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Thomas Piketty and the Natural Rights Argument for Equality

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Abstract

Thomas Piketty's work has elevated equality to the forefront of policy discussions. This essay supports Piketty's project by proposing a theoretical grounding for his ideas in natural rights theory. It briefly traces French rights theory back through enlightenment figures to the French theorist Jean Barbeyrac, a younger contemporary and follower of the political philosopher John Locke. The essay then explicates Locke's theory to show how he, and by extension Barbeyrac, held property rights not as private and exclusive but in common and inclusive, subject to egalitarian constraints and societal obligations, thereby undergirding Piketty's arguments for equality.

Keywords: equality, property rights, Thomas Piketty, Jean Barbeyrac, John Locke.

Resumen

El trabajo de Thomas Piketty ha elevado la igualdad al primer plano de los debates políticos. Este ensayo apoya el proyecto de Piketty proponiendo una base teórica para sus ideas en la teoría de los derechos naturales. Se remonta brevemente a la teoría francesa de los derechos a través de las figuras de la Ilustración hasta el teórico francés Jean Barbeyrac, un joven contemporáneo y seguidor del filósofo político John Locke. A continuación, el ensayo explica la teoría de Locke para mostrar cómo éste, y por extensión Barbeyrac, consideraban que los derechos de propiedad no eran privados y exclusivos, sino comunes e inclusivos, sujetos a limitaciones igualitarias y obligaciones sociales, lo que sustenta los argumentos de Piketty en favor de la igualdad.

Palabras clave: igualdad, derechos de propiedad, Thomas Piketty, Jean Barbeyrac, John Locke.

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Introduction

In important ways, Thomas Piketty's body of work has done for 'equality' what John Rawls did for 'justice' – returning it to the forefront of policy discussions and academic debates. Although controversial and subjected to criticism from both left and right, few deny this is vitally important work. This essay takes up one aspect of the criticism that Piketty has faced from the start – charges of insufficient theoretical and philosophical grounding - arising often from those in the classical liberal political tradition. The earliest formulations in this sort of criticism can be seen

in the sharp critiques that appeared in the aftermath of *Piketty's Capital in the 21st Century*, such as Blume and Durlauf (2015) chiding Piketty for his insufficient grounding in political philosophy and R. S. Hewett (2017) for failing to adequately anchor policy prescriptions in sound ethical standards.[1] One might concede that the critics are correct in pointing out that Piketty does not offer a voluminous philosophical grounding of his position – such as Rawls did, for example. However, that was not his task. Piketty is an economic historian not a political theorist or moral philosopher. Piketty's approach in making the case for equality is to present statistical and graphical representations of the wide disparities in income and wealth that speak for themselves, demonstrating inequalities in the existing institutional arrangements that are self-evidently unjustifiable. The theorists among his critics might themselves be chided for failing to take the next, constructive step, working within Piketty's project rather than against it, and aiding in providing the undergirding philosophy.

The task I set is an initial step in drawing out Piketty's political philosophy and ethical standards and beginning the sort of grounding and anchoring that critics have been calling for. In terms of his philosophical position, there is no doubt that Piketty is a deeply convicted, strong (but not strict) egalitarian. Although it is an important question, I will not take up the issue of what sort of egalitarian he might be. At various points in his writings and interviews Piketty expresses a variety of equality ideals: a 'humanitarian' ideal of equality concerned with providing basic human needs for all; a 'libertarian' ideal, concerned with wealth concentrations that carry a high degree of political/societal control; an 'equal opportunity' ideal concerned with the full development of individual talents and abilities; and a 'social cohesion' or *fraternite* ideal of equality concerned with maintaining a sense of common interest and organic unity within civil society. It is this latter ideal, which Piketty characterizes as the condition where "general interest takes precedence over private interests" (Piketty 2014, 3) that seems to fit his overall project and thus provides an organizing principle in our analysis.

No matter which particular formulation of the equality ideal, Piketty's egalitarianism involves property rights claims that ultimately rest on a common 'natural' right to property for all. This includes a claim right to impose conditions and limitations on the property of others – involved, for example, in the taking or transferal of property by right to produce the redistributional benefits being called for. Under each formulation of the equality ideal the better-off must provide for the less well-off in order to realize this natural claim right. So, I take up the question of how might Piketty ground a natural property right in favor of equality?

It might be admitted that Piketty may be initially resistant to natural rights language. There is a brief but revealing discussion in Piketty's recent book, *A Brief History of Equality* (2022), that indicates he does not think that his egalitarian ideas are supportable in classical 'natural rights'

1 It is important to note that criticisms of Piketty on the basis of lack of philosophical/theoretical grounding also came from the left side of the political spectrum. Marxists and socialists have their own critique, one even claiming that Piketty has no more than a superficial understanding of Marx, as in Lordon (2015) "Why Piketty isn't Marx." To claim Piketty does not understand Marx is highly dubious. But it is not relevant to our argument as Piketty has never claimed that his ideas are grounded in Marx. The point is if one were to look for grounding it would be in another philosophical tradition, as this paper attempts to do in the classical liberal tradition.

theory. In his discussion (Piketty 2022, 113-116) he describes the limitation of a stockholder's ownership rights (by claims of labor) in the German concept of corporate co-management *"as an unacceptable challenge to their [stockholder's] natural rights."* (115)[2] He goes on to say that this limitation on property right is only possible in Germany because of the Constitution of 1949 that adopted *"an innovative definition of property considered in terms of its social goal."* (115) In other words, Piketty is saying that in Germany the limitation on property is based in a constitution, a form of conventional right, not a natural right. Article 14 of the German constitution actually does set a limit to property right, stating: *"The right to property is legitimate only insofar as it shall serve the public good."* (115) Piketty goes on to draw the contrast to his own country noting that "…conversely, several countries, including France, have maintained in their fundamental texts a definition of property as an *"absolute and natural right."* (116) In support of this reading, Piketty then cites a fundamental text of France's political heritage, *The Declaration of the Rights of Man and of the Citizen, to say, "the aim of every political association is the preservation of the natural and imprescriptible rights of Man. These rights are liberty, property, safety and resistance to oppression."* (116) Piketty then takes the position that since the French Constitution offers no further explanation of this naturalist definition of property, it must be assumed that 'natural and imprescriptible' can only be interpreted narrowly in favor of a strict and absolute *private property* right that cannot be abridged by the public good, in what is now called the neo-liberal tradition. And that, according to Piketty, is how the conservative French judiciary has interpreted this provision. However, although Piketty is correct in thinking 'private' is how 'natural' has been interpreted of late, this was not the case in the classical liberal tradition.

I would submit that Piketty's arguments for equality could benefit greatly from an elaborated and complete interpretation of the French property rights heritage. A proper explication of the classical liberal tradition, and the political economy that derives therefrom, actually provides strong supporting grounds for Piketty's egalitarian position. The intellectual lineage of the 'natural' right to property in the French Constitution is not 'absolute' in favor of *private* property holders; it comes from a deep tradition of 'property held in common' that equally protects persons as yet without property but who seek to obtain it. This tradition could be used to establish the grounding for Piketty's redistributivist proposals. My argument then is that the classical liberal tradition in political philosophy - on which the French (and Anglo/United States) natural rights theory rests - contains precisely the natural rights-based limitations on private property rights in favor of egalitarian considerations and the public good that would support Piketty's equality ideals.

2 The discussion can be found in T. Piketty (2022) A Brief History of Equality. Piketty's discussion on rights takes place in the section in on corporate co-management schemes but I take it as indicative that Piketty is dubious of the potential that classical liberal theory holds in providing property arrangements subject to social obligations that support his egalitarian ideals.

2. The Grounding in Political Philosophy: Natural Rights Sources

A fully developed mapping of the intellectual lineage of 'private' versus 'common' property to develop a natural rights grounding for a Piketty egalitarianism would require a thorough excursus through the key natural law theorists of the 16*th* to 18*th* century - and their predecessors. This would be a considerable task. A full discussion of the inclusive, common natural right to property that we elucidate below would reveal its roots in Aquinas and the heavy reliance on the thinking of the neo-Thomists of the late 16*th* and early 17*th* century. This is important but beyond the purpose and scope of this article.[3]

We offer instead an abbreviated tracing of the relevant figures and concepts of contemporary antecedents to get our argument started. The natural rights elements of the *Declaration of the Rights of Man and Citizens*, the document to which Piketty refers, emerged from the debates in the French Assembly in 1789-1790. There is much discussion as to the various sources informing those debates. Thomas Paine (1737-1809) acted as advisor to the French Assembly and is often credited with having a major influence in the debates. However, although Paine had played a large role in the American revolution and was a brilliant pamphleteer and polemical essayist, he was not considered an original political theorist. As the Paine biographer J. C. D. Clark puts it, "*Despite the title Rights of Man his Common Sense was hardly a natural rights theory.*" (Clark 2018, 152) Furthermore, although Paine used the language of rights in a rhetorically compelling way, according to Clark, Paine's theory of government came from a utilitarian generation of necessity - not rights theory. (153) As Clark states further on: "*Rights of Man used the term rights but the book does not contain any worked-out theory of natural rights, only a series of assertions which took natural rights for granted as premises.*" (226) So if Paine was not the source of the theory of the Declaration of Rights, our question of the theoretical origins of 'rights' is what were the sources of Paine's premises? According to Clark, it was not a French theorist. He points out that Paine was English born and actually could not speak, read or write French. (229) The answer to the question of what were Paine's sources is that he was steeped in the Anglo tradition from his youth and acquired natural rights premises by osmosis, so to speak. He had begun work as a printer's assistant and picked up the prevailing street rhetoric and used it in his own writings as he became a successful pamphleteer. There is general concurrence that the main sources of Paine's ideas of natural rights had their theoretical origins in the ideas of his intellectual antecedents, John Locke (1632-1704), his fellow Whigs, and their predecessors, the English Civil War Republicans.

3 As Lockean scholar James Tully points out in tracing Locke's sources, "Locke parallelled Aquinas", and further, that the "neo-Thomist political philosophy is .. important for understanding Locke." (Tully 1980, 65) Tully discusses in particular the similarity of neo-Thomist Francisco Suarez (1546-1617) to Locke's own formulations. A fuller excursus into this and other connections, such as the Roman law, are important as they show the deep tradition of the common right to property that Piketty and others who argue for equality are relying on. However, the immediate purpose of this article is to give Piketty and his advocates an example for grounding political and policy ideas. An acknowledgement of appreciation to an anonymous reviewer for suggesting a strong emphasis on this intellectual heritage.

There is another intellectual connection, specifically French in character, that points specifically to John Locke as a source for the *Declaration of Rights* in the French Constitution. Tracking this out in detail is also a considerable task. However, a sufficient tracing of this lineage that at least gets us a start toward finding a source of natural rights theory supporting the egalitarian ideal has already been undertaken by notable Lockean scholars James Tully and Peter Laslett. Both have produced authoritative studies of Locke: Tully in *A Discourse on Property: John Locke and his adversaries (1980)* and *An Approach to Political Philosophy: Locke in context (1993)*; and Laslett in *Locke and Two Treatises (1970)*. Tully and Laslett both emphasize that Locke is quite relevant to the French understanding of natural rights and provide a suitable framework for the analysis offered here. They point to the French legal theorist, Jean Barbeyrac (1674-1749), who was a disciple of and corresponded with Locke and fully subscribed to Locke's framework of natural rights. Barbeyrac's name is not so well known now but in the early 18*th* century he was considered the primary French natural law/natural rights theorist. As Rousseau's biographer has noted, *"…in cultivated circles an acquaintance with Grotius, Pufendorf, Barbeyrac and Burlamqui were considered an essential part of every man's political education."* (Rosenblatt 1997, 88) Rousseau, who is acknowledged to have been influenced by Locke, had been exposed to the work of Barbeyrac at a very early date. And Rousseau's fellow Encyclopedist, Diderot, was also a great admirer of both Locke and Barbeyrac. *"The Encyclopedie did much to popularize and spread their theories, many of the articles borrowing freely from them."* (88) To our specific point of connecting Barbeyrac and Locke, Barbeyrac wrote a history of natural political theory that situates Locke's idea of property right as not 'exclusive' but 'inclusive' and in 'common', and thus recognizing early that it was very different from and not to be confused with Grotius, Pufendorf or Filmer. As noted Lockean scholar Peter Laslett put it, *"…no man is better positioned than Barbeyrac to know about the relationship of Locke's writings with the whole tradition of social and political theory."* (Tully 1993, 109; Laslett 1970, 306n) In France, Barbeyrac would have been recognized as authoritative in property rights matters. Barbeyrac explicitly disagreed with Pufendorf's idea that 'consent' was required for property appropriation and instead adopted Locke's view. *"What matters is the act of taking possession which is the basic method of acquisition and legitimate as long as one does not take too much and leaves enough for others."* (Hutchison 1991, 74)

Barbeyrac explicitly cites Locke to support this assertion.

> *"God gave man the earth and all that therein is and wanted man to use the gift to best advantage. …So the principle is established that what one takes in good faith is legitimately one's own. Additionally one's labor is one's own, so that what one removes from the state of nature (by mixing ones labor with it) is also one's own, on condition there is enough and as good left for others. The voices of reason and revelation are to be our guide in working out the principles that God has given us all things richly to enjoy".* (1 Timothy v. 17) (Ibid. 74)

As shall be seen in the ensuing discussion, the conditionality that Barbeyrac recites of leaving enough for others was most important to Locke's scheme and that is what made it fundamentally egalitarian in character. Leaving enough for others is required because the property is held in common, not the right to property as Pufendorf had held.[4]

Given the French jurist Barbeyrac's prominence and his endorsement of Locke's theory, his influence on Rousseau and Diderot and the promulgation through the *Encyclopedie*, Locke must be considered to have been a primary influence in the natural rights theory undergirding the formulation of the *Declaration of Rights of Man.* When this is added to the background on Paine and his own exposure and absorption of the Anglo natural rights tradition so firmly rooted in Locke et al., then the reasonable conclusion is that the intellectual lineage of French natural rights theory may be situated comfortably within the Lockean tradition. On this basis, it seems appropriate to focus our initial exploration of French natural rights theory on Locke.[5] As shall be seen, this Lockean connection will prove quite helpful to the cause of undergirding Piketty's egalitarian argument with natural property rights theory.

3. Locke Explicated

Locke's famous work containing his theories on natural rights and property is *Two Treatises on Government*. Locke's primary target was Sir Robert Filmer's treatise Patriarcha, which presented a defense of an absolutist monarchy and sovereign rights over property.[6] In his refutation of Filmer, Locke asserts a theory of popular sovereignty and an individualist theory of resistance to arbitrary government. (Tully 1993, 101)[7] It is important to note here, as will be discussed below, that Locke's 'individualist' theory of resistance is superficially and incorrectly read as an 'individualist' and absolutist theory of private property. This inaccurate interpretation of Locke was advanced by C.B. Macpherson's *Possessive Individualism*, which confuses and collapses the theories of Hugo Grotius and Locke.

In order to refute Filmer using natural rights and natural law as a basis to advance popular sovereignty and oppose monarchial absolutism, Locke had to also take on Filmer's misconstrual of

4 It is important to point out, as with the neo-Thomist connection the Roman law antecedents and the distinction between res privata and *res communis* are of utmost importance in fully understanding the idea of the common. However, it is beyond the scope of the paper and my own background to draw these connections. To understand the legal discussion and reappropriation of these notion in the early modern legal thought (XVI-XVIII Century), see Marie Alice Chardeaux, *Les choses communes*, Paris: LGDF, 2006. https://www.lgdj.fr/les-choses-communes-9782275030500.html An acknowledgement of appreciation to an anonymous reviewer for emphasizing this important antecedent and providing these references.

5 There are other connections that may be drawn and other influential figures besides Locke. The point of the essay is to show that a dominant strain in French thinking is that of Barbeyrac who was greatly influenced by Locke. And further, to show that the ideas of both regarding 'common' not 'private' property provide Piketty with resources in natural rights theory for saying that a property right can be limited by the public good, thus providing a French natural right grounding for his egalitarian arguments.

6 To again underscore the centrality of the neo-Thomists and of Francisco Suarez in particular, Filmer had criticized Suarez's anti-Adamic account and in the *Two Treatises* Locke was essentially rebutting and replying to Filmer on Suarez behalf. (Tully 1980, 68)

7 Also see John Dunn, (1969) *Political Thought of John Locke and Quentin Skinner (1978) Foundations of Modern Political Thought* which both support this interpretation.

Grotius' theory of property and, even further, differentiate himself from Grotius as well.[8] I continue to rely on Lockean scholar James Tully's detailed arguments that demonstrate how Locke differs from Grotius. In brief, the relevant points are as follows. Grotius' theory, which Locke's target Filmer followed, (Tully 1993, 110) has an "exclusive" and "absolute" right over one's possessions and no sense in which the property could be held in 'common.' For Grotius the *right* is held in 'common' not the property, meaning the property belongs to no one and the consent of others is required to appropriate and individuate a property claim. To the contrary, for Locke (relying on the Scholastic tradition) the natural right in 'common' is in the property itself, meaning that property belongs to everyone, open to individual appropriation without *consent*, but subjected however to certain limitations and conditions. As shall be seen below, Locke's limitations and conditionalities on individual appropriation are egalitarian in nature and critical to undergirding a 'naturalist' anchoring for Piketty's egalitarian ideals.

To provide some historical context on Locke, his property entitlement by 'fruit of one's labor' and 'honest industry' is now viewed as a proto-capitalist justification, a source upon which current neo-liberal capitalist principles have been built.[9] However, Locke's arguments for property entitlement in the 17th century were directed to the new freeholders obtaining suffrage rights in England who the Whigs were attempting to attract to their political movement. Arguments for equality and 'natural rights' by Locke - and predecessors such as the Levellers - were thus critical to the broadening of suffrage and property holdership in 17th century.[10] So Locke's ideas in the *Two Treatises* would have been recognized by his audience as a direct challenge to the landed aristocracy and monarchy whom Filmer was defending. Locke's ideas were thus radical and revolutionary and were likely the reason why Locke never claimed the authorship of the *Two Treatises* during his lifetime, fearing it would bring about his arrest or worse. Further supporting the radical 'proto-socialist' interpretation of his work, Locke was still in the early 1800's being read as the father of modern socialism in England. This socialist interpretation of Locke was the case in France as well as attested in Etienne Cabet's 1842 study *Voyage en Icarie roman philosophique social*. (Tully 1993, 97) This interpretation largely held sway in some circles up until the mid-20th century when the work of C.B. Macpherson characterized Locke among the 'possessive individualists' who advocated unlimited property accumulation devoid of social obligation.[11] I would argue the Macphersonian interpretation is inaccurate and Locke is more

8 The tracing of Locke's own positio*n is a bit tedious but i*t is important to fully understand the complexity of Locke's task and see how easily errors can arise in interpreting natural rights language as Macpherson and others have done by collapsing Grotius and Locke. This error is especially important because the *'possessive i*ndividualist' interpretation of Locke is perhaps where Piketty and others may have been led astray in their negative interpretations of naturalist property theory.

9 See for example. R. Nozick (1974) Anarchy State and Utopia.

10 For a more detailed discussion see J. Feldmann (2022) "Equality Lost: John Locke and the Tax Reform Act of 1986."

11 Macpherson's 'possessive individualist' error in interpreting Locke is considered to be rooted in the fact that he declined to read the First Treatise as part of Locke's argument on property rights. *See H. Breakey (2013) "Pars*ing Macpherson: The Last Rites of Locke the Possessive Individualist" It can be said in Macpherson's partial defense that Locke did express some inconsistent and ambiguous views on how natural rights were to be applied in the case of mi*nority groups, such as the native Am*ericans, papists and Muslims, ideas which were not so liberal or inclusive. However, it also should be pointed out, as for example, historian Mark Goldie does, that in later writings such as in Letter Concerning Toleration, Locke modified his views and all things considered it can be said that his positioning as an egalitarian was quite progressive for his time. M. Goldie (2015) "Locke and America."

properly considered a social-minded or egalitarian capitalist than a possessive individualist, as the next paragraph will show.

4. Locke's Two Treatises

Locke begins his case in the *First Treatise* with a quote from Scripture, *"God gave Adam not private dominion …but right in common with all mankind."* (Locke 1823, 1.24) So Adam had no power over mankind or property. (2.25) Barbeyrac concurs here, using Locke's exact words, commenting "…property is a right in common with all mankind, a right common to all." (Tully 1993, 111) In contrast, Filmer had it that God gave the exclusive right to property to Adam as the putative first monarch, and Adam then passed it to the line of monarchs to follow. This is the rationale for the English monarch to hold property 'absolutely' in Filmer's interpretation of Scripture.

Having established in the *First Treatise* that 'property in common' is consistent with Scripture, Locke goes on in the *Second Treatise* to show how his idea of common property differs from Grotius and is necessary both to self-preservation and to the mutual duty of preservation of all mankind.[12]

The rationale in Locke's scheme for a person in need being entitled to a portion of a fellow society member's plenty or surplusage is that by 'Reason and Scripture' the natural right to property in the state of nature is held in common by all humankind. This natural property right in common is then recognized in Civil Society and this carries social and political obligations. There are numerous passages in Locke's *Two Treatises* that elucidate his basis for conditioning property rights to social obligations.

Locke begins with the state of nature and postulates a conjectural history that all humans had lived together in a primitive state under a law of nature that recognized each human – 'all mankind' - as equal and independent.

> *Locke first sets forth the status of all mankind as "… equal one amongst another, without subordination or subjection, evident in itself, beyond all question." (2:04) From this "…arises the obligation to mutual love from which the duties they owe one another and the great maxims of justice and charity are derived." (2:05) And again further on: "The State of Nature has a law of nature to govern it, which obliges everyone… And Reason which is that law, teaches all mankind... that being all equal and independent, no one ought to harm another in his life, health, liberty, or possessions".* (2.06)

Accordingly, Locke establishes the common property right with such passages: *"…men, once being born, have a right to their preservation."* (2:24); *"…a fundamental law of nature is the preservation of mankind."* (2:135); and *"a fundamental law of nature and government is as much as*

12 For a detailed tracing of Locke's argument from the First Treatise to the Second Treatise see J. Feldmann 2022.

may be that all members of Society are to be preserved." (2:159; 2:171) This right to preservation of all mankind logically implies a mutual and reciprocal duty of all mankind to preserve themselves and others and this entails a sharing of property in common. Let me underline this point. According to Locke this 'right' is not a liberty, it is a duty imposed on all and cannot be denied. This contrasts with Grotius' and Filmer's understanding of an 'exclusive' right of property that would effectively block the free exercise of this duty to preserve oneself, one's family and, most importantly for our argument, the lives of others. Locke makes clear that if a society blocks this right 'to preserve and be preserved' then: *"…a Brother in need has a right to the surplusage of others that cannot be justly denied."* (1.42)[13] Furthermore, each member has a right to appropriate from others having a surplusage as *"…Charity gives every man a Title to so much of another's Plenty as to keep him from extreme want…"* (1.42) This is manifestly not the 'absolutist', 'exclusive', 'private' idea of naturalist theory of property that Piketty appears to be worried about (as discussed above), which would prevent property appropriation in the name of the common good and equal sharing. Piketty is (correctly) concerned with the Robert Filmer absolutist notion of property, which was based in Grotius 'exclusivist' theory. There is additional analysis of Locke below showing potential support for Piketty but already the sort of anchoring and grounding in a classical natural rights theory that would undergird Piketty's egalitarian position is becoming evident.

Locke theorized, that in the state of nature, ownership was held in common by all of humankind, that is, everyone held in common an equal ownership right in all the property of the society.[14] By laboring over a property, a person established an individuated ownership right in that property. The idea that property ownership was based on what one could *"mix his labor with"* (1.42) was a radical egalitarian idea in the 17th century when most land in England was held to be owned by the monarch and a few hundred families where property was acquired directly or through inheritance by primogeniture or a King's grant. Locke establishes here a natural principle of justice as desert, under which *"justice gives every man title to the product of his honest industry."* (Tully 1980, 118, 145) The honest industry of the individual (and the natural principle of justice) defeats the original common ownership: an individual claims his property and removes it from common ownership when he labors over it. (2.31, 2.35).

However, the right of every person to use the property that they labored over as they pleased, was under Locke's theory subject to the constraints of the state of nature. These constraints were essentially egalitarian limitations on each individual's exercise of the ownership right, preserving the original 'common ownership' concept by ensuring that all persons had an equal oppor-

13 This argument is made well before and addressed in Aquinas Summa IIa IIae, Q. 66, 94 and 95. The question is developed in the 4th century by Basil of Caesarea in his 'Homily on poverty"; Homily VI, https://stjohngoc.org/st-basil-the-greats-sermon-to-the-rich/ : and also "On the words of Luke: 12, 16-21 On the Rich Man"; Homily VII, https://www.svots.edu/blog/sermon-luke-*1216-21-rich-fool An acknowledgement of appreciation* to an anonymous reviewer for pointing out this connection and providing the references.

14 Locke's theoretical position that the 'equal right' was in the property itself is to be distinguished from the idea of a commonly held equal right to acquire property as, for example, how Hugo Grotius is usually interpreted. This difference and confusion with Grotius led to misinterpretations of Locke's views. Generally see Richard Tuck, (1979) Natural Rights Theories: Their Origins and Development. Also, John Salter, (2001) "Hugo Grotius: Property and Consent."

tunity to exercise their property right. So property entitlement was thereby subject to three 'fair share' limitations, manifestly egalitarian in purpose and effect. First, the right of property entitlement only extended to the *"conveniences of life,"* which included *"subsistence and comfort"* and *"enjoyment"* (but not unlimited accumulation. 1.92, 1.97, 2.35, 2.51) And the first limitation naturally led to a second, that *"enough and as good"* (2.32) must be left for others, meaning that an individual could 'appropriate' or acquire property through his labor for his enjoyment only so long as there was enough and as good left for the subsistence and enjoyment of others. And a third limitation also follows, that the acquirer lost any right to hold property which was not being used and was being wasted (a spoilage, non-wastage, anti-hoarding provision; 2.30).

These are significant constraints on Locke's state of nature property right; in totality they clearly operate as egalitarian constructs and can hardly be interpreted any other way. But for Locke the property rights in the state of nature ceased with the entrance into Civil Society. However, the natural right did not go away, it became enforceable, ensconced in 'positive laws and Constitutions of civil society' (e.g., as in the *Declaration of the Right of Man*) as a conventional right. And this is where this natural right based conventional limitation on property rights in favor of redistributive taxation is to be found.

5. Property Entitlement in Civil Society

It is important to note the reason that Locke held that 'natural' property right ceased to exist in the state of nature. It was because there was no longer sufficient property for all common owners to have an 'enough and as good' share of what was needed for their 'subsistence and enjoyment.' Henceforward, the right to property would have to be governed by the laws of Civil Society; and this required the establishment of a government to enact property laws and ensure that those laws were enforced. (Tully 1980, 130).[15]

Under Locke's framework, the limitations and conditions on property ownership did not disappear when the state of nature ceased. Once a person was inside civil society these property rights became 'civil rights' or 'conventional rights' subject to the constraints set by the government that confers them. In civil society, the property rights and limitations became fixed by laws or 'positive constitutions.' (Tully 1980, 151; Locke 2.50). In other words, the property rights conditioned by egalitarian limitations in the state of nature were established by and became subject to society's positive laws and regulations, including the laws of property and taxation. The degree of inequality that would be permitted in civil society thus would be 'regulated' and limited by the positive constitutions and 'Laws of Society.'

In Locke's system the Laws of Society could provide for taxation as a legitimate taking of an individual's property by the government, as long as the individual or his deputy gives consent.

15 In Locke's account of how Civil Society came about, the establishment of government became necessary to regulate property ownership under the conditions of acquisitiveness, covetousness and inequality that the introduction of money and the ability to hoard without spoilage money had brought about. (2.37, 2.47, 2.51)

As Locke put it, *"[Governments] must not raise taxes on the property of the people without the consent of the people given by themselves or their deputies."* (2.142) Under Locke's theory of taxation, deputies are chosen as representatives and entrusted with the responsibility of balancing the property interests of all of those who have consented to be a part of civil society and elected them.

The following passage establishes the preservation, in Civil Society, of the ideas of honest industry and fair share limitation as they existed in the state of nature, according to which they remained in force upon entrance into Civil Society to be actively enforced by the magistrate.

> *"It is the duty of the civil magistrate by the imperial execution of equal laws to secure unto all the people in general, and to every one of his subjects in particular, the just possession of these things belonging to his life. If anyone presume to violate the laws of public justice and equity, established for the preservation of these things, his presumption is to be checked by the fear of punishment consisting in the deprivation or diminution of those civil interests or goods which otherwise he might and ought to enjoy." (Locke 2010, Toleration, 38; Tully 1980, 168)*

To appease those who had a greater amount of property in the state of nature, Locke provided for a degree of inequality in civil society under the rationale that there was already an agreement on disproportionate ownership in the state of nature prior to the formation of civil society. (2.50, 2.131) Although there could be inequality in Locke's Civil Society, it was to be regulated and limited. The less well-off were protected by standards of 'public justice and equity' against the diminution of goods belonging to their lives. For Locke, as stated, the 'things belonging to one's life' are quite extensive, and involve not only subsistence but also enjoyment of life. (Tully 1980, 168)

There are also passages indicating limitations on the property right in favor of social obligations. For example, entitlement to property is explicitly limited how much one labors on behalf of society and contributes to the public good.

> *A worker is not entitled to the whole product of his labor since enough must be left for the necessities of the publick…(Locke 2.219; Tully 1980, 168).*
>
> *[Necessities to include] "specifically the peace, riches, and publick commodities of the whole people. (Locke 2010, Toleration, 83; Tully 1980, 168).*

And taxes must be paid to provide for the public necessities and protection, with the rich paying 'proportionately' more as they received a greater share of the protection.

> *It is true that governments need a great deal of money for their support, and it is appropriate that each person who enjoys his share of the protection should pay his proportion of the cost. (2.140)*

The 'positive Constitutions' and political society must thus provide for taxation and the distribution of property such that the duty of charity is met, and beyond that, each individual in society has access to the necessities of life, *subsistence and enjoyment*. This requirement that each indivi-

dual has access to such is a redistributionist provision that would support a progressive taxation scheme. As Lockean scholar Peter Laslett states: "*…redistributive taxation, … could be justified on the [Lockean] principles...*". (Laslett 1970, 105).

The fundamentally important takeaway from this discussion of Locke's theoretical views on property entitlement is the degree to which his property rights provisions - both natural and conventional- are contingent on and subject to premises of equality, common ownership and societal and 'publick' interests. This it seems is exactly the sort of grounding in classical political theory that Piketty could rest on in an Anglo-American context - or in the French context once Barbeyrac's influence on French political theory is properly resurrected and considered.

6. Concluding Comments

Thomas Piketty's project in equality represents a moral clarion call of the fragmentation of the social order and democratic institutions resulting from the vast and growing income and wealth disparities around the world. He has indeed elevated equality as a norm of social and political critique much as John Rawls elevated 'justice' in his famous tome. There is more work to be done in supporting the cause of equality. In the direction of *praxis*, the degree of inequality must, in the words of Locke, 'be regulated and limited by the positive constitutions and 'Laws of Society.' This is what Piketty himself is trying to do, for example in advancing the cause of equality in his proposals for a wealth tax and a steeply graduated rate of taxation. There is also theoretical work to be done. Neither Piketty nor others on his behalf have yet fully drawn out the available theoretical frameworks for justifying and undergirding his project. As I have argued, one approach in ensuring that property ownership is regulated and limited in the laws of society is to connect the concept of natural, common property with the language of rights. A next step would be to 'objectify' the 'moral power' of natural rights in the common within the legal order.[16]

Piketty's normative perspective is, of course, readily identified with and supported by the French socialist political tradition but, in many circles, Piketty is too often dismissed on that account. However, as the analysis above demonstrates, Piketty's ideas on equality and property ownership also have a place in the 'natural rights' tradition of John Locke, Jean Barbeyrac in France, and importantly as part of the neo-Thomist lineage that undergirds both. It is the inclusivist, common Dominion, communitarian strain of property right - which Locke exemplifies in 'enough and as good' and 'duty of charity' - that Piketty seems to envision as an outcome of the greater equality that he advocates. This vision might be seen as an expression of the *fraternite* political ideal in Piketty's home country, a more harmonious society where as Piketty put it, "the general interest takes precedence over the private interests."

16 The idea of a 'right' as 'moral power' comes from Suarez and the school of neo-Thomism. (Tully 1980, 64; Tully 1993, 104) The necessary sort of theoretical work to be done in translating rights in the common into the legal order' is exemplified in the article, "The Commons as a Legal Concept" by M. R. Marella. Among other arguments, Marella uses the Hohfeld concept of 'bundle of rights' to avoid the private/public dichotomy. See M. R. Marella (2017) "The Commons as a Legal Concept", Law Critique 28:61-86 DOI 10.1007/s10978-016-9193-0

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I have set forth one avenue of inquiry. It is beyond the scope of the paper to take up all of the potential grounds of Piketty's work. That task must be left to the papers that may follow. Suffice to say, if the depth and connections of Piketty's (and his compatriots') intellectual lineage are properly understood his ideas on equality and property cannot be easily dismissed. They must be taken most seriously by political theorists and policy makers alike if the income and wealth disparities and societal fragmentation are to be abated and reversed.

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