

24. *Ibid.*

25. ELN I, 121.

Once again, Locke emphasizes the demoralizing consequences of the absence of the natural law, but in this case, the bad effects fall on every individual person. He insists that if everything were to depend on human will, on personal utility or pleasure, or, on blind and lawless impulse, then, morality would result in vain.

The terms «upright» and «virtuous» would disappear as meaningless or be nothing at all but empty names. (*Then, his final arguments are even more positive and compelling*), since whatever honour or baseness our virtues and vices possess they owe it all to this law of nature; for the nature of good and evil is eternal and certain, and their value cannot be determined either by the public ordinances of men or by any private opinion²⁶.

1.2. FUNDAMENTAL SOURCE AND BASIS OF THE NATURAL LAW

To inquire about the source of the natural law is to discover its origin, which implies getting into the main fount of its existence. The problem at hand deals with the material and efficient causes of the natural law. Who brings it into reality and what makes it exist? The points to consider here are closely connected with the idea of the cognoscibility of the natural law, which I presume, can bring some confusion. Doubts can arise as to whether the term «source» may also refer to the source of knowledge of the natural law, which would imply the means of arriving at the truth of the law. Therefore, in order to avoid confusion between the source of knowledge and the source of natural law, it is necessary to establish a precise understanding of the question.

In the strict sense, to inquire into the source of knowledge of the natural law means to take hold of a rational process, which includes the use of sense-perception and reasoning. It is, properly speaking, a process of knowing. It implies the application of the rational faculties endowed by God to every human being. It answers the question, how can man arrive to the knowledge of the natural law? This is not the interest of the present inquiry, as it will be extensively discussed in the following section on the cognoscibility of the natural law.

It remains obvious therefore that to talk about the fundamental source of the natural law is to inquire not into the process of knowing but rather as to the origin of this law. The question is simple: what is the origin of the natural law? In some other parts of the *Essays*, Locke investigates the basis of the natural law. What does he mean by the basis of the natural law? In the *Eighth Essay* he declares,

26. *Ibid.*

By the basis of natural law we mean some sort of groundwork on which all other and less evident precepts of that law are built and from which in some way they can be derived, and thus they acquire from it all their binding force in that they are in accordance with that, as it were, primary and fundamental law which is the standard and measure of all other laws depending on it²⁷.

For the purpose of a more schematic exposition, I will draw out the matter in three sub-sections, that is, a) God, the only source of the natural law; b) On the basis of the common consent of men; and, c) On the basis of utility.

1.2.1. God, the only source of the natural law

Locke maintained his main view on this matter since he started to deal with the concept of the natural law. God is the only author of the law, He is the Lawgiver; and out of his wisdom and goodness He endows man with the capacity to know it and to perform his actions in accordance with this law. Man is the recipient of the natural law; he is the most privileged creature that by the eternal design of God, He made it known to him by means of the light of nature. It is plain, therefore, that the natural law has a divine and eternal origin; it is a decree of the divine superior will.

To admit the divine origin of the natural law is to admit the sole authorship of God and to deny its attribution to man. Locke is consistent in his affirmation of the efficient cause of the natural law, who is God himself. In the *Fourth Essay*, Locke clearly shows in two premises the origin of all things and of the law. He states,

We say that the mind, after more carefully considering in itself the fabric of this world ... thence proceeds to an inquiry into their origin, to find out what was the cause, and who the maker, of such an excellent work... Hence it is undoubtedly inferred that there must be a powerful and wise creator of all these things. (*Then a little later, he also acknowledges God's authorship of those commands, rewards, and punishments*). Reason lays down that there must be some superior power to which we are rightly subject, namely God who has a just and inevitable command over us and at His pleasure can raise us up or throw us down, and make us by the same commanding power happy or miserable²⁸.

In between these arguments Locke explains that this power and authority cannot come from man, for he cannot create himself, he does not

27. ELN VIII, 205.

28. ELN IV, 153 & 155.

owe his origin to himself, and most especially because man does not find in himself all those perfections of which his mind can conceive²⁹. Therefore, its origin cannot be traced to man himself, although he has a participation in that law, and that is, particularly in the process of knowing it.

Locke and his predecessors have commonly agreed that the cause of the natural law is something superior and exterior to man. Some expressions like *ordinatio voluntatis divinae*, or, *declaratio superioris voluntatis* frequently appear in the major works of Locke, which in effect, confirm his indebtedness to his scholastic antecedents. These inferences and the emphasis that Locke gives to the divine will apparently put him in the voluntarist camp of the natural law theory.

All his previous propositions concerning the existence and nature of the natural law reaffirm his basic argument that there can only be one source of it, that is, the superior divine will. God is the principal author and maker of that law, and He impressed it in the hearts of all men.

1.2.2. On the basis of the common consent of men

Since we have already affirmed that the natural law has a divine and eternal origin, we would contradict the first argument had we established its basis on the common consent of men and on man's own interest. By proposing these views, Locke pretends to accommodate other perceptions about the foundation of the natural law, not in order to accept them as its true basis, but rather to highlight its exclusive divine origin. In that sense, what I propose to explore now is Locke's reasoning for not accepting them as the real basis of the natural law.

With regards to the *common consent of men*, Locke points out that it cannot be the basis of the natural law for its deficient nature; and its deficiency is manifested in the instability and particularity of the generally agreed laws or norms of conduct. It is clear that the common consent of men on a certain law can have validity and effect only in a limited space and time, and that in some other places and in some other times, such kinds of law could not have the same binding force.

If the general consent of men is to be regarded as the rule of morality, there will either be no law of nature at all or it will vary from place to place, a thing being morally good in one place and wrong in another, and the vices themselves will become duties³⁰.

Therefore, common consent cannot be accepted as the standard and measure of all other laws for its relative and temporal character. Locke

29. QLN, 161.

30. ELN V, 169.

puts it among the list of beliefs, because it lacks the proof and the certitude of being a moral code of conduct.

Admittedly, such a general consent might point to a natural law, but it could not prove it; it might make me believe more ardently, but could not make me know with greater certainty, that this opinion is a law of nature³¹.

1.2.3. On the basis of utility

Now regarding the *basis of utility*, Locke identifies first the main argument in favour of the utilitarian principles. He quotes the account of Carneades' argument wherein the changeability of legal codes depends on the people's manners and customs, and on the passionate impulse of seeking the self-preservation. He underlines the key point of the question in the following:

Is it true that what each individual in the circumstances judges to be of advantage to himself and his affairs is in accordance with natural law, and on that account is not only lawful for him but also unavoidable, and that nothing in nature is binding except so far as it carries with it some immediate personal advantage?³²

This implies that the natural law is subject to or conforms to the advantage of each individual. It appears plainly that the objection carries a subjective connotation of the law. However, Locke denies it definitely for three following reasons.

First, «it is impossible for something to be the basis of natural law or to be the principal law, which is not the ground of the binding force of other, less universal, laws of that same nature»³³. Then, Locke supports his argument with factual evidences of those great men who earned immortality, excellence, and greatness not through personal interests and advantages but through heroic observance of virtues and at the risk of personal loss. Locke admires those heroes who pursued the advantage of the commonwealth and of all mankind. Moreover, he reasons that «if it were the principal law of nature that each man should be mindful of himself and his own affairs, those noble examples of virtue which the record of history have hallowed would have to be consigned to oblivion»³⁴. Then finally he

31. ELN V, 177.

32. ELN VIII, 207.

33. *Ibid.*

34. ELN VIII, 209.

adds that if this were the case, it «would open the door to every kind of villainy».

Secondly, «it is impossible that the primary law of nature is such that its violation is unavoidable»³⁵. Locke sees the necessary violation of the utilitarian principle as evident because it is impossible «to have regard for the interests of all at one and the same time». Besides, he observes that one's concern for his own advantage, his own life, his prosperity and security, always brings with it as a consequence the expense of another's happiness, good, and even of another's life.

Thirdly, in continuation of the previous statement, he underlines the obvious consequence of law based on utility, that is, the loss of value of some virtues in the life of men.

It is impossible for any principle to be the basis of natural law, whereby, if it is laid down as true, all justice, friendship, and generosity are taken away from life. (...) In truth one may observe here briefly that the upholders of this doctrine seek the principles of moral action and a rule to live by in men's appetites and natural instincts rather than in the binding force of a law, just as if that was morally best which most people desired³⁶.

In that sense, it appears clearly that men's appetites and instincts condition the binding force of the natural law; and this law likewise loses its force and validity when it loses too its usefulness to every individual. For Locke, the observance of the natural law may give advantage to every individual, such as the attainment of happiness, still it cannot be inferred that its basis is man's own interest, because, Locke declares, «Utility is not the basis of the law or the ground of obligation, but the consequence of obedience to it»³⁷. Thus, Locke concludes that the proposition in favour of the utility basis is contrary to reason and completely absurd. Towards the end, he affirms that «the rightness of an action does not depend on its utility; on the contrary, its utility is a result of its rightness»³⁸.

1.3. COGNOSCIBILITY OF THE NATURAL LAW

In the *Second Essay* Locke poses this question: «Can the law of nature be known by the light of nature?» He gives an affirmative reply. I have obliquely glanced at the main point of this question in the previous section, that is, whether the law of nature that God gives to all men is

35. *Ibid.*, 211.

36. *Ibid.*, 213.

37. ELN VIII, 215.

38. *Ibid.*

knowable (Latin, *cognoscibilis*); if so, by what means and in what order is it known? Locke exposed his own understanding of the cognoscibility of the natural law in a deductive manner, that is, by presenting some possible avenues of knowing the law, from which he retained only that which was evidently the most indisputable means.

To proceed with this exposition, I propose to ask some related questions that can help us get into the main point of the problem. For example, does the natural law possess of a qualitative character that enables man to know it? Is man, with the sole use of the light of nature, capable of knowing the natural law without any external assistance? Does the cognoscibility of the natural law depend solely on the will of God or on the rationality of man? If God has endowed man with intellective faculties, then, is it right to say finally that the origin of knowledge is God himself? What then is the role of reason if knowledge of anything is attributed to the author and creator of all things? Similar questions have led to the interminable debate between the rationalist and the voluntarist camps of the natural law theorists. Nonetheless, I think it necessary to establish at once what was really in the mind of Locke about this matter.

There are scattered discussions about the means of knowing the law of nature in the entire book of the essays. For example, in the *Second Essay* he starts the exposition by affirming his main thesis that the law of nature can be known by the light of nature. Likewise, he also discusses there the three kinds of knowledge, or, the three possible avenues to attain the knowledge of the natural law, namely, by inscription, tradition, and sense-experience. And finally, he adds a fourth kind of knowledge, which is derived from the supernatural and divine revelation, but he does not give it much attention, for it concerns another science. He dedicates the whole *Third Essay* in the discussion of the knowledge by inscription. Then in the *Fourth Essay* he proceeds to discuss knowledge through sense experience, and the knowledge of specify from the general consent of men. For a more orderly exposition, I will follow this sequence: that is, knowledge by inscription, by tradition, from the general consent, and by sense-experience and reason.

1.3.1. Knowledge by inscription

In the *Second Essay* Locke states clearly that the knowledge by inscription implies that «this law of nature is inborn in us and is so implanted by nature in the minds of all»³⁹. To admit this argument means to eliminate

39. «Hanc legem naturae nobis innatam esse et omnium animis ita a natura infixam». ELN II, 124-125.

all other avenues of knowledge, because man will need not be informed and educated anymore about his way of living, his conduct, and the moral precepts that he has to follow, since it is innate. Since everything is already implanted in the mind of man, and provided that man uses his reason properly, Locke affirms that man «can attain to the knowledge of this law without any teacher instructing him in his duties, any monitor reminding him of them»⁴⁰. The *Third Essay* is even more precise in ascertaining the meaning of «knowledge by inscription» where he says,

But by our inquiry whether the law of nature is written in the souls of men we mean this: namely, whether there are any moral propositions in-born in the mind and as it were engraved upon it such that they are as natural and familiar to it as its own faculties, the will, and the understanding, and whether, unchangeable as they are and always clear, they are known to us without any study or deliberate consideration⁴¹.

The entire *Third Essay* is a long argument that proves the falsity of this proposition, and Locke is firmly convinced that these are undeniable facts, showing that «inscription» is not the proper avenue of knowledge. It appears that he is totally against the theory of innate ideas, because not only in the *Essays* does he emphasize his counter propositions but he also dedicates the greater part of book one to its refutation. He underlines a long list of reasons to prove that no principles are inscribed in men from birth, neither speculative nor practical. In the following paragraphs, I will lay down briefly the five arguments of Locke against the assertion that natural law is inscribed in the minds of men.

First argument. Locke begins by asserting that the *Cartesian* doctrine of innate ideas is fallible and cannot be proven. Both editors of the *Essays*, von Leyden and Howritz et.al., recognize the conviction of Locke that Descartes is the chief exponent of modern *innatism*. They show the change that Locke made in the original Latin text –*in eo laborabunt multi–* for *laborat acutissimus Car[t]esius*. Locke admits convincingly that the *Cartesian* principle is just «an empty assertion and no one has proved it until now»⁴². He finds no convincing arguments to prove that the souls of men when they are born are more than empty tablets, –*praeter rasas tabulas*– that is to say, that there is something in the mind already, which as Locke describes, «such that they are as natural and familiar to it as its own faculties, the will, and the understanding». The Latin adverb *praeter* that Locke employs in this argument insinuates his notable empirical position

40. ELN II, 127.

41. ELN III, 137.

42. ELN III, 137.

that knowledge is acquired through experience, since the minds are originally empty tablets. He did not yet proceed to discuss his empiricist point of view because his only concern at that moment was to show the lack of proofs of the *Cartesian* doctrine of innate ideas and its inability to provide convincing arguments.

Second argument. Locke shows the knotty problem of accepting this proposition that knowledge is acquired by inscription, especially the fact that there exist many differences among nations and in different times in their conceptions of natural law. If all ideas are implanted in the souls of men when they are born, then, all men must have the same notion of law and follow the same norms of conduct. However, he observes that with respect to the natural law,

(All men) differ so very widely, one rule of nature and right reason being proclaimed here, another there, one and the same thing being good with some people, evil with others, some recognizing a different law of nature, others none; but all see in it something obscure⁴³.

Others have argued that the differences are due to the Fall of Adam, in such a way that the «natural law has been partly erased or absolutely and altogether effaced»⁴⁴. Locke shows the falsity and deficiency of this inference, for if the natural law has been partly erased, that which remains must be common to all men and at least be universally obeyed or acknowledged, and yet, the facts prove the contrary. On the other hand, if this law is altogether effaced, then, Locke finally assumes, it would hardly be found anywhere. Since one or the other reasoning does not resolve the differences, the knowledge by inscription remains unacceptable.

Third argument. There are two contrary views that Locke proposes in the third argument. In the first place, with regard to younger boys, illiterate people, and primitive races who have not received any formation or moral education, they are presumed to live only according to the law of nature inscribed in their hearts. But Locke observes that, «If the law of nature were written in the hearts of men, one would have to believe that among these people it will be found undiminished and unspoiled»⁴⁵. Yet history, where Locke establishes his argument, has proven this untrue and even witnessed the worst of the evildoings of these people. In the second place, with regards to cultured and literate people who from the beginning have learned to practise certain customs and follow such kinds of opinions instilled in their minds, without questioning their source or objecting to their

43. ELN III, 137-139.

44. «Aut partim oblitterari aut prorsus et in universum deleri», ELN III, 138.

45. ELN III, 141.

authority, believe them to be the first principles and therefore inscribed in them by nature.

In the first case, for those who live as if there were no principles of goodness or rightness at all, Locke concludes by saying,

Thus the law of nature does not appear to be written in the hearts of men, if those who have no other guide than nature itself and among whom the decrees of nature are least spoiled by arbitrary moral customs live in such ignorance of every law, as though there were no principle of rightness and goodness to be had at all⁴⁶.

In the second case, those who believe that they live according to the first principles, Locke has this to say,

From all this, therefore, it is clear that there can exist many things which anyone may believe to be inscribed in his mind by nature, which nevertheless derive their origin from some other source, and that it does not follow that, just because we eagerly believe in something and cherish it as principle, though we are ignorant of its source, this is the law of nature written in our hearts by nature⁴⁷.

Fourth argument. In the case of the foolish and insane, Locke argues that since they are deficient of the knowledge of the natural law, it is unreasonable to say that the law of nature is inscribed in the souls of men. The foolish and insane were born as complete human beings, that is, constituted of body and soul the same as the wise and learned people. If the soul is the recipient of this knowledge, then the foolish must not be devoid of it, however, the facts prove the contrary. It is enlightening to consider the little note of von Leyden on the little dependence –*minime pendent*– of the principles to the structure of the body.

Comparing Locke's argument with the *Essay*, von Leyden observes that «the clause may be translated thus: [why do the foolish and insane have no knowledge of it?], “since (as they say) it is in the soul itself that those principles are immediately impressed which at least depend on the constitution and structure of the body's organs”»⁴⁸. Locke admits that, in that aspect, there is only a minimum difference between the foolish and the wise.

Fifth argument. Locke refers to the assumption that if the law of nature were written in the hearts of men, then, there would be speculative and practical principles in it. «But this seems difficult to prove; ... Thus, it ap-

46. *Ibid.*

47. ELN III, 143.

48. *Ibid.*

pears to me that no principles, either practical or speculative, are written in the minds of men by nature»⁴⁹. He gives an example of one speculative principle, such as «it is impossible that the same thing should at the same time both be and not be», to prove that no man has had this knowledge by inscription, but rather has learned the principle from another or discovered it by himself through the process of induction.

1.3.2. Knowledge from tradition

The second kind of knowledge is that which is derived from tradition. What does it mean to say that the natural law can be obtained from tradition and what kind of moral precepts are these? Locke refers these moral precepts to the «second hand rules of conduct; customs of society and common opinion of the people»⁵⁰, being handed to us by our parents or by any civil educator. He does not deny that this knowledge passes through our senses and can be transmitted to us by other people, but he does not accept «that tradition is a primary and certain way of knowing the law of nature»⁵¹.

On this point, he is firmly convinced that there is a big difference between knowledge and belief. Moreover, it is undeniable that these rules of conduct and customs may be good in themselves, but still he insists that «it is not what reason but what men tell us»⁵². Those people, who act according to the norms they received from tradition, perform dutiful acts assuming that these are in conformity with the natural law, but in reality, they are only guided by belief and approval of the elders. Locke argues persuasively on the basis of three propositions that the true knowledge of natural law cannot be obtained from tradition.

First proposition. Locke identifies two major inconveniences in admitting the knowledge from tradition: first, the variety of traditions; and second, the uncertainty of authority. The first inconvenience is evident in any society, because in every place there exists one or more traditions, meaning to say, there exists a variety of social customs and common opinions of the people. The big problem that arises from there is not only the multiplicity of traditions but also the differences among them, and worst of all, even in the same society one tradition may be totally opposed to another. Consequently, if the natural law is known from tradition, it will be hard to determine which of them is the true tradition and which is the false one. It

49. «Impossibile scilicet est idem simul esse et non esse». *Ibid.*, 145.

50. ELN II, 129.

51. *Ibid.*

52. *Ibid.*

will be impossible to find the truth in them, and natural law will no longer be everywhere one and the same. Similarly, this confusion leads the way to the ambiguity of the authority. If every originator of tradition claims to be the real one and that theirs is the certain spring of norms of morals and conduct, and if people will be required to follow each one of them, then the crisis of supreme authorship follows. Which authority then is worthy of trust? From these grounds, Locke's conclusion is clear:

For since the law of nature is everywhere one and the same, but traditions vary, it follows either that there is no law of nature at all, or that it cannot be known by means of tradition⁵³.

Second proposition. Tradition is a matter of trust, not of knowledge; hence, what really emerges there is not a natural law but a «derived» law. Locke insists, and it has been his consistent doctrine, that knowledge depends on the evidence of facts. Now, since tradition is a matter of belief in authority, it cannot be the means of knowing the natural law. Man gives his assent not because he finds the thing reasonable and true, but because he believes and trusts the giver of the law. Once again, Locke manifests here his main preoccupation with the empirical grounding of knowledge.

Third proposition. By tracing the origin of a tradition or the first author who had transmitted this law, Locke arrives at three possible sources or origins of that law. First, that the originator of the tradition finds «the law of nature inscribed within his heart» (by inscription); second, that the author comes to know it «by means of reasoning from the facts perceived by the senses» (by sense-experience); or third, it is possible that the person in question «was instructed by some oracle or inspired by a divine message, then a law of this kind and promulgated in this manner is by no means a law of nature, but a positive law», (by supernatural and divine revelation)⁵⁴.

Hence, from the basis of these the three propositions, Locke made it clear that the natural law cannot be known from the tradition.

1.3.3. Knowledge from the general consent of men

To infer that the law of nature can be known from the general consent of men is to open another vast horizon of inquiry. Indeed, Locke dedicates the entire *Fifth Essay* to this topic. Effectively, the importance of this matter has to be taken into account because it carries with it some serious

53. ELN II, 131.

54. *Ibid.*

and relevant ethical implications. Locke plunged into the discussion of the general consent, without restricting himself to the cognoscibility of the natural law, but rather opportunely extending the topic to some ethical principles.

I must warn that general consent, in a certain sense, is considered also as a basis, or possible source of the natural law, but as I have shown already, for Locke, the only and ultimate source of the natural law is God, the divine Lawmaker. Thus, Locke has not accepted common consent as the basis of the natural law. Here I will try to show how Locke deals with it as one of the possible avenues of knowledge.

The first thing that Locke brought to light is the connotation of terms and the classification of the different types of general consent. Before going to the main point, he makes a revolting comment regarding maxim *vox populi vox Dei*, which served as a prelude to his ethical considerations and to his endless empirical concerns with the natural law. He proved the fallacy of this argument by resorting to the unhappy memory of the past and to the multitude of evils that this maxim had brought into the world, and continues to mislead many people. By simply looking at the disorders and immoralities that occurred in history, for Locke, it would be a great deception to advocate the maxim *vox populi vox Dei*. Perforce he declares:

If we should listen to this voice as if it were the herald of a divine law, we should hardly believe that there was any God at all....And surely, if this voice were the voice of God, it would be exactly the opposite of that first fiat whereby He created and furnished this world, bringing order out of chaos⁵⁵.

Therefore, as history itself has testified to these malfeasances, the natural consent of men cannot be an avenue for the knowledge of the law of nature.

Kinds of the general consent. There are two divisions of this concept, a) the positive consent, and, b) the natural consent. The positive consent is that which arises from a contract, likewise understood in two ways, either from a tacit contract, or from an expressly stated contract. A tacit contract is an unstated agreement that is inspired by the common interests of men and their convenience. They are contracts which exist without an official settlement between concerned nations, for example, the safe passage of envoys. The other contract is expressly stated, that is, by a common agreement among concerned nations that have convened for that sake, like, the fixed boundary-lines between neighbouring peoples.

55. ELN V, 161.

This kind of contract is visibly lived nowadays in the different leagues of nations, or in a community of neighbouring countries, such as the European Community, the United Nations Organization, and the like. According to Locke's principles, «all this general consent derived from the contract does not prove a natural law, but should rather be called the *law of nations*, which is not imposed by the law of nature but has been suggested to men by common expediency»⁵⁶. He excludes general consent as a means of knowing the natural law because it depends not on the natural principles, but rather on common agreement, which is born of pressing need and common interests.

The second type of consent is called natural, because «men are led by a certain natural instinct without the intervention of some compact»⁵⁷. Hereafter follows a long discussion of the three kinds of natural consent, namely, (i) that which concerns moral behaviour; (ii) that which concerns moral opinions; and, (iii) that which concerns first principles.

Concerning moral behaviour. This is a kind of consent by which the manners and conduct of the majority of men, their example, become the norms of living. Locke dismisses this natural consent as the way of knowing the natural law, «for if what is rightful and lawful were to be determined by men's way of living, moral rectitude and integrity would be done for»⁵⁸. He finds this way undeniably destructive because those whose lives would inhere these norms often live in servitude of all kinds of immoralities. A bad life cannot guarantee a good moral code, and much more it does not prove the natural law. On the contrary, Locke proposes a way out of this absurd notion of natural consent to as natural law. He says,

The law of nature is to be inferred not from men's behaviour but from their innermost ways of thinking –we must search not the lives but their souls– for it is there that the precepts of nature are imprinted and the rules of morality lie hidden together with those principles which men's manners cannot corrupt; and that since these principles are the same in every one of us, they can have no other author than God and nature⁵⁹.

Concerning moral opinions. This is what the above citation on Locke is all about. This natural consent concerns the innermost convictions of men about morality: that which men's consciences acknowledge. It tackles not only the morals of men, but also what men thought about

56. *Ibid.*, 163.

57. ELN V, 165.

58. *Ibid.*

59. *Ibid.*, 167.

those morals, so that common opinions prevail as lawful and become the basis of the natural law.

The problem at hand is to discover whether moral opinions, since they are rooted in the thoughts of men and have their consciences as firm support, do play a vital role in knowing the natural law. Locke reiterates his rebut to the notion that differences in traditions and opinions over time and space show the fallacy of an argument for a natural law. Locke supports his argument as follows,

For while men, led by the prevailing opinion, have performed this or that according to the moral practice of their country (though perhaps, and not without reason, it appeared to others wrong and wicked) they did not think they had transgressed the law of nature but rather had observed it; they felt no pangs of conscience nor that inward mental scourge which usually punishes and torments the guilty, for they believed that their action, whatever it may have been, was not only lawful but laudable⁶⁰.

The moral opinions of men vary from place to place, and from one time to another, as history and great writers of the ancient times have testified. Locke enumerates a long list of illustrations on distinct and various practices of virtues, or vices camouflaged as virtues, like justice. Locke cites Aristo who claims that thefts of all kinds were lawful, and Cato who says that ‘thieves committing private theft spend their lives in prison and in chains; public thieves, in gold and in purple’. Whereas regarding modesty and chastity, polygamy is regarded here as a sin, there as a right, in one place is commanded by law, in another is punished by death. Worst still was the duty towards parents. At one remote time parricide was considered a duty of piety, for there were some who believed (in Sardinia) that it would be wrong if those who are already old remained alive any longer⁶¹.

There are more terrifying, unreasonable, and awful examples that he mentions in the *Fifth Essay*, but I think there is one salient thing that is worth considering. It is not surprising to find a variety of immoral practices and differences of opinion of what is good and what is bad, if even concerning first principles men do not agree with one another. There is no reason and no gain in appealing to either more civilized nations, or philosophers of a sounder mind because they too have disregarded even the belief in God and the immortality of souls. In that sense, without a second thought, we can infer that the natural law cannot be found in the general consent of men. So in the final analysis, Locke has this to say,

60. ELN V, 169.

61. For a complete list of his illustrations, see ELN V, 171.

Admittedly, such a general consent might point to a natural law, but it could not prove it; it might make me believe more ardently, but could not make me know with greater certainty, that this opinion is a law of nature. In fact, I cannot know with certainty whether the opinion of each individual severally is a law of nature; this is a matter of belief, not of knowledge. [At the end, his conclusion is much more convincing]: knowledge precedes general consent⁶².

Concerning first principles. This kind of consent regarding first principles makes reference to that natural instinct of men towards self-evident truths or tautological propositions. Locke admits that men are compelled to assent these first principles readily and without any trace of doubt. He did not give much attention to it for the reason that «speculative principles do not pertain to the matter under discussion and do not affect moral facts in any respect whatever»⁶³.

However, in the original Latin text, von Leyden makes a little observation on the passage deleted by Locke, which seemingly indicated his first notion of self-evident principle, that is, the principle of non-contradiction which says: it is impossible for the same thing to be and not to be. Locke reserves a more detailed explanation of the speculative principles especially in his later major work, the *Essay*⁶⁴.

1.3.4. Knowledge by way of reason and sense-experience

Hence, of all the propositions, Locke accepts only the remaining one, which he believes to be the indisputable way to arrive at the knowledge of the natural law and that which many thinkers accept. This is the proposition that natural law is known by way of reason and sense-experience.

The previous sections have laid down the first premises of this inference, indicating that neither from inscription nor from tradition nor from the general consent can knowledge of natural law be derived. Likewise, he skipped the consideration of knowledge by divine revelation because it was outside of this philosophical concern; so that, what really remains to tackle here is the role of the natural light, that is, the sensitive and intellective faculties that every rational creature possesses. In this regard, I find it more fitting to note some related considerations that may have important implications in the present study. I will try to inquire as to whether the natural law in itself is intelligible, or whether its knowledge is

62. ELN V, 177-179.

63. *Ibid.*, 179.

64. See for example, Essay I.1.18 and IV.7.4.

demonstrable. Then, I will look at whether there are impediments that make difficult for man the acquisition of the knowledge of moral truths, and finally, I will inquire as to the necessary means in man's quest for the truth about the natural law.

Significance of the natural light. Locke opens the *Second Essay* with an affirmative argument regarding the positive role of the light of nature in attaining the knowledge of the natural law, as opposed to other ways of knowledge discussed above. Then he proceeds to explain the meaning of this avenue of knowledge. He says,

By saying that something can be known by the light of nature, we mean nothing else but that there is some sort of truth to the knowledge of which man can attain by himself and without the help of another, if he makes use of the faculties he is endowed with by nature⁶⁵.

It is in the *Fourth Essay* where he identifies more precisely the natural light with those two faculties that by his very nature man is endowed with, namely, reason and sense-perception. Then he explains further,

For only these two faculties appear to teach and educate the minds of men and to provide what is characteristic of the light of nature, namely that things otherwise wholly unknown and hidden in darkness should be able to come before the mind and be known and as it were looked into⁶⁶.

From these two statements, some points are worthy further of consideration, such as the sort of truth hidden in the knowledge; the capacity of man to attain it without the help of another; the proper use of the faculties man is endowed with; and the process of knowing, that is, from totally unknown to known things. Locke makes allusions to this process of knowing by the light of nature to explain that there can be no innate ideas in the minds of men when they are born. He maintains his theory that the knowledge of the natural law, like all other fundamental beliefs or primary notions, enters the mind through the influence of sense-experience upon reason. This assertion leads him to admit, later on, the possibility of a science of demonstrated ethics, which von Leyden assumes to be one of Culverwel's influences on Locke.

Intelligibility of things and perception. On the mutual relation between the knowing subject and the known object, I propose some questions that can help clarify the process of intellection. Is the natural law, as objectively and separately considered, intelligible in itself? Or is it the rational character of man that facilitates the discovery of the intelligibility of the

65. ELN II, 123.

66. ELN IV, 147.

things? In the first place, it is obviously clear that one thing cannot be considered without the other, that is to say, the known object and the knowing subject. Locke equally admits that the content of natural law, that is, the moral truths that are the standard rule of actions, is cognoscible. But in order to prove its cognoscibility, we have to follow some basic steps, which are, properly speaking, the process of intellection. In this regard, Locke shares the idea of Culverwel, and von Leyden observes that they both admit that.

Such first principles ... are gradually acquired by the observation and comparison of objects ... When first principles, being either speculative or practical, are combined and give rise to secondary notions, all sorts of conclusions can be drawn, amongst them the dictates of the law of nature⁶⁷.

The perception of things is the first step in the acquisition of knowledge. Locke declares categorically in the *Second Essay* that man comes to the knowledge of natural law through the things that he perceives. He mentions this theory in his prior discussion on tradition, where he gives step by step the process of deducing the truth about the law of nature.

But since we are searching now for the principle and origin of the knowledge of this law and for the way in which it becomes known to mankind, *I declare that the foundation of all knowledge of it is derived from those things which we perceive through our senses*. From these things, then, reason and the power of arguing, which are both distinctive marks of man, advance to the notion of the maker of these things (...) and at last they conclude and establish for themselves as certain that some Deity is the author of all these things. As soon as it is laid down, the notion of the universal law of nature binding on all men necessarily emerges⁶⁸.

So clear and so convincing is this statement that it almost closes the argument. Although in the same statement, Locke himself admits that «this will become clear later on». He is referring to the *Fourth Essay* where he exposes at length and depth the knowledge through reason and sense-experience. His proposition advocates a scholastic background, which he himself truly acknowledges his indebtedness to, most especially on his classical notions of Logic and Metaphysics from Aristotle to St. Thomas Aquinas.

One thing is clearly inferred until here, that all knowledge, including the knowledge of the first principles of morality, departs from the reality of the things around us. Thus, he recognizes the important role of the

67. VON LEYDEN, W., «Introduction», 41.

68. «Dico fundamentum omnis illius cognitionis hauriri ab iis rebus quas sensibus nostris percipimus». ELN II, 130-132.

senses. Locke is continuously alluding, between the *Second* and the *Fourth Essays*, to the Aristotelian rule that all reasonings are «*ex praecognitis et praeconcessis*»⁶⁹; that in his own words, he says, «nothing indeed is achieved by reason, that powerful faculty of arguing, unless there is something *posited and taken for granted*»⁷⁰.

Going back to the first inquiry, we can say therefore that God's work of creation, all things as they are, and as long as they exist, possess in themselves a qualitative character of intelligibility⁷¹. Because of the intelligibility of the world, there is no more ground to doubt that men can come to know the natural law through the light of nature.

Up to this point, one thing appears evident: that without the primary objects, it is impossible to proceed to the following steps of knowing. The things perceived serve as its starting point, and nobody denies their intelligibility. These perceived objects are indispensable prerequisites for any rational operation. Locke admits various ways by which men can arrive at the knowledge of the natural law, that is, by considering the 'motion, change, all qualities of perceptible objects, art and fixed order in the universe, etc. Definitely, all these things lead to the notion and recognition of the Creator, and consequently, of the Legislator. There is no doubting this first proposition, which most philosophers admit without any inconvenience. The problem comes from the consideration of the knowing subject, that is to say, the role of reason and sense-perception. So I propose to consider the ideas of Locke on the relation between the senses and reason. How do these faculties work in the process of knowing?

The role of the senses and reason. Logically, Locke would not separate one thing from the other, that is, to explain the role of the senses in one place and the reason in another; or distribute the topics in compartmental manner. Everything is explained in view of other related things. Thus, we can observe that whenever Locke talks about the senses, he makes allusion also to the reason. What does he mean by reason? In the *Fourth Essay*, Locke maintains that,

(Reason is) the discursive faculty of the mind, which advances from things known to things unknown and argues from one thing to another.

69. See the notes of von Leyden on ELN IV, 149 where he enumerates a multitude of sources from Aristotle's works regarding the prime matters posited by the senses.

70. ELN II, 125, see also ELN IV, 149-151.

71. «Man was to be judged by a sovereign God according to the law of nature. Therefore it was only logical that the law be promulgated in such a manner as to make it intelligible to all who sought an understanding of it and the obligations it imposed». J. HANCEY, «John Locke and the Law of Nature», in *Political Theory* IV, 4 (Beverly Hills: Sage Publications, 1976), 441.

er in a definite and fixed order of propositions. It is this reason by means of which mankind arrives at the knowledge of natural law⁷².

With respect to its relation to the senses, Locke says, «with sense-perception showing the way, reason can lead us to the knowledge of a law-maker or of some superior power to which we are necessarily subject»⁷³.

Then he continues praising this distinctive rational feature of man with respect to the brutes, «whereas there is nowhere a nation so uncivilized and so far removed from any culture as not to rejoice in the use of the senses and not to surpass brute animals in the use of reason and the faculty of arguing, though perhaps it has not sufficiently perfected those inborn faculties by training as well»⁷⁴.

Man is not a passive creature, as the product of God's workmanship, he is designed to exercise all the faculties given to him by the Creator. The decrees that God has promulgated do not violate the free will of man, but rather, help him to exercise it accordingly. In a word, God has so willed it that man should act according to the very nature proportioned to him. Locke puts it clearly in the *Fourth Essay*:

Partly also we can infer the principle and a definite rule of our duty from man's own constitution and the faculties with which he is equipped. For since man is neither made without design nor endowed to no purpose with these faculties which both can and must be employed, his function appears to be that which nature has prepared him to perform. That is to say, when he in himself finds sense-experience and reason, he feels himself disposed and ready to contemplate God's works and that wisdom and power of His which they display⁷⁵.

Apparently, Locke starts to introduce in this paragraph his most salient epistemological doctrine, that is, his reference to the sense-experience and reason as the basis of all knowledge. Here, he insinuates the importance of sensitive and rational faculties of man in the process of knowing. Man is the only creature that God has endowed with reason, and by that rational character He made him distinct from the rest of His creatures. God wills that through reason man can also attain the knowledge of divine realities. Thanks to that special faculty of the mind, man comes to know the law of nature; man has, in a way, a sure access to the eternal law of God.

Evidently, if God makes the primary matters intelligible, and through them men arrive at the notion of the Deity; and if the faculties en-

72. ELN IV, 149.

73. ELN IV, 155.

74. *Ibid.*

75. ELN IV, 157.

dowed in them are such that by their very nature are capable of knowing the natural law, what else can be doubted if in its origin and by its very nature it is cognoscible? Locke never doubted the faculties of men, on the contrary, he exalted man above all other creatures for his rationality. Similarly, he bestowed high respect upon God's work of creation and attributed to it an indispensable role in the process of intellection.

However, deep inside he was so realistic and susceptible to all the things that were really happening around him. It was his sensitivity that led him to inquire into the cause of men's indifference towards the law of nature and of their growing ignorance of it, or in the worst case, the denial of the law of nature. History has confirmed this devastating abandonment of the basic principles of the natural law.

Objections and replies to its denial and ignorance. In the *Second Essay* Locke introduces his observations on the awful social and political condition with respect to the natural law, and I note them down here for a better understanding of the natural law. The three main objections can be summarized as follow: (a) why are there many people blind to the natural law?; (b) how come many mortals have no knowledge of it?; and finally, (c) why do nearly all think of it differently? These questions seem to imply the rejection of the universal and immutable characters of the natural law, as well as the distrust in the capacity of the sensitive and rational faculties of men. However, Locke convincingly refuted them by showing that the fault was due to man's negligence and improper use of his faculties. Here follow his respective replies.

(1) Granted that our mental faculties can lead us to the knowledge of this law, nevertheless it does not follow from this that all men necessarily make proper use of these faculties... (2) Careful reflection, thought, and attention by the mind is needed in order that by argument and reasoning one may find a way from perceptible and obvious things into their hidden nature. (3) Few are directed by reason, since men only seldom delve into themselves in order to search out from thence the condition, manner, and purpose of their life, then it is not to be wondered at that of the law of nature, which is much less easy to know, men's opinion are different⁷⁶.

Locke, then, declares his conviction on the indispensable role and importance of the senses and the mind, as he says, «there is nothing so obscure, so concealed, so removed from any meaning that the mind, capable of everything, could not apprehend it by reflection and reasoning, if it is supported by these faculties»⁷⁷.

76. See ELN II, 133-135. (Numbering, mine)

77. ELN IV, 147.

Promulgation of the natural law and the will of God. Before closing this section, I would like to inquire into how to arrive at the knowledge of the natural law by means of the light of nature. Locke suggests two prerequisites in order to arrive at the knowledge of this law, that is, that there must be a lawmaker and that there must be a will from his part. In the *Fourth Essay* he states plainly that,

Certain facts must first be set forth, because they are necessarily presupposed in the knowledge of any and every law. First, in order that anyone may understand that he is bound by a law, he must know beforehand that there is a lawmaker, i.e. some superior power to which he is rightly subject. Secondly, it is also necessary to know that there is some will on the part of that superior power with respect to the things to be done by us, that is to say, that the lawmaker, whoever he may prove to be, wishes that we do this but leave off that, and demands of us that the conduct of our life should be in accordance with his will⁷⁸.

Locke highlights the subjection of man to the will of God and insists that because of man's condition as the workmanship of God, he has to live in accordance with the law of nature. God has planned it in such a way that man, with all the endowed faculties he received from Him, can arrive at the knowledge of the natural law and be responsible for all his actions.

This idea appears similar to a voluntarist point of view. It is no wonder then, that some voluntarist commentators may use this argument as a basis of their position. However, I have to warn beforehand that much later in the same work, and also in his mature major works, Locke was inclined to exalt the role of the senses and reason. On the other hand, it is also good to note that this statement is in consonance with his divine notion of the natural law, that is, the decree of the divine will. Locke underlines here the essential and indispensable role of God as the superior power who, at the same time, has an inevitable command over all men. I insist that though the divine will is an important prerequisite for knowing the natural law, it does not discard, however, the most splendid and proven assertion that the natural law can be known by sense-experience and reason, that is, by the light of nature.

1.4. THE OBLIGATORY NATURE OF NATURAL LAW

In this present consideration I will tackle the extent and weight of the obligation of men to the natural law, which Locke discusses entirely

78. ELN IV, 151.

and specifically in the *Sixth* and *Seventh Essays*. This is one of the important aspects of the natural law, without which the validity of the law will result to naught and men will not heed it any longer. To disregard the binding force of any law means to deny the authority of the lawmaker; it's just like playing a fool with empty words and non-sense principles. That is the reason for its promulgation, so that men may follow its codes and bring them into completion through the practice of the virtues it entails. No one, with the right use of reason, can doubt its binding force, unless out of pride and selfishness he wilfully escapes from it and hardens his heart in order not to be subjected to any superior will.

Locke did not doubt the obligatory nature of the natural law; in fact, he greatly recommended its faithful observance and raised it up so that it would become an inalienable support of the rights of men. Such is its superior force that he was compelled to declare that those who were given the capacity to use their reason couldn't refuse to obey, nor excuse themselves from being obedient to its demands. The observance of this law is almost concomitant to human existence, in such a way that no one can excuse himself from the responsibility it brings. The expectation for men is therefore exceedingly high, and God for His part, the author of this law, would be so pleased to see men living in accordance with His commands.

The problem in question. In the *Essays*, Locke takes into account the two important characteristics of natural law, that is, its universal and perpetual nature. He therefore dedicates a long inquiry into whether the natural law is morally binding on all mankind at all times and in all places. The extent in time and space and the scope of the obligation are the major subject matters to tackle here. Is the law of nature dependent on or is it limited by time? More concretely, will there be a time that man ceases to be bound by this law of nature? Is it reasonable to say that the law is binding here but not in another place? If that is so, is it possible that the natural law be binding only and exclusively for a certain group of people, but permits the laxity of others? Locke introduced similar questions in order to begin his inquiry, so that ultimately, he would be able to reaffirm the true character of the natural law.

If all the answers to these questions were affirmative, then the law of nature would be mutable, limited, contingent, and particular, and these would absolutely contradict the divine and eternal origin of the natural law. Hence, Locke reiterates his firm proposition by saying, «we assert that the obligation of the natural law is universal and perpetual»⁷⁹. Here he proposes various objections to the binding force of the natural law, in order

79. «Asserimus legis naturae obligationem perpetuam esse et universalem». ELN VII, 192.

to prove later their falsity, and then, to put forth his argument in favour of the universality and perpetuity of its obligation.

In the following sections, I will present the general conception of Locke on the nature and extent of the obligation to the natural law. There are four sub-topics that I wish to examine with respect to its binding force, namely, the meaning of obligation; the classifications of obligation; the common traits of obligation; and the basis of its binding force. Finally end, I will add a short corollary regarding the cessation of the obligation.

1.4.1. The meaning of obligation

Locke approaches the problem by clarifying the meaning of the terms employed in the proposition, which in this case, the word «obligation» takes priority. In the *Sixth Essay* Locke discusses in depth the binding force of the natural law and its implications in morality, as well as in the daily life of man. What is an obligation? In this regard, Locke appeals to the wisdom of the jurists and acknowledges their definition, which says: «it is the bond of law whereby one is bound to render what is due», and by law they mean, «the civil code»⁸⁰. Then a little farther he explains the meaning of the bond of law, by saying,

Hence, by the bond of law we must mean here the bond of natural law whereby one is bound to discharge a natural obligation, that is, to fulfil the duty which it lies upon one to perform by reason of one's nature, or else submit to the penalty due to a perpetrated crime⁸¹.

It appears quite evident that the binding force of the natural law is constituted in the very nature of man –*ex naturae suae ratione*– because that phrase *débitum persolvere* seems to indicate that man ought to do something by himself, out of his own capacity and liberality. For that reason he calls it a «natural obligation», insisting on the idea that the performance of certain actions, the observance of the law is proportional to the very nature of man. He also indicates here literally that man is bound by the natural law, meaning to say, he is bound neither by any human institution nor by mere customs and traditions. Locke's idea of proportionality

80. ELN VI, 181.

81. «Quod sit vinculum juris quo quis astringitur debitum persolvere ...adeo ut hic *per vinculum juris* intelligendum sit *vinculum legis naturalis* quo quis astringitur persolvere debitum naturale, id scilicet praestare officium quod cuivis *ex naturae suae ratione* praestandum incumbit, vel poenam admissio crimini debitam subire». *Ibid.*, 180-181.

regarding the extent and the force of man's obligation towards the natural law, von Leyden observes, is the influence of Dr. Sanderson and Curvelwel.

Locke makes another clarification about this bond, that is, with respect to the origin itself of that binding force. It is plain that the observance of the law is in accordance with the very nature of man, but Locke wants to know precisely from whence this bond takes effect in man. He looks for another prerequisite that will prove the law to be really binding for man, and proposes a question as to whether anybody can oblige man or bind him to perform certain actions. His answer is clear: only he who has a right and power over man can impose upon him an obligation. Locke refers to that origin or source of obligation as the dominion and command of a superior to whom man owes a duty –*débitum persolvere naturalem*.

We must understand that no one can oblige or bind us to do anything, unless he has right and power over us; and indeed, when he commands what he wishes should be done and what should not be done, he only makes use of his right⁸².

In the subsequent exposition on the classes of obligation, Locke attributes this source of obligation ultimately to God who has a sole and absolute right and power over his creatures. This is an assertion that is not strange anymore even to his major works. Here then, he distinguishes the two ways in which man discharges his *débitum*.

First, a liability to pay dutiful obedience [débitum officii]. He underlines in this class of debt or duty the «conformity of one's actions to the rule imposed upon them, that is, the will of a superior power». Locke affirms that the source of this obligation is «partly from the wisdom of the legislator and partly from the right of the Creator over His creation»⁸³. Since everything that man possesses, including his own being, comes from God, it is out of duty that he has to give an account to God, and to Him alone he has to submit his obedience.

Second, a liability to punishment [débitum supplicii]. If the ground of obligation in the *debitum officii* lies in the wisdom and right of the Creator, in the *debitum supplicii* it lies in the authority and dominion of the Lawmaker. The failure of man to dutifully obey the will of the superior power is what makes him liable to punishment. It is a consequence of his

82. ELN VI, 183.

83. «Et hoc est illud quod vocatur *debitum officii*, conformitas scilicet inter actiones nostras et earum regulam, scilicet superioris potestatis voluntatem. Et haec obligatio videtur fluere tum a sapientia legislatoris divina, tum a jure illo quod creator habet in creaturam suam». ELN VI, 182-183.

disobedience to the law. Though there is a fear of penalty, still Locke maintains that the obligation of man is brought by his recognition of the authority of the Lawgiver and by right reason⁸⁴.

The power and dominion over another admits different forms in the name of «right», such as God's natural right and the right of creation by which all things owe Him their existence and preservation, or the right of donation of parents and monarchs who received from God a share of His dominion over the creatures, or the right of contract, in the case of the voluntary submission of oneself to another's will. However, Locke has a different conception when it comes to a duty towards pirates and allegiance to the king. Respectively, man's obligation towards pirates is grounded on the reason of his own safety, and his allegiance to the king is based on a rational apprehension of what is right.

In both cases, Locke maintains a sort of a voluntarist view of the moral obligation of man, which means that the binding force of the law ultimately leads back to the authorship of God, whether it be an observance of a duty to obey, or a recognition of God's dominion and power to castigate disobedient creatures. Other authors infer that it cannot be other than the will of a superior power since the imposition of an obligation is an act⁸⁵.

1.4.2. The other classifications of an obligation

Further, Locke proposes other distinctions that are meant to clarify the binding force of the natural law. These are the twofold classes of obligation, namely, (i) that some things bind effectively [*obligare effective*] and others only terminatively [*obligare terminative*]; (ii) that some things bind by themselves and by their intrinsic force [*per se et vi sua*] and others indirectly and by a power external to themselves [*per aliud et virtute aliena*].

(i) Things that bind effectively or only terminatively

That thing binds «effectively» which is the prime cause of all obligation, and from which springs the formal cause of obligation, and from which springs the formal cause of obligation, namely, the will of a superior. For we are bound to something for the very reason that he, under whose rule we are, wills it. That thing binds «terminatively», or by delimitation, which prescribes the manner and measure of an obligation and of

84. «Omnis enim obligatio conscientiam alligat et animo ipsi vinculum injicit, adeo ut non poenae metus sed recti ratio nos obligat, et conscientia de moribus fert sententiam et admissio crimine nos merito poenae obnoxius esse judicat». *Ibid.*, 184.

85. John COLMAN, *John Locke's Moral Philosophy* (Edinburg: Edinburg University Press, 1983), 42.

our duty and is nothing other than the declaration of that will, and this declaration by another name we call law⁸⁶.

Then, Locke makes it clear that man is bound only to what the Lawmaker has promulgated to men⁸⁷.

(ii) *Things that bind of itself and by its intrinsic force or indirectly and by external power*. Only the divine will is binding upon men by its intrinsic force; and this divine will is either known by the light of nature and is called natural law, or by revelation and is called positive law. «Indirectly and by delegated power the will of any superior is binding, be it the king or a parent, to whom we are subject by the will of God»⁸⁸. Locke stresses here that the origin of the power to impose the law by any lawmaker or any human superior derives directly from God. Man submits himself to the dominion of the king or his parents because God wills it and delegates to them His power.

Finally, Locke gives three arguments to prove that the natural law is binding upon all men primarily and of itself and by its intrinsic force. In all these arguments Locke underlines and reaffirms the sole importance of the will of God as the basis of man's obligation to the natural law and His inescapable right to men. At the same time, he declares the priority, the importance, and the indispensability of the natural law over any human positive law; the impossibility of denying its existence; and the limited extent of man's obligation towards the magistrate and the civil law.

To sum up, the natural law is binding upon all men primarily and of itself and by its intrinsic force,

(i) because it contains all the necessary requirements to make a law binding, that is, the authority to impose the law, which belongs exclusively to God, and the sufficient means to know it, that is, by the light of nature. It is out of justice that man subjects himself to the will of God;

(ii) because the natural law has the same degree of binding force as the divine positive law, since they only differ in their manner of promulgation and means of cognoscibility;

(iii) because all other civil laws derive their binding force from the natural law, and without the knowledge of revelation, the rights and authority of the civil magistrate can only come from the natural law.

86. ELN VI, 185.

87. *Ibid.*, 187.

88. ELN VI, 187.

1.4.3. The common traits of the obligation

If the natural law in its very nature is universal and eternal, it follows that the obligation to this law must possess the same characteristics. The two main qualities that he underlines in the *Seventh Essay* are the universality and perpetuity of its binding force. Locke explains this in the same pattern as he did in the other essays, that is, by presenting some objections, replies, and propositions.

Objections. The first observation that he lays down here is the existence of different customs and traditions in many places, from which doubts are raised as to whether the natural law is binding on all mankind, thus, its universal and perpetual character is put into question. There are those who object that the natural law is not always binding on all men because there exist various customs, decrees and codes to follow that make difficult the discernment of the law itself. He uncovers the core of this objection in the fact that

[Men are] unsettled and uncertain, accustomed to the most diverse institutions, and driven by impulses in quite opposite directions; for that the decrees of nature are so obscure that they are hidden from whole nations⁸⁹.

Perpetuity of the obligation. The obscurity of those decrees, due to evident differences, makes people believe that no such law is perpetually binding, or that the law is not completely known. However, Locke is not convinced by the argument, so he negates this assumption right away as something hard to believe. It is quite acceptable to say that some men are born defective of the mind or the eyesight, but not that the whole nations were blind to or absolutely ignorant of the law. At the end, the objection leads to only one assertion, that is, that the binding force of the natural law is neither perpetual nor universal. What does he mean therefore when he says that the binding force of the natural law on all men is perpetual? What does its perpetuity imply? Here he mentions two salient points regarding the extent of its binding force.

Replies. In the first place, he proposes the parallelism between the law and man's existence, meaning to say, that the binding force of the law permanently exists regardless of time and circumstances. The law of nature always binds man, so he states,

The binding force of the natural law is permanent, that is to say, there is no time when it would be lawful for a man to act against the pre-

89. ELN VII, 191.

cepts of this law.... The bonds of this law are perpetual and coeval with the human race, beginning with it and perishing with it at the same time⁹⁰.

This is a strong argument. As long as man lives he is bound by the law, only death can give a termination to this bond.

In the second place, Locke gives a precise clarification about the existence and duration of the bond and the fulfilment or performance of certain actions in conformity with the law. He admits that the binding force of the natural law is perpetual, but since man cannot perform different actions at the same time in fulfilling his duties, his actions need not be necessarily continuous. Once again, he declares,

The binding force of the law never changes, though often there is a change in both the times and circumstances of actions, whereby our obedience is defined. We can sometimes stop acting according to the law, but act against the law we cannot. In this life's journey rest is sometimes allowed, but straying at no time⁹¹.

These arguments acquire a great repercussion in Lockean moral principles, in the sense that the theory of natural law takes its priority in his entire ethical program. The natural law sews all the basic elements of morality and radiates its integrating influence in his political theory and religion.

Moral propositions. Concerning the binding force of the natural law, Locke uncovers his principles with more precision and profundity. He makes four concrete assertions.

(*First*), there are things which are altogether forbidden and to these we are bound... for ever; in other words, there is no single moment when one is at liberty to perform anything of this kind without incurring guilt; for example theft, murder, and other acts of that sort.

(*Second*), there are other things towards which the law of nature requires us to maintain certain sentiments, such as reverence and fear of Deity, tender affection for parents... To these, too, we are obliged forever.

(*Third*), there are things of which the outward performance is commanded, for example the outward worship of the Deity, the consoling of the distressed neighbour... in these matters we are not under obligation continuously, but only at a particular time and in a particular manner.

(*Fourth*), there are cases where the action in itself is not commanded but only circumstances accompanying it. For example, no one is bound

90. «Aeterna sunt hujus legis vincula et humano generi coaeva, simul nascuntur et simul intereunt». ELN VII, 193.

91. «Adeo ut obligatio sit perpetua, actus vero non requiritur perpetuus.... cessare aliquando possumus ab agendo secundum legem, agere vero contra legem non possumus». *Ibid.*

to talk about his neighbour, but when he chooses to do so, natural law bids him talk candidly and unscathingly (*von Leyden's paraphrase*). In cases like these, the matter of the action is neither good nor bad, but the circumstances accompanying it are so determined. We are not bound here absolutely, but only conditionally, and it depends on our ability, and is entrusted to our prudence, whether or not we care to undertake some such actions in which we incur obligation⁹².

Locke concludes that in all these arguments it remains clear that «the binding force of the law is equally permanent, the requirements of our duty, however, are not equally permanent... so that while the action comes to an end at some time, the obligation never does»⁹³.

Universality of its obligation. Now, with regard to the universal character of the obligation, it is convenient to clarify first the significance of the terminology that Locke uses here. Common people may understand it in a way that nobody is exempted from following the precepts of natural law, all men without discrimination are compelled to obey all laws at all times. It may be seen simply as the obligation that applies to all men of all ages, conditions, and of all circumstances. Locke's first assertion is that the universality of the natural law does not depend simply on the fact that «any and every law of nature is binding on all and every man, since this is impossible. For most precepts of this law have regard to various relations between men and are founded on these»⁹⁴.

Locke mentions that at the time of performing this obligation, the binding force accepts certain differences. He introduces here the idea of equality and proportionality; the proportionality has something to do with the various relations among men, and the equality refers to the nature of certain precepts. Locke explains these differences in the following statements.

Those precepts of the law of nature which are *absolute* and which embrace thefts, debaucheries, and slanders, and on the other hand religion, charity, fidelity and the rest ... are binding on all men in the world equally, kings as well as subjects, ... Those decrees of nature which are *concerned with the various conditions of men and the relations between them* are binding on all men exactly in proportion as either private or public functions demand; the duty of a king is one thing, the duty of a subject is another⁹⁵.

Despite the different degrees of obligation, Locke maintains that, «the binding force of natural law is everywhere the same, only the circum-

92. ELN VII, 193/195.

93. *Ibid.*, 195.

94. ELN VII, 197.

95. «Precepta illa legis naturae quae absoluta sunt ... homines *aeque* obligant. (...) Quae vero naturae decreta diversas respiciunt hominum sortes ... homines obligant *quam prout* munera». *Ibid.*

stances of life are different»⁹⁶. He is emphatic indeed when underlining its perpetuity and universality so much so that he qualifies the natural law as something untouchable and almost coequal if not above the human creature's dignity. The binding force of the natural law therefore has never changed and it will always be binding upon the whole world throughout the ages. Locke manifests his disagreement with the argument that the natural law is not binding because it is either «not delightful to some part or the whole of mankind, or again that it has been repealed»⁹⁷.

1.4.4. The basis of the obligation and its universality and perpetuity

Locke opens the *Sixth Essay* with an argument posed by those who claim that the basis of its binding force is the self-preservation of man and the principle of utility. This assertion supposes that the law is binding only as long as man takes advantage of it and secures his safety and welfare through its observance. For the utilitarians, the law is binding, good, and practical if it is useful to man. This argument seems to attribute a natural right to man, apparently an inalienable right that nobody can take away. In this case, man becomes powerful and makes himself almost an author of this law, such as what Hobbes calls the «rights of all against all». Locke refutes this argument and shows the reasons of its inadequacy in the true nature of the natural law. Here is how he develops his rebut,

If the source and origin of this law is the care and preservation of oneself, virtue would seem to be not so much man's duty as his convenience, nor will anything be good except what is useful to him; and the *observance* of this law would be not so much our duty and obligation, to which we are bound by nature, as *a privilege and an advantage*, to which we are *led by expediency*. And thus, whenever it pleases us to claim our right and give way to our own inclinations, *we can certainly disregard and transgress this law without blame*, though perhaps not without disadvantage»⁹⁸.

The words in *italics* are important to note especially for their moral implications, which later on will be of great help to better understand the Lockean concept of morality. It is plain that Locke does not agree with Hobbes in this matter, that is to say, in putting the basis of obligation in the theory of self-preservation and utility. The observance of the law becomes a privilege and an advantage, not anymore a duty that emerges from the very nature of man and of the law.

96. *Ibid.*

97. ELN VII, 179.

98. ELN VI, 181.

Locke was aware that this kind of attitude, the self-gratifying behaviour of man towards the law, could be a major cause of such offences against God and humanity. In fact it was a major cause of such offences and he himself could testify with his own experiences. Based on this belief, man appropriates to himself certain rights, which indeed do not exist. In a sense, man makes himself the measure of everything, and his actions become the expressions of his whims and fancies.

Man's rationality and the binding force of the law. The natural law does not bind man neither for the reason of his self-preservation nor for his personal utility. The basis of its binding force must be grounded on something firmly established in the very nature of man, and it must be proportional to the great value of its qualities. In the following argument, Locke states the basis of the perpetual and universal binding force of the natural law.

[The natural law] is not a private or positive law created according to circumstances and for an immediate convenience: rather it is a fixed and permanent rule of morals, which reason itself pronounces, and which persists, being a fact so firmly rooted in the soil of human nature. Hence human nature must needs be changed before this law can be either altered or annulled. There is, in fact, a harmony between these two, and what is proper for the rational nature, in so far as it is rational, must needs be proper for ever, and the same reason will pronounce everywhere the same moral rules⁹⁹.

The perpetuity of the natural law is such that «human nature must needs be changed before this law can be either altered or annulled». This statement is boldly striking and so firm that Locke would surely stand defending it with great conviction. Undoubtedly, he sees in the rational nature of man as the sure ground of this eternal binding force of the natural law. He employs the word harmony (*convenientia*, Latin) to indicate the close connection between the law and the rational nature (*convenientia sit inter hanc legem et naturam rationalem*).

The rationality of man is an important requisite in the consideration of universal obligation, most particularly with regards to the equal observance of the *absolute* precepts. There is nothing to doubt in the universal applicability to men of the binding force of the natural law, in so far as the rational nature is effectively inborn. Thus he continuously declares,

99. «Fixa et aeterna morum regula, quam dictat ipsa ratio, adeoque humanae naturae principii infixum haeret; et mutetur prius oportet humana natura quam lex haec aut mutari possit aut abrogari; convenientia enim est inter utramque, quodque jam convenit naturae rationali, quatenus rationalis est, in aeternum conveniat est necesse, eademque ratio easdem dictabit ubique morum regulas». ELN VII, 198-199.

Since therefore all men are by nature rational, and since there is a harmony between this law and the rational nature, and this harmony can be known by the light of nature, it follows that all those who are endowed with rational nature, i.e. all men in the world, are morally bound by this law¹⁰⁰.

«All those who are endowed with rational nature are morally bound by this law». It seems to indicate that the genesis of this obligation is co-eval with man's existence, and that no one is exempted. Indeed, he mentioned at the beginning of this argument that no one must feel free to be exempted from this law, because natural law is not a private or positive law created according to circumstances and for an immediate convenience. But since man is equipped with reason and other sensitive faculties, «there necessarily result from his inborn constitution some definite duties for him, which cannot be other than they are»¹⁰¹. Locke takes this argument as his *a priori* cause of obligation, that is to say, man's innate constitution. It is good to note also that this bond is extended only to the moral aspects of man.

There is also a little detail implicit in this statement, that is, the presumption that there are some who have not received fully this rational faculty. It is probable that for them it would be more difficult to attain the knowledge of the natural law for the deficiency of the light of nature. In fact, when he talks about the case of children and idiots, Locke admits that it does not, however, bind those to whom it is not given, and it is not given to those who are unable to understand it¹⁰².

Motivations and the goal of man's obligation. All laws, be they divine or human, lead to one specific and ultimate goal: eternal happiness. In that context, the assurance of Locke that all laws point in that direction is his voluntarist conception that the sole standard of morality is the eternal will of God. God has designed in his eternal plan that the laws He promulgated would enable men to reach their final goal in life. The role of the divine Lawmaker is essential in the happiness of men. In the *Fourth Essay*, he makes this argument more clearly where he states,

Hence, having inferred this on the evidence of the senses, reason lays down that there must be some superior power to which we are rightly subject, namely God who has a just and inevitable command over us and at his pleasure can raise us up or throw us down, and make us by the same commanding power happy or miserable¹⁰³.

100. *Ibid.*, 199.

101. *Ibid.*

102. ELN VII., 203.

103. ELN IV, 153/155.

And regarding the finality of God's work of creation, Locke insinuates the moral obligations of men towards the eternal will of God. He continues saying,

The maker of these things is not only powerful but also wise, hence it follows from this that he has not created this world for nothing and without purpose. For it is contrary to such great wisdom to work with no fixed aim. Hence it is quite evident that God intends man to do something, and this was the second of the two things required for the knowledge of any and every law, namely, the will on the part of a superior power with respect to the things to be done by us; that is, God wills that we do something. But what it is that is to be done by us can be partly gathered from the end in view for all things¹⁰⁴.

God wills that we do something. This proposition indicates the moral duties of each man towards the Creator, and Locke clarifies, at the same time, that the «things to be done» by men derive from the will of the superior power. So, the actions that men must do correspond to the just commands of God, which, according to His wise governance, carry with them the eternal rewards and punishments. Moreover, these rewards and punishments do not result from the mere election of men, but rather from the wisdom and goodness of God.

It is convenient to recall the arguments of Locke as quoted earlier where he says that «He (God) has goodness and wisdom to direct our actions to that which is best: and he has power to enforce it by rewards and punishments of infinite weight and duration in another life; for nobody can take us out of his hands». Thus, from this proposition it can be inferred that God, through his divine decrees, lays down the path of man's eternal destiny, be it happiness or misery.

There seems to be no problem in exalting the essential role of the divine law, but when it comes to the consideration of human actions themselves, the hope of eternal reward and the fear of eternal punishment seem to be insufficient motives for men to obey the divine decrees. Early commentators have already seen this preoccupation of Locke about God being a «benevolent despot, at worst a tyrant»¹⁰⁵. One of the most distinctive political issues of the seventeenth to eighteenth century in England was the «unlimited power» of the magistrate over the civil and ecclesiastical matters.

104. ELN IV, 157. See also ELN VI, 187 and ELN VII, 199.

105. Schneewind considers Thomas Burnet as the pioneer on this quest. J.B. SCHNEEWIND, «Locke's Moral Philosophy», *The Cambridge Companion to Locke*. Edited by Vere Chappell (Cambridge: Cambridge University Press, 1994), 207.

If Locke had maintained solely an absolute theistic voluntarism, he would be trapped in a labyrinthine. That is why he immediately finds an exit by recurring to the idea of God's unlimited goodness and wisdom –«that his aim is to cause as much good or pleasure for his creatures as possible»¹⁰⁶. Men should find in the divine law a positive motivation that can satisfy their obedience to God, because if their actions were done out of fear or simply for motives of pure sanctions, it would be against their will. Therefore, such actions cannot be called moral or voluntary actions.

Locke touches another important question here, that is, whether the divine sanctions are really necessary in natural law. I have shown earlier that Locke gives only three requisites for anything to be called a law. Literally, the divine sanctions do not abide by any of these conditions, and yet, they form an integral part of Locke's description of the natural law. The divine sanctions, I would say, are the consequence of his concern for the good of men and the wisdom and power of God.

To sum up, the natural law as a divine decree carries with it the corresponding eternal rewards and punishments. These are not mere additions to the binding force of the natural law, but rather, an essential part of it. The sanctions are intended not only to motivate men, but also to make them realize their final good according to the wise plan of the Creator. Certainly, they manifest God's goodness and wisdom. The consideration of the divine rewards and punishments implies the supernatural and eternal character of the natural law. It opens the transcendental end of man, as the consequence of the conformity or disagreement of his actions with the law of nature.

Corollary: cessation of the obligation to the natural law. There is another assumption against the universal binding force of the natural law, which Locke refers to the cessation of obligation to the natural law. Again, he argues that the cessation of the binding force is against the very nature of man and contrary to the will of the Creator. The will of God is irrevocable, and His eternal plan for man is such that He would need to create another species of human being in order to abrogate the natural law. This is impossible and would contradict the very nature of God Himself as Creator. Thus, he rejects categorically the idea that the natural law can be repealed; and since the natural law admits not even a single breath of possible abrogation, it is inferred that this law cannot be but universal. He says,

This natural law will never be abolished; for human beings cannot alter this law, because they are subject to it, and it is not the business of

106. *Ibid.*

subjects to abrogate laws at their liking, and because God certainly would not wish to do so¹⁰⁷.

Locke unceasingly declared the excellence of the natural law and its priority over other human authority because of its undeniable divine origin and because of its congruous relation with the rational nature of man. In whatever case and whatever objections against the universal and perpetual character of the binding force, Locke simply refutes them on the grounds that the problem resides not in the law itself, or in the different opinions and differences of customs and practices but in the inappropriate use of men's faculties and their inclination to their appetites¹⁰⁸.

Therefore, with all the abovementioned arguments, it remains clear that the natural law, which can be known by the natural light, binds all men necessarily on the grounds of their rationality and the will of God. Because of the harmony between the natural law and rational nature of man, the obligatory character of that law is universal and perpetual. All these facts are not only indisputable, but also demonstrable.

2. THE NOTION OF THE NATURAL LAW IN HIS LATER WORKS

Locke's investigation of his chief concerns regarding moral theories occupied more than half his life. Since his first conceptualisation of the natural law theory in 1660 until the last, that is, the fourth edition of the *Essay*, we can observe that he was truly preoccupied with taking into account, or at least with making some references to, his general ethical program in several of his works. That is exactly my present concern here, that is, to discover the most salient considerations that Locke made regarding the natural law theory.

2.1. SOME PARTICULAR CONSIDERATIONS IN HIS LATER LITERARY WORKS

2.1.1. An Essay concerning Human Understanding

In this work, Locke deals with the natural law more specifically in his discussion on the ideas of moral relations. He explains that in the case of moral relations it is not enough to consider them as simple moral terms, or

107. «Jus hoc naturale nunquam abrogatum iri, cum homines legem hanc abrogare non possint; ei enim subjiciuntur, subditorum autem non est pro libitu suo leges refigere; nec certe Deus velit». ELN VII, 200-201.

108. *Ibid.*, 203.

determined ideas of mixed modes framed in our minds, because he believes that these relations fairly determine our human actions as to whether they are morally good or morally evil. Thus he defines moral relation as follows:

It is the conformity or disagreement men's *voluntary actions* have to a *rule* to which they are referred, and by which they are judged of¹⁰⁹.

Our interest in this definition of moral relation is the *rule* to which the voluntary actions of men are made to conform or disagree. The rule concerns us because, when Locke gives the division or classification of laws, he attempts to also establish his understanding of the nature of each kind of law and its effects in the moral life of each individual person.

The most significant points. There are four concrete points that Locke shows in his ideas of moral relations, namely, the role of the law-maker; the hedonistic views of moral goodness and evil; sanctions as an important constitutive element of every law; and the measure for judging the moral rectitude of actions of man, that is, the conformity or disagreement with any law.

(i) *God is the author of the natural law.* In the *Essay*, Locke maintains the idea that the true ground of morality is no other than God himself, and that the existence of natural law is obviously made known to all mankind. He says:

I grant the existence of God is so many ways manifest, and the obedience we owe him so congruous to the light of reason, that a great part of mankind give testimony to the law of nature: but yet I think it must be allowed that several moral rules may receive from mankind a very general approbation, without either knowing or admitting the true ground of morality; which can only be the will and law of a God, who sees men in the dark, has in his hand rewards and punishments and power enough to call to account the proudest offender¹¹⁰.

The abovementioned argument reflects the transcendental nature of the law. And Locke assumes that all the existing precepts have this transcendental aspect, thanks to their connection with the divine law. It clearly shows that rewards and punishments are founded on the will of God, and are coherent with His power and wisdom.

When he mentions in passing the objection of those who think that the idea of God is innate, Locke states the requisite notion of the lawmaker

109. John LOCKE, *An Essay concerning Human Understanding*. Collated and annotated by Alexander Campbell Fraser (New York: Dover Publications, Inc., 1959), 473. Hereafter referred to as *Essay*.

110. *Essay* I.2.6, 69-70.

for any kind of law. He says, «Without a notion of a law-maker, it is impossible to have a notion of a law, and an obligation to observe it»¹¹¹. In fact, it is in this argument that he admits the cognoscibility of the natural law because the first principles of moral rectitude are deduced from those already-formed universal ideas that reason itself has worked on.

Among the three sorts of law to which men generally refer their actions, Locke gives priority to divine law, from which the notion of the natural law is unmistakably implied. Here, Locke establishes the divine law as a firm and inalienable foundation of morality, something that he maintains constantly not only in the *Essay* but also in several of his works. He refers to that law of God, which is promulgated to men through the light of nature. He states,

First, the divine law, whereby that law which God has set to the actions of men, —whether promulgated to them by the light of nature, or the voice of revelation. That God has given a rule whereby men should govern themselves, I think there is nobody so brutish as to deny. He has a right to do it; we are his creatures: he has goodness and wisdom to direct our actions to that which is best: and he has power to enforce it by rewards and punishments of infinite weight and duration in another life; for nobody can take us out of his hands. This is the only true touchstone of moral rectitude¹¹².

Locke underlines in this statement the clear grounds or reasons for God's authorship, either in the divine positive law or in the natural law, namely, the right of God as the Creator; His perfect goodness and wisdom towards His creatures; and finally, His power to enforce it with sanctions. Until this point, Locke maintained his thesis that only God has the authority in this matter since man lacks the perfection of God. The «exclusivity» of the divine law as the true touchstone of moral rectitude signifies, on the other hand, the rejection of other apparent standards of morality. It seems to suggest that, for Locke, had there been other criteria of moral rectitude, these would definitely fall under secondary classifications.

(ii) *The hedonistic views of moral goodness and evil*. Inherent in his hypothesis of the moral principles is the concept of good and evil, which in this case, Locke lays down the important participation of each individual person. God has made man responsible for his destiny by acquiring for himself the good or evil attached to his actions. Thus, in continuation, Locke says,

111. *Essay* I.3.8, 96.

112. *Essay* II.28.8, 475.

[and] by comparing them to this law, it is that *men judge of the most considerable moral good or evil of their actions*; that is, whether, as duties or sins, they are like to procure them happiness or misery from the hands of the ALMIGHTY¹¹³.

This argument has a great repercussion in his idea of obligation to the natural law, because it emphasizes the motives whereby man is moved to perform his dutiful actions towards the Creator. But, what really makes significant in this proposition is that these objectives of the law, either the good or evil, involve a personal and hedonistic character. Although, it is not as surprising as it might be because in the previous section Locke conceived good and evil explicitly as pleasure and pain. He states,

Good and evil.... are nothing but pleasure or pain, or that which occasions or procures pleasure or pain to us. Moral good and evil, then, is only the conformity or disagreement of our voluntary actions to some law, whereby good or evil is drawn on us, from the will and power of the law-maker; which good or evil, pleasure or pain, attending our observance or breach of the law by the decree of the law-maker, is that what we call reward or punishment¹¹⁴.

(iii) *The sanctions as a constitutive element of the law.* Locke insists that it is by God's wisdom that sanctions are part of any law, and he finds it absurd to decree a law without any sanction attached to it. Thus, he boldly declares,

For, since it would be utterly in vain to suppose a rule set to the free actions of men, without annexing to it some enforcement of good and evil to determine his will, we must, whenever we suppose a law, suppose also some reward or punishment annexed to that law. It would be in vain for one intelligent being to set a rule to the actions of another, if he had it not in his power to reward the compliance with, and punish deviation from his rule, by some good and evil, that is not the natural product and consequence of the actions itself¹¹⁵.

If the law that God has given to men has an eternal and divine character, it is to suppose, without second thought, that the sanctions annexed to this law must also possess a transcendental weight and effect. For that

113. *Ibid.*

114. *Essay* II.28.5, 474. It is not the first time that he mentions the concept of good and evil as pleasure and pain in the *Essay*, because Locke himself identifies some other places in this work where he makes references to it, such as, *Essay* II.20.2 and II.21.43.

115. *Essay* II.28.6, 474.

purpose, Locke maintains that the rewards and punishments have «infinite weight and duration in another life». Thus, in the context of Locke's natural law theory, rewards and punishments take a very vital role. Darwall observes that sanctions are already part of Locke's definition of the natural law, and he also gives the reason why sanctions are necessary¹¹⁶.

(iv) *The measure of moral rectitude*. Locke clearly shows that the foundation of moral relations lies in the conformity or disagreement of the actions of men to any rule. This is the measure by which man judges his actions as morally good or evil; and he reveals its differences according to the kind of law. Thus, he states,

These three then, first, the law of God; secondly, the law of politic societies; thirdly, the law of fashion, or private censure, are those to which men variously compare their actions: and it is by their conformity to one of these laws that they take their measures, when they would judge of their moral rectitude, and denominate their actions good or bad¹¹⁷.

Corollary. Locke acknowledged in his discussion of the law of fashion, which in his second edition was called «philosophical law», that the natural law is the rule of virtue and vice. It is his affirmation of the unalterable character of the natural law, which God has established as the «unchangeable rule» of right and wrong. On this aspect, he declares,

There being nothing that so directly and visibly secures and advances the general good of mankind in this world, as obedience to the laws he has set them, and nothing that breeds such mischiefs and confusion, as the neglect of them. (*Then a little later, he says*) whereby, even in the corruption of manners, the true boundaries of the law of nature, which ought to be the rule of virtue and vice, were pretty well preferred¹¹⁸.

A collection of simple ideas. This must be a crazy, confusing, and curious argument that in the end, Locke considers the rule of moral actions as only a collection of simple ideas. Indeed, more surprising still is his final analysis that regardless of whatever kind of law or rule it is, everything terminates in just a mere collection of simple ideas. He states,

116. Darwall reaffirms the argument of Locke, and he adds, «law is to no purpose without supernatural punishment after death. That is what makes immortality necessary». Stephen Darwall, *The British moralists and the internal ought, 1640-1740* (Cambridge: Cambridge University Press, 1995), 38.

117. *Essay* II.28.13, 480.

118. *Essay* II.28.11, 478-479. In the fourth edition of the *Essay* Locke makes reference to this law as the «standing and unalterable rule by which they (men) ought to judge of the moral rectitude and *pravity* of their actions, and accordingly denominate them virtues or vices». *Works* 2, 101.

Whether, I say, we take that rule from the fashion of the country, or the will of the law-maker, the mind is easily able to observe the relation any action hath to it, and to judge whether the action agrees or disagrees with the rule... This rule being nothing but a collection of several simple ideas, the conformity thereto is but so ordering the action, that the simple ideas belonging to it may correspond to those which the law requires. And thus we see how moral beings and notions are found on, and terminated in, these simple ideas we have received from sensation and reflection¹¹⁹.

2.1.2. Of Ethics in General

In his later discourse on ethics, Locke maintains that the natural inclination of man to do good and to avoid evil, to seek happiness and to shun misery are clear manifestations of man's recognition of the law. That man, not being aware of any established rules or norms of life, in his primitive state can regulate and direct his life towards what he knows is the desirable and highest good.

Locke reveals in this work his belief that morality is a science distinct from theology, religion, and law, because it belongs to the concern of philosophers. And regarding his concept of morality, Locke says,

To establish morality, therefore, upon its proper basis, and such foundations as may carry an obligation with them, we must first prove a law, which always supposes a law-maker: one that has a superiority and right to ordain, and also a power to reward and punish according to the tenor of the law established by him. This sovereign law-maker, who has set rules and bounds to the actions of men, is God, their Maker¹²⁰.

Locke maintains in his general idea of morality the hedonistic views of moral good and evil; the idea of the moral relations; the cognoscibility of the law by the natural light; and its divine sanctions. Since it was intended as chapter twenty-one of book four of the *Essay*, the continuity and consistency of his thoughts on morality as a collection of several simple ideas are also remarkable.

119. *Essay* II.28.14, 480. See also II.28.15, 481.

120. John LOCKE, «Of Ethics in General», *Excerpts from the Life and Letters of John Locke*. Edited by Lord King (London: George Bells and Sons, 1884). Source: <http://www.philosophypages.com/locke/k110.htm> (2001) Consulted on 31st October 2003.

2.1.3. Two Treatises of Government

Existence and nature of the natural law. In the first place, we have to understand that Locke employs here the concept of the natural law in a different context, that is to say, in the extent of paternal authority, which ties up similarly with the concept of government, the rights of all, freedom, and the preservation of property. He admits that the natural law is in the hearts of men¹²¹, and so, no one can ignore its existence. He also affirms that it is «plain and intelligible to all rational Creatures»¹²².

With regards to the nature and origin of the natural law, there are some opinions that Locke accepts both the voluntarist and rationalist views. In that context, he underlines the important role of the will of God, particularly concerning the idea of its superiority to all other laws. At the same time, he is consistent in affirming that it is the law of reason, especially in his consideration of its promulgation. «Law is nothing else but the Will of him that hath the *Power of the Supream Father*»¹²³.

In his exposition of the extent of the *Legislative power*, Locke insists on the importance of the natural law as a declaration of God's will. He says,

Thus the Law of Nature stands as an Eternal Rule to all Men, *Legislators* as well as others. The *Rules* that they make for other Mens Actions, must, as well as their own and other Mens Actions, be conformable to the Law of Nature, i.e. to the Will of God, of which that is a Declaration, and the *fundamental Law of Nature* being the *preservation of Mankind*, no human sanction can be good, or valid against it¹²⁴.

Moreover, with respect to the right to property, Locke declares that man's right is grounded in the law of nature which is a command of God to all men by virtue of his purpose of creation¹²⁵.

Natural law and reason. One of the most significant ideas that he poses here is the extent and limit of the obligation in accordance with the

121. «Pues como la ley de naturaleza no está escrita y sólo puede encontrarse en el alma de los hombres, aquellos que, empujados por la pasión o el interés, no pueden ser convencidos de su error si no hay juez establecido que decida». John Locke, Segundo Tratado sobre el Gobierno Civil. Translation, prologue and notes by Carlos Mellizo (Madrid: Alianza Editorial, 1990), 143. Hereafter referred to as Tratado (1990).

122. John LOCKE, *Two Treatises of Government*. Edited by Peter Laslett (Cambridge: Cambridge University Press, 1988), II, §124, 351. Hereafter referred to as *Treatises*.

123. *Treatises* I, §6, 147.

124. *Treatises* II, §135, 358.

125. *Ibid.*, §32, 290.

use of reason¹²⁶. In his rebut of Mr. Filmer's argument about the paternal authority, Locke refers to the natural law as the law of reason: «For 'tis hard to understand how the Law of Nature, which is the Law of Reason, can give the Paternal Power to the Father over his Children»¹²⁷. Similarly, in the *Second Treatise*, Locke identifies the law of nature with the law of reason and makes it the basis of man's obligation and his right to preservation. He says,

The *State of Nature* has a Law of Nature to govern it, which obliges every one: And Reason, which is that Law, teaches all Mankind who will but consult it, that being all equal and independent, no one ought to harm another in his Life, Health, Liberty or Possessions¹²⁸.

The law of reason has a great significance too in his concept of freedom, for it gives meaning to it. He openly declares, «For all in the states of created beings capable of Laws, where there is no Law, there is no Freedom»¹²⁹. He declares that man's rationality is the basis of man's liberty of acting, for that reason, man is born free. «We are *born Free*, as we are born Rational»¹³⁰.

Freedom and the limiting character of the natural law. Locke is a great advocate of human freedom. He defends the liberty of men on the basis of the equality that God has proportioned to all men. He admits the freedom of man both in the state of nature and in the society, and in consequence, man is to be free from any earthly power; he cannot enslave himself to anyone. But Locke makes clear also the limiting character of the natural law with respect to the exercise of man's liberty. He admits that it is the natural law that sets the limit of man's rights both in the state of nature and in the social state. He opens the chapter *Of the State of Nature* with these words:

To understand Political Power right, and derive it from its Original, we must consider what State all Men are naturally in, and that is, a State of perfect Freedom to order their Actions, and dispose of their Possessions, and Persons as they think fit, within the bounds of the Law of Nature, without asking leave, or depending upon the Will of any other Man¹³¹.

126. «La ley por la que Adán debía gobernarse fue la misma que la que habría que gobernar a toda su posteridad: la ley de la razón. (...) Pues nadie puede estar obligado a una ley que no le ha sido promulgada. Y como esa ley sólo puede serle promulgada a alguien dándosela a conocer mediante la razón, los que no han alcanzado aún el uso racional no pueden estar sujetos a dicha ley». Tratado (1990), 79.

127. *Treatises* I, §101, 215.

128. *Treatises* II, §6, 271.

129. *Ibid.*, §57, 306.

130. *Ibid.*, §61 and §63, 308-309.

131. *Treatises* II, §4, 269.

Then, to introduce his notion of slavery, Locke clarifies first the true meaning and extent of man's liberty. He says,

The *Natural Liberty* of Man is to be free from any Superior Power on earth, and not to be under the Will or Legislative Authority of Man, but to have only the Law of Nature for his Rule. The *Liberty of Man, in Society*, is to be under no other Legislative Power, but that established, by consent, in the Common-wealth, nor under the Dominion of any Will, or Restraint of any Law, but that the Legislative shall enact, according to the Trust put in it. (...) As *Freedom of Nature* is to be under no other restraint but the Law of Nature¹³².

The executive power of the law of nature. Locke puts the power to execute the natural law primarily in the hands of every individual in the state of nature, and he firmly maintains that no other power or authority can deny this right to man. Moreover, this power of man to execute the law of nature is even prior to any civil authority. Locke grounds this argument on the basis of man's right to preserve his property which is something natural and sacred for every man. Locke maintains this idea almost throughout the entire chapter on the *State of Nature*. I think section seven is most emphatic where he finds the basis of man's right to defend himself and to apply sanctions to any transgressor of the law. I quote:

And that all Men may be restrained from invading others Rights, and from doing hurt to one another, and the Law of Nature be observed, which willeth the Peace and *Preservation of all Mankind*, the *Execution* of the Law of Nature is in that State put into every Mans hands, whereby every one has a right to punish the transgressors of that Law to such a Degree, as may hinder its Violation. For the *Law of Nature* would, as all other Laws that concern Men in this World, be in vain if there were nobody that in the State of Nature had a *Power to Execute* that Law, and thereby preserve the innocent and restrain offenders; and if any one in the State of Nature may punish another for any evil he has done, every one may do so¹³³.

It is so obvious that Locke is giving emphasis here to the right of every individual; he makes man powerful, so to say, with respect to the defense of the innocent and against any violator of the law. In the same manner, his concept of the natural law condones the cause of men to rebel against a tyrant king or any authority who abuses his power. The preservation of one's life is grounded in the natural law, from which it follows that man

132. *Ibid.*, §22, 283-284.

133. *Treatises* II, §7, 271. See also *Treatises* II, §8, §9, §13 and §87.

has also the right to kill the aggressor when he has no chance to appeal to the law; likewise, an appeal to rebellion against all forms of tyranny is rightful because this act is not against the persons but the authority. This is what Locke calls an appeal to heaven¹³⁴.

His principle of self-preservation is also extended to a right of man to kill the one who initiates a war against him. This is a case that he proposed regarding a thief who presumed to get any one into his power and introduce him into the state of war. His principle of right gives him a justification to use force against a «presumed» aggressor. «It is Lawful for me to treat him, as one who has put *himself into a State of War* with me, i.e. kill him if I can; for to that hazard does he justly expose himself, whoever introduces a State of War, and is *aggressor* in it»¹³⁵.

2.1.4. The Reasonableness of Christianity

The divine origin of the natural law. In the *Reasonableness of Christianity*, Locke refers the source of the law to the law of morality that Jesus Christ has given to men. He says,

Such a law of morality Jesus Christ hath given us in the New Testament; but by the latter of these ways, by revelation. We have from him a full and sufficient rule for our direction, and conformable to that of reason... Here morality has a sure standard, that revelation vouches, and reason cannot gainsay, nor question; but both together witness to come from God, the great law-maker¹³⁶.

Locke made it crystal clear that the rule of our conduct is to be found in the New Testament. It was the argument that Tyrell and his Oxford contemporaries were waiting from him five years back when he published the *Essay* in 1690. Tyrell was so preoccupied and found nothing to reply to those who accused Locke of Hobbism, so that in his long letter to him on 27th July 1690, he demanded some clarifications on the question as to whether the natural law is founded on Sacred Scripture as God's revealed will. Those accusers of Locke, whom Tyrell referred to as the Christian interpreters of the natural law, were just eager to know if the divine law that he mentions in the *Essay* is the same as the natural law¹³⁷.

134. See *Treatises* II, §20, §207, and §226.

135. *Treatises* II, §18, 280. In section §207, Locke justifies the killing in view to an irreparable loss of life, and maintains that «the Law of Nature gave me a Right to destroy him, who had put himself into a state of War with me, and threatened my destruction», 404.

136. «Reasonableness», in *Works* 7, 143.

137. For the details of Tyrell's letter to Locke, see Goldie, 148-149.

Locke supports this argument with the idea of the insufficiency of reason to be the sole standard of morality. He declares,

The human reason unassisted failed men in its great and proper business of morality. It never from unquestionable principles, by clear deductions, made out an entire body of the law of nature¹³⁸.

Then, a little farther on he says that the obligation of men to this «highest law» originates from the acknowledgement of God as the Law-maker¹³⁹. In that context, Locke refers the natural law to the highest law. That statement strengthens further his idea of the primacy of the natural law over other human laws and its closeness to the eternal law. It is good to note here that the exclusivity of the divine law as the only true touchstone of morality underlines the sole divine origin of all precepts that direct the actions of men.

2.1.5. First Letter on Toleration

The divine law as the ultimate criterion of moral rectitude. In his first *Letter on Toleration*, he exalts the belief in Deity as the ground of morality and excludes it among the purely speculative opinions. He says:

I must only remark before I leave this head of speculative opinions that the belief of a Deity is not to be reckoned amongst purely speculative opinions, for it being the foundation of all morality, and that which influences the whole life and actions of men, without which a man is to be counted no other than one of the most dangerous sorts of wild beasts, and so incapable of all society.¹⁴⁰

2.2. GENERAL OBSERVATIONS IN HIS LATER WORKS

Evidently Locke considered many aspects of his ethical program in the later works but his concern with the theory of the natural law points in one concrete direction, that is to say, to the development of his major political and social thought. All of these works reveal the maturity of his moral doctrines and the consistency with his personal convictions and beliefs, which I would say are definitely stable. I will underline some of those general facets of his theory of natural law that he has left firmly established.

138. «Reasonableness», in *Works* 7,140.

139. *Ibid.*, 144.

140. *Tolerantia*, 15-16.

2.2.1. On the foundation of morality

Locke maintains throughout his later works the indubitable foundation of morality, which is no other than the divine law, promulgated either through revelation or through the light of reason. The natural law definitely finds its origin in the eternal will of God, unalterable and independent of any human or civil authority. Indeed, this law remains the only valid source of other human positive laws and the basis of fundamental rights of men. He insists on the necessary function of the lawmaker for the existence and cognoscibility of any law, which in consequence, establishes the standard of all moral rectitude.

2.2.2. On the obligation of the law

The natural law is generally binding, and Locke has no doubt of its force and validity, provided that the rational nature of man is maintained. The basis of obligation is grounded not only on the participation of the natural law in the eternal will of God but also on the rationality of man. He has a particular concern in the *Treatises* regarding the submission of the will of man to the civil authority, or to the body politic, which is shown by his statement that the civil power is restricted by the bounds of the natural law. In that sense, his concept of the liberty in acting is also regulated by the bounds of the natural law. However, on the idea of moral relations, both in the *Essay* and *Of Ethics in General*, the obligation of man is considered under the measure of conformity or disagreement with any of the three sorts of law.

Nonetheless, it is of divine decree that all men must follow the standard rule of moral rectitude, either for the sake of self-preservation or the attainment of the highest good, that is, happiness.

2.2.3. On the hedonistic views of morality

The *Essay* covers for the most part of hedonistic principles on morality, and it is here that Locke sufficiently develops the wide-ranging extent of his concept of moral goodness and evil, both in its epistemological and purely ethical grounds. He does not specify in the *Treatises* this hedonistic view, but I would say that it is implicitly discussed in his theory of the self-preservation, indicating the general objective of man's inalienable rights to secure his property, which in the mind of Locke is referred to man's life, possessions and liberty. The natural law procures this end for man.

2.2.4. On the executive power of the natural law

This is one of the most remarkable ideas of Locke concerning the rights, or power of man that come from the law of nature. He consistently affirms that in the state of nature, every man has the natural right, or power to execute the law of nature, provided that its execution is grounded on the defense of his life, or the innocent and on protection against tyranny. This power has an individual and personal character that can be extended to all those who are capable of laws, meaning to say, to those who are endowed with rational faculties.

2.2.5. On the division of law

On the general concept of moral relations, the laws are divided into divine law, civil law, and law of fashion or opinion; from which Locke has not included explicitly the natural law. There is only a little insinuation of it in the notion of the divine law concerning the means of its promulgation, that is, through the light of nature; whereas in the *Treatises*, it is too evident. There are many allusions to the great role of the natural law in man and in the political society, especially in the Second Treatise.

CRITICAL ANALYSIS AND APPRAISAL

The doctrines of Locke on the natural law seem inexhaustible and they open still a variety of scientific approaches in Morality. These approaches can be of great interest not only to scholars of Locke's philosophy, but also to several natural law theorists of contemporary times. I have focused my exposition on Locke's theory of the natural law, which I have referred generally to his earliest *Essays* and the other two major works, namely, the *Essay* and the *Two Treatises*. I admit that my exposition has not exhausted the whole ethical program of Locke, but my attempt would likely prove the importance and relevance of the natural law. Indeed, I could have elaborated this or that particular element of his thought but I believe and I am truly convinced that the matters I have propounded so far would be sufficient to bring out some important implications in morality.

From the publication of von Leyden's edition of the *Essays* in 1954 to the present times, there have been a considerable number of studies and

interpretations of Locke's concept of the natural law. And surprisingly, there is growing interest in it. However, it is a challenge to surpass the excellence of Locke on this matter. At the threshold of its fifty prodigious years, Locke's teachings in the *Essays* have continued to shed light on the apparently obscure side of his major works. Many contemporary Lockean scholars, in fact, have benefited from it.

Moreover, the theory of the natural law gave rise to other points of discussion especially on matters of Morality and Politics. Has Locke's concept of natural law acquired additional development since the first publication of the *Essays*? Or, has it raised another problem and interest by stirring the intellectual quietude of modern times? If Locke had laid down far and wide in the *Essays* everything he needed to explain to Tyrell and his contemporaries, there would be no more left to say. In whatever case, there is still a growing amazement and intellectual gusto for the study of Locke's concept of the natural law. In fact, some scholars have initiated a society and foundation to immortalize the idealism of John Locke¹⁴¹. Concretely, on the concept of the natural law, there are no more new ideas added in Locke's *corpus philosophicus*, but there have been several interpretations proposed by modern Lockean scholars. In the following sections, I will give my critical analysis of his own concept of the natural law, with due respect to some modern interpretations of the subject matter. The new approaches to his natural law theory gave rise to several points of interest, which I will also try to elaborate.

1. THE DISTINGUISHING MARKS OF THE NATURAL LAW

There is one very notable aspect of Locke's understanding of natural law which, after a short retrospect to his antecedents and contemporaries, I can affirm that he had profoundly delved into the core of the subject matter. His knowledge of the natural law is awe-inspiring. The *Essays* manifest his interest and rich knowledge of the natural law, in the sense

141. Most recently in 1990, a group of North Carolinians created the **John Locke Foundation** as an independent, non-profit think tank that would work «for truth, for freedom, and for the future of North Carolina». John C. Attig of Pennsylvania State University has been directing the publication of **Locke Studies**, an annual journal of Locke research, edited by Roland Hall. It began publication in 1970 under the title *The Locke Newsletter*; the title was changed to Locke Studies in 2001. The **Locke Institute** was founded in 1989 as an independent, non-partisan educational and research organization. It seeks to promote a greater understanding of natural rights, its implications for constitutional democracy and for modern society's economic organization. *All sources are from the website. On Locke Studies, visit: <http://www.libraries.psu.edu/tas/Locke> (2003) and on John Locke Foundation, visit: <http://www.johnlocke.org/> (2003) Last consulted on 10th March 2003.*

that he was able to connect its classical notions with the modern conceptions. I recognize his expertise and great ability to determine with conviction and clarity every aspect of the natural law. It shows that he devoted so much time and effort to reading and pondering it. A closer look at the several illustrations he used in the *Fifth*, *Seventh*, and *Eighth Essays* will lead us to the ancient Greco-roman times and will bring us to as far as the Asian and Southern American civilizations¹⁴².

With respect to the eternal and immutable character of the law of nature and to its divine origin, I may qualify Locke as a scholastic Christian bearer of the natural law theory in the midst of Humanism and rapid scientific progress. I ground this consideration on his firm conviction that the natural law is the decree of the divine will and participates in the eternal law of God. His acknowledgement of the divine Lawmaker as the only promulgator, who has the right and full authority over it, leads him to a solid theological conception of the natural law. Acknowledging the natural law as part of the divine plan with inherent rewards and punishments, Locke must have resorted to the Aristotelian teleology that every nature tends to its end. The natural law has a divine origin and it aims towards the acquisition of an eternally designed end, that is, perfect happiness. Such was his adherence to the theological feature of the law that some modern Lockean scholars have regarded him as an advocate of medieval voluntarism. The inseparability of Morality and Theology in the plain scholastic view is palpable in Locke's belief in the divine origin of the natural law.

However, the more he insisted on the theological conception of the natural law, the more emphasis he put on its rational character. For example, he identifies the law of nature as the law of reason, unwritten and to be found only in the minds of men since it is made known by reason alone (ELN, I and TTG II, 136). His main point is plainly underlined here, that is, the importance of man's rationality in the cognoscibility of the natural law. I do not ignore this rational aspect in the classical concept of the natural law, because the idea of the natural law as the law of reason was so prevalent in Cicero, St. Thomas Aquinas, and Hooker.

I wish to emphasize here the way Locke refuted those errors regarding the avenues of knowledge of the natural law, namely, by inscription, by tradition, and by the general consent. He resorted to the principle of «sense-perception and reason», that is, the commonly known *lumen naturae*, in order to establish the rationality of the knowledge of the natural law. Can we infer, then, that his insistence on the sense-experience and reason was an insinuation already is this a theory regarding empirical mothers?

142. See for example his illustrations of the different religious practices of cult and ritual sacrifices, of the understanding and exercise of justice, of the observance of matrimonial rites, and of diverse application of sanctions of civil laws. ELN V, 167-171.

Thanks to the influences of Sydenham, Boyle, Thomas, and the other great French scientists, he learned the experimental and corpuscular approach to the reality of things. But since the *Essays* were already written long before he met those great physicians and scientists, it cannot be argued that the rationality thesis in the *Essays* was a result of his collaboration with them. Rather, his empirical theory is posterior to the *Essays*, though not absolutely distinct with his «individualistic» approach to the cognoscibility of the natural law. Nevertheless, presuming that his empiricism was already latent in the *Essays*, then his encounter with those prominent thinkers was just another way of consolidating his vocation to empiricism. Whether it was latent there or not, I would suppose that the seed of empiricism had taken root then in his mind. At any rate, the empirical consideration of the law is fully perceived in his discussion of moral relations. In the *Essay*, Locke firmly established that the moral rule and all moral notions are just simple ideas we receive from sensation and reflection¹⁴³.

If the voluntarist and intellectualist elements of the natural law were evidently present in his *Essays*, what other distinguishing marks of the natural law can we draw out this work that modern scholars have likewise observed? Undoubtedly, it was his adaptation of the anthropological and social concerns with regards to the binding force of the natural law. It is evident that in Locke's time, great thinkers like Grotius, Hobbes, Pufendorf, and Culverwel were concerned with the extent of man's subjection to the authority, the idea of freedom, toleration, the social norms, and the proper use of rights in the self-preservation principles. All these trends are akin to the concept of the natural law and are truly remarkable in Locke's anthropocentrism. His natural law theory is in its consideration on the concept of the human person. For that reason, Locke emphatically insists that the natural law «is so firmly rooted in the soil of human nature. Hence human nature must needs be changed before this law can be either altered or annulled»¹⁴⁴.

On this aspect, Locke developed a deeper understanding of the obligatory character of the natural law. He asserted that no one could be exempted from its binding force, especially those who are endowed with the use of reason. But much later, clarifying his position, Locke would negate its binding force upon idiots, children, and the demented (ELN III). Therefore, it is plain that there exists a harmony between the natural law and the rational nature of man.

In the fourth argument on the existence of the natural law, Locke made use of the human society as an evident proof that the law of nature is

143. *Essay* II.28.14, 480.

144. ELN VII, 199.

indispensable to any human institution. Although his main objective in this part is to show the important role of the natural law, it is also implicit that Locke could not ignore the social sense of the law. It is within the society that the natural law can have its full and real expression; it is in human relationships where its binding force can take effect, such as the obedience of the people to the magistrate, or of children to their parents. In the *Two Treatises*, Locke asserts that the fundamental law of nature is the preservation of mankind¹⁴⁵. It is so clear in his later conviction that the law of nature exists for the good of all men, for their protection and security, and the preservation of property.

In summary, it can be inferred that his concept of the natural law is theological, rational (and inherently empirical), anthropological, and socially oriented. Locke established a significant value of moral principles in his consideration of the binding force of the natural law. His concern for the fundamental basis of the natural law has created a wide-ranging field of intellectual work, which brought positive appraisal of the natural law theory.

2. THE TENETS OF THE NATURAL LAW ARE DEMONSTRABLE.

Another innovative aspect of Locke's theory of natural law is its demonstrability, which Hancey observes as a kind of deviation from the traditional conception of the law. He grounds his analysis on the following text of Locke in the *Essay*, and I quote,

Morality is capable of demonstration, as well as mathematics: since the precise real essence of the things moral words stand for may be perfectly known, and so the congruity or incongruity of the things themselves be certainly discovered; in which consists perfect knowledge¹⁴⁶.

Locke established the cognoscibility of the natural law on the basis of demonstrable means, that is to say, on the things knowable to man's rational faculties. This is his most constructive statement on this matter: *the precise real essence of the things moral words stand for may be perfectly known*. Hancey observes that, «The search for a demonstrable law of nature reflects Locke's great (and perhaps, undue) faith in the ability of men to come to grips with their world»¹⁴⁷.

Geraint Parry accepts also the demonstrability of the natural law and attributes it to man's rationality, however, he emphatically ascribes it

145. *Treatises* II, §135, 358.

146. *Essay* III.11.16, 156.

147. Hancey, 441.

to the important contribution brought by the experiences of man. Individual experimentation can provide a better rational explicability of this law, and in such case, Parry maintains a clear empirical basis of the natural law. He insists that, for Locke, the «knowledge of the law of nature –the universal laws of morality– is based on reasoning from experience of the world»¹⁴⁸. This inference gives rise to his theory of individuation, wherein he admits the accessibility to the knowledge of the natural law through the experience of each individual. In the next section I will deal with it in more detail. Hence, the possibility of demonstrable ethics emerges from the interplay of the intelligibility of God's works of creation, that is, the fact that man can perceive them in his daily experiences, and the rationality of man.

In my exposition on the cognoscibility of the natural law, I made an allusion to its demonstrability when I showed the important role of the light of nature. The joint exercise of sensation and reason paves the way to the knowledge of the natural law. His idea of the *lumen naturae* is the cue to this demonstrable knowledge. Similarly, his insistent negation of the *Cartesian* innate ideas puts him closer to his empirical principles, and consequently, to demonstrable ethics. With his views on the three possible avenues of knowledge, Locke showed clearly the big difference between the knowledge acquired through experiences, that is, by means of sense perception and reason, and the knowledge supposedly inscribed in the soul of man, or merely handed down by men through successive generations. His main point is that, in the other two avenues of knowledge, namely by inscription and from tradition, there is no assurance of the validity of truth and no stability on the basis of the authority. Likewise, they are incapable of demonstrating the knowledge of truth about the natural law, and can be accepted only as proof of beliefs.

The acceptance of innate ideas devalues the power of reason and ignores the process of intellection, as Locke observes, «the moral propositions are known to us without any study or deliberate consideration» (ELN, III). For Locke, no knowledge results or is derived from merely irrational means such as the knowledge from tradition. Simple belief or popular approval cannot demonstrate the knowledge of the natural law since the sole basis of its demonstrability is the rational nature of man.

It is plain, therefore, that the demonstrability of the natural law supposes all the means proper to the nature of intellective faculties of man, and for that reason, Locke rejects «belief and opinion» and general consent as the basis of the natural law. Locke's proposition shows the inadequacy of belief and general consent to prove and demonstrate the existence and knowledge of the natural law. For him, man's «knowledge de-

148. Geraint PARRY, *John Locke* (London: George Allen & Unwin Publishers Ltd., 1978), 5.

depends on the evidence of facts» (ELN, II). In any demonstrable science, a rational character is requisite, either in its object or in its means, without which, it cannot be regarded as a true knowledge. In that context, Locke does not qualify as natural law that which is derived from tradition, but rather, he calls it a «derived law» (ELN, II). Among the modern Lockean scholars, no one denies his innovative approach to the demonstrability of the natural law.

3. INDIVIDUALISM

In the introduction to his work, *John Locke* (1978), Parry observes that in the context of toleration and the magistrate's authority over religion, Locke's «intellectual anti-authoritarianism» was already apparent in the early *Essays*. He assumes that,

By 1667 Locke may already have felt that the way to the knowledge of the law of nature and to salvation required individual experiment and that the dangers of religious experimentation were not so great as he had once feared¹⁴⁹.

Parry approves this argument without a second thought, taking into account Locke's change of attitude on toleration after having observed in 1665 the peaceful and orderly living, in spite of the different beliefs, of the people of Cleves. Locke's experience there must have induced him to have a more tolerant attitude concerning one's right to act and worship according to his personal beliefs in God. Locke believes that these rights are derived from the natural law. From this contention Parry imputes the individual concern of Locke towards religion. He states,

The law of nature entails that one respect other persons as equally creatures of God, and desist from injuring them by unfairly denying their right to express their own sense of individuality to the degree of which they are capable¹⁵⁰.

There are two salient points that Parry underlines in his theory of individuality, first, that man can obtain the knowledge of the natural law through his individual experience; and second, that salvation is a matter of individual concern. No one has the power either to impose the way in attaining it, such as a creed to profess or a religion to follow, or to deny the

149. Parry, 6.

150. *Ibid.*, 13.

right of practicing one. Every individual has an equal right to express his belief, and that right springs from the law of nature. Much later, Parry affirms that, «the foundation of Locke's theory of individuality lay in a view of man as a being with rights and duties in a divine order of creation»¹⁵¹.

Likewise, in his study of Locke's approach to the cognoscibility of knowledge, Hancey shows himself in favour of the principles of individualism. Adhering to Locke's idea that tradition cannot be the source of knowledge, he admits that, «the correct ordering of sense-perceptions and rational deliberation about their import are matters for the individual»¹⁵². He assumed this individualistic tendency of Locke on the basis of his early Puritan formation with its emphasis on the individual's vocation.

On the other hand, von Leyden reveals the contrary position of Locke by the year 1660-1, when he refuted Bagshaw's claim of an individual's right regarding indifferent things in matters of religion. Locke affirms that for public security and peace, the civil magistrate has the power to intervene in religious matters, and declares that this power is derived from the natural law. Thus, in his *First Tract on Government*, Locke declares, on the basis of a social compact

That supposing man naturally owner of an entire liberty, and so much master of himself as to owe no subjection to any other but God alone... it is yet the unalterable condition of society and government that every particular man must unavoidably part with his original right to liberty and entrust the magistrate with as full a power over all his actions as he himself hath¹⁵³.

Before these two opposing interpretations, I have to warn that the incongruity should not be seen in the context of the work itself but rather in the different historical contexts and objectives wherein the matter was being considered. Moreover, I suppose that the opposing statements of Locke can be applied solely to his consideration of the submission of an individual's right regarding the indifferent things of religion. But, in the context of the cognoscibility of the natural law, Locke maintains his position on the principle of individuality. Parry regards it as one of Locke's major contributions to the theory of the natural law.

I believe that Locke did not intend to come out with a theory of individuality from his study of the natural law, although it is also undeniable that he was fully aware of its implications. In fact, he mentioned it in some

151. *Ibid.*, 14.

152. Hancey, 442.

153. John LOCKE, *Two Tracts on Government*. Edited by Philip Abrams (Cambridge: Cambridge University Press, 1967), 125. Hereafter referred to as *Two Tracts*.

scattered texts of his major works. The idea of individuality arose as a consequence of his rejection of general consent and tradition as avenues to the knowledge of natural law. Yet, I suggest that it is in man's rationality where a strong foundation of the theory of individuality resides. This is evident in the context of the cognoscibility of the natural law because, as I have cited before, Locke insists on the possibility of arriving at the knowledge of truth «by (man) himself without the help of another, if he makes use of the faculties he is endowed with by nature» (ELN, II).

The abovementioned argument is a clear declaration of each individual's power; it highlights the rationality of man and his independency in obtaining the truth. Man is auto-sufficient with respect to *lumen naturae*, and such sufficiency is drawn from the rational character that God has given to man. This sufficiency is applicable solely and basically on the level of knowledge, that is to say, in the acquisition of the knowledge of the natural law. It is not my interest now to deal with the individualistic feature of one's salvation; I would leave it for a separate study¹⁵⁴.

4. THEISTIC ABSOLUTISM VERSUS MORAL RELATIVISM

One of the important points that Locke also emphasized was his consideration of man's happiness and misery as a consequence of his obedience or disobedience to the moral rules. In the *Essays*, he insists on the important role of the divine Legislator as the reason for man's happiness or misery. God has included in his eternal design of the natural law, the divine rewards and punishments. In that sense, the hedonistic feature of the law seems to hold a more theological aspect. Man's destiny is totally dependent on the will of God. However, in his later works, particularly in the *Essay*, his hedonistic principles show a uniquely personal character. He asserts that, «Good and evil... are nothing but pleasure or pain, or that which occasions or procures pleasure or pain to us»¹⁵⁵. From these different perspectives, there arise two conflicting theories, namely, theistic absolutism and moral relativism.

This contradiction is not surprising, and from the time of Locke to the present, many scholars have observed this inconsistency. Many of them have also proposed several solutions to the problem. Before going

154. Primarily, I intended to include in this work an extensive exposition on Locke's concept of the human person, but I have found it more advantageous to deal with it separately in order to focus here my attention on the natural law. The salvation of each individual that Parry mentions is closely connected with Locke's idea of the personal identity and the doctrines on the rewards and punishments in the *Essay*.

155. *Essay* II.28.5, 474.

further to those proposed solutions, I would first like to clarify the arguments that might have brought him to either of these approaches: theistic absolutism or the moral relativism.

On theistic absolutism, I think there are enough citations that I have included in the third chapter of this work, particularly on the fundamental source of the natural law and its obligatory nature. I would recall only some of his most salient and significant arguments. For example, on the subjection of man to the divine will, Locke states,

Reason lays down that there must be some superior power to which we are rightly subject, namely God who has a just and inevitable command over us and at His pleasure can raise us up or throw us down, and make us by the same commanding power happy or miserable¹⁵⁶.

It seems evident that Locke underlines here the dependence of man's actions and destiny on the power and wisdom of God. It is the will of God that makes man happy or miserable. Locke has referred to divine causality in order to prove the insufficiency of man to be a cause of himself; man lacks all the perfections that God has. For that simple reason, man has to rely on the wise and just power of God to enable him to perform virtuous acts and to shun vicious ones. So, man's destiny is totally dependent on the will of God. As I have shown earlier, Locke owes this voluntarist view to his scholastic background. He acknowledges too that the only source of natural law, and morality in general, is God, as the divine Lawmaker. He maintains this argument in the *Reasonableness of Christianity*, when he refers to the law promulgated by Jesus Christ in the New Testament the true foundation of morality.

In the same way and with the same force, Locke asserts that the obligation of man to the natural law is drawn ultimately from the will of God. Thus, when he discusses the kinds of obligation, especially about the law that obliges man *effective et terminative*, he makes it clear that,

We are indeed bound by Almighty God because He wills, but the declaration of His will delimits the obligation and the ground of our obedience; for we are not bound to anything except what a lawmaker in some way has made known and proclaimed as his will¹⁵⁷.

Curiously, in the *Essay* he also makes this assertion immediately after his argument on the apparently relativist view of morality. There, he declares that the divine law is the «only true touchstone of moral rectitude» (*Essay* II.28.8). So far, I have shown here his arguments on theistic abso-

156. ELN IV, 153 & 155.

157. ELN VI, 185 & 187.

lutism on two grounds, that is, the fundamental source of the natural law and its obligatory nature. This is undeniably a clear manifestation of Locke's voluntarist view and his obvious acceptance of medieval theistic Ethics. Let us take a look now on the relativist perspective of his morality.

First of all, I would like to make a little clarification on his concept of hedonism in the *Essay*. The consideration of pleasure and pain comes out as a consequence of Locke's concern for the origin of moral ideas. Under the general heading of the *Moral Relations*, Locke draws the moral ideas of good and evil, and asserts that, «Moral good and evil, then, is only the conformity or disagreement of our voluntary actions to some law, whereby good or evil is drawn on us, from the will and power of the law-maker»¹⁵⁸. His primary object here seems to be the «relation» between the actions of man and some kind of law, in order to establish finally the origin of the moral ideas of good and evil.

At the bottom of this argument, I would assume that Locke did not intend to discuss here the natural law as such. In fact he did not mention the word «natural law» in the *Essay*, instead, he included it under the classification of the divine law, or sometimes under the law of opinion. The idea of the law comes in as the parallel post of man's actions and it is there that the agreement or disagreement enters. Hence, the attribution of the hedonistic principles to the natural law is a result of the general consideration of the moral relations as simple ideas.

What do we mean by moral relativism? When we say that morality is relative, we mean that there is no absolute basis of goodness and evil; that our actions can be good or bad depending on the different circumstances, or on our purely subjective knowledge of moral norms. It means that moral goodness and evil depend on the convictions of each individual. The moral obligation does not mean simply a subjection of man to the superior power, but rather a personal recognition of his capacity to attain the end of his actions. In the case of the natural law theory, it also implies that the natural law would no longer be immutable and universal, for its moral truth would depend and conform to the convenience of each individual.

By moral relativism, we also mean that the rectitude and the validity of moral acts are measured not simply by their conformity or disagreement with the laws, but rather by the personal disposition of the subject. Locke's moral relativism is wrapped in his hedonistic principles, wherein good and evil are considered as pleasure and pain. In this context, Locke asserts that,

Good or evil.... are nothing but pleasure or pain, or that which occasions or procures pleasure or pain to us. Moral good and evil, then, is

158. *Essay* II.28.5, 474.

only the conformity or disagreement of our voluntary actions to some law, whereby good or evil is drawn on us, from the will and power of the law-maker; which good and evil, pleasure or pain, attending our observance or breach of the law by the decree of the law-maker, is that we call reward and punishment¹⁵⁹.

Likewise, in the *Ethics in General*, Locke admits this relativistic view of good and evil as follows,

For good and bad, being relative terms, do not denote anything in the nature of the thing, but only the relation it bears to another in its aptness and tendency to produce in it pleasure or pain; and thus we see and say, that which is good for one man is bad for another¹⁶⁰.

The former quotation points to our conceptual knowledge of moral good and evil, which I believe, attends to Locke's assertion of its relational character. What we can expect from this proposition is primarily an epistemic consideration of morality. Hence, in this context, the epistemic concept of moral good and evil is grounded, as Locke asserts, «on the conformity or disagreement of our voluntary actions to some law». Then, he insists that it does not affect the nature of the thing, for the simple reason that they are mere «relative terms». Nevertheless, it is good to note his attribution of pleasure and pain to our knowledge of good and evil. In that sense, the latter quotation coincides with the former one.

Some commentators observe that Locke's moral relativism is grounded on his denial of the existence of an intrinsic property of goodness and evil. In the absence of an intrinsic good and evil, Locke offers relational properties of good and evil under the forms of pleasure and pain. When he says that «good or evil is that which occasions or procures pleasure or pain *to us*», he is advocating already an implicit subjective morality. Moreover, his assertion that «which is good for one man is bad for another» strengthens further his idea of moral relativism. Supposing that this were Locke's main tenet of the moral goodness and evil of our actions, then, it would contradict his earlier assertion that the only true touchstone of moral rectitude is the will of God, that is, that moral goodness and evil are founded on the objective divine will.

The inconsistency is obvious and inevitable. If the entire ethical program of Locke had validated both sides, there should exist an exit from these confusing arguments. Since Locke did not provide us with clarifica-

159. *Ibid.*

160. *Of Ethics in General*. Source:

<http://www.philosophypages.com/locke/k110.htm> (2001).

Consulted on 31st October 2003.

tion of these aspects of morality, the interpretations also vary from one author to the other. Some scholars have tried to find a solution to this incongruity, and I will try to present some different attempts of interpretation on this matter, like that of Polin, Colman, and Zinaich.

On the nature of good and evil, Polin addresses the problem by analyzing the origin of our moral concepts, from which he deduces the essential role of the pleasure and pain. He is aware of the incongruity in the foundational criterion of moral rectitude and validity, but he has not found great difficulty in reconciling the role of the will of God and the empirical approach of Locke to the origin of the moral concepts. The point to which he gives greater emphasis is his idea of pleasure and pain as the «visible criteria of good and evil», which, in this case, fall under the designed order of God's will. It is under the context of sanctions of law that Locke situates the pleasure and pain¹⁶¹. I observe that Polin's interpretation is an attempt to put together the theistic absolutism and the moral relativism under the wide-ranging hedonistic principles of Locke.

In the first place, Polin admits Locke's idea that good and evil are moral relations, and as moral relations, consequently, they are derivations of complex ideas. In the mind of Locke, these ideas ultimately originate from the two main sources: one is natural, and another is institutional. The natural source refers to the natural law promulgated by God, and the institutional is the product of man's rational processing that begins from his experiences. In the end, Polin proposes a reciprocal collaboration between the will of God and the rational faculties of man¹⁶². In this aspect, he does not only avoid the conflicting question of absolutism and relativism, but also provides a safe way out.

Like Polin, Colman recognizes the two conflicting aspects of Locke's morality, that is, his ethical rationalism, so prevalent in his earlier *Essays*, and the moral relativism which appears in the context of his hedonistic principles in the *Essay*. Colman tries to resolve some of the objections

161. «La moralité dépend donc tout entière, non pas seulement de l'existence d'une loi naturelle, mais du fait que cette loi puisse être assortie de sanctions. Or, en dernière analyse, ces sanctions sont faites de bonheur et de malheur.... (Le bonheur et le malheur) forment les critères visibles du bien et du mal, du permis et du défendu, du devoir ou du péché, les signes de sa volonté que Dieu a permis aux hommes de comprendre. Dans ces conditions, la moralité ne prend un sens que s'il existe un ordre voulu par Dieu dans sa bonté et dans sa sagesse, et au sein duquel il dirige nos actions vers le meilleur». Raymond POLIN, *La Politique Morale de John Locke* (Paris: Presses Universitaires de France, 1960), 56.

162. «La vie morale ne descend pas de Dieu en nous, nous n'avons pas à la recevoir passivement, c'est une tâche d'homme à exécuter, une oeuvre à construire. Dieu est le fondement de la moralité, mais c'est à l'homme de le découvrir et de l'établir». Polin, 57.

latent in these two aspects of Locke's morality. His main aim is to show that there is no inconsistency in the moral theory of Locke.

Against those who claim that Locke's philosophy is contrary to the natural law theory, Colman affirms that, «Locke does not find the content of morality in the arbitrary will of God. The view of him as theological voluntarist is due to a failure to distinguish between his account of moral obligation and his moral epistemology»¹⁶³. Colman is convinced that these are two separate topics in Locke's morality. On one side, actions are considered right or wrong with respect to the law promulgated by God and binding on all men. On the other side, the moral concepts of good or evil are drawn from the interests and needs of every individual. However, with regards to the latter, Colman clarifies that Locke does not propose here a utilitarian theory, but rather maintains his natural law principles.

On the objection that Locke upholds a cultural moral relativism, that is to say, that right and wrong are determined by the variable law of opinion, Colman suggests that Locke does not deny the first cultural moral formation of man, but he insists that the true touchstone of moral rectitude is the unvarying divine law standing behind the law of opinion¹⁶⁴. Still others object that Locke departs from the classical natural law tradition, but again, Colman refutes them by saying that, «He certainly could not be considered a natural law theorist if he maintained that the content of morality was alien to human nature and imposed by God upon man, but quite clearly he does not hold this view»¹⁶⁵.

Colman confronts an even harder problem to resolve, that is, the incongruity between the absolute and objective validity of the divine law as the only source of moral rectitude in the *Essays*, and the subjectivist and relativist notions of good and evil entailed in Locke's hedonistic principles in the *Essay*. His hedonistic principles lead inevitably to a kind of individualism with respect to the relative causes of pleasure and pain. Likewise, since the source of pleasure has to be decided by each individual, there ex-

163. Colman, 237.

164. Zinaich interprets this argument as if Colman placed the law of opinion above the natural law, and concludes that Colman admits the tradition as the main source of knowledge of the Law of Nature. I disagree with the interpretation because Colman states clearly in the following line that: «The fact that he does not finally settle upon a rationally founded law from which all other precepts of morality can be derived is *hardly evidence that he does settle for ethical relativism*». (Colman, 238) To say that Locke does not settle for ethical relativism is to admit that he rejects «tradition» as the main source of knowledge of moral rectitude. In that sense, Colman's usage of the preposition «behind» would take not a pejorative «weaker signification», but rather a positive one, that is, «in support of». Samuel ZINAICH Jr., «Locke's Moral Revolution: from natural law to moral relativism», in *Locke Studies*, 31. Edited by Roland Hall (York: Uni-print, Lancaster University, 2000), 88.

165. Colman, 240.

ist different ways of attaining human happiness, and there can also be varied objects of good. In the end, it simply implies that «there is no absolute and universal content to human happiness. Even the joy of heaven cannot be considered man's *summum bonum* in the sense that it perfects human nature»¹⁶⁶. Locke resolves this problem by resorting to the eternal reward as the only true happiness and final end of man, because it is only the eternal reward in the next life that can procure a «pleasure without any admixture of pain».

To show the consistency of Locke's doctrine on the existence and content of the natural law with the hedonistic principles, Colman infers that «even Locke's subjectivist and relativist account of good and evil may be seen as arising out of an endeavour to defend the traditional natural law ethic»¹⁶⁷. I restate that in this argument, Colman sees no difficulty in reconciling them because it is merely a problem of proper distinction between Locke's account of moral obligation and moral epistemology. I observe that Polin and Colman have one thing in common, that is, their focus on hedonism as a link to the two opposing poles of absolutism and relativism.

In his recent study on the inconsistency of Locke's moral theory, Zinaich has found the proposals of Colman (and Laslett) insufficient and unsatisfactory, so he suggests a new solution to this problem. He takes as his point of departure the corpuscularism of Boyle as one of the most possible ways of exit to this knotty Lockean morality. But, he also admits some advantages and disadvantages of this proposition. On the positive side, he believes that by internalizing Boyle's corpuscularism, Locke attempts to reject theism altogether and maintain instead a relativistic conception of moral goodness and evil. While on the negative side, Zinaich observes that it does not square with the committed Christian life of Locke nor with the text of the *Essay*. Moreover, this proposal disapproves the experimental attempt of Locke at the new science¹⁶⁸.

Zinaich believes that, for Locke, moral relativism is an extension of Boyle's corpuscularism; and that he tries to establish a moral standard based on the implications of the new science. In this way, Zinaich resolves to liberate Locke from the opposing forces of the theistic absolutism and moral relativism. Then, he states the many advantages of this view.

First, it squares well with his rejection of the existence of moral properties and his argument for the relativity of moral goodness and evil. It also works well with his placement of the Divine Rule on the equal footing

166. Colman, 242.

167. *Ibid.*

168. Zinaich, 96-97.

with the other rules. The interpretation also fits well with his personal views on Christianity and his attempt to adjust the text to avoid trouble. Finally, this last view draws together his views of virtue and vice and the experimental flavour of the *Essay*¹⁶⁹.

I have no doubt about the interests and the objectives of those three authors I have cited above. They have their respective arguments that, though they do not coincide with one another, they both recognize the two distinct moral propositions of Locke. I agree that the theistic absolutism, or the ethical rationalism in the *Essays*, and the moral relativism in the *Essay* are inevitable, or I may say, almost necessary. I think, Laslett has a more convincing argument with respect to what we have been intending to clarify: both the earlier voluntarist conceptions of Locke of the natural law and the later relativist view of morality are irreconcilable – despite the fact that Zinaich disapproves it.

Zinaich grounds his disagreement with Laslett only on the basis of Locke's inability to find a solution, but upon going further on the same text, he does not give attention to the proposition that he shares Laslett, that is, the different starting-points or the different contexts in which Locke began both works¹⁷⁰. What I am trying to show in this argument is that both aspects of Locke's morality cannot be considered only or restrictively from its textual content, but also, from the different historical contexts in which Locke wrote these important works. Evidently, whatever attempts we make, or whatever solutions we propose, no doubt these will be valid and acceptable. However, once the historical context and the intellectual program of the author are neglected or disregarded, all the solutions will remain relative and purely suppositions.

For that reason, Colman is right in saying that these are two separate topics of Locke's morality, and therefore, no inconsistency should be posited. Laslett has reason to say that the *Essay*, which is intended to establish the origin and extent of our moral knowledge based on empirical

169. *Ibid.*, 99.

170. See LASLETT, «Introduction», in *Treatises*, 83-84; and Zinaich, 100 and 108. Take note, for example, Laslett's argument: «The close analysis of his text has revealed only one example of this author using identical material in both works, and then in a passage probably inserted later. The style, the type of argument, the atmosphere are all recognizable as from the same writer, but in every other aspect they differ remarkably». Then a little further he says, «It (the *Essay*) is written for an entirely different purpose and in an entirely different state of mind» (83-84). Zinaich, for his part, argues: «I disagree with Laslett's reason because there is a better explanation of the incompatibility of these two works, which rests upon the different starting-points which Locke begins both works». Also much later he clarifies: «Locke begins the *Essay* with a totally different presupposition, which stems from his reason for writing the *Essay*» (100 and 108).

data is irreconcilable with the *Two Treatises* because the moral principles that Locke infers there are basically developed in view of the social and political contexts and needs. Similarly, Zinaich's proposition of Locke's internalization of Boyle's corpuscularism that bridges the gap with the traditional philosophy is worthy of note.

I admit that this might be a shallow (or ridiculous) solution for a deeply philosophical problem, but that is the reality, and we cannot proceed in our analysis without considering this aspect. I propose that each particular work of Locke on morality be considered separately in order not to confuse the intrinsic doctrines prevailing on each work. I presume that when Locke was writing the part of the *Essay* on moral relations, his entire attention was focused on his epistemological program. Similarly, when he was discussing the natural law in the *Two Treatises*, his mind was totally concentrated on its social and political implications. If such were the case, then from an all encompassing perspective of Lockean morality, the possibility of incongruity could be highly expected which in fact, many scholars have clearly noted it. This, in fact, is the observation of many scholars.

If Locke had only followed a single ethical program, he would have created a consistent moral theory on both epistemic and political levels. But, as he himself said to Tyrell, while he was reediting some parts of the *Essay*, he left the topic of general ethics for some opportune time, his ethical concern was not put into total oblivion, but was temporarily suspended until the opportune time, which in fact, had not materialized.

5. LOCKEAN NATURAL LAW THEORY: YESTERDAY AND TODAY

My final task is to present Lockean natural law theory in the current moral and political situations of the world. I dare to challenge my great philosopher and put his moral principles before the most varied contemporary trends. There are two fields where I wish to find the relevance of his natural law theory, that is, in Ethics and in Politics.

In the field of Ethics. Nowadays, the awful reality is that many people seem to ignore the fundamental law of nature, the reason of which can be traced primarily to either the lack of, or a defective formation of reason and will, or the obstinate mind and heart of man himself. Without faulting anyone, a horrible parade of immoralities continues to creep into the life of people and passionately devours the innermost thoughts of the old and the young, alike. Thus, the faces of wiles become so tangible and active that the boundaries of the truth are dimmed; the most basic principle of morali-

ty, that is, doing good and avoiding evil, appears to stand at the edge of the precipice. One of the chief causes of all these evident ploys of evil is none other than the abandonment of the law of nature.

The most affected creature of this moral avalanche is the human person, whose value and dignity are oftentimes considered as mere instruments for technical and scientific advancement. Recently some groundbreaking research was successful but only following failed attempts that squandered many human lives. I have in my mind the recent achievement of Korean specialists who have perhaps effected the first human cloning through the use of the stem cell embryos. It was said that of the 242 ova, only one was successfully a stem cell embryo¹⁷¹.

In the name of honour, prestige, and towering world record, artists, athletes, and world fashion protagonists are sometimes subject to unreasonable and inhuman trainings and sustenance. In the disguise of culture and art, young people are informed (as opposed to formed) to believe that certain cultural and artistic activities are morally sound and deeply rooted traditions that are meant to survive as part of the social identity¹⁷². There are more unnamed varieties of evil in the world today that seem to re-transmit the words of Locke:

Nay, by this time every kind of evil has grown up among men and spread over the world and become mixed with everything. In the past men have already shown so much ingenuity in the corruption of morals and such a variety of vices that nothing has been left for posterity to invent or to add, and it is impossible for anyone to commit any crime whatsoever of which there has not been an example already¹⁷³.

There is an indubitable truth in the words of Locke that can be applied to the current moral degradation in the society today. When people take general consent or the utility principle as the basis of the natural law, no doubt, several kinds of evil would likely emerge. So, the main reason for social malady is not that man ignores or has no knowledge of the natural law, but rather that he mistakes it for the principles that are mere human inventions.

171. Rafael SERRANO, «La primera clonación humana...» in *Aceprensa*, 26/04. Edited by Ignacio Aréchaga (Madrid: Larvi, 2004), 1-2.

172. In some countries there are certain cultural practices that for other countries are morally unacceptable and intolerable, like the public immodest parade of carnivals in Rio de Janeiro, Brazil; the bullfight in Spain; the live dramatization of a cruel crucifixion or the eating of immature unhatched chicken («balut») in the Philippines, the boxing and wrestling in the United States of America, etc.

173. ELN V, 165.

However, paradoxically, despite the global corruption of morals, everyone claims to be a great advocate and defender of human rights. People are becoming more and more aware of this inalienable right, though in many occasions it is understood as the correct realization and expression of freedom. There is an impressive resurgence of a clamour for rights, both from the part of each individual person and from the institutional community. Moreover, this concern is extended not only to human beings, but also to the entire work of creation. It is remarkable that some groups claim to defend the rights of animals. Regarding the preservation of the environment, there are also movements that struggle for the basic human right to live in a healthy and satisfactory environment¹⁷⁴.

We have also heard of some strong and influential bands of society who promote newly conceptualised forms of relationships or unions, and try to pursue their goals in the name of individual human rights¹⁷⁵. There was a case of a lesbians in Spain to whom the adoption of twin girls conceived through artificial insemination by one of them, was granted by the judicial court. The result was that lawfully the twin girls have two mothers but have no father. This is another claim for the right of homosexuals to form a family. We live in a «world of Rights» and there seems to be no way to ignore it. It appears that in the whole context of morality, men think and act with a profound ignorance, of absolute truth. People want to establish an ideal autonomous moral life. Are they aware that the rights they strive to claim should be founded on the natural law?

It is true that Locke acknowledged the perfect freedom of men over any human authority? However he also declared that all rights of man must be grounded in the law of nature. Therefore, the freedom and the rights of man are measured and limited by the natural law. He says,

174. The United Nations Organization declared the right of man to live in a healthy and satisfactory environment during its Meeting of Experts on Human Rights and Environment on January 14-15, 2002. In section 8 of the Conclusions, it says: «the experts noted that in the last decade a substantial body of case law and decisions has recognized the violation of a fundamental human right as the cause, or result, of environmental degradation». Source: <http://www.unhchr.ch/environment/index.html> (2002). Consulted on 20th April 2004.

175. In the headlines of 16th April 2004 of the Human Rights Campaign News, appears this title: *Thousands mobilize against federal marriage amendment upon launch of human rights campaign meetup*. It was a demonstration to oppose an anti-gay amendment to the U.S. Constitution. «No one wants discrimination written into our nation's founding document and fair-minded Americans across the country are speaking out», said HRC President Cheryl Jacques. «The early success of our Meetup initiative demonstrates the groundswell of opposition to using the Constitution to deny rights to any American». Source: <http://www.hrc.org/> (2004). Consulted on 20th April 2004.

(The freedom of man is) a liberty to follow my own Will in all things, where the Rule prescribes not; and not to be subject to another inconsistent, uncertain, unknown, Arbitrary Will of another Man. As *Freedom of Nature* is to be under no other restraint but the Law of Nature¹⁷⁶.

Therefore, human rights cannot be based merely on the human will or communal agreement, such as those which are known nowadays as «civil rights», or, the «rights that resulted from the general sociological surveys». Human rights cannot be just a simple general consensus of the people. No one can claim a right merely because it is accepted by the majority as a right. Moreover, these rights cannot be converted into laws and be promulgated simply through general consent. It is clear in the fourth argument of Locke on the existence of the natural law that, «positive civil laws are not binding by their own nature or force or in any other way than in virtue of the law of nature», and continues, «without natural law the other basis also of human society is overthrown»¹⁷⁷. In this respect, Locke's idea is positively acceptable.

Locke and the new concept of just war. In the *Two Treatises*, Locke's concept of right is extended also to a certain kind of right to kill, provided that there is an imminent danger to life and an appeal to the court is made impossible. This attitude is justified by his principle of self-preservation, which as he inferred, is also grounded on the law of nature¹⁷⁸. Man is the potent executioner of the natural law in the state of nature. Can this principle justify war against another state? I must admit that Locke has also justified an appeal to heaven, that is, a resort to rebellion against a tyrant, when the fundamental law of nature is constantly violated or abused.

There is a serious concern of the international community regarding the continuous threat of terrorism, which is sought as a justification to declare war against a presumed enemy. Nowadays, the definition of enemy is extended not only to a «state-enemy» but also to a criminal organization, which goes beyond the frontiers of any state¹⁷⁹. The members of this criminal group are bound by a sole idealism of war against the infidels. The threat is global and undetermined. The new concept of a military strategy applied by the US is known as the «preventive attack» against a presumed enemy, regardless of an imminent danger to the national security. González explains that the most solid argument for a preventive attack is the possession of arms of massive destruction that are in the hands of any

176. *Treatises* II, §22, 284.

177. ELN I, 119.

178. See Chapter Four of this thesis, on section c regarding the extent of this right to punish the aggressor.

179. Ana Marta GONZÁLEZ, «El debate sobre Irak en EE.UU». in *Aceprensa*, 25/03. Edited by Ignacio Aréchaga (Madrid: Larvi, 2003), 2.

terrorist organization. The attack can be directed not only against a terrorist network, but also against the states that support them¹⁸⁰.

The question as to whether a «preventive attack» is justifiable by the law is a matter of open debate in the global political community. According to the National Council of Churches and the Catholic Bishops Conference of the United States, the Iraq-war case cannot be justified because it has no moral legitimacy and it lacks the clear and adequate proofs of Iraq's implication in the September 11 attacks. Rev. Wilton D. Gregory, the president of the Bishops Conference, admits that, «the preventive and unilateral use of force is hard to justify in this occasion»¹⁸¹. Then, he explains his declaration based on the classical notion of a just war, which can be qualified by four conditions: a) a just cause; b) a legitimate authority; c) a probability of success; and, d) a proportionality and respect to non-combatants.

How would Locke conceive the idea of the preventive attack? In the case of a thief or a presumed aggressor, Locke justified the killing of another person with the reason of the irreparable loss of life. He declares,

It is Lawful for me to treat him, as one who has put *himself into a State of War* with me, i.e. kill him if I can; for to that hazard does he justly expose himself, whoever introduces a State of War, and is *aggressor* in it¹⁸².

Once again, Locke shows his adherence to the principle of individualism, in the sense that every individual can perform his duty to preserve his own life without the intervention of any authority. The natural law determines the extent of his right over the life of another person. The natural law makes man auto-sufficient to defend himself, and if possible, to make use of force against his presumed aggressor. This sense of autonomy is manifested in the unilateral use of force by the US military. The use of force against a tyrant has been the defense-mechanism of Locke that is supposedly employed by the new conservatives¹⁸³ in the Bush administra-

180. *Ibid.*

181. Ignacio ARÉCHAGA (ed.), «¿El ataque a Irak: guerra justa?» in *Aceprensa*, 13/03. (Madrid: Larvi, 2003), 2.

182. *Treatises* II, §18, 280.

183. The Project for the New American Century, or PNAC, was founded in 1997. Among its supporters are Dick Cheney, Donald Rumsfeld, and Paul Wolfowitz. The ABC News Internet Ventures shares the aims of PNAC. It reveals «the Plan» to remove Saddam from his power, a proposal that was also included in an open letter directed by the group to President Clinton in 1998. In that letter, they wrote: «The only acceptable strategy is one that eliminates the possibility that Iraq will be able to use or threaten to use weapons of mass destruction. In the near term, this means a willing-

tion. The recent analysis of Aréchaga in *Acepresa* (21st May 2003) shows the antecedents of the present political and military theorists of the US government, that were ultimately linked with the thoughts of Leo Strauss¹⁸⁴. Strauss is a Jewish atheist thinker and a professor of political philosophy in the University of Chicago from 1949 to 1968, who had a deep admiration for Locke, particularly, for his natural law theory and political doctrines. It is too hasty to suppose that some PNAC theorists could have certain knowledge of Lockean political theory, but at least, in their attitude towards an alleged danger to national security, we can see some affinity of doctrines.

In the field of Politics. It seems that political society tends to again hold utilitarian and hedonistic principles, wherein the goal to be pursued lies merely in temporal and material achievement. The good that is proposed is relative, because it can be useful now but not in the next generation. The happiness that is promised is true for this portion of the society but not for the other. It will be truthfully impossible to attain a desirable common good outside the context of the natural law. The political theorists' primary concern must be centered on the good of the human person and the promotion of the basic law of nature. The negligence of this prime principle will result in a rule by wealth and power that leads inevitably to a kind of tyrant regime, the surest cause of disobedience, rebellion, and disorder in the society. In that case, politics would become the scraping ground of thirsty robbers and selfish corrupters of fame and honour.

Before this danger of despotic rule, Locke established the main end or measure of political power. He says,

It (the political power) can have no other *end or measure*.... but to preserve the Members of that Society in their Lives, Liberties, and Possessions; and so cannot be an Absolute, Arbitrary Power over their Lives and Fortunes, which are as much as possible to be preserved; but a *Power to make Laws*, and annex such *Penalties* to them¹⁸⁵.

There are two imperative declarations of Locke in the Second Treatise that are worth quoting here: first, «where-ever Law ends, Tyranny be-

ness to undertake military action as diplomacy is clearly failing. In the long term, it means removing Saddam Hussein and his regime from power». Source: http://www.abcnews.go.com/sections/nightline/DailyNews/pnac_030310.html (2004). Last consulted on 23rd April 2004.

184. See Ignacio ARÉCHAGA (ed.), «Neoconservadores, los estrategas del nuevo mundo "unipolar"», in *Acepresa*, 72/03. (Madrid: Larvi, 2003). On the study of Leo Strauss about Lockean theories, see Leo Strauss, «Locke's Doctrine of Natural Law», in *American Political Science Review*, 52. Edited by Harvey C. Mansfield (Washington: American Political Science Association, 1958), 490-501.

185. *Treatises* II, §171, 382.

gins, if the Law be transgressed to another's harm»¹⁸⁶, and second, «*against the Laws there can be no Authority*»¹⁸⁷. These are two propositions that firmly maintain the precedence of the natural law over any other civil rules that deviate from the basic principles of moral politics. The Bishop of Tarragona, Rev. Lluís Martínez Sistach, affirms the priority of natural ethical principles over any political legislatures or any norm that results merely from sociological surveys and investigations. He insists that politicians and lawyers have to make politics and formulate laws that do not disregard or oppose these ethical principles¹⁸⁸. Locke admits the political power of government, but always and only under the limit of the natural law; once it is abused, the people have the right to overthrow its leader(s) by force, and to install a new one that can preserve the members of the society.

Summary. There are emerging signs of the natural law theory of Locke in the present moral and political situations of the world. His doctrines that had gained advocacy and wide acceptance already in his times seem urgently relevant today, especially his utmost regard to the natural law as the standard of moral rectitude, both in the fields of Ethics and Politics. The rapid passage of time and the insatiable movement for change in contemporary trends weaken the validity of the natural law. Locke may not be popularly known and cited by recent political theorists, but his thoughts continue to surface imperceptibly in different philosophical propositions. Undoubtedly, his influence can bring either positive or negative consequences. Some of Locke's tenets are worthy transmitting in our days, but some others are better put into oblivion.

CONCLUSIONS

Fifty years after the first publication of the *Essays*, the natural law theory of Locke has gained enormous development and has extended its implications to many fields of science. In his entire moral program, there

186. *Ibid.*, §202, 400.

187. *Treatises* II, §206, 403.

188. «Se debe evitar una política que tenga como norma suprema los resultados de las encuestas e investigaciones sociológicas. Hay unos principios morales objetivos y absolutos que se fundan en la dignidad, en la intangibilidad y en la libertad de la persona humana y en la salvaguarda de las exigencias éticas fundamentales para el bien común de la sociedad. (...) Los políticos y los legisladores han de confeccionar políticas y formular leyes que no prescindan ni se opongan a estos principios éticos». Lluís Martínez Sistach, «Exigencias cristianas del quehacer político», in *Palabra*, 481-482. Edited by José Miguel Pero-Sanz Elorz (Madrid: Ediciones Palabra, S. A., 2004), 32.

have been innovative views and approaches that recent Lockean scholars have worked on, especially in clarifying some obscure and doubtful elements of his moral standpoints and in affirming some existing hypotheses about his natural law theory.

The publication of the *Essays* evinced the false supposition that Locke forgot the natural law theory found in the *Essay*. Many modern scholars have presumed that the problem really was not that he abandoned the natural law theory, but rather, that he found a great difficulty in establishing a sure way to reconcile his earlier and later thought. My suspicion is that he was wavering between the *Essays* and *Ethics in General*. If he had included in the fourth edition of the *Essay* his later thoughts from *Ethics*, he would have set aside or totally forgot the *Essays*; or on the contrary, if he had published the *Essays* as soon as Tyrell requested he would not have dedicated a separate chapter on the *Ethics in General*. Anyway, towards the end of his life, he authorized Peter King to take charge of publishing what he would think were necessary and of great value. Consequently, King included in his «Excerpts», *Of Ethics in General* and made no mention of the *Essay*. Von Leyden broke the code of silence. He was the arrow that Locke had been holding tightly and patiently in the bow centuries ago. *Voilà!* What an enlightening discovery!

Locke maintained the most classical trait of the natural law, that is, the theological aspect of its origin and content. For him, the law of nature has always been a decree of the divine will. God is its sole author. He has the right, power, and wisdom to promulgate it to men as the Creator of all things. Since God is the supreme Legislator of all laws, the natural law cannot be but a participation of the eternal law of God. In the same way, since man cannot have all the perfections that God has, it is only logical that God alone can make the laws binding for all men. No law is universally and perpetually binding except that which is promulgated by God, either through revelation or by the natural light. It is a clear affirmation of the scholastic indebtedness of Locke and his adherence to a theological voluntarist posture. And I can assume without a second thought that, in this respect, there is an evident continuity with the medieval Christian notion of the natural law in Locke.

However, aside from his coherence with the classical scholastic view of the natural law, Locke introduced his most innovative argument for its cognoscibility. The distinguishing rational character of the natural law has led him to admit the intellectualist approach and points of view. The rationality of man is imperative to understand the intelligibility of the natural law, which means that by the sole light of nature, through the sense-experience and reason, man can have knowledge of the natural law. Rationality is also the basis of his claim for the demonstrability of moral doctrines. In the *Second Essay*, he established that by the proper use of the

rational faculties, man can attain by himself, and without the help of another, the knowledge of the truth. On this aspect, Locke arrived at the conclusion that the law of nature is the law of reason. At this point, he started to show his concern to the empirical means of knowledge that he would bring to maturity in the *Essay*.

In the midst of socio-political turmoil in England, Locke's theory of the natural law served him to settle the moral conflicts on the extent and limitation of the legislative power, and to define the individual rights of men. Locke manifested his inclination to the humanist doctrines of the modern times, especially in the anthropocentrism of his morality. Man has to be the chief concern of any law. For that reason, Locke adhered to the self-preservation principle as one of the fundamental bases of the natural law. He says that no human sanction can be good or valid if it runs against the fundamental law of nature, whose main objective is the preservation of all mankind¹⁸⁹.

Locke's assertion of the modern humanist concept of the natural law in the *Second Treatise* is apparently inconsistent with his thoughts in the earliest *Essays*. The principle of utility is considered from two different perspectives: first, in the *Essays*, self interest cannot be the basis of the natural law nor of man's obligation, since that would violate the laws immutability, universality, and perpetuity; second, in the *Second Treatise*, Locke insists that the right of man to preserve himself is based on the fundamental law of nature. From my own point of view, the two considerations do not result in inconsistency. While in the former, Locke deals with the origin and character of the natural law; in the latter, he refers to the grounds for man's power to execute the natural law. It is likely believed that Locke's concern in his mature philosophical career could not have been so much with the theoretical foundation of morality, but rather with practical Ethics.

Evidently, Locke conceived the natural law in its most basic classical manner however he cannot be considered as a purely traditional natural law theorist because he has also introduced an innovative aspect to the notion of the natural law. This new approach brought many clear implications for the modern conception of morality, especially from the perspective of personal responsibility. Locke developed a certain personal and individualistic approach to the standard of basic moral norms. His individualism takes its point of departure from the means of knowing the natural law, then much later, his concern for each one's salvation. Locke discussed these new propositions in the *Essay* and they became the nucleus of his later moral program. His tenet on rewards and punishments is indispensable

189. *Treatises* II, §135, 358.

for the consideration of his theory of individualism because they form constitutive elements of the natural law.

In the *Essay*, he came out with the idea of moral goodness and evil as the conformity or disagreement of the voluntary actions of man to some law. Another weak point of his morality has emerged from that consideration, that is, the moral conception of good and evil as mere pleasure and pain. Here, Locke made an obvious shift of moral objective and a mode of approach to morality. Sense experience plays now a great role in moral rectitude, in the respect that moral good is none other than that which procures happiness, and moral evil is that which occasions man pain. The embryos of individualism and relativism that developed in his earlier thoughts are made manifest in the *Essay*.

One of the most devastating theories in Lockean morality, or may I say, almost an incurable wound that he left, was his theory of hedonism. In his earlier thoughts, Locke conceived the misery or happiness of man under the general idea of theological voluntarism, that is to say, «God who has a just and inevitable command over us and at His pleasure can raise us up or throw us down, and make us by the same commanding power happy or miserable»¹⁹⁰. In his later works, however, man's happiness or misery is dependent on the conformity or disagreement of man's voluntary actions to the law. Once more, I am inclined to presume that this proposition could have been another difficulty that Locke encountered; and that could have been one of the reasons too for the delay of the publication of the *Essays*.

So far, I have underlined three general observations on Locke's concept of the natural law that disclose the difficulty in reconciling his earlier and later moral thoughts. The 'yesterday and today' in Locke's own understanding reveals some remarkable internal inconsistencies, that is, in the voluntarist and intellectualist grounding of the natural law; in the principles of utility; and, in the principles of hedonism.

It is convenient to emphasize here once again that the key point of all those difficulties begins with Locke's empirical theory, that is to say, in his consideration of sense experience as the primary foundation of moral rectitude. Locke could have resolved this if only he had given up his earlier thoughts on the natural law, and simply maintained his innovative idea in the *Essay*. His tendency to theistic voluntarism was so strong that he could not help but keep the lectures on natural law under his table. His doctrine concerning the origin of ideas on an empirical basis, however, caused him to admit necessarily, moral relativism. He was forced into a position of conflict between the voluntarist and rationalist view of morality. The ultimate foundation of his moral theory wavered between either the

190. ELN IV, 155.

will of God alone or the rationality of man. Locke has left us this posture, no doubt, the benefit of our investigation.

His hedonistic principles have produced a lasting resonance in modern times which have opened the way, similarly, to the many errors of relativism and individualism. I admit that Locke had in mind the eternal happiness of man as the ultimate goal of his moral principles. And for that reason, he could assert finally that among the pleasures of man, the eternal reward of God is the only one that has no admixture of pain. However, his moral principles were stained with the epistemic and empirical views he posed in the *Essay* that would make it difficult to avoid discrepancy with his previous work.

Locke remains an underground theorist from which the bountiful seeds of thought sprout. In our times, there are scattered Lockean principles that continue to sow astonishment and contradiction as well; some are already rooted in the way of thinking and living, and some are just starting to crawl. In the ethical and political fields, I have mentioned the most recent influences of Locke's doctrines, which have reached us directly from the scholars of Lockean theory, or indirectly through some incarnated teachings in Modern Philosophy.

To say that Locke's doctrines on Ethics and Politics are obsolete is less acceptable, because in the present situation of global peace and security, and in the context of political and legislative power, his natural law theory can still be a relevant influence, for better or for worse. The natural law remains the most fundamental criterion of moral and political life, which I believe, if Locke had to live in our times, he would insist that before any abusive and arbitrary power, the natural law would still be the fortified defense of men. But, his theory is tantamount both to providing a solid grounding for morality based on the natural law, and to implanting as well a weak and confusing criterion of moral goodness and evil with and exclusively empirical and individual basis.

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