



Locke, the Law of Nature, and Polygamy

ABSTRACT: *When Locke mentions polygamy in his writings, he does not condemn the practice and even seems to endorse it under certain conditions. This attitude is out of step with that of many of his contemporaries. Identifying the philosophical reasons that lead Locke to have this attitude about polygamy motivates our project. Because Locke never wrote a treatise on ethics, we look to a number of different texts, but focus on An Essay Concerning Human Understanding and Essays on the Law of Nature in order to outline his basic ethical theory. We argue that this theory, the elements of which include moral mixed modes, the law of nature, and the comparison of these modes with this law, is broad enough to accommodate practices such as polygamy. Our interpretation shows that Locke's line of thought on marriage is strikingly flexible for the seventeenth century and even compared to some public debates on marriage in our time.*

KEYWORDS: Locke, law, morality, polygamy

The question of the morality of polygamy was a delicate one for proponents of the burgeoning liberal tradition in seventeenth-century Europe. On the one hand, theorists in that tradition endorsed and reinforced the sexual codes of their own cultures, which involved strong and often unquestioned commitments to monogamy. On the other hand, they wanted to avoid any suggestion that the polygamous actions of the revered biblical fathers were somehow wrong or against natural law. While liberal theorists aimed at giving a secular account of morality, it still was not acceptable to have a theory according to which the heroes of the Bible committed immoral actions. Abraham, Moses, David, Solomon, and others had multiple wives, sometimes at the direct command of God. Even though polygamy was not a common *political* issue in early modern Europe, it was a common *philosophical* issue. Clear positions on polygamy were articulated by Hobbes and others who number among Locke's most important influences. Pufendorf devotes dozens of pages to the topic. Philosophers were interested in examples involving female power, such as the Amazons and other matriarchal societies. It was imagined that in many of these matriarchal societies the women enjoyed a great

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deal of sexual liberty and in some cases had several husbands (for example, Hobbes 1994: XX: 4–5: 128–30, XXI.18: 143; Pufendorf 1964: VI.1.15–18: 864–873, 2.5: 915–917).

Discussions in the secondary literature on Locke have largely focused on his endorsement of patriarchy and his progressive views on divorce (Hirschmann and McClure [2007] provide a nice overview of the feminist scholarship on Locke). But he also has something to say about nonstandard marriage practices, in particular about polygamy. His comments on this subject have been almost completely neglected in commentaries on his work. This neglect is unfortunate because his views on polygamy offer new insights into his understanding of natural law and the scope and limits of its application. We suggest that a consideration of *what* Locke says about polygamy and *why* he says it yields a previously unrecognized dimension of Locke's thought, which challenges us to view this founder of modern liberalism in a new, and even more deeply liberal, light.¹ While Locke only indirectly takes up the topic, offering scattered remarks throughout his works, the cumulative import of these statements is intriguing. The aim of this paper is to demonstrate that Locke's comments about polygamy constitute a coherent, consistent, and remarkably open-minded position on the subject, a position entailed by his views on natural law and morality.

In section 1 we begin with the passages where Locke mentions polygamy. The essential point here is that there is thematic unity across these discussions of polygamy—a kind of neutrality. We call this the 'permissive' reading of Locke on marital forms. Section 1 thus answers the question of *what* Locke says about polygamy. Of course, to acknowledge the *existence* of something, as Locke does with polygamy, is not automatically or necessarily to recognize its *legitimacy*. Moreover, mentioning such practices without condemning them does not necessarily indicate a permissive attitude. In order to bridge this gap we next move to address the question of *why* Locke says what he says. To answer this question, in section 2 we look at how Locke defines moral notions—the principles that govern voluntary human behavior. The central point here is that for Locke moral notions such as 'polygamy' do not, properly speaking, describe morally permissible or impermissible actions until such notions are compared to laws. It is thus the relationship between a law and a moral notion that determines the moral character of the behavior described by the notion. Given this conclusion, to evaluate the notion of polygamy fully, we need to analyze Locke's view of laws, and we turn to this in section 3. We argue that on Locke's account, there is only one law that is universally binding: the law of nature/the divine law. (As far as we can tell, Locke takes the expressions 'divine law' and 'law of nature' to be synonymous.) This entails that any behavior consistent with the content of the divine law is morally permissible. In order to provide an answer to the *why* of Locke's permissiveness toward polygamy, we connect moral notions to laws in section 4 with a discussion of moral relations in the context of Locke's provocative claim that morality is demonstrable. With the *what* and the *why* in place, in section 5

¹ By 'liberalism' we mean the general notion often associated with thinkers such as Locke and Mill according to which there is a presumption in favor of liberty.

we bring the conclusions of sections 2–4 to bear on how to understand Locke’s view of polygamy. We conclude in section 6 by considering two potential problems with our reading of Locke and offering some thoughts about what our interpretation means for understanding his ethics more generally.

I. Polygamy in the Text

Analyzing the history and possibilities of polygamy provided much fodder for philosophical, theological, and sometimes political debates of the early modern period in Europe. There is no doubt that Locke would have been familiar with this discourse although he did not consider the topic as explicitly as many of his contemporaries. However, his published and unpublished works reveal various references to polygamous practices buried in his accounts of other subjects.

In *An Essay Concerning Human Understanding* (hereinafter: *Essay*), Locke uses the example of polygamy when describing the particular kind of complex idea that is a ‘mixed mode’. Locke follows up this example by saying that ‘it is not enough to have determined ideas of them [the mixed modes], and to know what names belong to such and such combination of ideas. We have a further and greater concernment, and that is, to know whether such actions, so made up, are morally good or bad’ (1975: II.xxviii.4:351). In other words, we cannot determine the morality of polygamy from its definition; its moral quality is determined by some element over and above what is contained in the concept. We say more about this particular passage below.

In the *Second Treatise of Government* Locke acknowledges the existence of certain polygamous practices but does not subject them to moral evaluation. When Locke treats paternal power, he notes that a father’s power over his offspring is not given by any ‘peculiar right of nature’. Rather, he suggests that this power derives from the father’s active guardianship (feeding, clothing, educating) of his children. Once this guardianship ceases, the power is lost. Moreover, this power, through active guardianship, can be possessed by someone *other* than the biological father. A foster father who cares for a child has the right to paternal power over that child. And when a father dies while his children are still young, Locke suggests that paternal authority naturally transfers to the mother. During this discussion, Locke poses the question: ‘And what will become of this paternal power in that part of the world, where one woman hath more than one husband at a time?’ (1824d: II.65:374). It is worth noting that the practices referred to in this particular passage from the *Second Treatise* involve polyandry rather than polygyny (that is, situations where wives take many husbands, not situations where husbands take many wives). While other theorists found ways to render polygyny consistent with natural law, virtually none considered polyandry to be anything but a violation of it. Theorists had many reasons for thinking that a woman having multiple husbands was violating natural law; Pufendorf, for example, thought that polyandry would bring out conflict among men and undermine efforts to secure knowledge of paternity. Locke says no such thing and instead recognizes the acceptability of polyandry alongside polygyny. In *Essays on the Law of Nature*

(hereinafter: *Law*), he mentions that polygamy ‘here is regarded as a right, there as a sin, which in one place is commanded by law, in another is punished by death’. He uses this to illustrate the general claim that ‘natural law can in no wise be inferred from the general consent to be found among men’ (1997b: V: 115).

Much of the same can be found in his less well known writings. In *The Whole History of Navigation*, Locke describes—again without moral judgment—a foreign nation where men had one wife to serve them on land and another to serve them at sea; he does so as one might list quirks, alongside observations about their body hair and fashion of dress (1824c: 488). Similarly in ‘Virtue B’ Locke writes, ‘many things naturally become vices amongst men in society, which without that would be innocent actions: thus for a man to cohabit and have children by one or more women, who are at their own disposal, and when they think fit to part again, I see not how it can be condemned as a vice since nobody is harmed’ (1997g: 287–88). This position is consistent with Locke’s views on the relationship between religion and sexuality: in *Essays and Notes on St. Paul’s Epistles*, he insists that the ‘discourse against fornication . . . concerns Christians only . . . not mankind in general’ (1824a: 112). While this last remark could be taken to include sex before or outside of marriage in general, it is also plausible to read the statement as including polygamous relationships. In other words, while sexual relations (like polygamy) might be forbidden to *Christians*, they are not forbidden to people in general.

Finally, in one of his diary entries, Locke describes an imaginary city called Atlantis in which ‘he that is already married may marry another woman with his left hand . . . the ties, duration and conditions of the left-hand marriage shall be no other than what is expressed in the contract of marriage between the parties’ (1997a: 256; a left-handed marriage refers to a union of unequal social rank in which the husband’s property would not pass to his wife or their children upon his death. Locke deleted this passage when he edited the journal entries.) The endorsement of polygamy in this particular case can be explained by the role he sees polygamy playing in much-needed population growth.

While Locke’s references to polygamy are offhand and scattered throughout his work, when they are taken together, a coherent picture emerges. His position is that although the organization of sexual and familial life may well be a matter of religious and cultural concern, there is not an obligating, universal rule that mandates one kind of marriage practice over another. Quite the contrary—Locke’s comments surrounding polygamy are neutral or, at times, even positive. He does not take this particular marriage practice to be everywhere and at all times morally prohibited. The question to turn to now is: why? It might seem possible to dismiss Locke’s scattered remarks as just that: scattered and thus without philosophical import. But we hope to have shown that the consistent manner in which he mentions the practice at least suggests that the question merits further consideration. Given the status of marriage and nonstandard sexual and marital practices as moral considerations, a natural place to see how to understand the moral character of polygamy is in Locke’s writings about moral ideas. We turn there now.

2. Moral Notions

Locke's discussion of moral notions falls under his more general discussion of the nature of ideas in Book II of the *Essay*. In his taxonomy of ideas, Locke places moral notions under the category of mixed modes, a type of complex idea. Importantly, he notes that these mixed modes are considered to have a moral character only insofar as they are considered in relation to a law. Let us examine how he arrives at this proposition.

Locke begins by noting that, unlike simple ideas that are passively received by way of sensation or reflection, complex ideas are formed by the mind's manipulation of simple ideas. By sensation and reflection, the simple ideas are passively obtained and become the materials for and foundations of all our other ideas. When the mind treats these materials, it combines, compares, and abstracts simple ideas in order to form new complex ideas (1975: II.xxi.1:164).

Complex ideas are sorted into three categories: (1) modes, (2) substances, and (3) relations. The first and third categories concern us here. Locke states that modes are complex ideas that are taken to be dependent on or attributes of substances. For example, 'triangle', 'gratitude', 'drunkenness', 'adultery' are all modes that depend on the observation of certain qualities that stand in relation to a particular substance (1975: II.xii.4:165, II.xxii.1:288, III.v.5:430). While simple modes are made up of simple ideas of one kind (e.g., 'a dozen': one unit repeated twelve times [1975: II.xiii.1:167]), mixed modes are made by combining simple ideas of different kinds. The mixed moral mode 'theft' involves the ideas of: concealment, change of possession, and lack of consent of the proprietor; these are combined to create a complex idea. What is important here is Locke's affirmation that the mind is not merely passive when combining ideas to make mixed modes, it is active (1975: II.xxii.2:288). This means that these ideas are not necessarily anchored solely in observation but that the mind can create them based on counterfactual considerations. As Locke notes, while it is true that observing a person 'who made shew of good Qualities which he had not' would suffice to acquire the idea of hypocrisy, one could equally come up with the idea without observing the behavior (1975: II.xxii.2:289). Indeed, he states that the vast majority of the time we acquire these ideas by having their components explained to us.

Locke next poses the question of why some mixed modes are created in our minds and others, equally apt to be created, are not. He answers that it has to do with 'the end of Language'. In other words, utility determines the creation of certain kinds of mixed modes. He continues, stating that the end of language is to 'mark, or communicate Men's Thoughts to one another' and that the communication needs of societies can vary with variations in ways of living (1975: II.xxii.5:290). Indeed, Locke takes a society's or a nation's 'Fashions, Customs, and Manners' to determine which mixed modes are created. In other words, mixed modes are created according to need, which in turn depends on the various ways of living of different communities. This means that there might be mixed modes that exist in certain communities but are wholly unknown to others. Locke writes:

Where there was no such Custom, there was no notion of any such Actions; no use of such Combinations of Ideas, as were united, and, as it were, tied together by those terms: and therefore in other Countries there were no names for them. (1975: II.xxii.6:291; see also III.v.3 and III.v.7)

These considerations lead Locke to assert that there are three means by which we are motivated to form the complex ideas of mixed modes: (1) observation: we see two men wrestling, we get the idea of ‘wrestling’; (2) invention: here we voluntarily unite two or more ideas, and (3) explanation: the most usual means by which mixed modes are formed. Here, the constituent parts of a mixed mode are explained in order to give the mixed mode itself meaning. To use Locke’s example, we might not understand the word ‘lye’, but can come to see what it means once it is explained to us that it is a mixed mode made up by the following simple ideas:

1. Articulate Sounds. 2. Certain Ideas in the Mind of the Speaker. 3. Those words the signs of those Ideas. 4. Those signs put together by affirmation or negation, otherwise than the Ideas they stand for, are in the mind of the Speaker. (1975: II.xxii.9:292)

Now, consider the way Locke explains the constituent parts that make up the mixed mode ‘lying’: nowhere in this explanation is a moral judgment to be found. However, Locke notes, for the most part, human actions are described by mixed modes. And what’s more, when we discuss human action, we are typically interested in the moral character of human behavior. In other words, we often wish not only to describe human behavior, but also to evaluate it. On Locke’s view, moral evaluations can *only* be done once we consider mixed modes *in relation to a rule*. He writes:

There is another sort of Relation, which is the Conformity, or Disagreement, Men’s voluntary Actions have to a Rule, to which they are referred, and by which they are judged of: which, I think, may be called Moral Relation; as being that, which denominates our Moral Actions. (1975: II.xxviii.4:350–51)

So, when merely describing actions, we rely on words that refer to complex ideas of mixed modes. When we want to evaluate those actions, we need to consider how they stand in relation to a rule. Above we noted that Locke takes ‘polygamy’ to be a mixed mode. In the course of explaining the kinds of *relations* among ideas that interest us, Locke states that moral relations are of particular interest. These are relations that obtain between voluntary action and a rule. And Locke states that there is no domain where clarity of ideas is more important than in the domain of moral relations; for example, we suppose:

Gratitude to be a readiness to acknowledge and return Kindness received; Polygamy to be the having more Wives than one at once:

when we frame these Notions thus in our Minds, we have there so many determined *Ideas* of mixed Modes. (1975: II.xxviii.4:350)

But, of course, in order to be useful in matters of practical reasoning, ideas of gratitude and polygamy seem to demand the inclusion of another kind of element: moral evaluation. Locke acknowledges this and elaborates on his claim as follows:

Good and Evil . . . are nothing but Pleasure or Pain . . . Morally Good and Evil then, is only the Conformity or Disagreement of our voluntary Actions to some Law, whereby Good or Evil, Pleasure or Pain, attending our observance, or breach of the Law, by the Decree of the Law-maker, is that we call Reward and Punishment. (1975: II.xxviii.5:351)

Importantly, Locke takes the judgments of ‘morally good’ and ‘morally evil’ to depend on the relationship between the action and a law, and in his view this law is obligating according to the decree of a lawmaker. Again, we want to emphasize that the moral judgment *is not included in the mixed mode itself*. It is a separate act to compare the action described by the mode to the established law to see whether it is good or bad. Thus, ‘lying’, ‘gratitude’, and ‘polygamy’ are *ideas* that do not intrinsically contain any moral judgment. This judgment is added only once the mixed mode is considered as a moral relation, that is, once the idea is considered under the aspect of the demands of a particular law.

We began this section with the question of how to understand the permissiveness with which Locke discusses polygamy. We noted that the natural place to look for an answer to this question is in Locke’s discussion of the kinds of ideas by which we judge the morality or immorality of behavior. This discussion reveals that ideas themselves have no intrinsic moral nature—the morality of an action described by a particular mixed mode can be determined only according to the mode’s relation to a law. Our search for an answer to our question leads us now to an examination of how Locke understands laws.

3. Laws

In the *Essay*, Locke states that there are three kinds of moral rules or laws: divine, civil, and social (the law of opinion or reputation; ‘social law’ is not Locke’s term, but we think it captures the meaning of ‘law of opinion/reputation’ and is less cumbersome). The divine law is what Locke elsewhere calls the law of nature, for instance, in the fourth essay in *Law*. In this text, Locke states that the content of the law of nature is discoverable by the combined action of sense experience and reason. Sense experience tells us that the world operates in orderly and regular ways. Reasoning about this observation leads us to conclude that there must be a creator of this order and regularity. Once the existence of a creator is determined, Locke thinks that we can also see that the creator has ‘a just and inevitable command over us and at His pleasure . . . [can] make us by the same commanding power happy

or miserable' (1997b: IV: 104). The discussion of the law of nature is slightly different in *Two Treatises* though not incompatible with our understanding of the formulation in *Law*.

This commanding power, on Locke's view, indicates that we are necessarily subject to the decrees of God's will. Furthermore, Locke thinks that once we see that there is a lawmaker and this lawmaker must be wise (because he ordered the world in a good and regular way), we also see that our own existence cannot be without purpose. We notice that our minds and bodies seem well equipped for action, which suggests that 'God intends man to do something'. In the case of rational beings, Locke states that given our nature, our function is to use sense experience and reason in order to discover, contemplate, and praise God's creation; to create a society with other people; and to work to maintain and preserve both ourselves and our communities. This function provides the content of the law of nature: to preserve one's own being and to work to preserve the beings of the other people in our community (see 1824d: I.86:278, 88:280, II.6:341, 25:352–53, 128:413; 1997f: 270–71; 1997e: 303). More important, Locke claims that the force of other kinds of law—civil and social—is grounded on this natural law. In other words, the authority of positive law is derived from the authority of the law of nature (see 1824d: II.135:418).

These commitments are echoed in the *Essay* and elsewhere (1975: II.xxviii.8:352; see also I.iii.13:75, III.ix.23:490, IV.xviii.8:694, IV.xix.4:698; 1997c: 251). When distinguishing among divine, civil, and social laws, Locke states that the divine law is 'the only true touchstone of *moral Rectitude*' and that it is only by comparison with this law that human beings come to regard their actions as morally good or evil. The content of the divine law/law of nature is 'promulgated to them [men] by the light of Nature, or the voice of Revelation' (1975: II.xxviii.8:352). Despite this claim that revelation is a candidate for the means by which the content of the law is transmitted to humankind, Locke does nuance the proposal. In discussing faith and reason, Locke states that knowledge from the contemplation of our own ideas is always more certain than knowledge from revelation (1975: IV.xviii.4:690–91). Locke gives very little detail about how, exactly, he understands the operation of the light of nature. One thing that is certain, however, is that it is not in any sense a species of innate knowledge (1997b: III; 1975: I.iii). Locke does not elaborate on this in the *Essay*. However, it seems that the role of the light of reason here is similar to the discovery of the content of the divine law in *Law*, on which more below.

Civil laws, Locke states, are rules set by the commonwealth and are geared toward protecting the 'Lives, Liberties, and Possessions, of those who live according to its Laws' (1975: II.xxviii.9:352–53). When the discussion turns to social laws, Locke begins by saying that the terms 'virtue' and 'vice' have a somewhat equivocal use. Properly speaking, 'virtue' and 'vice' are terms that pick out actions that are *by their very nature* right or wrong. Strictly speaking then, 'virtue' and 'vice' are appropriate labels only for actions that are in line with or violate the divine law. But as Locke notes, these terms are very often used in the context of evaluations of actions that fall under the purview of social laws. Moreover,

he allows that it is not at all strange that people use the words ‘virtue’ and ‘vice’ to describe actions that are socially acceptable or unacceptable according to the customs of their communities—indeed, such terms seem appropriate. This is because the social capital to be lost or gained by violating or following the rules of a community is of the utmost importance. Locke indicates that when we join together to form a society, we give up a large part of power. However, in exchange for relinquishing a degree of power when we unite in ‘publick society’ we gain an element of *social power*, which is ‘thinking well or ill’ of people (1975: II.xxviii.10). This approbation or disapprobation of our neighbor’s actions is no less than the attribution of the labels ‘virtuous’ and ‘vicious’. The social currency of the attribution of these labels is powerful: ‘publick esteem’ is an effect of virtue and disgrace is an effect of vice.

The question to put to Locke at this point is how people come to value certain behaviors and vilify others. In other words, how is it that we come to see certain behaviors as in line with the law of nature and others as violations of this law? Locke notes that it is evident that people’s temperaments, educations, fashions, and maxims differ across societies, and as a result, the attribution of the labels ‘virtuous’ and ‘vicious’ to various actions can change. However, Locke also reiterates the claims made in *Law* that social laws, while variable across societies, are consistent in their reflection of the ‘unchangeable rule of right and wrong’ that is determined by the divine law (1975: II.xxviii.11:356). He explains that obedience to the divine law is the surest path to securing the good and that short of renouncing ‘all Sense and Reason, and their own Interest’ human beings cannot help but see that this is the case. Given this certainty in the divine law, Locke notes that it is equally obvious what sorts of actions respect or fail to respect it. He even holds that when we violate the law of nature, we can nevertheless still accurately judge another person’s adherence to or violation of the law (1975: II.xxviii.11:356).

We noted above that on Locke’s view, mixed modes do not intrinsically contain a value judgment—such judgments are annexed to the mixed mode as a function of its relation to a law. We have just seen that Locke’s hierarchy of laws stipulates that civil and social laws have their authority grounded in the divine law. The divine law/law of nature states that one must preserve oneself and one’s neighbors. However, given the broadness of this definition of the content of the divine law, it seems that many different and varied practices at the civil and social level could serve to promote it. In particular, it seems that different communities that understand the promotion of one’s health and welfare and that of one’s neighbors differently by reason of their different situations could have vastly different evaluations of virtue and vice as described in the more colloquial sense above. Locke was aware of this consequence and indicates that criminal behavior is determined according to the manner in which an action relates to penal law. Virtue, vice, praiseworthiness, blameworthiness, and ‘the permitted’ all appear to fall under the category of laws determined according to ‘the observation of what in any country is thought enjoined by the law of nature’ (1997d: 282–83). Thus, Locke seems to endorse the possibility that virtue and vice can vary according to the particular situation of a social group. We suggest that this possibility together with the nonintrinsic nature of moral

judgment to a mixed mode has the following result: for Locke, moral notions are ‘open’ (here we follow Colman [1983:131]; our understanding of open moral notions is informed by Kovesi [1967]). We suggest that the hallmark of open notions of this kind is that they are nonuniversalizable. This means that while mixed modes describe certain behaviors, whether these behaviors ought to be considered virtuous or vicious is known only by comparing the particular instance of that behavior against a law. On this view, a ‘closed’ moral notion would be one that can be universalized: across all societies, times, and in every instance. In this case, we would be able to enumerate all events that fall under the behavior described by the mixed mode and see that that all relate in the same way to the law. In other words, to close a moral notion would be to provide its extensional definition.

The question to ask of Locke now is whether there is room in his system for any closed moral notions. According to our interpretation of the relationship between moral notions and the divine law, are *any* moral notions closed for Locke? The content of the divine law, ‘preserve yourself and the others in your community’, suggests the following closed moral exigencies: (1) ‘you ought to preserve your being’ and (2) ‘you ought to preserve the beings of your neighbors (as long as that is compatible with your own self-preservation)’ (Locke is clear about the lexical ordering of [1] and [2]; see 1824d: II.6:341). This might be described more generally as something like the virtues of (1) ‘prudence’ and (2) ‘cooperation’. If these mixed modes are related to the divine law, they are always seen as correct. Of course, when it comes to practical reasoning, more precise rules seem necessary. ‘It is good to be prudent’ seems too broad a proposition for guiding behavior. It seems that to build a system of moral propositions, we want to be able to include things such as ‘murder is wrong’; moreover, we ought to be able to consider such a proposition universalizable. In order to address the question of what kinds of moral propositions are candidates for universalizability in Locke’s system, we must see how to understand his view on moral relations: the mechanism by which we compare moral mixed modes and laws. The mechanism is suggested, but far from detailed, over the course of Locke’s comments about the demonstrability of morality.

4. Moral Relations

Locke’s claim that morality is demonstrable has understandably received much attention from commentators (see Locke’s correspondence with Molyneux [1976–89: Letters 1530, 1538, 1579] and with Tyrell [1976–89: Letters 1301, 1309 and 1312]. See also LoLordo [2012:10–14] and Wilson [2007: 394–403]). While Locke unequivocally states that such a demonstration is possible, he does not go very far in elaborating what the demonstration might look like. Indeed, in response to Stillingfleet’s demand for the demonstration, Locke states that while he holds fast to the claim that such a demonstration is possible, he made no promises to realize it (1824b: 187). However, Locke does at least suggest the steps involved, and so we can reconstruct his basic reasoning. In order to see how Locke takes this demonstration to run, it is worth noting at the outset that there seem to be two

distinct elements involved in his discussion: descriptive, where the definitions of mixed modes are fixed, and relational, where the relation between the mixed mode and a law is examined.

Locke first states that morality is demonstrable in Book III of the *Essay*, in a chapter on the abuse of words. He notes that we tend to learn words before we have a grasp of the complex ideas these words are taken to represent. When this happens, we use words without having a firm grasp of what they really mean. This results in a confused kind of discourse, with an ‘abundance of empty unintelligible noise and jargon, especially in moral Matters’. In moral matters, Locke notes, the desire to be right seems to trump the desire to investigate the nature of the ideas that are taken to be communicated by certain words (1975: III.x.4:492).

As Locke then states, with respect to names of modes and ‘especially moral Words’, it is essential to be aware of the ‘precise collection of simple Ideas settled in the Mind’ that make up the complex idea (1975: III.xi.9:513). When it comes to knowing simple ideas, Locke argues that if we need to explain a simple idea to someone, we *cannot* do it by definition. Mixed modes, as we saw above, are created for the most part by the mind when circumstances demand. This means that in many cases there is nothing in nature we can point to in order to give someone else the idea of a mixed mode. According to Locke, in these cases we must refer to perfect and exact definitions of mixed modes (1975: III.xi.15:516). Because mixed modes are created in our minds, we have the tools necessary to define them exactly and perfectly. The real essences of these notions can be known because human minds create them. In other words, they are archetypes, not ectypes (1975: IV.xii.7–8:643). So, failing to grasp the meaning of mixed modes is blameworthy indeed. As Locke notes:

For since the precise signification of the names of mixed Modes, or which is all one, the real Essence of each Species, is to be known, they being not of Nature’s, but of Man’s making, it is a great Negligence and Perverseness, to discourse of moral Things with Uncertainty and Obscurity. (1975: III.xi.15:516)

It is on this basis that Locke first states that morality is capable of demonstration (1975: III.xi.16:516). We know, at least in principle, the real essences of moral notions in the same way that we know the real essences of natural numbers. Definitions thus make moral discourse clear and certain (1975: III.xi.17:517).

Once exact definitions are in place, the process of demonstration can commence. On Locke’s view, demonstrative knowledge, like all knowledge on his system, is no more than the perception of the agreement or disagreement of ideas. Demonstrative knowledge also relies on another degree of knowledge—intuitive. Locke defines intuitive knowledge as knowledge that is clear and certain, where the human mind immediately perceives the agreement or disagreement of two ideas (1975: IV.ii.1:531). Demonstrative knowledge is defined as the mediated perception of the agreement or disagreement of any of the mind’s ideas (1975: IV.ii.2:531). In these cases, the mind requires an intermediate idea in order to perceive the connection

between two other ideas. Each intermediate step in demonstrative reasoning, Locke states, is itself intuitive. That is, in the process of demonstrative reasoning we intuit the agreement or disagreement between ideas that are intermediaries between the two ideas the relationship of which is the ultimate object of the demonstration (1975: IV.ii.7:534).

Locke never gives an explicit example of the stepwise reasoning involved in demonstrations relating to morality. He does, however, come close when he provides two examples of relations of moral notions. He begins with the statement that there are two necessary ideas that form the foundation of the demonstration of morality: knowledge of our own existence and knowledge of God's existence. According to Locke, if the idea of God and the idea of ourselves as rational beings are both clear in us, with enough attention and 'indifferency', they 'afford such Foundations of our Duty and Rules of Action, as might place *Morality amongst the Sciences capable of Demonstration*' (1975: IV.iii.18.549). He continues, now offering the two examples:

[1] *Where there is no Property, there is no Injustice*, is a Proposition as certain as any Demonstration in *Euclid*: [1a] For the *Idea of Property*, being a right to any thing; and [1b] the *Idea* to which the Name *Injustice* is given, being the Invasion or Violation of that right; it is evident, that these *Ideas* being thus established, and these Names annexed to them, I can as certainly know this Proposition to be true, as that a Triangle has three Angles equal to two right ones. [2] Again, *No Government allows absolute Liberty*: [2a] The *Idea* of Government being the establishment of Society upon certain Rules or Laws, which require Conformity to them; and the [2b] *Idea* of absolute Liberty being for any one to do whatever he pleases; I am as capable of being certain of the Truth of this Proposition, as of any in Mathematicks. (1975: IV.iii.18:549, enumeration added)

The first thing to notice here is that neither (1) nor (2) is a moral proposition in the sense of recommending or censuring a particular action. In the case of (1), we have the following definitions:

- 1a. Property: the right to any thing;
- 1b. Injustice: the violation of that right.

It is no doubt true that we intuitively see the truth of (1) given the definitions (1a) and (1b). In the case of (2), we have the following definitions:

- 2a. Government: the establishment of laws;
- 2b. Absolute liberty: freedom from laws.

Again here we can intuitively see, given the definitions provided in (2a) and (2b) that proposition (2) is true. Here, Locke is attempting to sketch out the first

necessary step for demonstrating morality: elaborating perfect and exact definitions. The question now is how to go from what Locke provides here to a proposition that gives concrete direction in practical reasoning. That is, how do we move from ‘Without property there is no injustice’ to, for instance, ‘It is wrong to steal’ or from ‘No government allows absolute liberty’ to, for instance, ‘It is wrong to duel?’² That is, what is required is a move from the definitional component of morality to the relational component. As we noted above, in Locke’s view the ideas of God and of ourselves afford the ‘foundation of our Duty and Rules of Action’. We now turn to the role these ideas play in establishing this foundation.

Both the clear idea of God as the omnipotent, omniscient, and omnibenevolent creator on whom we depend and the idea of ourselves as rational beings are necessary in order for us to recognize the force and content of the divine law/law of nature. In the case of self-knowledge, Locke is clear that it is intuitive and that it ‘neither needs, nor is capable of any proof’ (1975: IV.ix.3:618). In the case of God, a demonstration is required. In the *Essay*, the demonstration of God’s existence takes the form of a classic causal argument, but in *Law*, the demonstration is teleological in form. In particular, in *Law*, Locke also discusses how this demonstration of the existence of God connects to our discovery of the divine law/law of nature. With a demonstration of the existence of God in hand, we are to pair this knowledge with our intuitive self-knowledge. Though Locke does not explicitly outline a mechanism, it seems that together these two items of knowledge initiate the discovery of the divine law/law of nature. As noted above, Locke states in *Law* that it is by sense experience and reason that we discover the content of this law. He states that as ‘long as these two faculties serve one another’, the natural law/divine law will be revealed (1997b: IV: 100). The process, insofar as Locke describes it, can be outlined as follows:

- A. Reasoning about the orderliness perceived in the world leads to understanding that a wise and powerful creator is its source. Reason then recognizes a ‘superior power to which we are rightly subject’ (see also 1975: IV.iii.18:549. For discussion see Schneewind [1994], Schouls [1992], and Mabbot [1973]).
- B. Reasoning about the creator leads to seeing that a wise and powerful being must create with a purpose.
- C. Reasoning about the nature of our own minds as capable and versatile, and about our bodies as easily moved by our minds, we see that God created human beings for the purpose of action.
- D. Wondering about the purpose for our action, we see that all things are created for God’s glory.
- E. Contemplating our faculties of sense and reason, we see that we are well-disposed to contemplate God’s works and thus to glorify him.
- F. We experience a ‘natural propensity’ to enter into society with other people and feel obligated to maintain society in the same way

² The moral status of dueling was of no small consequence in Locke’s time, duels having been outlawed by James I in 1614 (see Peltonen 2001); we discuss the particulars of what Locke says about dueling below.

that we feel obligated to preserve ourselves. (A–F paraphrase from 1997b: IV.104–106)

Nowhere does Locke state that this is a demonstration. Nevertheless, each step A–F is presented as something like an intuition. Indeed, A–E appear to work together to reinforce the notion that, as created beings, we are obligated to exercise our faculties to glorify God. The content of F suggests the precise *kind* of action Locke takes to be demanded by this obligation: living in society. While the precise manner by which we arrive at F is underdescribed, Locke’s point is clear—self-knowledge and knowledge of God lead to knowledge of the content of the divine law/law of nature and of the fact that we are beholden to it.

We are now in a position to consider how we can transform (1) and (2) into propositions that relate to practical action. To do so, they need to be considered in relation to a law: the content of F. This is the relational element of the demonstrability of morality. On our interpretation of Locke’s view, for the censure of actions to be grounded on a closed moral notion and the actions thus *universally* wrong, they must violate the law of nature. And Locke gives us a picture of how this last step might go with two examples that relate to our discussion of property and absolute liberty above: stealing and dueling.

Proposition: Theft is wrong.

Theft: ‘The concealed change of the possession of any thing, without the consent of the proprietor’ (1975: II.xii.5:164) (Definition)

Law: Human beings are obligated to maintain and preserve their society as well as themselves.

Intuition: Disagreement.

We can imagine examples of theft where the violation of a person’s right to something is, in fact, permitted or even required. Indeed, Locke uses an example taking a sword from a madman to illustrate the fact that our definition of theft, in this case, does not result in a sin when compared to the divine law (1975: II.xxviii.16:359–60).

Proposition: Dueling is wrong.

Dueling: ‘The challenging and fighting with a Man’ (1975: II.xxviii.15:359) (Definition)

Law: Human beings are obligated to maintain and preserve their society as well as themselves.

Intuition: Agreement.

In this case, Locke states that dueling is sinful when considered in relation to the divine law. He notes that it is likely also sinful with respect to civil law, despite the fact that such an action might be condoned by social law (1975: II.xxviii.15:359).

This exercise reveals that there are laws, such as ‘it is wrong to steal’, that seem *prima facie* universalizable but are not. In other words, on Locke’s view, even ‘it is wrong to steal’ fails to be a closed moral notion (that is, despite Locke’s focus on private property, even laws protecting against theft cannot be universalizable). It also reveals that Locke takes certain practices that are in line with social law to fail to respect the divine law. This raises an important question: if the law of nature is revealed by the light of nature, which is a product of the basic human faculties of sense and reason, why do people act in ways that do not respect the law of nature? Why, for example, do they continue to duel? Locke’s answer is articulated over the course of his discussion of how pride hinders epistemic clarity. This answer is a key element for blocking the interpretation of Locke as a moral relativist. Before treating this topic in more detail, we apply the structure of the definitional and relational components of moral relations to polygamy.

5. Polygamy: Open Moral Notion

From what Locke says about polygamy in the scattered remarks discussed above and from what we have argued about how to evaluate whether moral notions are universalizable, we claim that Locke cannot think that polygamy (or, indeed, any marital practice) falls under the scope of the law of nature. Many different sorts of marital practices might conceivably respond to the demands of prudence and cooperation. Nor does it even seem that Locke thinks that polygamy falls under the scope of civil laws—those constructed to preserve liberty, property, and possessions. Rather, Locke seems to include polygamy as a practice that falls under social laws. Applying our analysis to polygamy yields the following:

Proposition: Polygamy is wrong.

Polygamy: ‘The having more Wives than one at once’ (1975: II.xxviii.4:351) (Definition)

Law: Human beings are obligated to maintain and preserve their society as well as themselves.

Intuition: Disagreement.

We can imagine cases where society is better served by polygamy. Indeed, Locke provides examples of such cases in the passages discussed above.

This result explains an intriguing text, where Locke suggests that a community that places a lower value on women’s chastity would accommodate polygamy much better than his own Christian society. In ‘Virtue B’ Locke acknowledges that in a society where a high value is placed on women’s modesty, a man could not have many wives without his action being considered harmful to society. He notes that in such a society it is prudent for women to avoid such transgressive relationships for *pragmatic reasons*—violating the social law of modesty would result in ‘infamy, and other mischiefs’ that potentially include the loss of ‘the comforts of a conjugal settlement’. But, in circumstances where such modesty is not so prized, Locke says

that he ‘sees not how it can be condemned as a vice since nobody is harmed’ (288). Thus, the value placed on women’s modesty has no claim to any ‘objective’ status. In other words, the law of nature/divine law does not dictate the virtue or vice of different sexual unions.³

This opens the door to an interpretation of Locke according to which the norms and rules that flow from religion are not necessarily connected to what God created us to do, a thought that is in line with his liberalism and tolerance. The polygamy discussion is, then, revealing of characteristically Lockean ideas and dispositions. Locke is generally interested in finding frameworks within which people who have fundamental disagreements can have a discussion. Given his epistemic tolerationism and humility, it is perhaps not surprising that he is so permissive about marital forms.

If we are right about this interpretation, then it puts part of Locke’s philosophy in a new light. Given the status of debates about polygamy at the time and the fact that Locke surely knew about those debates, it seems fair to draw the conclusion that on this topic Locke’s position is not just very liberal but radical as well, perhaps as much as it gets among seventeenth-century thinkers. His view is also radical compared with some modern-day thinking about multiple marriages. Locke is epistemically humble about things that even 300 years later have not yet entered mainstream discourse.

6. Two Objections Considered

In the reading we have been developing, Locke is permissive when it comes to marital forms. He appears to be as open to polyandry as to polygyny. As long as relations are the result of consenting adults, it seems anything goes as far as Locke is concerned. He is thus more radical than even the most progressive countries today. We may well ask what other things might be allowed from a Lockean perspective, given the ‘thinness’ of the divine law and the nature of the social law. Could unusual practices, for instance, surrounding food and drink, be permissible—perhaps even something like cannibalism (if, say, the person consumed died naturally, chose to die, etc.)? According to this reading of Locke, perhaps there are no reasons to rule out even the justifiability of certain kinds of incest. Clearly, this line of thought could carry us into the territory of moral relativism. Before discussing the objection of relativism, another worry deserves consideration.

One could argue that Locke’s insistence on *procreation* as the fundamental goal of marriage puts serious constraints on the kinds of relationships that count as marriage for him (see 1824d: II.78:383). Indeed, we cannot cast Locke in the image

3 In ‘Virtue B’ Locke writes not of ‘marriage’, but of conditions of cohabitation and breeding. And his discussion partly concerns the state of nature, considering people ‘in a solitude or an estate separate from the opinions of this or that society’ (1997g: 288). This could mean ‘away from society’ or ‘prior to the establishment of society’. Either way our point stands: the law of nature allows breeding and cohabitation with multiple persons; that is, the law of nature does not require monogamy. If nonmonogamy is prohibited, it is by social, not natural, law.

of someone like Elizabeth Brake, the contemporary philosopher who argues for what she calls ‘minimal marriage’ in which people can unbundle the rights and privileges of marriage in such a way that they can spread them out among many people with whom they can reasonably maintain caregiving relationships (Brake 2012: ch. 7). Importantly, though, on Locke’s account, it is the *rearing* not the *bearing* of children that is the point of marriage. That emphasis on child rearing is evident in his assertion that attentive foster fathers gain all existing parental authority (see above). What the Lockean perspective cannot countenance, however, is the notion of marriages that are intentionally child-free. Following this reasoning, all families with children (no matter how those children are produced or acquired) will be equally legitimate (1997a: 259). While it is not the case that there is *no limit at all* to what a Lockean account can call a valid marriage, the line of thought is surprisingly more flexible than most views expressed in contemporary public debates on marriage.

A second and perhaps more important objection to our reading of Locke comes from relativism. One could argue that the Lockean account confers as much legitimacy on strict patriarchal polygamous marriages as it does on egalitarian unions. A legitimate marriage, on Locke’s view, needs to fulfill only two conditions: (1) it must consist of genuinely consenting adults, and (2) it must include the intention to bring up children. If it fulfills both of those conditions, then, for Locke, it is valid. Furthermore, any unions that meet those criteria are equally valid. Though this may seem strikingly liberal (especially from a seventeenth-century perspective), there is an underlying problem with that logic from a feminist perspective. Unequal power relationships in marriage would not undermine the worth or value of the relationships. Locke clearly recognizes the legitimacy of patriarchal marriages (indeed, those are the kinds of monogamous marriages he tentatively endorses). So, Locke’s permissive stance toward various types of marriage might not actually give feminist interpretations of his philosophy additional power.

A partial answer to this objection is worth considering. It is true that patriarchal marriages would logically count as valid from Locke’s perspective and that he himself gives a qualified endorsement of them. However, a Lockean perspective may also suggest something more, if we remember another criterion he recommends for making public policy decisions. Locke instructs his sovereign to make the rules that govern issues such as civil marriage according to a principle of *utility*. That is, the political ruler is supposed to govern according to what best serves social welfare. Though this consideration does not entirely answer the objection, it may mitigate it. An argument would be needed to show that hierarchical relationships better serve social welfare than egalitarian ones. While such an argument is surely conceivable, we are skeptical about its ultimate defensibility.

Another perspective from which to consider the objection from relativism is the following: if we determine (in some sense) what is consistent with the law of nature according to our circumstances, does this mean that anything goes? Are even the most repugnant social practices acceptable to Locke if there is reason to suspect that the practitioners of these practices legitimately believe themselves to be acting by ‘prudence’ and ‘cooperation’? We think that the answer to this is no. Indeed,

this is the topic of Locke's final essay in *Law*. It is not the case that self-interest (or perhaps even larger group interest) can determine laws. The reason for this is that such determination would go against our very nature as rational beings to abide by a moral notion that was not in agreement with the divine law. This is because, for Locke, *we would know deep down that it is wrong* (see also Hitinger 1990). This follows from Locke's idea that, as rational beings, we all have the touchstone of moral rectitude at our disposal: the light of nature. In order to respond to this objection, we must return to the question posed above of how people could perform acts that, while perhaps in line with social laws, violate the law of nature given that this law ought to be known.

To answer this question, we return to Locke's discussion of the demonstrability of morality, where he indicates that the scope of the kinds of truths discoverable by demonstration is surely larger than we might think and limited only by our 'sagacity' (1975: IV.iii.18:548). Moreover, coming to clear and perfect definitions takes care and time, and Locke is pessimistic about how far this work can go:

Confident I am, that if Men would in the same method [as that of Algebra], and with the same indifferency, search after moral, as they do mathematical Truths, they would find them to have a stronger Connection one with another, and a more necessary Consequence from our clear and distinct Ideas, and to come nearer perfect Demonstration, than is commonly imagined. But much of this is not to be expected, whilst the desire of Esteem, Riches, or Power, makes Men espouse the well endowed Opinions in Fashion, and then seek Arguments, either to make good their Beauty, or varnish over, and cover their Deformity. (1975: IV.iii.20:552)

This rather bleak outlook regarding the extent to which we allow pride and prejudice to cloud the truth of our moral propositions casts a shadow of pessimism over Locke's moral epistemology. While the touchstone of rectitude is always within our grasp, we are blocked from it or, more often, turn away from it when the truth of our beliefs and customs are challenged. While this is no doubt a pessimistic view of our *current* epistemic status, in fact, it helps to show why Locke is not a moral relativist.

Locke's pessimist strain continues as he states that it is often the case that men try to 'cram their Tenets down all Men's Throats, whom they can get in their Power, without permitting them to examine their Truth or Falsehood'. While the epistemic harms of the want for power are clear, Locke remarks on a much more optimistic note that we need not worry that this desire for power extinguishes the possibility of epistemic clarity altogether. For there is 'a Candle of the Lord set up by himself in Men's minds, which it is impossible for the Breath of Power of Man wholly to extinguish' (1975: IV.iii.20:552). Locke's meaning here, we suggest, is that the light of nature, being a constitutive element of human nature, entails that no matter the extent of epistemic hindrance by other people or even by ourselves, the true touchstone of moral rectitude is always accessible to the human mind.

This means that moral relativism might be the de facto present state of the world, given the way that pride and want of power pervert clear thinking about the relationship between actions and the laws, particularly which laws we take to be universalizable. However, Locke at least seems to suggest that under ideal epistemic conditions where pride and vanity do not cloud assessments of moral relations, no relativism of this sort would obtain.

More than 50 years ago, John Yolton stated that to challenge traditional readings of Locke is to appreciate the philosopher ‘as a much more complex, fascinating, even ambitious person than was hitherto suspected’ (1958: 477; Yolton refers to the traditional reading of the *Two Treatises* as written to justify the Revolution of 1688). In closing, our analysis of Locke’s position on polygamy offers a unique perspective from which to consider the intersection of his views on morality and law. This perspective reveals that Locke’s system allows a remarkable flexibility and toleration for differing social laws while at the same time maintaining the grounding role of the inflexible law of nature/divine law. To approach Locke’s view of morality through this lens serves to appreciate both the philosopher and his system as more complex, fascinating, and ambitious than previously thought.

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