

LOCKE ON POLITICAL AUTHORITY AND CONJUGAL AUTHORITY

RUTH SAMPLE

The question of whether Locke committed himself to the authority of husbands over wives has been largely neglected by Locke scholars. Often, the issue of conjugal authority is simply identified with the issue of the authority that both parents have over their children: how the obligation to obey one's parents is generated, limited, and ended.¹ When the marital relationship specifically is considered, textual evidence suggesting that Locke believed in the subordination of wives to husbands has been ignored, leaving a picture of marriage as a free contract between moral equals. For example, James Tully declares that Locke believed in a non-patriarchal family,² and Richard Ashcraft only remarks that marriage is a contract.³ John Plamenatz discusses the consensual nature of slavery and filial obligation, but does not mention marriage at all.⁴ John Yolton also ignores the issue of authority within marriage, saying only that Locke's view appears 'modern' and that women have the right to end a marriage if they so wish.⁵ John Dunn does not discuss the issue.⁶

¹ Cf. C. B. Macpherson, *The political theory of possessive individualism* (Oxford 1962), p. 244.

² J. Tully, *A discourse on property: John Locke and his adversaries* (Cambridge 1980), p. 134.

³ R. Ashcraft, *Locke's Two treatises of government* (London 1987), p. 109.

⁴ J. Plamenatz, *Man and society*, revised edition (New York 1992), vol. 1, p. 335.

⁵ J. W. Yolton, *Locke: An introduction* (Oxford 1985), p. 58.

⁶ J. Dunn, *The political thought of John Locke* (Cambridge 1969).

This subject has been given more serious treatment by feminist philosophers.⁷ Feminists agree that Locke's views on the relations between men and women are sexist by today's standards, but they disagree about how and why. Many have criticized Locke for having a 'schizoid' theory of authority and obligation. On the feminist interpretation, his insistence on political authority based on consent was combined with sexist assumptions about women, leading him to adopt a different account of authority within marriage, in which wives were thought to be naturally subject to their husbands. Accordingly, Locke is said to justify authority within marriage on very different grounds from those that justify the state's authority over the citizen. As Zillah Eisenstein writes, 'for Locke, politics was based on convention and contract and had to be distinguished from the rules regulating familial life'.⁸ Carole Pateman writes,

only men naturally have the characteristics of free and equal beings. Women are naturally subordinate to men and the order of nature is reflected in the structure of conjugal relations.⁹

This is the dominant, if not orthodox, feminist interpretation of Locke's views on marriage and the state.¹⁰ I call this the 'dualist

⁷ Certainly other philosophers have been scrutinized on this issue. Rousseau, for example, was notorious for simultaneously arguing that men could never surrender their freedom to society and that women must completely subordinate themselves within marriage. For a discussion of this, see Virginia Held, 'Non-contractual society: A feminist view', in *Science, morality, and feminist theory*, ed. Marsha Hanen and Kai Nielsen, *Canadian journal of philosophy*, suppl. vol. 13 (1987).

⁸ Z. Eisenstein, *The radical future of liberal feminism* (Boston, MA 1981), p. 33.

⁹ C. Pateman, *The sexual contract* (Stanford, CA 1988), p. 52.

¹⁰ Cf. also, for example, Teresa Brennan and Carole Pateman, 'Mere auxiliaries of the commonwealth: Women and the origins of liberalism', *Political studies* 27 (1979), pp. 183-200; Jean Grimshaw, *Philosophy and feminist thinking* (Minneapolis

understanding' of Locke on the issue of political and marital authority, since it posits two separate sources of authority.¹¹

A. John Simmons has more recently argued that for Locke, authority within conjugal society and within political society share a single foundation: consent.¹² However, certain sexist beliefs about the natural weakness of women led Locke to conclude that the asymmetrical distribution of power within a marriage was something to which women would typically consent. I call this the 'monist understanding' of Locke on this issue.

I shall explain what I take to be the heart of each of these interpretations, focusing on the new interpretation advanced by Simmons. I argue that while Simmons offers an appealing resolution of the problem, it is faced with some challenges. First, he himself provides an argument that undermines his own interpretation, and that provides evidence for the dualist interpretation. Second, Simmons argues that for Locke, marriage was a contract whose content was to be specified by the parties

1986), pp. 49–51; Nancy Tuana, *Woman and the history of philosophy* (New York 1992), pp. 91–2; Linda Nicholson's concurrence in *Gender and history* (New York 1986), pp. 155–60.

¹¹ There is a more nuanced view of Locke's account of political and conjugal authority, presented by Melissa Butler. Butler acknowledges that Locke thought that, as an empirical fact, women would be subordinated to their husbands. However, Locke explicitly denies that this is divinely ordained, and at the same time says that marriage is essentially a contract made by freely consenting and equally rational adults. However, Butler does not try to explain how the subordination of wives to husbands is *justified* on Locke's view, given that he seems to accept it as a fact, and she does not try to resolve the tension between natural subordination and subordination by consent. Butler, perhaps wisely, leaves the tension unresolved, but less wisely does not highlight the tension. See Butler, 'John Locke and the attack on patriarchy', in *Feminist interpretations and political theory*, ed. Mary Lyndon Shanley and Carole Pateman (University Park, PA 1991), pp. 74–94.

¹² A. J. Simmons, *The Lockean theory of rights* (Princeton 1992).

to the contract. Yet there is no evidence that Locke thought that the content of the marriage contract was so completely indeterminate. Instead, Locke probably thought that the institution of marriage carried substantial content with it. If consent plays a role, it is one of overriding certain typical features of a marriage in a limited way—not determining the content completely.

In contrast, I do not aim to eliminate the tension in Locke's writings. I aim to show that Locke would be forced by his own conception of the purpose of authority to give up any such sexist account of marital subordination. Marriage is not the kind of relationship where genuine authority could be established, and patriarchal authority cannot solve the problem that would be the purported reason for establishing it. Locke explicitly refers to 'authority' in the context of conjugal and parental relations; but given the purpose of marriage set out by Locke, nothing like conjugal authority could justifiably occur. The advantage of this position is that it does not matter whether Locke officially held that conjugal authority was natural or consensual. Locke's core views about the nature and purpose of authority provide him with deeper reasons to give up the idea of patriarchal marriage. Even if his empirical assumptions about the relative weakness of women were true, he could not defend a patriarchal household. For the same reasons he could not defend a matriarchal household, even had he been inclined to do so.

I. Why Rational Reconstruction?

This line of argument proceeds from textual evidence that is both conflicting and ambiguous, and turns to a rational reconstruction of Locke's view from his most central assumptions. If Locke had been explicitly and adamantly in favour of the patriarchal household, then such an argument would be less

convincing. The rational reconstruction strategy is made attractive by the failure of Locke's writings to settle the matter.

However, it might be thought that, before resorting to this strategy, we would do well to adopt a more historical approach. We could look at the actual institution of marriage in 17th-century Europe in general, and England in particular. By examining the historical record, we might be able to discern better Locke's actual views on authority within marriage. Yet there are problems with such an historical approach. First, the textual evidence from Locke himself is conflicting and ambiguous, at best. Second, views on marriage at that time in England were undergoing great change. Royalists defended the authority of husbands over wives in order to bolster the argument for the patriarchal right of kings. At the same time, Parliamentarians tried to defend the idea of marriage as a voluntary and revocable contract in order to make the opposite point: that the legitimacy and true existence of a monarchy, like a marriage, was subject to certain conditions.¹³ The question of whether marital relations were best regarded as a matter of status or consent was a very open question.

As an example, consider Milton's famous *Doctrine and discipline of divorce* (written between 1642 and 1645), which challenges the official church doctrine that divorce is permissible only in the case of 'frigidity or adultery'.¹⁴ The impressive array of arguments that Milton found necessary to marshal on behalf of his cause demonstrates how change was being both sought

¹³ Mary Lyndon Shanley, 'Marriage contract and social contract in seventeenth century English political thought', *Western political quarterly* 32 (1979), pp. 79-91.

¹⁴ John Milton, *The doctrine and discipline of divorce*, in *The complete poetry and selected prose of John Milton*, ed. Cleanth Brooks (New York 1950), pp. 615-62.

and resisted.¹⁵ And Locke's express views on divorce are actually more radical than those of Milton.¹⁶ Locke argues that there is no reason why a marriage must continue once children have been raised and have left the home (II §§81, 82).¹⁷ He goes so far as to say that 'the *Wife* has, in many cases, a Liberty to *separate* from him; where natural Right, or their Contract allows it' (II §82). This makes it clear that it is not solely within the husband's discretion to decide whether the marriage shall end. Only positive law, which 'ordains all such Contracts to be perpetual', stands in the way of a man and a woman who wish to make their marriage a limited contract. Thus it is implausible to assume that Locke held traditional views on authority within marriage. We know, for example, that he was adamant that both men and women had 'equal Title' to govern their children (II §§52, 64). As he was a lifelong bachelor, we might worry even more about whether we could attribute 'standard' views on marriage to Locke. Does the fact that he never entered into marriage indicate an antipathy towards the institution, or that circumstances never permitted him to marry, or something else?¹⁸

¹⁵ Milton's views on divorce were attacked as 'wicked' when they were first published. See the editor's introduction to Milton, *Areopagitica, and Of education*, ed. G. H. Sabine (New York 1951), pp. vii–ix.

¹⁶ I am indebted to Michael Coulter for emphasizing this point.

¹⁷ References to Locke's *Two treatises* will follow the standard edition, John Locke, *Two treatises of government*, ed. Peter Laslett (Cambridge 1960).

¹⁸ For an interesting discussion of the implications of Locke's bachelorhood, as well as that of other 17th-century philosophers, see Naomi Zack, *Bachelors of science* (Philadelphia 1996), ch. 4. This issue will be discussed below in the context of Locke's *A paraphrase and notes on the Epistles of St Paul*. Locke appears to insist that, just as the Acts and Gospels reveal the word of God, so do Paul's Epistles. As Paul notoriously denigrated marriage as a necessary evil, we are left to wonder if Locke shared Paul's view about the institution itself, or agreed with Paul's views about the nature of marital relations—which are not egalitarian views.

We might be tempted to try a third, 'psychological' approach. We could look further into Locke's personal life in order to discern his views on marriage. Locke did have romantic friendships with women, and corresponded with several women. These included Elinor Parry, who corresponded under the name 'Scribelia', and Anne Evelegh, who were both 'valentines' of Locke. Each exchanged love letters with Locke but went on to marry another.¹⁹ The topic of marriage or the relations between the sexes never arises in these letters.

But a different sort of intimate friend was Damaris Cudworth, daughter of Cambridge Platonist Ralph Cudworth. She later married Sir Francis Masham and became Lady Masham. Beginning in 1682, less than a year after they met, she and Locke exchanged expressions of their high regard for each other, and even some love poetry, under the names of 'Philoclea' and 'Damon'.²⁰ But they also conversed at a high level of intellectual generality on epistemological and theological issues such as the nature of salvation and religious belief. They do not discuss the topic of marriage relations or the relation between the sexes. However, their relationship could not have been severely damaged, as he came to live at the Masham estate and died there as Lady Masham read to him from the Psalms.²¹

The issue of Lady Masham's attitude towards marriage does arise, however, as she contemplates whether she ought to marry at all or become a nun. Early on in their correspondence, she was apparently not enthusiastic about marrying and says that

¹⁹ There are other letters of particular affection that do not appear to be to either Parry or Evelegh, but the letters to and from Parry and Evelegh are for the most part not in doubt. See *The correspondence of John Locke*, ed. E. S. de Beer (Oxford 1976—, vol. 1, letters 45 (to a Lady), 48 and 74 (to Parry), and 65 (to Evelegh).

²⁰ See especially letters 751, 752, and 847 in Locke's *Correspondence*, vol. 2.

²¹ See the editor's comments, *Correspondence*, vol. 2, p. 470, to letter 677.

if Men should ever become my Aversion, or that I should grow extraordinarie Devout and Religious, things that sometimes Happen in that case, Here is a Friend of yours who doubts not in a little time but that she shall see her selfe an Abbess, With whom I Question not but you have sufficient Interest to Procure that I may be one of Her Nuns.²²

She also expresses a preference for marrying a Labadist, should she ever marry.²³ But Masham's opinions here concern whether to marry at all, and what the religion of her husband would be, not the specific relations between husbands and wives. In a poem she sent to Locke for his critical judgement, Lady Masham writes:

Love, Equally unto us is
A Duty, and a Happiness;
Our Duty sure it needs must Bee,
For What else were Created Wee?
The Text you'l find is very Plaine
Eve, was made onely for the Man,
Then How can you your self Deceive
And think you're not some Adams Eve?
Or on the Man Look with a Frowne
Who onely comes to Claime His owne?
And Begg but that You would Restore
The Ribb You Rob'd Him of before;
And though for th'Hall of Westmister,
The Man no Justice can have There,
Yet surely Sister it is Plaine
He ought to have his Ribb Againe.²⁴

²² Ibid., letter 805.

²³ Ibid., letters 787 and 805.

²⁴ Ibid., letter 847. The idea of 'Adam's Rib' could be read either as the subordinate nature of woman, or as the incomplete nature of man—or both.

It is not known what Locke thought of this poem, as we do not have a letter in reply discussing it. Indeed, because relatively few of Locke's letters to Lady Masham are known today—the great majority of the extant correspondence consists of letters from Lady Masham—we have no evidence, direct or indirect, of Locke's views on marital relations. It is unclear whether Locke ever tried persuade Lady Masham, before her marriage, either to become a nun or to enter married life. He simply does not say, although Lady Masham's letters indicate that Locke encouraged her toward Labadism, if not marriage.²⁵

Thus the problems with a primarily historical or psychobiographical approach are plain. In addition, what Locke said on marriage is less illuminating than what he wrote on the topic of political obligation. For Locke said too little on the subject of marriage relations and what he did say was often ambiguous or inconsistent. Hence the appeal of a rational reconstruction which relies on Locke's main assumptions. I argue both (1) that Locke does not really commit himself to a dualist account of authority, and (2) that his core commitments *preclude* him from doing so.

II. The Dualist Understanding

We can divide the dualist view into two sub-classes. On the one hand one could argue that Locke was deeply sexist. On this view, despite what he says in the First Treatise about the ability

²⁵ It is interesting, however, that once Lady Masham was married, she held a low opinion of the effects of domestic life on her intellect. She writes, 'Though I was Always Dull, I find that I am now a Thousand times more so then formerly; And the little Knowledge that I once had, is now exchange'd for Absolute Ignorance; I am taken off of All that I once did Know, and Understand; and Have nothing at All in lieu of it; 'Tis in Vain that you bid me Preserve my Poetry; Household Affaires are the Opium of the Soul ...' (Locke, *Correspondence*, vol. 2, letter 837).

of some women to avoid marital subjection, despite his extremely high regard for the intellect of Lady Masham,²⁶ and despite what he says about feminine education, he was fundamentally committed to the authority of men in the home. His commitment to the subordination of women is not the end of an argument, but an entrenched assumption. This version of the dualist interpretation might be called 'hard dualism'. On the other hand, one might think that Locke was of two minds about the nature and status of women. At times he seems to be a liberal egalitarian, and then again he sometimes writes as if in the end, men must (with a few exceptions) rule over their wives. Perhaps reluctant to contradict the thinking of his day, and not wanting to contradict some Biblical text, Locke found it difficult to follow his own basically liberal view to its logical conclusion. So he contradicts himself, but not because he was fundamentally committed one way or the other. This I call the 'soft' version of dualism, since it permits the view that Locke had a commitment to liberal equality, even though he appears to contradict it explicitly in a number of places, at least with respect to women. Nevertheless, this soft version does not deny that Locke contradicts himself and at times defends a natural subordination of women. I shall argue that we are not forced to accept soft dualism, and that hard dualism is ruled out by both textual evidence and rational reconstruction.²⁷

²⁶ Locke wrote about Lady Masham: 'The lady herself is so well versed in theological and philosophical studies, and of such an original mind, that you will not find many men to whom she is not superior in wealth of knowledge and ability to profit by it'. (Letter to Philippus van Limborch, March 13, 1691, translated from Latin in Fox Bourne, vol. 2, p. 213.)

²⁷ It is difficult to tell which version of dualism feminist interpreters accept, as none of them make the distinction made here. However there does seem to be some support for the hard dualist reading (Lorenne Clark, for example, appears to be committed to this interpretation of Locke). On the other hand, Mary Lyndon Shanley, for example, writes that while Locke went furthest in the seventeenth century in extending the analogy of voluntary contract to marriage, 'he emphatically rejected the notion that familial and civil authority were analogous' (Shanley, p. 87). Locke does say that

III. Simmons's Interpretation

In contrast to both forms of dualism, Simmons argues that Locke does not really contradict his basic commitment to liberal equality. Simmons says that he finds the Lockian position on familial rights and duties compelling. But he does not mean the view that Locke literally espoused; he is attracted to the view that comes from 'extending arguments that Locke merely employed too weakly'.²⁸

According to Simmons, Locke believed that marriage is based on consent. Indeed, Locke says, '*Conjugal Society* is made by a voluntary Compact between Man and Woman ...' (II §78). But in addition, Simmons attributes to Locke the view that the content of the agreement is determined entirely by the participants. '[V]oluntary agreements or understandings may distribute the rights and duties within the relationship as the partners please'.²⁹ Simmons of course recognizes that Locke believes in rights and obligations that wife and husband might have with respect to one another simply as persons governed by the Law of Nature. But *additional* rights and obligations can be created by the formation of an agreement to marry, and specifically by what they agree to do. Thus, Simmons agrees with Locke, since he understands Locke to be defending marital rights and duties as 'special consensual obligations', a term

'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 ... a it may help us to distinguish these Powers one from another, and shew the difference betwixt a Ruler of a Common-wealth, a Father of a Family, and a Captain of a Galley' (II §2). Whether this is an emphatic rejection of analogy is not, in my view, settled by this passage.

²⁸ A. J. Simmons, p. 167.

²⁹ *Ibid.*, p. 171.

Simmons uses following Hart's famous distinction between special and general rights.³⁰ It is the idea of marriage as a contract whose terms are set by the parties to the contract that Simmons finds defensible. 'That', he says, 'is the fundamental moral component of marriage.'³¹

So where does Locke go wrong, on Simmons's view? He applauds Locke for specifically allowing that spouses may deviate from the traditional marital arrangement, even allowing for a mutual agreement to separate at a later date, after children are grown, for example (II §82). But Locke errs in concluding that a woman owes her husband a limited subjection (I §48) and that the man has a right to have the final say when it comes to property and other matters of common interest (II §82).

This is certainly a problem for Locke. If the content and nature of special obligations created via marriage are constrained by the mutually agreed-upon terms of the contract itself, then how could the subjection of wives occur? How are women subject to men, if only in a limited way, within a contractual arrangement? One possibility is to appeal to vast natural inequalities between the sexes. If the sexes are sufficiently different, then perhaps the kinds of contracts between women and men are different from contracts between men and men. Locke explicitly says that the differences in ability that we

³⁰ H. L. A. Hart, 'Are there any natural rights?', *Philosophical review* 64 (1955), pp. 175-191. Hart calls rights 'special' when they follow from a particular transaction or relationship with another person or persons, and 'general' when a person possesses the right simply as a human being, and the right entails obligations on the part of other people in general, not only particular persons involved in a special relationship.

³¹ Simmons, p. 171. Certainly, this cannot be the whole story. While it is true that additional obligations and rights are formed via a marriage contract, it is unclear to me that all of the ensuing new constraints are a product of the terms of the contract, or even the fact of the contract, itself. Many of the obligations that marital partners have with respect to one another may be claimed as a result of the concomitant dependencies that are formed as a result of the persistence of the marriage itself.

observe among men cannot justify subjecting one to another (II §54). Only special actions, such as that of consenting, or the making of war of one upon another, could do that (II §§24, 95). So at the very least, Locke would have to argue that the differences between men and women were so enormous that subjection was justified. Alternatively, he could argue that the differences are a matter of kind, and not of degree—i.e., that women are as different from men as men are from 'mere animals'. For this difference of kind is how Locke justifies the use of non-human animals by humans (II §6).

But there are several reasons why the 'vast inequality' approach should not be attributed to Locke. First of all, Locke never gives such an argument. While Locke does refer to women as 'the weaker Sex' (I §47), nowhere does he try to argue that women are *vastly* weaker than men, and he never says that it is weakness that makes women subject to their husbands. Nor does he argue that women are deficient in some quality other than strength that would render them subject to their husbands. He never, for example, suggests that women lack Reason, a faculty necessary for understanding and thus being bound by the Law of Nature. In *The reasonableness of Christianity*, Locke makes only the following remark about women:

Where the hand is used to the Plough, and the Spade, the head is seldom elevated to sublime Notions, or exercised in mysterious reasonings. 'Tis well if Men of that rank (to say nothing of the other Sex) can comprehend plain propositions, and a short reasoning about things familiar to their Minds, and nearly allied to their daily experience.³²

³² John Locke, *The reasonableness of Christianity*, ed. J. C. Higgins-Biddle (Oxford 1999), p. 170.

But this is not to say that women *qua* women are inferior; for Locke has just said that it is the kind of labour in which one engages that either prepares the mind for 'sublime notions' or fails to. Women, in Locke's day, were primarily employed in domestic labour if they were employed at all. There is no reason to take this as an insult to the native abilities of women, just as there is no reason to take this as an insult to the native abilities of men 'of that rank'. If Locke believed that women were natively inferior in such a significant way, his failure to say so would be a glaring omission.

Second, Locke's own positive words and actions indicate that he thinks that men and women are rather similar. Consider *Some thoughts concerning education*, for example, which grew out of letters that Locke wrote to Edward Clarke and his wife for both of their children, although they were initially directed at Clarke's son Edward, who was the eldest.³³ Locke's recommendation for the vigorous treatment of boys (including exposing them to cold water, snow, and frost; in extreme cases, using corporal punishment) is extended to girls, with one exception: keep them out of the sun, lest you ruin their complexions. And the reason for this is cosmetic, not that it will damage a weaker body.³⁴ Also, in the Second Treatise, ch. 6, titled 'Of Paternal Power', Locke insists that men and women rule jointly over their children with 'an equal Title' (II §52). Surely Locke would not make this point so explicitly if he thought that women were vastly inferior to men.

Third, any such argument would seem to apply to men in general over women in general, and not merely the husband of a given woman. That is, if women's weakness rendered them

³³ *Some thoughts* was published in 1693; but the first letter began in July of 1684. Locke, *Correspondence*, vol. 2, letter 782.

³⁴ John Locke, *Some thoughts concerning education* (Menston 1970), p. 8.

subject to those who were stronger (men), then no marriage contract would be necessary in order to establish a relationship of authority. Women would be obligated to defer to the judgement of men in general. But Locke never suggests that women might be subject to anyone other than their husbands.

Thus, Locke cannot consistently appeal to vast inequality to justify authority, and he does not. It is inconsistent with his own apparently sincere beliefs about the sexes (within and without marriage), and would commit him to other views that he clearly does not hold (the subordination of women in general to men in general). So how does Locke reach these conclusions about the particular authority of husbands? The hard dualist sees the bankruptcy of this approach, and nonetheless attributes it to Locke. For example, Lorene Clark argues, 'Locke's theory is fundamentally sexist because it must treat a biological, "natural" difference between the sexes as a source of "natural inequality" which licenses enshrining it as an economic and social advantage'.³⁵

However, as Simmons points out, we must not ignore the fact that Locke explicitly rejects the *natural* dominion of husbands over wives. He says in the First Treatise that God never gave 'any authority to Adam over Eve, or to Men over their Wives' (I §47). Thus, Simmons argues that it is unfair to ascribe to Locke this groundless commitment to the natural (i.e., extra-consensual) authority of husbands. This might seem to pave the way, at the very least, for the 'soft dualist'. Since Locke denies the *natural* subjection of wives to husbands, and since he affirms the rights of husbands to limited subjection on the part of their

³⁵ According to Clark, the sole object of Locke's theory was 'to ensure the individual right of men to appropriate, own, and control the future disposition of property'. Clark and Lange (edd.), *The sexism of political theory* (Toronto 1979), 'Women and Locke', p. 36. Clark's view combines Macpherson's view of Locke as a 'possessive individualist' with her own view of Locke as straightforwardly sexist.

wives, we could conclude that Locke was simply of two minds. He could not decide whether or not husbands should have authority over their wives. Thus he may have wavered on his commitment to authority by consent; or he may have wavered on his commitment to the idea that inequality cannot oblige one to another. In any case, he temporarily weakened his commitment to some of his central and important ideas on the issue of authority to accommodate the lingering intuition that in the final analysis, the man must rule the family.

This softer view is especially appealing, but Simmons rejects it along with the hard version. Simmons gives two separate arguments that both the hard 'bedrock' dualism and the softer 'wavering' dualism are incorrect interpretations of Locke. First, Simmons argues that for Locke, marriage was a contract whose terms were completely up to those being married, constrained only by the Law of Nature. Locke was not committed to the natural authority of husbands over wives; but he did think that in general, women would recognize the relative strength of men and consent to let men have the last word, by making it a provision of the marriage contract. So an assumption of natural inferiority plays a role, but only indirectly. The limited subjection that wives have is produced by their own consent. When Locke says that there is a 'Foundation in Nature' (I §48) for the subjection of women, what he means is that women are weaker, will recognize their weakness, and grant authority to their husbands.

Second, Simmons argues that because Locke thought that any unified body must have a single, guiding force, if a body is made up of more than one part, then the stronger force must prevail. Since men are stronger than women (Locke thought), this means that in a marital union men must rule—if and when they are stronger. Thus the dominion men have over women is

'neither natural nor necessary', only the dominion of the stronger over the weaker.³⁶

Both arguments are said to attack hard dualism because it claims that Locke did not believe in a natural authority of men over women: the authority is, when it exists, based in consent, just as is political authority. It rejects soft dualism because Locke is not wavering on his views about the sexes and the authority between them. Instead, Locke is seen as a thinker who had a single uniform account of authority for both political and conjugal authority. He simply thought that women were usually, although not necessarily, weaker, and would consent to be ruled by the stronger.

Simmons says that these are two distinct arguments for rejecting the dualist views. But while they are distinct, they both work by providing an account of why women would agree to an unequal marriage contract. Both of these points are supposed to show that Locke was using false empirical beliefs about the inferiority of women in order to specify the typical content of a marriage contract. But since the error is empirical, and since Locke explicitly allows for exceptions, the sexism is less vicious than a fundamental commitment to the authority of husbands over wives. For not only does it allow for exceptions, but it admits the possibility of, under certain conditions, a complete rejection of the domination of wives by husbands. Indeed, the second argument implies that whenever the woman is superior, the husband must consent and the wife must rule.

This is on the face of it an appealing solution. However, these two arguments are not *both* available to Locke, because they are not compatible. To see why, we must examine the arguments more carefully. Simmons's first argument is that Locke says both

³⁶ Simmons, p. 174.

(a) that men do not have natural authority over their wives

and

(b) that men have a right of limited subjection on the part of their wives.

These two statements appear to conflict. But they do not conflict, Simmons says, because the limited subjection that Locke defends is not a *natural* subjection. It is subjection by consent, and Locke thought that women, being weaker than men, would agree to be ruled by them, and hence would be subject, if they so chose. On behalf of this thesis, Simmons argues that Locke thought that the only constraint on the content of a contract, besides the Law of Nature itself, was the point or end of the contract. So the only constraints on the content of the marriage contract are the Law of Nature (morality) and the point of marriage (which Locke says is procreation).³⁷ And Locke clearly thought that a marriage in which the wife is not subject was consistent with both, since he explicitly defends some instances of them. On Simmons's account, Locke's statement that men have a right to such a subjection is to be interpreted *not as a general right* that all men would have, but as *a special right* that married men would have generally—i.e., that most husbands would have it because most men would marry women who were relatively weaker. This comports with the fact that Locke does not talk about the subordination of women to men, but of wives to husbands. Women in general are not said to be subordinate to men, but wives to their husbands. Now this may

³⁷ For Locke, it appears that the point of marriage is itself determined by the Law of Nature. Locke does say that the point of marriage is procreation, but does not specify whether this is an end *required* by natural law, or merely the end that marital partners typically choose. Cf. II §81.

be repugnant to us, but it is not as repugnant as a *deep* commitment to the natural subjection of wives to husbands, or of women to men. For Locke would have to admit that all those women who refuse to consent to subordination are not ruled by their husbands.

Recall Simmons's second argument. In the case of political authority, Locke addressed the issue of how the Body Politick is to decide what its 'will' is (not Locke's word). Once we all agree to form a Body Politick, we must have a method of decision. Locke argues that it *must* be at least majority rule, although we could demand that it be a two-thirds majority, or even greater majority (II §§96, 99). The argument seems to be that it is necessary that the 'greater force' or 'stronger' part rule, because that is a precondition for any action on the part of the Body Politick. Locke is ambiguous on what this 'must' means. Is it a 'moral' must? I.e., does he mean that it would be immoral for the Body Politick to allow a minority to rule? If so, Locke never says so. Perhaps he means that it is a *precondition* of the Body's ability to act that it be ruled by the stronger. Locke says that 'it is necessary the Body should move that way whither the greater force carries it, which is the *consent of the majority*: or else it is impossible it should act or continue one Body, one Community, which the consent of every individual that united into it, agreed that it should ...' (II §96). So if the majority vote in favour of some measure, then unless their will is respected, there will no longer be a unified Body at all, which was the whole point in the first place—i.e., that is what we agreed to do, act as a Community.³⁸

³⁸ It should be pointed out that, despite what Locke says in these passages about majority rule, he appears to defend minority rule in at least one place. In the infamous passage at II §158, it appears that Locke commits himself to the idea that the more taxes paid by landowners, the more say they should have in decisions. This could plausibly be construed as a defence of minority rule, given the distribution of wealth in England at the time.

This latter interpretation of 'must' is what Locke meant: that as a practical matter, we have to go with what at least the majority says, or we are no longer a voluntary, unified body. Without at least majority rule, action of the body is impossible. Thus he concludes,

Whosoever therefore out of a state of Nature unite into a *Community*, must be understood to give up all the power, necessary to the ends for which they unite into Society, to the *majority* of the Community, unless they expressly agreed in any number greater than the majority. And this is done by barely agreeing to *unite into one Political Society*, which is *all the Compact* that is, or needs be, between the Individuals, that enter into, or make up a *Common-wealth*. (II §99)

So in a sense Simmons is correct when he says that Locke is arguing that majority rule is the tacitly understood content of the contract of the Body Politick. But notice that *it is not optional; it is a necessary feature of the Body Politick that it be ruled by at least a majority*, and therefore it is impossible, on Locke's view, that we understand a contract to form a Body Politick otherwise. *There can be no Body Politick without majority rule*. But this argument is inconsistent with Simmons's first argument, in which women voluntarily subject themselves in a limited way to their husbands, although they are free to do otherwise. For to say that the stronger part of the body *necessarily* rules is inconsistent with the idea that the relationship between husband and wife is contingently determined by the terms of the contract. If it is necessary, on Locke's view, that the weaker obey the stronger—that the content of the contract is determined beforehand by this necessity—then the hard dualist is *basically* right: women are naturally obligated to obey their husbands by virtue of their weakness. Simmons says that Locke is in 'neither case arguing for a natural authority (or majorities or husbands).

In both cases he is trying to give reasons for interpreting an inexplicit contract in a certain way ... and in both cases he allows that if there *has* been an explicit agreement on some alternative arrangement for decision-making, this agreement overrides the reasoning he has advanced'.³⁹ But Locke is clearly denying that the content of the agreement is fully flexible in this way. He does not say that any agreement may replace the tacit, default system of simple majority rule; he only allows for 'any number greater than the majority' (II §99).

The implication of Simmons's argument is the following. Locke held a kind of exceptionalism wedded to a belief in natural subjection: sometimes a stronger woman marries an equal or weaker man, and then the rule no longer applies.⁴⁰ But when she is weaker, she must submit to his authority. Furthermore, it seems to follow that a marriage between equals would be impossible: there would be *too much* of a balance of power, leading to ceaseless disputes that always ended in deadlock. If women are typically weaker, then most wives will be subject to their husbands *naturally and automatically, by virtue of marrying at all*. It would be impossible for them to consent to any other kind of contract. The second argument shows that the content of the contract is not completely up to the parties involved, and not simply because there are restrictions on the use of the concepts 'marriage' or 'Body Politick'. There are substantive restrictions on what we may consent to. And this directly contradicts Simmons's first argument, which involves attributing to Locke the idea that the content of contracts is completely variable by the parties to it.

³⁹ Simmons, p. 174.

⁴⁰ Granted, Locke never admits this side of the coin. Which might be a reason to reject this second argument, as it is properly construed.

The best solution for Simmons, would be to abandon the second argument, and develop the first, which is more promising. And it is possible to reject the second argument, because it is based on an analogy between political society and conjugal society that Locke does not make. There is no reason to think that the 'greater force' of numbers is the same as differences in the strength or ability of two individuals. For certainly the minority could have, all told, greater strength and ability than the majority. Of course, this seems to undermine Locke's own argument that the majority, having the greater force, must necessarily rule. But the point is that this argument, however it was intended, was never used to justify the subjection of wives, and the disanalogies between political and marriage contracts might explain why that is so. Locke says that the 'last Determination ... naturally falls to the Man's share, as the abler and the stronger' (II §82). *Naturally* is not the same as *necessarily*, which is how the point about majority rule is put.

It is tempting simply to reject the second argument and accept the first. However, this is not done without problems. First, while Locke himself did not make the analogy between stronger majorities and stronger husbands, Simmons did. And there *does* seem to be an analogy: if the weakness of the minority necessitates majority rule, why shouldn't the weakness of women necessitate the rule of the husband? Locke may not have used the strong language of necessity in the context of marital authority, but he did not rule it out, either. Second, if the substantive content of the political contract is not completely up to the parties, why should the substantive content of marriage contracts be any different? While Locke does not specify what particular constraints (other than the Law of Nature and the purpose of procreation) there might be on marriage, it now appears possible that the substantive content of the marriage contract may be seriously constrained.

In any case, it is still possible to focus solely on the first argument, and it would indeed allow Locke to avoid the charge of deep sexism, since the sexist marriage, while perhaps a product of 'false consciousness', would not be a permanent and irremediable institution. Locke certainly believed women were 'weaker' and he knew that most women were not well educated. So we can see why he might believe that women were more prone to errors of judgement than were men. Thus he might think that, being weaker but not completely irrational, women would recognize their inferiority and transfer their will, if only in a limited way, to their husbands. However, such a limited basis of authority deprives the unequal marriage of a stable justification. If wives have such power of discrimination that they can see the superior ability of their husbands, then they should reserve for themselves the right to apply the power of discrimination on a case-by-case basis. But if they do this, the issue of *authority* never arises. Women would defer to their husband's judgement when it seemed appropriate; and selective deference is not authority. Furthermore, to say that a prudent person will defer to another's superior judgement is not the same as to say that a woman 'owes' her husband subjection (I §48).

Simmons recognizes the weakness of this; he says that neither of the above two arguments is very convincing.⁴¹ The point is, he says, that Locke is committed to marriage as the idea of a contract whose terms are open to be settled by the participants, within the bounds of the Law of Nature. So Locke would have to accept modern marriages, as marriages, so long as they satisfied the end of procreation: 'every aspect of the marriage contract (except the responsibility to provide for offspring) may be varied by express agreement'.⁴²

⁴¹ Simmons, p. 174.

⁴² Ibid.

But what Locke actually says is this:

But this reaching but to the things of their common Interest and Property, leaves the Wife in the full and free possession of what by Contract is her peculiar Right, and gives the Husband no more power over her Life, than she has over his. (II §82)

This is not an endorsement of a marriage contract whose content is fully flexible, but a rejection of absolute power over one's spouse. Locke is saying, *at the very least*, that husbands may not deprive their wives of their lives. He also says that if it is part of the specific marriage contract, they may separate when the children are provided for. But he does not go any further. He never says, as Simmons interpolates, that the 'last determination' may fall to the wife's share. He never says that wives may retain the property they previously owned; for this may well count as 'common Interest and Property' once they are married. The modern marriage of equals is never acknowledged, although it seems eminently possible. It is true that Locke says that the Queen is not politically subject to her commoner husband (II §47); but this is not the same as saying that she is not conjugally subject; and in any case she is an exception by being a *queen*. He never suggests that marriage between commoners would be one of conjugal equality, although Locke does seem to think that they would be political equals and therefore equally free from involuntary subjection. What we know for certain is that Locke thought that men could not use capital punishment against their wives, that marriages may be temporary under certain circumstances, and that the Queen is not a *political* subject of her husband, *if* he is a commoner.

How, then, should we understand Locke's remark that 'God ... gives not, that I see, any Authority to *Adam* over *Eve*, or to Men over their Wives' (I §47)? The matter may be clarified by taking a broader view of the entire chapter in which the passage appears. The point of this chapter (Chapter V) is to demonstrate

that *political* authority could not have originated in Eve's subjection to Adam, because both were being punished, and Eve's subjection wasn't political anyway: it can only be

a Conjugal Power, not Political, the Power that every Husband hath to order the things of private Concernment in his Family, as Proprietor of the Goods and Land there, and to have his Will take place before that of his wife in all things of their common Concernment; but not a Political Power of Life and Death over her, much less over anybody else. (I §48)

Adam lacks natural political authority, but he retains conjugal authority. Locke would not have emphasized the conjugal power of a husband were he trying to defend marriage as an egalitarian contract. Locke does equivocate, however, on whether there is a natural obligation on the part of wives to obey husbands. On the one hand, God is foretelling the subjection of wives to husbands as a result of original sin. (Can *God* foretell without necessitating?) On the other hand, Locke admits that if God is doing more than foretelling, it is only foretelling conjugal subjection, which *every husband* has a right to.

I think what this chapter, and indeed most of the First Treatise, shows us is not that Locke had distinct (and coherent) views about how marriages must work, but that he was very concerned to account for Biblical text in a way that is consistent with his attack on Filmer. All of his remarks are designed to do two things: first, accept what the Bible says as true; and second, show how the Bible does not support Filmer's defence of monarchy by patriarchal right. Locke was reluctant to say that the Law of Nature, which he identifies with Reason, was identical with the Scriptures, because the Law binds us eternally, even before the writing of the Bible, and in all places, where the Bible may not be read.⁴³ This, I think, accounts for some of his

⁴³ Locke, *Correspondence*, vol. 4, p. 110.

equivocation. He may not have been comfortable with the Bible as the literal Word of God, but he was less comfortable with criticizing its contents. So, for example, in *A paraphrase and notes on the Epistles of St Paul*, Locke appears to endorse the Epistles as, along with the Acts and the Gospels, containing the Word of God. Locke was reconciling the literal word of the Bible with his critique of patriarchal political rule. Locke may indeed have wanted to deny any subjection of women, conjugal or political; but for his immediate purposes, he needed only to deny the natural *political* subjection of *anyone*.

IV. The Future of Simmons's View

It is unclear, then, whether Locke defends natural conjugal authority, or conjugal authority via consent alone. He denies only natural *political* authority explicitly, and that includes the natural authority of men over men or men over women. And he seems to think that women would be typically subject to their husbands. Isn't Simmons's view none the less at least consistent with the text? Simmons's account requires us to assume two things: that on Locke's view,

(1) marriage contracts have very flexible content,

and

(2) most women would have reason to give their husbands authority over them 'in the last determination', accounting for the content of the typical marriage contract.

Are these plausible assumptions? We might think the first assumption is plausible, if there were another analogue of a completely flexible contract discussed by Locke. But consider

our prime example, the contract to create a political society. In such a contract consent is the basis of the obligation to obey the government. But the content of government is not completely flexible. He insists that majority rule is a necessary feature of government. And Locke denies that a Body Politick, unlike the Legislative, can ever be temporarily established; it *must* be construed as a permanent agreement to leave the State of Nature (II §243). Now we may disagree with Locke; why couldn't we form a temporary furlough from the State of Nature? Locke doesn't really give a reason: he says that it is because 'without this, there can be no Community, no Common-wealth, which is contrary to the original Agreement' (ibid.). But the point is that Locke does not think that we may form a temporary government with anything except majority rule. We see again in the case of contracting into slavery, Locke once again excludes a kind of voluntary contract: we may not sell ourselves into slavery, since that would be to jeopardize our ability to preserve our lives—something we have an obligation not to do.

What about the second assumption? Would wives agree to be subject to the will of their husbands? I argued above that the most a woman would rationally agree to, if she regarded her own judgement as lacking, would be case-by-case deference, not complete subjection. Again, Simmons sees that, in part because of considerations such as this, the argument he attributes to Locke is weak. There is some text that seems to contradict Simmons's view, as in II §82, where Locke says that it is 'natural' that the 'last determination' in decisions should fall to the husband. We simply cannot know that 'natural' refers here to *consent* (as in 'Naturally, she consented') or whether it refers to the *authority* itself. In addition, there is a paucity of direct evidence that Locke believed in the kind of near-complete flexibility in the marriage contract, or in contracts in general, that would support the monist account of authority.

V. Political Authority and Conjugal Authority

Instead of trying to decide between the dualist and monist accounts—both have their problems—it might be useful to ask whether there is some reason for Locke to give up conjugal authority altogether. Is there really any room for authority in a marriage relationship? It is important to remember that Locke consistently maintains that the husband never has the power of life and death over his wife; so marriage is not equivalent to slavery, which is impermissible unless one party makes war against another. At most, marriage would be drudgery for the wife, which Locke says is permissible (II §24). But he never goes so far as to say that marriage is a form of permissible drudgery.

Perhaps the marriage relationship is like the relationship between fathers and children. However, this comparison is not very promising. Locke goes out of his way to insist that mothers have the *equal* right to govern their children along with fathers. So it is hard to imagine the women are, for Locke, related to their husbands as they are to their children. But, more importantly, Locke does not think that children are actually subject to parental *authority*. That is, they are not strictly speaking obligated to obey their parents. Rather, Locke says that the right of parents to control their children is based in the duty to care for helpless offspring (II §63). Because children are not yet of the age of Reason (II §55), they are not actually 'subjects' of their parents—commands could not actually bind them as adults are bound by the Law of Nature, for example.⁴⁴ Similarly, parents

⁴⁴ See Locke's *Questions concerning the law of nature*, ed. and tr. Robert Horwitz et al. (Ithaca, NY 1990), p. 233: 'There is no need to belabor the question of babes and fools, for even if the law of nature were binding on all to whom it is given, yet it is not on those to whom it is not given, and it is not given to those by whom it cannot be known'.

are not actually rulers of children: their right is not a right against the children so much as a right against other adults that the parents should be allowed to satisfy their parental obligations of care. So the analogy is absent on two account: there is no real relationship of authority between parents and children; and women are never described as 'babes or fools', but only as 'the weaker Sex'. These considerations, taken together, make it clear that however Locke regarded authority within marriage, he did not think it analogous to a relation of paternal governance.

Is it impossible for Locke consistently to defend marriage as a limited subjection? Let me suggest that such a conception of marriage is, for Locke, indefensible. We have seen that Locke makes a distinction between political and conjugal authority. Marriage may be temporary, while the Body Politick may not be; and someone who has political authority has the power of life and death over subjects, but no one in marriage has that power over a spouse (*qua* spouse). But in another respect, conjugal and political authority are marked by the same outstanding features. They are both begun by contract. And the point of each is to resolve conflicts of judgement. We enter political associations via contract to escape the conflict of the State of Nature. In the case of marriage, we enter marriage via contract for the purpose of a marriage relationship (which is said to be procreation), but this contract *initiates* conflict, instead of resolving it. Locke thinks that *both* kinds of associations involve the settling of disputes; and he thinks that in both cases, authority is the solution.

The conflict in the State of Nature comes from 'Want of a common Judge' (II §19). Persons quit the State of Nature to avoid its inconveniences, which consist of three main things: the lack of established laws, the lack of known and indifferent judges, and the lack of a power of execution. Because of this, persons are in a continued state of disagreement. The conflict in marriage *seems* to come from the same problem:

But the Husband and Wife, though they have but one common Concern, yet having different understandings, will unavoidably sometimes have different wills too; it therefore being necessary, that the last Determination, *i. e.*, the Rule, should be placed somewhere, it naturally falls to the Man's share, as the abler and the stronger. (II §82)

On Locke's view, a permanent Body Politick is what persons in the State of Nature must consent to, because it is the only thing that could resolve the uncertainty and conflict that exists because of the lack of an impartial judge. But what about the uncertainty and conflict that is produced by marriage? Could the husband's authority solve it? Is such authority *required* in order to solve it?

Establishing authority in the husband would not provide any of these advantages. Nor would placing authority in the hands of the wife. There are still only two persons. Neither one qualifies as an 'indifferent judge'. The husband could make a 'law' (or more appropriately, a rule, or policy); but it would not be an *indifferent* law, just as he would not be an indifferent judge. If there are only two people, there is no reason why they would be unable to agree on a law, for the most part. No designated authority is needed. In contrast, there are many people in the State of Nature, which is part of the source of the conflict. Finally, no one has any special power to execute a law that would not exist without the authority: the balance of power remains what it was before. If the husband were stronger, then his will would win out. But this would not solve the problem of the dispute; it would simply ensure that the stronger would win.

It might be objected that it is impracticable to establish a third party to judge these disputes. So given Locke's beliefs about the natural weakness of women, it makes sense to give it to men—either by the consent of weaker wives, or by natural right. Does it? Locke characterizes marriage in a way he does not characterize the State of Nature: as having 'but one common Concern' (*ibid.*). He justifies the rejection of absolute sovereignty in the husband by saying that 'the ends of

Matrimony requiring no such Power in the Husband, the Condition of *Conjugal Society* put it not in him, it being not at all necessary to that State' (II §83). On his own account of the relationship, how much mediation would be required? It would seem that a confluence of interests where there is 'but one common Concern' would make third-party arbitration rare—much less necessary than in the State of Nature. It is more important, however, that in the case of intra-marital disagreement, investing one party with authority is unstable. Just as in the State of Nature, one could always agree to defer to the other—the weaker to the stronger, the dimmer to the brighter, etc. But if a situation arose in which the weaker disagreed with the judgement of the stronger, the weaker would insist on using his own judgement. In fact, with any foresight at all he would only agree to go along with the judgement of the stronger when he agreed with the judgement of the stronger; which is as good as having no authority at all. This is surely why Locke thought a third, impartial party is required in order to leave the State of Nature.

Furthermore, other philosophical considerations could not justify giving authority to husbands, even if they were stronger. For then they would justify giving authority to strong men over weak men. Here the 'monistic' account might be thought to help—perhaps weak men would typically consent to be governed by the stronger. But just as Locke never articulates this regarding marriage, he never articulates it regarding the Body Politick. And for good reason: Locke repeatedly emphasizes that men in the State of Nature are as equal as they need to be, in order to be equally free from political subjection.

Such a practical concern was surely a rationale used by many of Locke's opponents; democracy is often difficult to implement, and men are not exactly equal. Locke knew this. But Locke resisted these arguments in the case of political society; he should therefore resist them in conjugal society as well. There is no room for the authority of men over their wives in Locke's

philosophy, regardless of whether we interpret such authority as natural or consensual.⁴⁵

⁴⁵ An earlier version of this paper was presented at the Midwest Seminar in the History of Early Modern Philosophy at the University of Chicago, March 1997, and a revised version was presented at 'Reconsidering the canon: Feminist work on the history of philosophy', Uppsala, Sweden, November 1999. I wish to thank those conference participants along with Lilli Alanen, Michael Coulter, Nancy Hirschmann, Paul McNamara, A. John Simmons, Charlotte Witt, Naomi Zack, and an anonymous reviewer at *The Locke newsletter* for their helpful comments.