

Chapter Ten

Locke's "Of Slavery," Despotical Power and Tyranny

David B. Davis's view that Locke is the last major European political theorist to defend slavery is often repeated. But *does* Locke defend slavery? And if so, does his defense really make sense? On these questions there is no consensus.¹ In his edition of Locke's *Political Writings*, for example, David Wootton claims that the arguments of the *Second Treatise* "could easily be developed to support democracy and to demonstrate the illegitimacy of chattel slavery," illegitimacy which, in his view, is the only defensible conclusion to be drawn from Locke's discussion.² Wootton is of course aware of Locke's active involvement in the development of policy and legislation regarding Euro-colonial slavery, as are the generations of readers who have benefited from Laslett's edition of *Two Treatises*.³ For many commentators, however, Locke's personal investment in New World plantocracy merely makes his discussion of slavery all the more baffling. Locke's reasoning in "Of Slavery" falls so below par that it has seemed best to ignore it altogether or to conclude, on the basis of comments made in "Of Conquest," that Locke opposes hereditary slavery and, perhaps, slavery itself, at least in theory.

Those who want Locke to be consistently liberal have sometimes found a condemnation of slavery in the ringing words that open *Two Treatises*: "slavery is so vile and miserable an Estate of Man, and so directly opposite to the generous Temper and Courage of our Nation; that 'tis hardly to be conceived, that an Englishman, much less a Gentleman, should plead for't."⁴ The English gentleman in question is Robert Filmer, who defends royal absolutism by arguing

that the state into which all are born is subjection to paternal-cum-monarchical power. Far from pleading for the legitimacy of transatlantic slavery, Filmer avoids any serious consideration of it. His aim, instead, is to put a stop to the rhetorically inflammatory appeals to political slavery in which advocates of popular sovereignty provocatively engage. Appeals to “slavery” such as Locke’s exemplify the very usage Filmer would like to discourage. In the tradition of Greco-Roman antityrannicism to which *Two Treatises* belongs, the collective subjection of free citizens to the arbitrary rule of an absolute monarch is a condition of abject degradation that is persistently represented as political slavery. So well-established is this figural identity in the Western European literature of political resistance that a whole cluster of politically encoded associations is evoked by terms that originally relate to chattel slavery.

Despite some lingering reluctance, historians of political theory are increasingly willing to explore inter-relations between early modern European liberalism and Euro-colonialism. Barbara Arneil and James Tully and have authored ground-breaking studies of Locke’s *Two Treatises* as it relates to English colonial ventures in the Americas, while Uday Mehta has shown how Locke’s *Essay on Human Understanding* contributes to Euro-American liberalism’s exclusivity.⁵ More recently, David Armitage has demonstrated that Locke’s active involvement in revisions of the *Fundamental Constitutions* of Carolina extends into the period of his composition of *Two Treatises*. As secretary for the Proprietors of Carolina from 1669 to 1675, and as both secretary and treasurer of the English Council for Trade and Foreign Plantations, Locke has, in Armitage’s words, “a more thorough understanding of his country’s commerce and colonies than that possessed by any canonical figure in the history of political thought before Edmund Burke.”⁶ Further, Armitage points out, because he was one of the authors of *Fundamental Constitutions*, Locke’s major contribution to political philosophy, *Two Treatises*,

has direct, verifiable relations with colonial administrative practice. The most notable point of intersection appears in Article #110 of the *Fundamental Constitutions*: “Every freeman of Carolina shall have absolute power and authority over his Negro slaves, of what opinion or religion soever.”⁷ Closer to the language Locke uses in *Two Treatises* is that of an earlier, unpublished version, which refers to the slaveholder’s “absolute arbitrary Power, over the Lives, Liberties and Persons of his Slaves, and their Posterities.”⁸

Though historians and political theorists often mention Article #110 in connection with Locke’s investment in transatlantic colonialism, they have been concerned primarily with Locke’s theorization of labor and property in land rather than with slavery. In part, this is because the majority of Locke’s references to America either relate to property or actually appear in Chapter 5, “Of Property.” By contrast, Chapter 4, “Of Slavery,” does not mention either America or Africa, the two relevant geo-political areas. Yet there are other reasons for preferring to hold “Of Slavery” at arm’s length even while gesturing towards isolated passages. While Locke is scarcely alone in using different discursive registers in ways that create interpretative dilemmas for modern readers, “Of Slavery” presents unique challenges, chief among which are its unusual methods of distinguishing political from institutional slavery and the way it jarringly shifts, without familiar cues, from analogical, political discourse to a consideration of slavery *per se*, the legitimacy of which is asserted.

In terms of discursive density and meticulously wrought logical and rhetorical progression, the passages by Milton and Hobbes examined earlier (from Book 12 of *Paradise Lost* and from Chapter 20 of *Leviathan*) are comparably complex. Locke would have been familiar with these passages, which, like “Of Slavery,” rely on widespread representations of the privative age inhabited by “barbarous” nations. “Of Slavery draws on such representations in

utilizing a peculiarly abstract, theoretical language designed to rationalize, at one and the same time, a radical right to resist tyranny and a right to exploit those who have been enslaved. Though the exact nature of Locke's indebtedness to the literature of England's civil war era continues to be debated, it has persuasively been argued that Locke both appropriates and conservatively undercuts mid-century radicalism. On a number of issues ranging from eligibility for the franchise to the brutal penalties he recommends for the unemployed poor, Locke takes up positions that are diametrically opposed to the demands passionately articulated by Levellers, Diggers, Agitators and other seventeenth century radicals.⁹ Yet Locke not only begins from egalitarian, natural rights principles but invokes them to support an uncompromisingly radical antityrannicism.

As David McNally points out, the term "radical" is often applied to Locke without acknowledging the social conservatism that it often supports. "[T]he only approach which can decipher the full texture of Locke's thought," McNally says, "is one which captures the unique interaction of these two elements of his political thinking — and the overriding unity which Locke attempted to impose upon their potentially uneasy relation."¹⁰ The tension between Locke's narrowly political radicalism and his defense of social and economic inequalities is nowhere more evident than in "Of Slavery." In what follows I demonstrate both how "Of Slavery" coheres and how carefully Locke has integrated his defense of slavery with other, central features of *Two Treatises*. Later in this discussion I suggest that the unstable unity Locke imposes on his defense of antityrannicism and of slavery is illuminated by a debate regarding the power of life and death that took place after the execution of Charles I (the "Power/No-Power" examined in chapter 6). My aim is to persuade readers that far from being half-baked or

incidental, Locke's defence of slavery is skilfully integrated with his theorization of the state of nature and the state of war, together with the civil subject's right to resist tyranny.

Antityranny Not Antidespotism

The interpretative challenges of "On Slavery" have been disastrously compounded by a failure to appreciate the distinction Locke draws in *Two Treatises* between tyrannous and despotical rule. In his chapter "On Tyranny," Locke defines tyranny in conventional, antityranny terms, that is, as the ruler's irresponsible substitution of private for public ends (2:18.199). Because it consists in an abuse of the power by which citizens have consented to be governed, tyranny appears only within civil society, where it involves violation of the law: "Where-ever Law ends, Tyranny begins, if the Law be transgressed to another's harm" (2:18.202). Using conventional antityranny discourse, Locke represents those oppressed by tyranny as political slaves. In the same disparaging, satiric vein with which he opens the *Two Treatises*, Locke attacks apologists for royal absolutism as "those Egyptian Under-Taskmasters," who "whilst it seem'd to serve their turn, resolv'd all Government into absolute Tyranny, and would have all Men born to, what their mean Souls fitted them for, Slavery" (2:19.239). Only somewhat less rhetorically, when arguing that absolute monarchy is incompatible with civil society, Locke decries the degraded condition of "the Subject, or rather Slave of an Absolute Prince" (2:7.91). Together with his radical forebears and contemporaries, Locke conceptualizes tyranny in terms that legitimate resistance, which is the primary concern of "Of Tyranny" and the subsequent, final chapter, "Of the Dissolution of Government."

"Despotical" power is an entirely different matter, however: against despotical power there is no right of resistance. This is because "despotical" designates legitimate possession of

the power of life and death over the enslaved or the justly conquered. Though Locke would have known that the slave-holder's power of life and death is legitimated by Roman jurists, his own usage is indebted primarily to Hobbes, who systematically relates despotical power to its origins in warfare. Though it is like tyranny in being incompatible with civil society, despotical power for Locke is nonetheless a distinct, legitimate form of power. In this, despotical rule differs from tyranny as well as from absolute monarchy insofar as it is tyrannous. To indicate that despotical power is one of several forms of legitimate power, Locke, like Hobbes, uses only the adjectival form, "despotical," which first appears in Chapter 4, "Of Slavery." Slavery is again at issue when despotical power is considered at greater length in Chapter 15, "Of Paternal, Political, and Despotical Power, Considered Together."

The third context in which despotical power comes up is in Chapter 16, "Of Conquest," where despotical power is the power a conqueror holds over those of the conquered who are guilty of unjustly opposing him in an unjust war. In this chapter, Locke differentiates "perfect Despotical Power" from every conceivable illicit variant, industriously closing off every avenue of potentially invasive rule from those who do not deserve it so as to preserve liberal subjects' freedom from arbitrary, coercive power.¹¹ Whatever the context, for Locke despotical power involves the power of life and death over those who are subject to it, a power Locke invariably describes as "absolute." In "Of Conquest," for example, Locke asserts that the conqueror "has an Absolute Power over the Lives of those, who by an Unjust War have forfeited them," a power he calls "purely Despotical" (2.16.178). At one point, Locke refers to those subject to this despotical power as "slaves," (2.16.189), though this is not household slavery but monarchical rule acquired by military conquest, rule that is equivalent to what Jean Bodin calls "lordly monarchy."

Despite this theoretically respectable, ideologically motivated consistency, commentators treat tyranny and despotism as if they are interchangeable for Locke. For example, although the power of life and death, not monarchy, is under discussion, Laslett annotates Chapter 15's section on "despotical" power with materials on absolute monarchy and tyranny, going so far as to propose that Locke has James II in mind when vilifying the despot.¹² Nowhere, however, either in this chapter or elsewhere in *Two Treatises*, does Locke disparage either the despot or despotical power. Laslett's authoritative notes do much to obscure the cogency—to say nothing of blunting the impact—of Locke's theorization of slavery. At the same time, they also, paradoxically, prevent readers from grasping the militancy of Locke's conception of resistance, as will be seen in later in this chapter, when Locke's reflections on household, despotical power in Chapter 15 get more detailed consideration.

Should *Two Treatises* take any responsibility for this conflation of tyrannous and despotical rule? Though their fusion is likely a post-abolition phenomenon, Locke may encourage it by introducing an unsettling, novel feature into his discussion of arbitrary rule: language that is conventionally strongly affective gets used in a neutral, dispassionate fashion. Specifically, Locke employs language normally associated with the abominations of tyranny to characterize despotical rule as a legitimate form of absolute dominion, characterizing both by the exercise of "Absolute, Arbitrary Power." In spite of their clearly established differences—in terms of the right of resistance, they are complete, polar opposites—tyranny and despotical rule are occasionally referred to by means of the very same neutral language. To the extent that they are, tyranny and slave-mastery become strangely, disturbingly alike, if not equivalent. This equivalence occurs, however, only at the very apex of theoretical abstraction, where arbitrary, absolute power robs its subjects of their most essential rights. Basically, what tyranny and

despotic rule share is all that is signified by “dominion” in Hobbes’s major theoretical works, which, in a related, polemically motivated tactic, divest “dominion” of the inflammatory associations with injustice it carries in radical literature.

Locke, however, strips arbitrary, absolute power of its negative connotations only when treating despotic power; solely in this context does the language of arbitrary rule decline affective or ethical response. The significance of such systematic selectivity cannot be overstated. With this strategy, Locke uses an ostensibly value-free conception of arbitrary rule in defense of chattel slavery while retaining solidarity with the radical tradition that energetically opposes a vilified political slavery for citizens. Locke consistently both links despotic rule with the power of life and death and represents it in dispassionate, propositional language. In Chapter 15, for example, Locke provides the following definition: “Despotic Power is an Absolute, Arbitrary Power one Man has over another, to take away his Life, whenever he pleases” (2.15.172). Observe that Locke here defines despotic power as a relation between individuals. In keeping with conventions of political philosophy that go back to Aristotle, both “Of Slavery” and “Of Despotism” represent despotic power with reference to abstract individuals whose social roles ultimately map onto those of the household slave-holder (or “Lord,” the term Locke, like Hobbes, uses) and slave.

Yet unlike Hobbes, Locke is not reluctant to apply “despotic” directly to a conqueror’s rule over a body of subjects. Indeed, he has more to say about the conqueror than he does about the enslaving lord. Locke does not, however, draw attention to the differing circumstances—national for the conqueror, household for the slave-holding lord—in which despotic power gets exercised. To flag them might threaten the theoretical unity of the power of terminating life—the basis of the abstract identity between just conqueror and lord. In “Of Conquest,” Locke

produces an array of distinctions, sub-categories and circumstances limiting the conqueror's despotical power to those of the conquered who unjustly acted against him. Assiduously defending the rights of those who are deemed innocent, Locke is arguing by the end of the chapter that a conqueror lacking "lawful Title" to "Dominion" over such people is an "Aggressor" if he attempts to invade their rights. As an aggressor entering "a state of War against them" such a conqueror—basically a tyrant-by-acquisition—"has no better a Right of Principality, he, nor any of his Successors, than *Hingar*, or *Hubba* the *Danes* had here in *England*; or *Spartacus*, had he Conquered *Italy* would have had; which is to have their Yoke cast off, as soon as God shall give those under their subjection Courage and Opportunity to do it" (2:16.196). Locke further legitimates armed political resistance with reference to Hezekiah's revolt against the Assyrian king to whom he had formerly done homage. Lumping Spartacus, leader of the largest recorded slave-insurgency in the ancient Mediterranean world, together with barbarous invaders of England and heathenish Assyrian conquerors, Locke raises hypothetical slave-insurgency to the level of unjust national conquest — itself a traditional, neo-classical figure for internal, political tyranny —self-evidently requiring that it be overthrown.

Of course, Locke is not alone in assuming that slave-insurgency of the kind led by Spartacus is *a priori* illegitimate. The purpose of plantation societies' increasingly complicated legislation regarding racialized slavery—with much of which Locke had every reason to be acquainted— is either to pre-empt or retaliate against the ongoing, daily anti-slavery protest and the frequent uprisings launched by Africans and their descendants. By insisting that the institution of slavery is categorically not political, however, Locke denies the enslaved any right of resistance. Political power, a product of the "free" people who have united collectively to create civil society, can be exercised only for both individual and collective good. By definition,

Locke claims, political power “cannot be an Absolute, Arbitrary Power over their Lives and Fortunes, which are as much as possible to be preserved” (2.15.171). When political power ceases to preserve such lives and fortunes, it can legitimately be resisted. Enslavement, however, occurs in a state of war, which Locke, like Hobbes, separates off from civil society, and which obviously has no consensual, preservative end. More stringently than Hobbes, Locke denies that consent of any kind is relevant to despotical power. Astonishingly, even self-preservation is not a right for the enslaved according to Locke’s formulations in “Of Despotism,” where the enslaved is presumed not to be “Master of his own Life,” and thus incapable not only of contract but also, it is implied, of preserving his own life, said to be the prerogative of someone who is “Master of himself, and his own Life” (2.15.172).

Like Aristotle and his early modern heirs, Locke insists on the distinctiveness of political rule. Locke, however, counterposes political to *all* forms of familial rule, not just the slaveholder’s. The power of the lord over his slaves belongs with the father’s (or parents’) rule over his (or their) children, the husband’s rule over his wife, and the master’s rule over servants. Locke makes this clear in *The Second Treatise*’s well known introductory passage: “That the Power of a *Magistrate* over a Subject, may be distinguished from that of a *Father* over his Children, a *Master* over his Servant, a *Husband* over his Wife, and a *Lord* over his Slave” (2.1.2). Like other relations within the patriarchal household, the lord’s power is exercised in private, among unequals. At the same time, however, despotical power does not fully belong to this familial set. For by contrast with other familial relations, the enslaver’s disciplinary power extends to the taking of its subject’s life: alone among other forms of private rule, it entails the power of life and death. Owing to discursive conventions that go back to Aristotle and are given new purchase by Hobbes, Locke assumes the unique, hybrid character of despotical power: a

private or household power, it nevertheless has a temporal point of origin in the power a victor gains in warfare (which Locke, too, assumes to be “just”).

Whenever formally discussing political rule, to be exercised for the common good, or tyranny, always a collectively suffered wrong, Locke posits a plurality or community of subjects. This is also the case regarding despotical power in “Of Conquest,” where conquerors are sometimes and the conquered are always plural. In Chapter 15, which immediately precedes “Of Conquest,” however, despotical power is defined as a relation between individuals (“Power one Man has over another”). When so defined, despotical power is conceptualized with reference to legal slavery and, implicitly, the household, where ownership of each and every individual slave—each being individual chattel—resides with a single enslaver or “lord.” Consistently, then, Locke’s despotical rule has both public and private dimensions. In “Of Slavery” and Chapter 15, despotical rule is exercised in the private household by an individual enslaver, yet remains mystifyingly military in origin.

Hobbes, Locke and The Power of Life and Death

Before we can proceed to “Of Slavery,” we need to investigate Locke’s unusual theorization of the power of life and death. For reasons that will become clear, Locke associates this phrase, which he does not actually use, with war slavery doctrine. Like other theorists of sovereignty, Locke assumes the power of life and death to be the basis of state disciplinary power. In holding that in civil society it belongs to the law itself—what he calls “the legislative Power”—rather than to any individual or sovereign, Locke takes a position that aligns him with advocates of popular sovereignty or legitimate resistance. When formally defining “Political Power,” the first thing Locke mentions is “a Right of making Laws with Penalties of Death”

(2.1.3). In Locke's state of nature, which revises that of Hobbes, however, everyone possesses something akin to a right of life and death. Whereas for Hobbes the limitless violence and anarchy of humankind's natural condition necessitates the institution of a single, absolute holder of sovereign power, for Locke the individuals who hold such power naturally regulate its exercise according to the law of nature. Not immediately an expression of self-preservation, the right to take life is intrinsically juridical in Locke's state of nature.

Locke encourages readers to contrast his lawful state of nature with that of (the unnamed) Hobbes, whose unregulated human nature stands in harsh, polar opposition to civil society. As he sets it forth, Locke's civil society does not diverge sharply from its naturally lawful, sociable origins, with which it has valued continuities. Regarding the power of life and death, however, Locke's natural human condition is not that far from Hobbes's in that it, too, includes a right to take human life. Yet neither of the two distinct forms this right assumes for Locke resembles Hobbes's right of self-preservation. Locke's natural individual's holds, first, a disciplinary right that extends to killing, and, second, a defensive, martial right to take the lives of those who initiate a state of war. For Locke, the second, martial power does not inhere in the state of nature because the moment war-like aggression occurs the state of "nature" becomes the state of "war." When an individual's own life and liberty is threatened, he rightly wields martial power by engaging in conflict initiated by the aggressor. Although the exercise of this martial power is a natural right, Locke argues that the Hobbesian state of war is distinct from the state of nature and may also erupt within civil society itself.

Unlike earlier resistance theorists, who theorize the power of life and death in relation to a community's legislative power, Locke gives both juridical and martial modes of this power to the *individual* subject outside civil society. In Chapter 2, "State of Nature," Locke posits a

natural right to punish transgressions of “the Law of Nature.” Because it concerns collective, human needs for “mutual security” and has the social purpose of deterring others from wrongdoing, this natural, juridical right allegedly has as its end “Preserving all Mankind.” Locke says that this natural, juridical power is distinct from “Absolute or Arbitrary Power” in having the moderate ends of “*Reparation and Restraint*.” It is, though, an irreducibly individual right in all of Locke’s formulations, most notably in the definitive: “*every Man hath a Right to punish the Offender, and be Executioner of the Law of Nature*” (2.2.8).

Locke fears his readers will find this “a very strange Doctrine” (2:2.9). And no wonder, since it grants individuals a disciplinary right — one that extends to capital punishment — in the absence of formal charges, defenders, prosecutors, juries, judges or courts.¹³ Yet if for the moment we grant that killing a murderer is a reasonable means of securing the safety or principles of humankind, why does Locke so stress the transgressor’s monstrous subhumanity? A transgressor, Locke argues in “The State of Nature,” does not merely violate natural law but breaks his ties with humanity. Locke describes the transgressor’s dangerous subhumanity three times in this chapter, upping the ante so that on the third occasion the transgressor, previously a “noxious Creature,” is written up in nearly apocalyptic language as “a Murderer” who “hath by the unjust Violence and Slaughter he hath committed upon one, declared War against all Mankind, and therefore may be destroyed as a *Lyon* or a *Tyger*, one of those wild Savage Beasts, with whom Men can have no society nor Security” (2.2.11).

At this point Locke introduces the first murderer, Cain, whose fear of capital punishment at the hands of his contemporaries Henry Parker mentions when arguing that “the power of life and death in a legall sence is committed to man by God, and not to Kings only.”¹⁴ Locke’s

mention of Cain's fear similarly works to validate a natural, human right to determine and execute criminal justice:

And upon this is grounded the great Law of Nature, *Who so sheddeth Mans Blood, by Man shall his Blood be shed.* And *Cain* was so fully convinced, that every one had a Right to destroy such a Criminal, that after the Murder of his Brother, he cries out, *Every one that findeth me, shall slay me;* so plain was it writ in the Hearts of all Mankind (2:2.11).

Both Parker and Locke are committed to theorizing a God-given, human right to dispense penal justice, including capital punishment (specified by Parker's "power of life and death").

Differences between them are therefore revealing. The first, and most obvious, is that Parker construes this exclusively as a *communal* right. Further, if in some sense pre-political, for Parker it is so only contingently and temporarily. When hypothesizing the absence of an "orderly tribunal," he immediately imagines the collective creation of an equivalent institution. Locke's right, by contrast, is an individual right obtaining outside collectively instituted juridical remedies. Finally, Locke's emphasis falls heavily on the "right to destroy such a Criminal," earlier phrased as the right to "destroy things noxious to them" (2:2.11, 9).¹⁵

Defending his hypothetical, communal tribunal, Parker suggests "*ex officio humani generis* [*on the part of humankind*], they ought to prosecute all the common disturbers of mankind."¹⁶ Though Locke's executioner of the law of nature similarly acts in the interests of humankind, he seems unduly preoccupied with the degenerate "noxious Creature" who poses a threat to all of humanity. Indeed, the murderer who has "declared War against all Mankind," and "with whom Men can have no society nor Security" may be, precisely, the *enemy of humankind*

[*hostis humani generis*], a phrase Locke does not use but is clearly relevant. This particular Roman juridical status was initially assigned pirates and others who operated outside the jurisdiction of any particular state. It is also a status Cicero gives the tyrant who refuses to recognize the constraints of natural, human, or divine laws. Locke would have known that sixteenth and seventeenth century resistance theorists were willing to draw the obvious conclusion from Cicero's depiction of the monstrously anti-social tyrant: a ruler who degenerates so far is no ruler but a monstrous enemy of humankind who must be annihilated before he sheds any more blood.

But antityrannicism is not the only context for Locke's "strange" doctrine. Euro-colonial justifications of military aggression also appeal to the category of *hostis humani generis*. Locke's many references to "America" show that he shares the dominant early modern view that its denizens inhabit a pre-civil temporality or privative age. As Anthony Pagden observes, in comparing the state-of-nature's transgressor with "one of those wild Savage Beasts, with whom Men can have no society nor Security," Locke uses conventional language for animalizing and criminalizing Amerindigenes.¹⁷ Representation as enemies of humankind is often implicit in imperialist constructions of natural and international law. Bacon, for example, in his dialogue on the justice of pre-emptive warfare, introduces the plural *hostes humani generis* in connection with the human sacrifice and cannibalism whose practitioners "forfeited" their territory by the law of nature, prosecuted justly by the Spanish. (Only Spanish "Cruelties" are inexcusable.)¹⁸ In *De Iure Belli*, Grotius, too, lumps cannibals together with pirates —anciently recognized as enemies of humankind—along with the various tyrannous monsters from whom Hercules liberated humanity (monsters that also illustrate Bacon's *hostes humani generis*).¹⁹

In theorizing a natural right to execute the law of nature, Locke provides a rationale for taking the lives of non-Europeans (initially Amerindigenes, later Africans) construed as sub-human, monstrous transgressors. In “State of Nature” Locke illustrates this right’s naturalness by asking, initially, on what other grounds a state might prosecute a criminal who is an alien, but then, as Tuck says, segues into the unrelated issue of Amerindigenes violation of natural law: “Those who have the Supream Power of making Laws in *England, France* or *Holland*, are to an *Indian*, but like the rest of the World, Men without Authority: And therefore if by the Law of Nature, every Man hath not a Power to punish Offences against it, as he soberly judges the Case to require, I see not how the Magistrates of any Community, can *punish an Alien* of another Country, since in reference to him, they can have no more Power, than what every Man naturally may have over another” (2.2.9).²⁰ Though Locke, like Hobbes, here correlates individuals and nations in the state of nature, in lieu of Hobbes’s war of each against each Locke posits a juridical right that targets criminal violation of the law of nature rather than the positive laws of England, France or Holland (incidentally, the three nations most aggressively pursuing colonial policies and the slave trade).

If nature sanctions capital punishment, and if to commit murder in the state of nature is to declare “War against all Mankind,” how is Locke’s state of nature different from his state of war? Or, put another way, what distinguishes a natural juridical from a natural martial form of the right to kill? Martial right is discussed in Chapter 3, “The State of War.” Unlike the juridical right outlined in “State of Nature,” martial right lacks a moderate, ameliorative purpose or collective social end. Its purpose is not reparation, not restraint, but sheer annihilation. Locke hypothesizes an aggressor who, seeking the innocent party’s enslavement, inaugurates a state of war. The “Right of War” is the right to destroy this aggressor, though it emerges only in the state

of war obtaining in the absence of a superior judge or a social compact. Locke's description of the aggressor's bestial lawlessness in "The State of War" is virtually the same as that used of the transgressor in "The State of Nature." What differentiates the two is the end Locke attributes to the aggressor, whose use of force in "State of War" anticipates the complete subjugation and thus enslavement of his victim:

For I have reason to conclude, that he who would get me into his Power without my consent, would use me as he pleased, when he had got me there, and destroy me too when he had a fancy to it: for no body can desire to *have me in his Absolute Power*, unless it be to compel me by force to that, which is against the Right of my Freedom, i.e. make me a Slave. (2.3.17).

Locke presents this conclusion as eminently reasonable, but since it applies even to a thief who plans to take only a coat, his deductions seem to proceed by extravagant leaps, if not by a persecutory imaginative process. By what logic does threatened enmity, or the use of force necessarily—even hypothetically—entail enslavement if it occurs in the absence of "a common Superior on Earth"?

Locke's purpose, I believe, is to provide an appropriately dramatic scenario for the war slavery doctrine he obliquely incorporates into the state of nature, thereby turning it into a state of war. As with the juridical right to impose capital punishment, Locke projects the martial right to kill from the innocent victim's standpoint. But the stakes are different in the state of war because slavery (according to the war slavery doctrine on which Locke relies) is war's universal, legitimate alternative to martial death, the other option mentioned ("and destroy me too when he had a fancy to it"). Throughout "State of War," Locke's innocent, liberal subject is in a strictly defensive position. This subject needs to protect his freedom and life from the fierce aggressor

who threatens it with slavery, and consequently has, Locke says, the right to “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” (2.3.18). Here and in several other passages Locke gives the liberal subject permission to reciprocate the aggressor’s violence by killing him.

The major question then becomes, does such legitimate violence entail compelling the aggressor to become a slave? Locke withholds a straightforward answer to this question. In “State of War,” Locke introduces war slavery doctrine but does not actually defend its implementation. He theorizes the right to kill an aggressor but stops short of defending a right to enslave. This, I propose, is the looming lacuna at the centre of Locke’s discussion of slavery. It is clear from other passages in *Two Treatises* and “Of Slavery” itself that Locke assumes the slaveholder’s power is based on natural right. Distinguishing servants from “*Slaves*,” Locke defines the latter as “Captives taken in a just War” who are “by the Right of Nature subjected to the Absolute Dominion and Arbitrary Power of their Masters” (2.7.85). This proposition regarding “Right of Nature,” however, does not extend to the Conqueror’s prior decision to enslave his captives rather than kill them. In “State of War,” the only “Right of Nature” Locke theorizes is the right of killing, known as the “Right of War,” which is a self-preservative, defensive right. A desire or intention to enslave characterizes the enemy, not the liberal subject.

How, then, does this subject become “Master” in relation to a slave over whom it legitimately holds despotic power? Locke does not—ideologically speaking, he *cannot*—rationalize this process for the simple but crucial reason that to do so would seem to validate political slavery. Given the conventions of analogical argumentation, were Locke to represent the liberal subject electing to enslave someone he would inevitably seem to endorse absolute monarchy-*cum*-tyranny. A right to enslave on the enslaver’s part would analogically entail a

right on the part of the ruler to treat his people as if they were slaves. Locke therefore theorizes a right of killing and a state of war but not a decision to enslave rather than to kill. At the same time, following ancient and early modern proponents of war slavery doctrine, Locke assumes that the liberal subject *does* have this option open to him. But to assume is not to represent. We have seen that in using war slavery doctrine for his central ideologeme, Hobbes creates a scenario in which the victor's exercise of power is interrelated with the performance of covenant on the part of the vanquished (though not to the vanquished who does not covenant and is enslaved). Such a scenario would be the kiss of death, so to speak, to Locke's liberalism, as it would imply the possibility of voluntary consent to political slavery.

For the sake of consistency, then, Locke claims in both analogical and unillogical registers that no one can voluntarily subject himself to another's absolute, arbitrary power. As a result, Locke's liberal subject, explicitly entitled only to kill, cannot be represented choosing to enslave his antagonist, nor can the criminalized captive be shown to consent to enslavement. For Locke, slavery is the ultimate consequence of coercive force, and, as such, is incompatible with both natural and civil freedom. The individual-to-be-enslaved *can* part with her or his freedom only because she or he *must* part with it when subjected to force: the to-be-enslaved has no choice. Locke states this categorically when he says just war is the only means of instituting slavery: "And thus Captives, taken in a just and lawful War, and such only, are subject to a Despotical Power, which as it arises not from Compact, so neither is it capable of any, but is the state of War continued" (2.15.172). More positively, with reference to the liberal subject, in "State of War" he says, "To be free from such force is the only security of my Preservation" (2.3.17), again indicating that the enslaved has no way to preserve her or his life.

Reading “Of Slavery”

We can now attempt a reading of this chapter, which becomes less perplexing if we understand Locke to be participating in a debate about the (im)possibility of voluntary *political* self-enslavement. Against Hobbes and other royalists, Locke argues in “Of Slavery” that no one can voluntarily enter into or consent to political slavery. This argument is predominantly analogical as it pertains to the political subject’s relation to one-person, monarchical rule (which in antityranny discourse threatens to reduce citizens to slaves). “Of Slavery” opens by eulogizing the natural condition of freedom from the “Dominion” of any human “Will,” and by rebutting Filmer’s conflation of liberty and license.²¹ By spelling out the negative connotations of political “Dominion,” Locke situates his discussion polemically, signaling a commitment to oppose political slavery to freedom. “Freedom” is defined in the well-known passage that follows (often quoted without acknowledging its origin in “Of Slavery”):

22. ...But Freedom of Man under Government, is, to have a standing Rule to live by, common to every one of that Society, and made by the Legislative Power erected in it; A Liberty to follow my own Will in all things, where the Rule prescribes not; and not to be subject to the inconstant, uncertain, unknown, Arbitrary Will of another Man. As Freedom of Nature is to be under no other restraint but the Law of Nature.

This language is conventionally analogical. Arbitrary rule has the negative traits ordinarily associated with tyranny, where the individual leader’s will, usurping the place of law, makes him a figurative household slave-holder or lord. Given Locke’s explicit concern with “Government,” the hypothesized “Arbitrary Will of another man” clearly belongs to the would-be tyrant. On the

other hand, the phrase “another man” suggests that these strictures apply to any situation, public or private. And without “Absolute,” arbitrary rule does not seem as outrageous or intolerable as it usually does. As modifiers, “inconstant, uncertain, unknown” emphasize the unpredictability of the ruler’s “Arbitrary Will” rather than the danger it poses. While subjection to such a will is demeaning and potentially a condition of figurative slavery, it is not directly threatening to either property or life. In any case, it is a condition that does not actually pertain in civil society.

By omitting “Absolute” as a modifier, Locke clears the path for a smooth, imperceptibly gradual transition from the “Arbitrary Will” of the political tyrant to the slave-holder’s despotical rule. Political liberty and its contrary, political slavery continue to be — initially—the dominant context for the power that is “Absolute” as well as “Arbitrary” in the opening phrase of the two subsequent, centrally problematical sections of “On Slavery,” here cited in their entirety:

23. This *Freedom* from Absolute, Arbitrary Power, is so necessary to, and closely joynd with a Man’s Preservation, that he cannot part with it, but by what forfeits his Preservation and Life together. For a Man, not having the Power of his own Life, *cannot*, by Compact, or his own Consent, *enslave himself* to any one, nor put himself under the Absolute, Arbitrary Power of another, to take away his Life, when he pleases. No body can give more Power than he has himself; and he that cannot take away his own Life, cannot give another power over it. Indeed having, by his fault, forfeited his own Life, by some Act that deserves Death; he, to whom he has forfeited it, may (when he has him in his Power) delay to take it, and make use of him to his own Service, and he does him no injury by it. For, whenever he finds the hardship of his

Slavery out-weigh the value of his Life, 'tis in his Power, by resisting the Will of his Master, to draw on himself the Death he desires.

24. This is the perfect condition of Slavery, which is nothing else, but the State of War continued, between a lawful Conqueror, and a Captive. For, if once Compact enter between them, and make an agreement for a limited Power on the one side, and Obedience on the other, the State of War and Slavery ceases, as long as the Compact endures. For, as has been said, no Man can, by agreement, pass over to another that which he hath not in himself, a Power over his own Life.

I confess, we find among the Jews, as well as other Nations, that Men did sell themselves; but, 'tis plain, this was only to Drudgery, not to Slavery. For, it is evident, the Person sold was not under an Absolute, Arbitrary, Despotical Power. For the Master could not have power to kill him, at any time, whom, at a certain time, he was obliged to let go free out of his Service: and the Master of such a Servant was so far from having an Arbitrary Power over his Life, that he could not, at pleasure, so much as maim him, but the loss of an Eye, or Tooth, set him free, Exod. XXI.

The opening stress on “freedom from” invasive or arbitrary rule in section 23 suggests a continuing preoccupation with political liberty, even more so in being tied to a denial that one can “part with” this freedom. Such denials are *de rigueur* in discussions of the theoretical bases of natural rights, sovereignty and of the social compact. “Preservation” is similarly a familiar feature of such theorization, though generally regarding the preservation of the people as a

whole. Despite Locke's individualistic formulations, the language of section 23's opening sentence is recognizably that of early modern antityrannicism. At the same time, by adding "Absolute" to the "Arbitrary" rule mentioned in the preceding section, Locke introduces the issue of the enslaver's power over the life of the enslaved. Strategically, the enslaver's power to terminate or preserve life has been reserved for this section in which, eventually, a unillogical treatment of slavery comes to predominate.

That a free people would not willingly institute their own enslavement is the central, *a priori* truth early modern appropriation of Greco-Roman antityranny ideology is licensed to purvey. Subjection to absolute monarchical power is tantamount to political slavery, which, in the language of a well-worn trope, rational beings would have to be insane to institute for themselves. Read alongside other radical treatises, Locke's second sentence is conventional in stressing the irrationality of voluntarily taking up such a vulnerable, life-threatening situation, "under the Absolute, Arbitrary Power of another, to take away his Life, when he pleases." So familiar is the argument that no self-respecting, reasonable individual would, in Locke's words, "part with" or "give" his freedom for such a purpose, that the unusual character of some of Locke's formulations does not immediately register. Assent to the propositions articulated in the first three sentences of section twenty-three would likely readily be given by readers sympathetic to basic, radical principles and accustomed to the language in which they are expressed.

To follow the unfolding of Locke's argument, we need to notice the cues he gives readers regarding the subject-position with which they are to identify—a subject-position that is nearly always singular, even when reference is made to social roles or members of a group. As is generally recognized, in *Two Treatises* Locke generally showcases the individual subject divested of distracting inessentials such as gender, ethnicity, class-position, nationality, historical

moment, and so on. This practice differs from the civil war radicalism on which he draws, where the primary unit of popular sovereignty is a collectivity, however understood. More importantly, in the two chapters preceding “Of Slavery,” Locke systematically dichotomizes the innocent and the culpable, the victim and the transgressor or aggressor, the just and the unjust war so as to invite readers to interpellate themselves as individual, liberal subjects who are potentially innocent victims. For example, in “State of War” Locke states that the safety of the innocent should be given priority, and continues:

And one may destroy a Man who makes War upon him, or has discovered an Enmity to his being, for the same Reason, that he may kill a *Wolf* or a *Lyon*; because such Men are not under the ties of the Common Law of Reason, have no other Rule, but that of Force and Violence, and so may be treated as Beasts of Prey, those dangerous and noxious Creatures, that will be sure to destroy him, whenever he falls into their power. (2.3.16).

Here the hostile aggressor is not only thoroughly dehumanized but multiplied, becoming an even more threatening host of “Men,” “beasts of prey,” or “dangerous and noxious Creatures.” Readers are subtly directed to identify with the “one” who is given permission to kill (“destroy”) them. Moreover, while the innocent, victimized “one” is Locke’s civil subject, the irrational, bestial aggressor(s), instigator of “War” and “Enmity,” is associated with the vicious sub-stratum of humanity that Euro-colonialism places in a pre-civil, privative age. When the singular “Man” morphs into “dangerous and noxious Creatures,” the threat posed to the lone, civil subject’s life is ratcheted up, becoming more war-like. The state of war is made to seem less hypothetical, less figurative, more a fearful reality. In passages like this, Locke could be said to construct the Euro-colonial civil subject.

Locke often invites readers to identify closely with the treatise's individual subject by using the first-person singular pronoun to represent the philosophical subject's ostensible universality. In "State of War," for example, when Locke argues that anyone who uses illegitimate force initiates the state of war, he begins with a thief and his victim, "a Man," but then transforms this third person individual into a representative "I": "And therefore 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" (2.3.18). Not merely a persona for the impersonal theorist, this "I" assumes an irresistibly representative status. On this "I's" authority and example readers are invited to interpellate themselves as lawful holders of an extra-civil right to kill. "Of Slavery" introduces this representative "I" with the appearance of the first-person possessive in "my own Will"—the only first-person pronoun in this section. The unexpected "my" has the complex effect, rhetorically, of eliciting identification with this ideal, self-actualizing individual on the grounds of the impersonal theorist's authority. In several ways, then, the theorist's "I" becomes representative of the community of rational, freeborn citizens "under Government" whose privileged, diversely entitled status needs to be safeguarded. In Chapters 2 and 3, "State of Nature" and "State of War," this subject is consistently given two characteristics that are directly relevant to Chapter 4, "Of Slavery": it is innocent of wrong-doing, and its right to punish or to kill is theorized in relation to a criminalized aggressor. This discursive structure significantly strengthens the impression that the primary subject of the abstract, hypothetical transactions outlined in "Of Slavery"—the individual who cannot part with his freedom—is the "free," Euro-colonial, civil subject whose active participation in public life demands conditions appropriate to his status.

What I earlier referred to as an unannounced transition occurs at sec. 23, line 9. "Indeed" appears to introduce higher-level demonstration of the preceding, which is the very opposite to

what actually happens. Far from developing his analogical argument against voluntary enslavement, Locke abruptly introduces an individual subject who eventually becomes enslaved, “having, by his fault, forfeited his own Life, by some Act that deserves Death” (lines 9-10). The change is difficult to process because the “he” who up to this point represents the liberal subject is suddenly a different, culpable individual—so culpable that the death he merits ends in slavery. Literal slavery jumps into sharp, single-topic focus when judgment is passed on the individual to-be-enslaved, who, implicitly, is the dehumanized extra-European of the previous two chapters. The very abruptness of the to-be-enslaved individuals’ antagonistic, criminalized separation from the implicitly European liberal subject strengthens the impression that this individual has become a “genealogical isolate,” the term Orlando Patterson uses of the socially dead person who has been formally alienated from family, culture, and heritage.²²

The liberal European subject unable to part with his own freedom, on the other hand, now occupies the position of holding the power of life and death over his criminalized counterpart: “he, to whom he has forfeited it, may (when he has him in his Power) delay to take it, and make use of him to his own Service, and he does him no injury by it” (lines 10-13). The shift in perspective here is just as jarring, and as telling, as that which occurs in *Paradise Lost*’s defense of slavery, which is also formulated in penal, juridical discourse. There is, all at once, “no injury”—the phrase that exactly corresponds to *Paradise Lost*’s “no wrong”—involved in extracting “service” from an individual who is being threatened with death. The very abruptness with which the language of penal condemnation is introduced signals a shift in the kind of “slavery” now under discussion. Unambiguously the topic of the concluding paragraph, actual, chattel slavery remains the primary focus of attention for *Of Slavery*,” though analogical aims continue to be met.

Missing from Locke's "Of Slavery" is an account of the liberal subject's acquisition of despotic power. By eliding representation of a dramatic encounter such as Hobbes provides, Locke mystifies the origins of slave-mastership, though the two chapters preceding "Of Slavery" are meant to establish its naturalness. Especially unclear is the relation between natural, juridical power — relevant to the juridical language of "fault," "some Act that deserves Death" "forfeited"—and despotic power, which originates only in the state of war, and is separate from both natural and civil society. The liberal subject assumes his new role as slave-holder with the utmost obliquity: first, in the guise of indirect object —"to whom he has forfeited it" —and then parenthetically—"(when he has him in his Power)." Together with the other juridical terms, the repetition of "forfeited" (reiterated in "Of Conquest" and Chapter 15) stresses the liberal subject's juridical role, which becomes despotical power in a process that is, and remains, inexplicable.

As elsewhere in the *Second Treatise*, slavery and the state of war are mutually constitutive in section 24. In "State of War," the aggressor is said to have "exposed" his life to destruction while in "Of Conquest," his life becomes "forfeited." If we assume the treatise is theoretically consistent, Locke must be positing an aggressor who threatens the innocent subject's life and freedom. In "Of Slavery's" section 23, when slavery first comes into single-topic focus, however, it appears to be the product of juridical judgment. The to-be-enslaved is criminalized *prior* to becoming subject to despotical power. The very opaqueness of the to-be-enslaved's inaugural "fault," together with its distance from Locke's discussion of the just war on which slavery is to be founded—a discussion that occurs in section 24—gives Locke's suddenly introduced defense something like the eerily irrational quality of a curse. By foregrounding penal, juridical language, Locke's discussion could be said to provide a secular

counterpart to the curse of Canaan, and, arguably, given the pervasive nexus of penalty, slavery and Africanness at the time, subliminally recalls it.

If Locke expects his readers to identify the to-be-enslaved with the implicitly extra-European, bestialized antagonists of the preceding two chapters, the sequential nexus confusingly binding juridical to despotical power may gesture towards an untold tale. When the Euro-colonial juridical subject takes it upon himself to punish the extra-European transgressor of natural law, he may interpret any resistance he meets up with as an aggressive attempt on his life and liberty. In the Euro-colonial subject's view, should the transgressor resist with anything like force he will become an aggressor whose entrance into the state of war legitimates the liberal subject's corresponding transformation into a slave-master. Likewise, should the extra-European subject who is already enslaved resist his enslaver's disciplinary power, he will again become an aggressor perpetuating the state of war in which slavery occurs. Whether Locke's readers are to supply such narratives or are meant simply to concatenate fault, punishment and absolute subjection, it is important to grasp the distinction, initially fudged in section 23, between death as a juridical sentence and the slave-holder's power of life and death, which Locke conventionally refers to as "an Absolute, Arbitrary, Despotical Power." This power obtains only outside civil society, and is as limitless as the state of war itself.

Despite the interpretative difficulties it raises, Locke's bleeding of juridical into despotical power has another important ideological dimension. War-slavery doctrine, which has a venerable lineage that goes back to imperial Rome, gets enslavement to signify a gracious proffering of the gift of life, thereby mitigating the juridical reality that the slave-holder's power of life and death deprives the enslaved of social identity, civil status, rights and futurity. Unlike Grotius, who distinguishes *potestas vitae ac necis* from war slavery doctrine, Hobbes comes up

with his central ideologeme by conflating them. Throughout his three, major treatises Hobbes revisions the significance of both war slavery doctrine and the power of life and death by transposing them onto relations of political servanthood and sovereignty, while in *Leviathan* he briefly considers the doctrine's significance for actual slavery. Though Locke follows Hobbes in conflating war slavery doctrine and the power of life and death, for the same reason he does not represent the liberal subject in the act of enslaving, Locke does not—*cannot*—represent the decision to enslave rather than kill as an act of saving or preservation of life. The strictly proprietary, disciplinary function of Locke's despotical power is thereby exposed.

As Locke cryptically theorizes it, the deferral of death is a supplement to the victor's right to kill. From the enslaved's perspective, it results in an indefinitely prolonged social death accompanied by the ongoing threat of physical death. There is no ambiguity about the connection between the deferral of death and the extraction of unfree labor in "Of Slavery": the despotical enslaver-subject's decision to "delay" taking the enslaved's life permits him to "make use of him to his own Service." By implying an interrelation between juridical and martial, despotical power, Locke suggests that the enslaver's disciplinary power is, if not equivalent to, then certainly a by-product of the right of war, a war that, conveniently, does not actually require officially recognized warfare. Though the juridical subject's acquisition of despotical power is not, *cannot*, be represented, Locke clearly places the slave-master's disciplinary exercise of despotical power outside the purview of civil society.

Reading Locke Rewriting Power/No-Power

Locke worries that his doctrine of a natural, juridical power that includes killing might seem strange. But even stranger is his doctrine that one *cannot* exercise what seems to be a

similar power over one's self: "For a Man, not having the Power of his own Life, cannot, by Compact, or his own Consent, enslave himself to any one, nor put himself under the Absolute, Arbitrary Power of another, to take away his Life, when he pleases." The phrase "not having the Power of his own Life" is, in effect, the major premise of the syllogistic reasoning that unfolds in the opening three sentences of sec. 23: no individual has the power of life and death over her or himself (a power later defined as despotic, and which the lord has over the slave); one cannot give away what one does not have; therefore, one cannot voluntarily enter the condition of slavery. Locke appeals to the absence of a right over one's own life three times in sections 23 and 24. This non-right is clearly very important. But what, exactly, is the right that individuals do not have?

It is often assumed that by "the Power of his own Life" Locke means the power to terminate one's own life, that is, suicide, and that Locke appeals to the common, Christian belief that self-murder is divinely prohibited as a species of murder as well as a sin against the creator's gift of life. The first difficulty "Of Slavery" presents is that *Two Treatises* has already theorized two distinct forms of a natural right to take life, one juridical, the other martial. On what ethical basis is it alright for an individual to kill someone else but not oneself? Significantly, this question is dodged by Locke, and to a large extent by commentators. When rebutting the notion that natural liberty is equivalent to license in "The State of Nature," Locke stipulates that the natural individual "has not Liberty to destroy himself" (2.2.6). The question, if homicide, why not suicide? is thereby dogmatically pre-empted. Is there any more reasonable basis for distinguishing homicide from suicide? Or, perhaps, is self-murder not the only issue here? In arguing that it is not, I will return to the "Power/No-Power" debate of the mid-seventeenth century. Examined in the context of this debate, Locke's stress on "the Power of his own Life" is

part of a carefully designed strategy for integrating his theorization of antityrannicism with a defense of transatlantic slavery.

In “State of Nature,” when claiming that the law of nature instructs human beings not to injure one another without good reason, Locke reminds his readers that they are “all the Workmanship of one Omnipotent, and infinitely wise Maker; All the Servants of one Sovereign Master, sent into the World by his order and about his business, they are his Property, whose Workmanship they are, made to last during his, not one anothers Pleasure” (2.2.6). Locke is concerned with the individual’s treatment of others here. But by referring to human beings as the “Property” of their Maker, Locke lays the groundwork for the proposition that one is not free to dispose of one’s own life (2.2.6). In the passage just cited Locke adds that one is also not meant to hold one’s life at “anothers Pleasure”—a phrase that speaks directly to the absolute, arbitrary, power of both slave-holder and tyrant. That the creator is the only “Lord” of humankind is a commonplace of resistance theory, though ordinarily it is used to deny that an earthly sovereign is a representative of the divine.

In developing its corollary—that the Maker is a “sovereign Master” whose creatures are his “Property”—Locke boldly literalizes the deity’s “dominion” over his creatures, who become, in effect, their creator’s slaves. Locke thereby grounds the impossibility of voluntarily alienating one’s own freedom on the liberal subject’s status as “Property” of the “sovereign Master”—not, as Parker and other radicals do, on humankind’s essential nature. Locke has perhaps learned from Hobbes the tactical advantage of transvaluing slavery. One *cannot* enslave oneself, according to the principle Locke devises, because the “Sovereign Master” is already proprietor of one’s life. With this formulation, the “Man” of Locke’s preliminary assertions is placed within

the protective bonds of an asocial, spiritual yet proprietary relationship with his creator, a divine master who will not permit him to transfer his freedom to a mortal.

Status as divine property has several advantages, the most important being that it legitimates the tenet that one *cannot* alienate one's freedom and life. At issue is the very topic debated by Hammond, E. P. and Goodwin, that is, the (im)possibility of voluntarily electing degraded, unfree human status. By conferring property-status on the human creature, Locke makes the creature's freedom the property of his Sovereign Master who, like Greco-Roman slave-holders, has formal, legal possession of any property his slave claims. For the human creature, formally in the protected position of divine slave, freedom is paradoxically the most valuable of the Master's gifts, one he is not permitted to give away. In "State of War," Locke argues that one's "Freedom" is the "Fence" to one's ability to preserve one's life (2.3.17). He makes the same point, though negatively, in the opening sentence of 23. The impossibility of parting with "Freedom from Absolute, Arbitrary Power" is qualified, juridically, with the phrase "but by what forfeits his Preservation and Life Together." To understand how this impossible possibility plays out in "Of Slavery," where freedom is bound up with the power of life and death, we need to return to the *Power/No-Power* debate.

Affirmations or denials regarding what people can "part with" are a regular feature of debates on sovereignty in the state. Given early modern political philosophy's preoccupation with origins, claims about what can and cannot conditionally be given away, transferred or delegated are central to theorization of the reach of natural as well as artificial power. The principle that one cannot part with what one does not have is as important to royalist as it is to resistance theories. Referred to by Goodwin as a "maxim," Locke appeals to it in asserting that one cannot part with one's freedom. Locke's thesis in "Of Slavery" is similar to that of E. P.,

who argues that no individual or collective can voluntarily pass away its own freedom:

“Therefore that *absolute and unreserved* resignation of a mans *Native Liberty and Right* out of *himself* into any *other person* whatsoever, without any just *condition*, or *adequate exchange*... can have no *rise* or *origination* from *God* or *reasonable Nature*.”²³

But E. P. stakes his claim against the possibility of voluntary slavery on the ends of government, which are to preserve and protect those who institute it:

It is *irrationall* to think, that any man, or men can give to another, that which they have not in themselves, for a power to ruin themselves they never had; and it is *unnaturall*, that any people should set up over themselves any one person, or collectaneous body of men to be *Lords Proprietaries* of their Rights and Interests, and to hold an *imperial and Prerogative scourge* over their backs, and keep them in a remedillesse condition, by laboring to work them to an *embased flexibility* to his or their wills, and so to *emasculate their spirits*, so as ever to prevent their free uttering of their just *aggrievances* (*OE*, 14).²⁴

E. P. synthesizes the have-in-order-to-give maxim and the principle that rational beings create government for their own good with his own, principal argument that human beings cannot voluntarily bring about or assent to their own destruction. They cannot part with a right to destroy themselves since they have never had it, such a right being incompatible with the dictates of reasonable nature. Though novel in its emphases, E. P.’s argument draws on familiar, antityranny tenets when he pits the tyrannous rulers who as political slave-holders “hold an

imperial and Prerogative scourge over their backs” against the “remediless condition” of their political slaves.

E. P. may be alluding to the English colonies when representing the “Lords Proprietaries” as slave-masters, in which case this an important, anti-slavery allusion to African bondage. For present purposes, it is key to indexing Locke’s divergence from E. P.’s mid-century antityrannicism. (Locke, it should be noted, is not only secretary to the Lords Proprietors of Carolina but manages to become a Lord himself). Though no opponent of mercantilism, Parker (who I conjecture to be the author of E. P.’s tracts) consistently opposes actual slavery, going so far as to advocate its immediate abolition in *Jus Populi*. Although Parker is primarily concerned with demarcating specifically political rights, he not only steadfastly maintains the unnaturalness of slavery but also develops a lucid, theoretically coherent critique that is continuous with his other principles, including his commitment to democratic representation. By contrast, in “Of Slavery,” Locke goes out of his way to get liberal, antityranny principles subserve his defence of transatlantic slavery. Recruiting radical principles to this end, Locke merges the tenet that one cannot part voluntarily with one’s freedom with the royalist principle that no human being naturally holds the power of life and death. Locke, one could say, subjects the radical principle regarding liberty to what E. P. calls an *embased flexibility*.

This embasing takes place when Locke *rejects* the claim that human beings naturally possess the power of life and death—made by both Parker and Goodwin in theorizing the collective origins of state power—instead taking up the royalist Hammond’s position regarding the “No-Power over a mans own life.” Hammond, though, argues that because only the Deity holds this power, only the Deity can formally transfer it to an approved sovereign. Locke obviously has no sympathy with this position since he assigns humankind two forms of a natural

right to kill. Yet Locke appropriates not only Hammond's claim regarding the "No-power over a mans life" but also the notion that the "Sovereign Master" holds this power over his human creatures, not the creature over its own self. Put more directly, Locke assimilates Hammond's royalist "No-power" to a conception of liberty as propriety in oneself: the "No-power" over one's own life is obviously not available for voluntary exchange. As a result, Locke divorces the power of life and death from questions about the origins of properly political power—specifically, juridical or disciplinary power—being debated in the mid-century debate. Reframed in "Of Slavery," the power of life and death is critical not to political slavery but to actual, transatlantic slavery—as despotical power.

Though there is no evidence that Locke was acquainted with the Power/No-Power debate, direct knowledge would not be a prerequisite for his devious *bricolage* because the issues involved were widely discussed. I find it tempting to speculate that Locke was familiar with E. P.'s contributions. Adamantly denying the possibility of voluntary, collective slavery together with the legitimacy of chattel slavery, E. P. also explicitly denies that the slave-holder holds the power of life and death. E. P. certainly presented Locke with the very contradictions he had to finesse. A related treatise by the influential royalist John Maxwell, originally published in 1644 and re-published in the 1680, might also be relevant. In this treatise Maxwell rebuts a collectivist version (possibly from one of Parker's tracts) of the doctrine that authoritative juridical process is natural to humanity, by asserting, "God onely hath the Power of man's Life. No man hath Power over his own Life. Whoso taketh away the Life of man, in God's Justice and Ordinance his Life is to be taken away again."²⁵ Interestingly, Maxwell also attacks those who cite God's sentence on Cain for evidence that this power is pre-civil—a position Parker takes and that Locke develops in "State of Nature." Like Hammond in the later debate, Maxwell argues that

this power belongs only to “God’s Deputy,” that is, “he in whom is Sovereign Power,” which derives directly from God.

The difficult, passive construction Locke uses in the sentence opening 23—“he cannot part with [Freedom from Absolute, Arbitrary Power] but by what forfeits his Preservation and Life together”—becomes clearer in the context of the Power/No-Power debate. As I understand it, Locke is asserting that freedom from arbitrary power is parted with only forcibly, by coercive conversion into enslavement. This would seem tautological were it not for Locke’s need to deny that voluntary, figurative slavery is possible. Note, however, that the identity of what the individual cannot part with gradually alters: “Freedom from Absolute, Arbitrary Power” is replaced by “Power of his own Life,” which is then replaced by “he that cannot take away his own life.” The phrase “take away” is close to but significantly different from the customary expression for self-murder, which is to “take” one’s own life. But besides lining up in seemingly logical correspondence with “give away” as a synonym for to “part with,” “take away” is precisely what despotic power involves: “the Absolute, Arbitrary Power of another, to take away his Life, when he pleases.” By substituting “Power of his own life” for freedom, Locke thus gradually, imperceptibly slips the liberal subject who cannot part with or “take away” his own freedom and life into the position of the Euro-colonial subject who holds a limitless, discretionary power to “take away” (or not) the life of the enslaved.

If there is “no injury” in the despotical ruler’s exercise of power, then the enslaved does no wrong in precipitating her or his own death—the only form of resistance Locke permits. But in what does it consist? Planters took pre-emptive disciplinary measures against suicide because it destroyed valuable property. Ligon says that one Collonell Walhoud, having lost a few slaves this way, severed one of their heads and set it on a twelve-foot high pole.²⁶ So even if it were not

forbidden by Christian doctrine, Locke would not sanction suicide. Lacking the power of one's own life involves a prohibition not against self-murder *per se* but rather against transferring ownership of one's self (as property of the Sovereign Master) to another. Though one cannot voluntarily *give away* power over one's life, once forcibly enslaved one can provoke one's lord into exercising his right to *take away* the life that is anyway no longer one's own. (In other words, the "lord" who holds the power of life and death — which Locke, like Hobbes, conflates with the victor's power to enslave or kill—may exercise it by imposing capital punishment.) Locke refers to the "Death he desires," momentarily bestowing agency on the enslaved. Yet given the way Locke joins juridical with martial right, in resisting the slave-holder's will the enslaved provokes the death she or he ostensibly *deserves*.

In summary, situating "On Slavery" in the context of the Power/No-Power debate makes it easier to gauge the pressure of Locke's desire to defend simultaneously the right of political resistance against tyranny and the institution of chattel slavery. None of the participants in the earlier debate shares this double agenda, with reference to which almost every feature of Locke's argument needs to be understood. Locke appropriates royalism's "No-power over a mans own Life" to protect the liberal, Euro-colonial subject's natural freedom as it enables him to argue that a voluntary transfer of this "No-power" is not possible. At the same time, this very "No-power" enables Locke to show how when the liberal subject enters into social relations with a criminalized antagonist, both right and might are on his side. In the movement of his argument Locke transforms the liberal subject's positionality. Out of the blue his innocent liberal subject, initially enjoying a negative freedom, a divinely sanctioned "No-power" over his own life, comes to hold "despotal power," the power of life and death, over the enslaved.

It should also be noted that the despotal power of life and death held by Locke's enslaver—following Roman jurists, designated *power*, not *right*—exceeds the “Right to destroy that which threatens me with Destruction” outlined in “State of War.” For Locke, not limited to self-preservation or the preservation of humankind as is the juridical right to kill, the slave-master's power involves a right to *withhold* such destruction, substituting the threat of death as a means of extracting labor. As with despotal power's acquisition, Locke avoids explicitly theorizing deferral of death as an exercise of despotal power. To do so would jeopardize the liberal subject's positionality. Because Locke's despotal power does not save or preserve, however, he lays bare its coercive, dehumanizing, disciplinary function more starkly than does any other theorist.

Hebrew and Chattel Slavery

In “Of Slavery's” final paragraph, Locke continues to focus on actual servitude, while the subtext concerns the impossibility of voluntary self-enslavement. Though he begins with a concession regarding “Jews, as well as other Nations,” Locke does not treat voluntary enslavement on the part of a community, as discussions indebted to Grotius have done. What unfolds is a rhetorically amplified contrast between individual, voluntary self-sale as practiced among Jews and “the perfect Condition of Slavery” as conducted in a state of war, outlined in the preceding paragraph. Rarely without polemical purpose, emphasis on the distinctiveness of ancient, Hebraic servitude is conventional among resistance theorists. Locke is not alone in rejecting the term “slavery” for the servitude undergone by individual Jews, nor in stressing biblical evidence of its impermanence and of strictures against disciplinary violence. The point, however, of highlighting these features is to demonstrate the Hebrew servant's freedom from

despotal power: unlike the chattel slave, the Hebrew servant does not lie “under an Absolute, Arbitrary, Despotal Power.” Significantly, this statement *exempting* the Hebrew servant is the first occasion on which despotal power is named, not only in “Of Slavery” but in *The Second Treatise*.

At this stage in “Of Slavery” Locke relies on readers to supply the not-said. The argument initiated in this section appears to contrast nations that practice an innocuous form of self-sale with those that do not. When the Hebrew servant, consigned merely to “Drudgery” (servitude is clearly about labor) turns out to have been free from “Absolute, Arbitrary, Despotal Power,” she or he ends up in the same position as Locke’s liberal subject. Just as the liberal subject who *cannot* part with his freedom retains a privileged relation with a proprietary Sovereign Master, the Hebrew servant who remained free from despotal power demonstrates the Sovereign Master’s special regard for his people’s freedom. Ancient Israel, God’s chosen nation, is the site of affective national identity for many western European Protestant nation-states, and in especially powerful ways for English and Dutch varieties of republicanism, both elite and popular.²⁷ On a level that at the time Locke writes is profoundly commonsensical, Israel is associated with a network of English privileges that facilitate, colonial, mercantile and numerous other national enterprises.

For the sake of preserving the apparently inclusive abstractness of his juridical discourse, Locke has omitted overt markers of differential susceptibility to enslavement up to this point in “Of Slavery.” In the last paragraph, however, Locke specifically exempts Israel and other “Nations” from “the perfect condition of Slavery.” What “Nations” do place slaves under despotal power? is a question overwhelmed by the general contrast between indentured servitude and slavery.²⁸ Ultimately, this may be the most significant import of the reiterated,

overdetermined “cannot,” which safeguards the liberty of God’s chosen people and, *a fortiori*, of the English, or certainly those English savvy enough to appreciate what is theirs by right.

Indirectly, the conclusion to be drawn from Locke’s exemption rationalizes the enslavement of Africans. In *Paradise Lost*, some “nations” deserve bondage when they decline too far from virtue, the Deity’s curse of Canaan being the paradigmatic instance of a justly enslaved “vicious race.” Locke likely expects his chosen readers to negotiate servitude’s different registers by implicitly racializing both native liberty and contemporary, transatlantic slavery, offering in “Of Slavery” a compactly rationalized counterpart to his contemporaries’ Africanization of the curse of Canaan.

Slaves and Tyrants

To introduce further complications will, I fear, tax readers’ patience, strain credulity, or detract from the analysis just offered. Yet I have so far downplayed certain features of Locke’s “despotic power” that are important not only to *Two Treatises* as a whole but also to early modern colonial and political discourses. First, a few further general comments on Locke’s indebtedness to Hobbes’s theorization of despotism. By now it should be clear that Hobbes and Locke share a commitment to synthesizing a theorization of natural and civil rights with a defense of transatlantic slavery. Locke’s inspiration for attempting this synthesis in “Of Slavery” is surely Hobbes’ equally condensed discussion of “despotic power” in *Leviathan*. Their defenses are made possible, as well as exceptionally complicated, by their common reliance on strategic shifts between analogical and unillogical discursive registers regarding slavery together with tacit assumptions about the privative age, warfare, and Euro-colonial civility.

The political servitude against which Locke declaims is, of course, just what Hobbes systematically presents as the basis of familial and civil subjecthood. In theorizing a contractual basis for absolutism and servitude, Hobbes subverts his adversaries' representation of monarchy as a form of rule that inevitably results in degrading political slavery. Given the appalling risks of the natural state, Hobbes makes subjection to the absolute power of the sovereign representative an act of supreme rationality. For Locke, utilizing antityranny discourse as his radical predecessors have, such subjection would irrationally undo the very *raison d'être* of civil society, and is therefore unthinkable, impossible. The absolute monarch permitted to exercise his power tyrannously becomes for Locke the figurative slave-holder or lord whose power is not properly political. Responding to advocates of this political "lord," perhaps even alluding to Hobbes's construction of civil subjecthood, Locke caustically retorts: "As if when Men quitting the State of Nature entered into Society, they agreed that all of them but one, should be under the restraint of Laws, but that he should still retain all the Liberty State of Nature, increased with Power, and made licentious by Impunity. This is to think that Men are so foolish that they take care to avoid what Mischiefs may be done them by *Pole-Cats*, or *Foxes*, but are content, nay think it Safety, to be devoured by *Lions*" (2.7. 93).

That Hobbes and Locke begin from premises that are diametrically opposed needs no further elaboration. Yet they share more than an acute awareness of all that is at stake in appropriations of antityranny ideology: like Grotius, both consider despotical power primarily from the perspective of its holder. We have seen that Locke's liberal subject is presumed to be innocent and fair-minded. In "State of Nature" this subject's naturally reasonable juridical power is contrasted with the conventional excesses of the tyrant's "passionate heats" and "boundless extravagancy of his own Will" (2.2.8) ("extravagant" and "exorbitant" regularly appear of

arbitrary rule). In “The State of War,” however, the liberal subject gains access to rights that are discontinuous with civil society. In the following passage, Locke introduces Jephtha, who in Judges takes up arms when verbal negotiations between Israel and the Ammonites have broken down.

Had there been any such Court, any superior Jurisdiction on Earth, to determine the right between *Jephtha* and the *Ammonites*, they had never come to a State of War, but we see he was forced to appeal to *Heaven*. *The Lord the Judge* (says he) *be Judge this day between the Children of Israel, and the Children of Ammon*, Judg. 11.27. and then Prosecuting, and relying on his *appeal*, he leads out his Army to Battle: And therefore in such Controversies, where the question is put, *who shall be Judge?* It cannot be meant, who shall decide the Controversie; everyone knows what *Jephtha* here tells us, that *the Lord the Judge*, shall judge. Where there is no Judge on Earth, the Appeal lies to God in Heaven. (2.3.21).

Like Grotius, who mentions this battle in connection with the just war, Locke relies on readers’ confidence that Israel’s cause is just, though elsewhere Locke counsels caution in ascertaining justness (2.16.176). The verse following the one Locke cites reports that “the Spirit of the Lord came upon Jephthah and he passed over Gilead, and Manasseh, etc.” on the way to defeating the Ammonites.

A version of the question, *who shall be Judge?* is often employed to critique resistance theory. Locke’s answer involving an *Appeal to God in Heaven* recurs throughout *Second Treatise*. Its indirectness and solemn biblical origins — Jephtha, it should be recalled, is among

the saints lauded in Hebrews 11.32 — would not prevent knowing readers from recognizing that Locke's reference legitimates armed resistance. (The words Locke cites as Jephtha's "appeal to Heaven" in Judges belong to the emissary; Locke re-assigns them to Jephtha to bolster their authority). Only in the treatise's final chapter are Jephtha and his appeal to heaven applied explicitly to resistance against a tyrannous ruler or government (2.19.240-42). Yet their earlier appearance in "State of War" and "Of Conquest" invokes antityranny ideology, which often represents the tyrant's ostensible enmity to his people by likening him to a foreign conqueror. Locke's antityrannicism acquires a peculiarly individualistic cast, though, when Jephtha alone is mentioned (rather than Jephtha as general of the Israelites.) Locke asserts in the concluding paragraph of *Two Treatises* that the power individuals give to civil society when entering it thereafter remains in the "Community or Common-wealth." The impression lastingly left, however, is of a community of isolated individuals, any one of whom might boldly take action.

Earlier, I discussed Locke's animalization of the state of nature's transgressor and the state of war's aggressor primarily insofar as it legitimates the liberal, Euro-colonial subject's action against those who are to be disciplined or enslaved. Bestiality, however, also has longstanding associations with the tyrant's descent into monstrous asociality. Greco-Roman antityranny ideology conventionally portrays the tyrant acting outside or against the law, whether seduced by flatterers or led by his own increasingly insatiable passions. Because he is a ruler, the tyrant's lawlessness directly affects his subjects, who are often said to be robbed, destroyed, devoured, or trampled underfoot by him. So monstrous does the tyrant become in violating his responsibilities that he loses his very humanity. Ever-degenerating, he resembles or morphs into a predatory animal, most frequently, of course, a wolf. Even Bodin, who does not countenance

intrastate political resistance, contrasts the good monarch's self-giving nurturance with the tyrant's animalistic depredations:

[T]he one chargeth his subjects as little as he can, neither exacteth anything of them, but when the publike necessitie so requireth; whereas the other drinketh his subjects blood, gnaweth their bones, and out of them also sucketh even the marrow, so by all means seeking to weaken them: the one advanceth unto the highest degrees of honour the best and most virtuous men; whereas the other stil promoteth the greatest theeves and villaines, whom he may use as sponges, to sucke up the wealth of his subjects.²⁹

This cannibalistic drinking of blood, gnawing of bones, and sucking of protein-rich juices hidden in bone-marrow viscerally convey the tyrant's exploitative abuse of the people he is meant to nourish and protect. Locke appeals to such representations of the parasitical, sub-human tyrant in the passage cited earlier satirizing subjects' apparent willingness to be "*devoured by Lions*" [my emphasis] and again in the sustained defence of political resistance in "Dissolution of Government's." Insisting that the right to oppose the "unlawful violence of those, who were their Magistrates, when they invade their Properties contrary to the trust put in them" is no different from the right to oppose robbers or other oppressors, Locke mocks those who would counsel non-resistance:

Who would not think it an admirable Peace betwixt the Might and the Mean, when the Lamb, without resistance, yielded his Throat to be torn by the imperious Wolf? *Polyphemus's Den* gives us a perfect Patterns of such a Peace, and such a Government, wherein *Ulysses* and his Companions had nothing to do, but quietly to suffer themselves to be devour'd. And no doubt

Ulysses, who was a prudent Man, preach'd up *Passive Obedience*, and exhorted them to a quiet Submission, by representing to them of what concernment Peace was to Mankind; and by shewing the inconveniencies might happen, if they should offer to resist *Polyphemus*, who had now the power over them. (2.19.228)

Locke's tone expresses the contempt for voluntary servility that is antityrannicism's special *métier*. Masochistically yielding one's throat to be torn or cut is one of the most tried and true of the tropes vilifying servility, which is how Locke's antityrannicism translates the contemporary doctrine of passive obedience or non-resistance. By introducing Polyphemus's den, Locke places his readers in a life-threatening scenario every much as imaginatively engaging as Hobbes's. Standard representatives of pre- or a-civil society's lawlessness in classical Greek philosophy, the Cyclops are, interestingly, not mentioned in Locke's narrative. In his allegorical role as devouring tyrant, only Polyphemus appears, the "den" alluding directly to Homer's epic narrative where the entrapped Ulysses and his men (minus those who have been devoured) narrowly escape being eaten alive.

Because he eats human flesh, Polyphemus is an effective figure for the cannibalistic tyrant. A quotation from Livy that appears on the title-page of the 4th and 5th editions (1713, 1728) characterizes tyrants as driven by raging, insatiable greed that can be satisfied only if "we yield them our blood to drink and our flesh to rend." In the *First Treatise*, when rebutting Filmer's absolutist exegesis of the Genesis grant of "dominion," Locke toes radicalism's line by arguing that the divine grant permits only human dominion over animals. "[I]t is past all doubt," Lockestates, "that Man cannot be comprehended in this Grant, nor any Dominion over those of his own Species be convey'd to *Adam*" (1.4.27). But in a satirical conflation of slavery and

bestiality, Locke adds that by giving Adam dominion “*over every living thing that moveth on the earth, Chap. 1.28,*” Filmer makes all humankind “slaves” to the royal Adam and his heirs. So why did Filmer not go the whole hog, he taunts, to say “that Princes might eat their Subjects too, since God gave as full Power to *Noah* and his Heirs, *Chap. 9.2.* to eat *every Living thing that moveth,* as he did to *Adam* to have Dominion over them” (1.4.27).

As this suggests, Locke even gets patriarchal absolutism’s fathers to practice cannibalism. In his critique of Filmer’s thesis that fathers naturally hold the power of life and death, Locke eloquently lays out the variety of child-preservative acts routinely performed by non-human creatures before arguing that even if fathers have in the past exercised the power over life over their children, this does not prove it to be legitimate. (Locke here turns the argument Bodin uses regarding slavery’s universality against patriarchalism). If real-life instances are what count, Filmer should have “shewed us in *Peru*, People that begot Children on purpose to Fatten and Eat them.” Locke is so impressed by his source for this ethnography, a French translation of *Commentarios Reales* by Garcilaso de la Vega (1633), that he cites an entire passage on the Peruvians’ custom of eating captive mistresses and the children they produce with them; the passage explains this and related behaviour with the claim that “they were so liquorish after Mans Flesh” (1.6.57). While Locke is aware that the tyrant’s blood-thirsty hankering after his subjects is a traditional trope, he seems persuaded that the Peruvians do beget and (as his own translation has it) “choisly nourish” their children for the sake of sating their lust for human flesh.

Under rhetorical pressure, the cannibalism associated with tyranny can make the tyrant into an enemy either of the state or of humankind. Tyrannicide is defended in this way by Cicero, and in *Two Treatises* it is subtly defended by Locke, as well. We have seen that in “State of

Nature” and “State of War” Locke presents the offender’s monstrosity in highly general, imprecise terms. The same generic language appears again in the section of Chapter 15 on “Despotic Power.” Locke repeats that the aggressor who puts himself into a state of war with another formally forfeits his own life (using the juridical language found in “Of Slavery”), explaining:

For having quitted Reason, which God hath given to be the Rule betwixt Man and Man, and the common bond whereby humane kind is united into one fellowship and societie; and having renounced the way of peace, which that teaches, and made use of the Force of War to compass his unjust ends upon an other, where he has no right, and so revolting from his own kind to that of Beasts by making Force which is theirs, to be his rule of right, he renders himself liable to be destroyed by the injur’d person and the rest of mankind, that will joyn with him in the execution of Justice, as any other wild beast, or noxious brute with whom Mankind can have neither Society nor Security. And thus *Captives*, taken in a just and lawful War, and such only, are *subject to a Despotic Power*, which as it arises not from Compact, so neither is it capable of any, but is the state of War continued. (2.15.172)

By associating the sub-human, animalistic resort to “Force” with the “Force of War,” Locke makes this characterization of the offender compatible with slavery as the lawful consequence of the aggressor’s instigation of a state of war. Yet “force” as threatening, invasive intrusion into the lives of his people also typically initiates the tyrant’s metamorphosis into an enemy or monster. By using abstract, general language, Locke makes it possible to identify the barbarous perpetrator as either the wild, pre-civil Indigene or the wilful tyrant.

But does this really make sense? Wouldn't this make the tyrant a potential slave?

Inaugurating both the formal forfeiture of his life and the state of war, a perpetrator who so grossly offends against human society can be brought to justice only when the force he initiates is turned back against him and he falls under the victor's despotical power. In this encoded narrative, Locke presents a justification for armed resistance against an absolutist ruler who has become an enemy of his people. Set out in terms of a confrontation between individuals, on this occasion resistance potentially involves a community ("and the rest of mankind that will joyn with him in the execution of Justice"). That Locke is making a case for tyrannicide as well as for interstate aggression and slavery may be suggested by this phrase, together with the concluding specification of the captor's formal power over the captive, now a slave. Significantly, Milton uses the term "despotism" in this way at the time of the Model Army's power over the captive Charles I, a political "slave": "by thir holding him in prison, vanquishd and yielded into thir absolute and despotic power," the king was brought "to the lowest degrademen and incapacity."³⁰

Does this mean that Locke is not rationalizing slavery here? Locke's language, deliberately abstract and generic, is in my view capable of conjuring up both the tyrant and the slave. Yet it does so as the theoretical equivalent of the perceptual puzzle presented by the rabbit/duck, which the human mind is able to view successively but not simultaneously. Nothing in this passage conflicts with Locke's defense of slavery in "Of Slavery," which anticipates virtually every logical and rhetorical move as well as individual phrases of "Despoticall Power." Non-European heathens are habitually charged with monstrous crimes of the sort Locke attributes to the Peruvians and to tyrants. Such violations are believed to occur outside civil society, whether prior to it in the case of Europe's contemporary ancestors or in self-authored

exile from humanity for tyrants. As contemporary ancestors, Amerindigenes and Africans are more or less expected to enter readily into Locke's state of war since in "hard" versions of the privative age they are basically already there. Yet the absolute monarch just as easily ends up transgressing law, becoming a tyrant who threatens his own people with destruction.

In so ingeniously getting the tyrant to act as a double for the slave in this passage, Locke hopes to find fit readers who can perceive one and not the other if need be. By the time *Two Treatises* appears in print (1689), Thomas Tryon had published his anti-slavery tracts in *Friendly Advice to the Gentlemen-Planters of the East and West Indies* (1684). Earlier, in *A Christian Directory* (1673), Richard Baxter had directly attacked the slave trade and the Caribbean planters who participated in it for violating Christian ethical standards. Turning colonialist rhetoric back against the colonizers, Baxter calls the traders "common enemies of mankind," and compares the cruel planters with tigers and cannibals.³¹ Readers attuned to debates about colonial slavery would not have had to read too far into the *Second Treatise* to learn where Locke stood. Neither would fellow radicals. Slavery of any kind is incompatible with consent. The civil individual can therefore legitimately safeguard political liberty against the tyrant and defer the penalty of death for the involuntarily enslaved.

¹ "On the level of abstract political philosophy, John Locke, a shareholder in the Royal African Company, was the last major thinker to seek justifications for enslaving foreign captives," *Slavery and Human Progress* (New York and Oxford: Oxford University Press, 1984), 107-8.

² David Wootton goes on to say, “It seems to me clear that the argument of the *Second Treatise* made chattel slavery as it existed in the New World illegitimate, and clear too that Locke, who played a role in shaping England’s policy towards the colonies, did nothing about it,” “Introduction,” *John Locke: Political Writings* (1993; Indianapolis: Hackett Publishing Company, 2003), 117. Wootton’s view is similar to that of James Farr, who asserts that “Locke’s theory positively condemns seventeenth-century slave practices and any ongoing institution of slavery whatsoever,” “‘So Vile and Miserable an Estate’: The Problem of Slavery in Locke’s Political Thought,” *Political Theory*, 14, no.2 (1986): 264. For another inconclusive attempt to come to terms with the interplay of registers in Locke’s *Two Treatises*, see Wayne Glasser, “Three Approaches to Locke and the Slave Trade,” *Journal of the History of Ideas*, 51, no. 2 (1990): 199-216. Commentators tend either to ignore or dismiss the cogent reading of Locke’s discussion of slavery given by David Brion Davis, *The Problem of Slavery in Western Culture* (Ithaca: Cornell University Press, 1966), 118-21.

It would seem that such ambiguity is fostered primarily within the academy. Commenting on the marginalization of issues relating to racism in Western liberal democracies, M. Nourbese Philip, for example, assumes the integrity of Locke’s views, asserting, “While John Locke argued for the freedom of man, he had no intellectual difficulty accepting that these freedoms could not and should not extend to African slaves.” *Frontiers: Essays and Writings on Racism and Culture* (Stratford, Ontario: The Mercury Press, 1992), 271.

³ For a comprehensive overview of Locke’s personal and administrative interest in the English colonies see Anthony Pagden, “The Struggle for Legitimacy and the Image of Empire in the Atlantic to c. 1700,” *The Oxford History of the British Empire*, vol.1, *The Origins of Empire*, ed. Nicholas Canny (Oxford: Oxford University Press, 1998), 42. Like James Tully, Pagden is not especially interested in “Of Slavery” but rather in how Locke’s “Of Property” legitimates the expropriation of New World lands. This essay focuses on Locke’s development of the *res nullius* doctrine, which makes it “possible for Europeans to disregard all aboriginal forms of government, and consequently to deny them any status as “nations,” 44. In a process similar to that analyzed in the present chapter, Mark A. Michael shows how Locke incorporates components of earlier discussions of rightful acquisition of property into his own, systematic justification for colonizing ventures in America, “Locke’s Second Treatise and the Literature of Colonization,” *Interpretation: A Journal of Political Philosophy*, 25, no.3 (1998): 407-26.

⁴ John Locke, *Two Treatises*, ed. Peter Laslett, Student edition (Cambridge: Cambridge University Press, 1960; Student edition, 1988), bk 1, ch. 1, par. 1. Subsequent parenthetical references to Locke’s *Two Treatises* will be to this edition and indicate these locaters. In a *TLS* review of books on slavery and abolition, Howard Temperley illustrates European opposition to slavery by stating, “In 1689, John Locke dismissed slavery as too contemptible to be defended by an Englishman,” *TLS* (October 4, 2002): 3.

⁵ See Barbara Arneil, *John Locke and America: the Defence of English Colonialism* (Oxford: Clarendon Press, 1996) and James Tully, *An Approach to Political Philosophy: Locke in Contexts* (Cambridge: Cambridge University Press, 1993), chap. 5.

⁶ David Armitage, “John Locke, Carolina, and “Two Treatises,”” *Political Theory* 32, no. 5 (October 2004): 603.

⁷ John Locke, *John Locke: Political Writings*, ed. David Wootton (Indianapolis and Cambridge: Hackett Publishing, 1993), 230.

⁸ Armitage, “John Locke,” 619.

⁹ With primary reference to the franchise, Ellen Meiksins Wood argues that Locke “both appropriates and, on critical issues, deliberately neutralizes the radical “‘discourses’ of his time” in “Radicalism, Capitalism and Historical Contexts: Not only a Reply to Richard Ashcraft on John Locke,” *History of Political Thought*, 15, no.3 (1994): 343.

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- ¹⁰ David McNally, “Locke, Levellers and Liberty: Property and Democracy in the Thought of the First Whigs,” *History of Political Thought*, vol 10, no.1 (1989): 39. Jonathan Scott situates Locke’s endorsement of armed resistance in its immediate political context, including the contributions made by Algernon Sidney, in “The Law of War: Grotius, Sidney, Locke and the Political Theory of Rebellion,” *History of Political Thought*, 13, no. 4 (1992): 565-585
- ¹¹ Mark Goldie plausibly suggests that “the composition of Locke’s little-regarded chapter on conquest in his *Two Treatises* belongs to 1689” and debate about William III’s right of conquest, “Edmund Bohun and *Jus Gentium* in the Revolution Debate, 1689-1693, *The Historical Journal*, 20, no.3 (1977): 585.
- ¹² *Two Treatises*, 380n169 and 382n172. Quoting from Johnson’s *Dictionary*, J. H. Burns correctly notes that Locke’s “arbitrary” and “absolute” are not synonymous but then assumes that his despotical and tyrannous power are on a continuum, *Absolutism: The History of an Idea*, The Creighton Trust Lecture (University of London, 1986), 4, 5. Ashcraft, too, conflates tyranny and despotism, as when he asserts with reference to the discussion of “Despotical Power that the exercise of “despotical power” makes one an “aggressor” or a “wild beast, or noxious brute,” in *Revolutionary Politics and Locke’s Two Treatises* (Princeton: Princeton University Press, 1986), 402. See also Locke’s *Two Treatises* (London: Allen and Unwin, 1987), 221. Ashcraft avoids discussion of transatlantic slavery in *Revolutionary Politics and Locke’s Two Treatises*.
- ¹³ Richard Tuck relates the centrality of this right in the *Second Treatise* to Locke’s defense of Grotius against Pufendorf’s critique, *The Rights of War and Peace* (Oxford: Oxford University Press, 1999), 166- 81.
- ¹⁴ Henry Parker, *Jus Populi* (London: 1644), 10
- ¹⁵ As Laslett points out, Locke turns this divine command (which for Ponet constitutes political power) as a “law of nature,” 274nlines 30-1
- ¹⁶ Parker, *Jus Populi*, 10.
- ¹⁷ Pagden, “Struggle for Legitimacy,” 46n53
- ¹⁸ Bacon, *An Advertisement Touching an Holy Warre*, CMW, 131
- ¹⁹ Grotius, [2:20.40] [please supply]
- ²⁰ Tuck, *Rights of War and Peace*, 171.
- ²¹ R. W. K. Hinton regards the rebuttal of Filmer with which “Of Slavery” opens as a “literary device” or possibly “an actual interpolation” introduced to bolster a woefully weak argument. “Husbands, Fathers and Conquerors: Patriarchalism in Hobbes and Locke, ii” *Political Studies*, 16, no. 1 (1968): 63.
- ²² Orlando Patterson, *Slavery and Social Death* (Cambridge: Cambridge University Press, 1982) 5.
- ²³ Eutactus Philodemius, *The Original and End of Civil Power* (London: 1649), 6.
- ²⁴ *Ibid.*, 14.
- ²⁵ John Maxwell, *The Sacred and Royall Prerogative of Christian Kings* (Oxford: 1644), 52.
- ²⁶ Richard Ligon, *A True & Exact History of the Island of Barbados* (London: 1657), 51.
- ²⁷ Lea Campos Boralevi explores early modern representations of ancient Israel as an ideal *res publica*, and argues that Dutch identification with God’s republic became central to the formation of its national identity. “Classical Foundational Myths of European Republicanism: The Jewish Commonwealth,” in *Republicanism: A Shared European Heritage*, eds. Martin van Gelderen and Quentin Skinner (Cambridge and New York: Cambridge University Press, 2002), 247-261.
- ²⁸ That this disjunction plays a particular rhetorical role in “Of Slavery” – that of encoding racialized national identities – is indicated by Locke’s willingness to treat ancient Hebrew slavery as indistinguishable from Caribbean in the *First Treatise*, where the patriarchal slaveholder’s “Dominion” over property he has himself purchased is at issue, not despotic power, 1:11.130- 131.

²⁹ Jean Bodin, *The Six Bookes of A Commonweale: A Facsimile reprint of the English translation of 1606, Corrected and supplemented in the light of a new comparison with the French [République] and Latin texts*, ed. Kenneth Douglas McRae, trans. Richard Knolles (Cambridge: Harvard University Press, 1962), 2.4, p. 212.

³⁰ *The Tenure of Kings and Magistrates in Political Writings*, ed. Martin Dzelzainis, Cambridge Texts in the History of Political Thought (Cambridge: Cambridge University Press, 1998)30. In *A Defence*, Milton uses despotism as a synonym for tyranny, *Political Writings*, 85.

³¹ Cited by Philippe Rosenberg in his analysis of anti-slavery rhetoric in “Thomas Tryon and the Seventeenth-Century Dimensions of Antislavery,” *The William and Mary Quarterly*, Vol. 61, no. 4 (2004): 621- 630.