

Waldron's Locke and Locke's Waldron: A Review of Jeremy Waldron's *God, Locke, and Equality*

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At this particular moment in American political history, when a yawning chasm between liberal and religious worldviews is widely perceived to exist, a book that boldly asserts an integral relationship between liberalism and religious faith is a startling and in many respects salutary event. In 'God, Locke, and Equality: Christian Foundations in Locke's Political Thought', a subtly reasoned and provocative new book, the legal philosopher Jeremy Waldron urges us to reconsider the contemporary estrangement between liberal and religious thought. He does so with a probing and novel contemporary reading of the political philosophy of John Locke, one that centers on the theological foundations of Locke's conception of human equality. According to Waldron, the Christian underpinnings of Locke's thought are not anachronistic features that can be discarded by later readers, leaving a fully operational secular theory behind. On the contrary, Waldron argues, Locke's Christian beliefs were indispensable to his thinking about human equality and lie at the core of his justification for the principle, so much so that they cannot be removed from the account without the whole theory of human equality collapsing.¹

In this reading, Waldron agrees with other scholars who have argued that Locke's ideas cannot be understood apart from the religious beliefs and the

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specific Christian doctrines that he espoused. But Waldron goes well beyond this company of scholars insofar as his broadest claims concern not just Locke's ideas but the relationship between religion and any liberal theory of human equality. According to Waldron, religion is not just compatible with liberalism, it is absolutely necessary to it. We may have lost our awareness of this, and we may even believe that we can and must do without religious beliefs in identifying the grounds of our commitment to the principle of equality. But in this belief we secularists are, Waldron suggests, sadly deluded and, in a very real sense, living on borrowed time. Waldron puts the point this way: "Like someone using the cadences of the Book of Common Prayer to design his own 'secular' marriage vows, the atheist would at best be taking advantage of a tradition that he pretended to repudiate, and doing so in a way that was quite disingenuous about the difficulties that have to be faced in this area" (p. 227).²

What are the "difficulties that have to be faced in this area"? What are the intellectual challenges that a theory needs to surmount in order to explain and defend our commitment to equality, according to Waldron? The most basic problem that Waldron identifies is that of defining the class of beings to whom the principle of equality applies. As he sees it, there are two different mistakes or dangers that need to be avoided. The first is the danger of under-inclusivity, that is, of failing to extend the principle to all humans who are deserving of equal treatment and respect. The second is the opposite danger, that is, of over-inclusivity, of including some in the class of equals who are, in fact, deserving of less, or of more. Any identification of the boundaries of the class of equals must be coupled with a normative justification for that choice of boundary; an adequate justification of the principle of equality, that is, must say not just who's out and who's in, but also why those who are in deserve to be in, and why those who are out deserve to be out. In short, egalitarianism, if it is to identify non-trivially a class of equals, is necessarily attached to a form of inequality; if there's an "us" worthy of equal treatment, then there's a "them" who are entitled to less.

Generally, then, egalitarians owe us a pair of justificatory explanations: they need to explain why some creatures are not worthy of the special treatment that "we" are, and they must explain why "we" are all worthy of equivalent treatment. Waldron's book tackles this general problem from a number of different angles, always by first examining how Locke addresses it in some context or another and then arguing that the position that Locke takes—which, in each case, is attractive to contemporary liberal egalitarians—is available to him only as a result of his religious commitments. Many of the book's chapters identify a particular class of individuals whom we take to be either worthy or unworthy of equal treatment, consider what Locke's attitude is towards that group, and how he justifies, if he does, placing its members either "in" or "out". Throughout, Waldron emphasizes

aspects of Locke's thought on these matters that have been given little emphasis by scholars: Locke's appeals to God's purposes or aims, the ways those purposes are manifest to us, and the mental capacities and powers that are required to appreciate them. At bottom, Waldron's claim is that Locke justifies his egalitarianism, and draws its boundaries, through appeal to the content of divine intent.

Thus, after an introductory chapter, the second chapter of the book examines the question of whether, and on what grounds, Locke took women to be among the equals, or, instead, adopted the standard sexist position of his time. Although Waldron recognizes the unsurprising presence in Locke's writings of sexism, he also draws from the texts' various principled reasons in support of the equality of the sexes. One of the more interesting suggestions of the chapter is that Locke's reflections on God's granting Adam dominion over Eve should be read not as a statement of a right to dominion, but, instead, as a mere prediction about the likely consequences of the expulsion from Eden. Throughout the chapter, Waldron highlights the degree to which Locke's attack on Filmer's efforts to justify sexism through appeal to biblical authority itself rests on appeals to biblical authority. Waldron's suggestion is that the way Locke argues about the treatment of women exemplifies the role that religious commitments play in Locke's stance on equality in general.

However, even after Waldron's careful exegesis of Locke's style of biblical argumentation, it remains more than a little unclear what its role is. Certainly, the argument in this chapter does not demonstrate the *necessity* of biblical appeals to the case for (gender) equality. An assumption of natural equality seems to motivate, rather than follow from, the biblical interpretation Waldron attributes to Locke (just as the opposite assumption, of natural inequality, appears to be what motivated Filmer's biblical interpretations). Still, the chapter marks an important contribution to what is now a central topic of discussion in the interpretation of Locke's political philosophy, and it does so by showing that what Locke thinks about the status of women is to be understood in part by determining what Locke thinks God's intentions were for the treatment of women by men, as revealed in the Bible.

Other chapters of the book consider the relevance of differences in mental capacity and rational powers to worthiness for equal treatment (chapter 4); the justification for treating children and criminals differently from the mature and the law-abiding (chapter 5); the justification for allowing and even encouraging unequal possession of property (chapter 6); and Locke's stance on the question of whether or not atheists are worthy of equal treatment (chapter 8). All of these are important and pressing issues and Waldron's discussion is, throughout, packed with creative interpretive suggestions and insightful comments on both the

difficulties that confront egalitarians and the ways in which Locke met those difficulties.

The philosophical center of the book, however, is the third chapter, in which Waldron purports to demonstrate the inadequacy of a purely secular justification of equality. The view that Waldron expresses there is the touchstone for his discussion in every chapter that follows. It will serve, then, as the launching point for our discussion of the book.

In the third chapter, Waldron considers the possibility of justifying egalitarianism, and surmounting the intellectual challenges that he believes any self-respecting proponent of egalitarianism has to face, through appeal to a species line. According to a longstanding tradition, there is a line in nature between, for instance, human beings and everything else, but there is no comparable line, or no line of comparable importance, dividing human kind itself. Thus, the story goes, what makes us worthy of special consideration over beasts is that nature has made us special; and what makes each of us worthy of that same treatment is that nature has made us equally special.

As part of his broader project of demonstrating the inadequacy of secular theory in general, Waldron aims to demonstrate that this appeal to a species line cannot stand up to intellectual scrutiny for reasons adduced by Locke in his *Essay Concerning Human Understanding*. Waldron first argues that Locke's nominalism about species, expounded in the *Essay*, undercuts this approach to justifying egalitarianism, and so Locke can be attributed with it only at the cost of painting his views as inconsistent. And, of course, if Locke does not ground his egalitarianism in a strong form of species-ism, then it is unclear what grounds he has for it. In the remainder of the third chapter, Waldron argues that Locke's justification of egalitarianism does not appeal to any natural species line. Instead, Waldron claims, Locke argues that the difference between us and animals, the difference that warrants special treatment of human beings, is that human beings have the power to abstract, or to produce general ideas from the inherently particular mental materials that sensation and reflection supply. This feature does not have any inherent value; it does not provide any kind of natural species line between those creatures that have and lack it. (Indeed, some biological humans lack it, and some other animals may have it.) Rather, (and at this point, Waldron thinks, the theological underpinnings of Locke's commitment to equality start to emerge), creatures given this power are granted it for the purpose of appreciating and being governed by natural law, or the law dictated by God. This special purpose also warrants granting equal treatment to all those creatures endowed with the power to abstract, or so Waldron claims.

In short, then, this important chapter aims to establish four claims: (1) Locke's nominalism rules out the possibility that he accepts a species-based justification of either the inequality between human beings and animals or

the equality of human beings with one another. (2) Given Locke's providentialist theology, the fact that human beings, and not other animals, are endowed, Locke thinks, with the power to abstract is the key difference between human beings and animals that warrants human beings being granted special treatment to which animals have no right. (3) Again, given Locke's theological commitments, our possession of the power to abstract is also what warrants the claim that human beings are naturally entitled to the same treatment as one another. And, (4) the theological premises of this justification of egalitarianism cannot be eliminated from the justification; it cannot be teased away from its theological entanglements.

This is powerful and probing philosophy, inventive and expansive Locke interpretation, and worthy of careful consideration. Nonetheless, for all their virtues, and the virtues of the reasons Waldron adduces in their support, we have doubts about these claims, in particular claims (1) and (4). On our reading, Locke is not the nominalist that Waldron makes him out to be—and once this starting point is eliminated, the rest of Waldron's argument for the necessity of Locke's theological commitments no longer holds up.

We begin with the first of Waldron's claims, the negative claim that Locke's nominalism about species commits him to denying any justification of egalitarianism through appeal to a species line. Our discussion of Locke's nominalism will lead us to a consideration of the extent to which egalitarianism can be justified on utilitarian grounds, something else Waldron denies. Discussion of that issue will lead us back to Waldron's second, third, and fourth claims, in particular the controversial claim that egalitarianism can be justified only through appeal to a theologically grounded conception of those who are worthy of equal treatment, and better treatment than the rest of God's creatures.

Let us begin with Locke's nominalism itself. In a famous passage, Locke defines the terms "real" and "nominal essence".

[I]t may not be amiss to consider the *several significations of the Word Essence*. *First*, *Essence* may be taken for the very being of any thing, whereby it is, what it is. And thus the real internal, but generally in Substances, unknown Constitution of Things, whereon their discoverable Qualities depend, may be called their *Essence*. This is the proper original signification of the Word. ... *Secondly*, The Learning and Disputes of the Schools, having been much busied about *Genus* and *Species*, the Word *Essence* has almost lost its primary signification; and instead of the real Constitution of things, has been almost wholly applied to the artificial Constitution of *Genus* and *Species*. ... These two sorts of *Essences*, I suppose, may not unfitly be termed, the one the *Real*, the other the *Nominal Essence*. (E III.iii.15: 417)

Although there is a great deal of disagreement as to what, exactly, Locke is saying here³, this much is clear: Locke uses the term “real essence” to refer to whatever it is that makes a thing the particular thing that it is, distinct from others, and that accounts for the thing having all of the qualities that it has. He uses the term “nominal essence” to refer to whatever it is that places a thing into a kind. Thus both real and nominal essences belong to particulars, but they are the source of different facts about the particulars to which they belong. A claim to the effect that a particular thing has a quality is true, if it is, in virtue of the fact that that quality “flows” from the particular’s real essence; a claim to the effect that a particular thing belongs to a kind is true, if it is, in virtue of the fact that membership in that kind is dictated by the particular’s nominal essence.

Traditionally, Aristotelian-Scholastics such as Aquinas are attributed with the view that both roles are played by the same thing, a “substantial form” which both gives a particular object its individuality, distinguishing it from other things and determining its qualities, and also establishes what kind or kinds the object belongs to. In orthodox post-Cartesian form, Locke rejects any appeal to substantial forms (cf. E II.xxxi.6: 380). As Waldron recognizes, Locke also rejects the claim that natural objects and organisms—a class that includes human beings—are made the particular individuals they are and are placed into kinds by the same thing. Although in certain moods he experiments with the idea that, at least in physical objects, the real essence is the thing’s “corpuscularian”, or atomic, structure (cf. E II.xxxi.6: 379), his settled view seems to be that the real essence of a thing is some unknowable “somewhat”, grasped only by reference to the role that it is supposed to play (in establishing a thing’s distinction from others) and not through any understanding of what it is in itself, or what makes it capable of playing that role. By contrast, the nominal essence of a natural object or organism—that which makes it the case that the thing belongs to the kinds to which it belongs—is understood perfectly. It is important to remember, however, that the nominal essence is not a feature of the thing at all: it is, instead, an abstract idea, the abstract idea expressed with the word that we use for the particular kind in question (cf. E III.vi.2: 439). The real essence of a particular polar bear, for instance, is something obscure about the bear that makes it the case that the bear exists, excludes other bears from its location and has the various qualities it has; the nominal essence is the abstract idea expressed by the word “bear”; it is a complex idea that includes the simpler ideas of meat-eating, furry, and others.

As we say, this much Waldron recognizes. However, this is only part of the story Locke gives, for he gives an entirely independent account of the relationship between the real and nominal essences of what he calls “mixed modes”, a class that includes all of the morally salient particulars such as actions and “agents capable of a law” (E I.iii.14: 76). Oddly, Waldron does

not mention this aspect of Locke's view in his book, and the oversight is important for it is, of course, only morally salient particulars that are at issue in any argument for egalitarianism. Where an organism's real essence is an unknowable "somewhat", the organism's actions – which are, themselves particulars – have a perfectly knowable real essence which is identical to its nominal essence: the real essence of a morally relevant particular, such as an action, is the very same thing that establishes the thing's kind-membership, namely, an abstract idea. (Locke puts the point bluntly: "[I]n [mixed modes] the *real* and *nominal* Essence is the same". (E III.v.14: 437)) Locke illustrates the point with an example:

Let us suppose *Adam* in the State of a grown Man, with a good Understanding, but in a strange Country, with all Things new, and unknown about him; and no other Faculties, to attain the Knowledge of them, but what one of this Age has now. He observes *Lamech* more melancholy than usual, and imagines it to be from a suspicion he has of his Wife *Adah* (whom he most ardently loved) that she had too much Kindness for another Man. *Adam* discourses these his Thoughts to *Eve*, and desires her to take care that *Adah* commit not folly: And in these Discourses with *Eve*, he makes use of these two new Words, *Kinneah* and *Niouph*. In time, *Adam's* mistake appears, for he finds *Lamech's* Trouble proceeded from having kill'd a Man: But yet the two Names, *Kinneah* and *Niouph*; the one standing for suspicion, in a Husband, of his Wife's Disloyalty to Him, and the other, of the Act of Committing Disloyalty, lost not their distinct significations. It is plain then, that here were two distinct complex *Ideas* of mixed Modes, with Names to them, two distinct Species of Actions essentially different, I ask wherein consisted the Essences of these two distinct Species of Actions, and 'tis plain, it consisted in a precise combination of simple *Ideas*, different in one from the other. (E III.vi.44: 466–67)

The point of using the characters of Adam, Eve, Lamech and Adah is to return us to a time before there were any acts of adultery. By contrast there were, for instance, apples existing at the time. The way for Adam to learn what properties apples might possess, over and above those that he knows them to possess, would be to collect some, cut them open, bake them in pies, and see what features they have. Lacking any access to the real essence of any particular apple, he can't hope to deduce its properties; the best he can do is to look to see what properties it has—without hoping to see how such properties flow from its hidden real essence. There is more to what any particular apple is than can be discovered in its nominal essence, that which we express when we use the term "apples".

By contrast, the way for Adam to learn the properties of the peculiar form of suspicion of adulterous conduct expressed with the word "kinneah"

would not be to put Lamech through a series of psychological tests to determine, for instance, precisely what sorts of conduct such a feeling motivates. Rather, to learn more about kinneah, Adam need only look inward and scrutinize the *idea* of kinneah. Why? Because the idea *is* the real essence of every particular feeling of suspicion which falls into the kind. The idea in Adam's mind is both what places any particular feeling of suspicion into the kind and what makes it what it is, what gives it the particular properties it has. Notice that Adam *created* the idea of kinneah and he did so for a purpose: by employing that idea, and communicating it to Eve, he hoped to influence Eve's actions in a particular way; he hoped to lead her to "take care that *Adah* commit not folly". In short, Adam concocts the idea of kinneah, and communicates that idea to another by coining a word to express the idea, all in order to serve a particular social purpose, the minimization or elimination of acts of adultery (which might in turn serve other social purposes, e.g., the orderly transmission of property, or the establishment of paternity, etc.). The purpose of prohibiting adultery is not, Locke thinks, in any sense arbitrary; it is a *natural* purpose, a purpose which people naturally find themselves in need of furthering. In addition, and importantly, the ideas Adam has created serve that purpose regardless of the existence of any acts of adultery or any feelings of suspicion of adultery. After creating the idea, Adam can meaningfully ask and hope to answer a variety of moral questions: Is adultery wrong? Should it be punished? How can it be discouraged? To answer these questions, he need not look outward at the world; it is enough to look inward at his idea. This is the import of the claim that the real and nominal essences of morally salient particulars are the same. Our ideas are what make morally salient things what they are, ideas created in order to serve certain (natural) purposes.

Locke draws a remarkable moral from the claim that in mixed modes the real and nominal essences are both an abstract idea: this implies, he says, that "*Morality is capable of Demonstration*, as well as *Mathematicks*" (E IV.xii.8: 643). Since all that can be known about any thing is what can be deduced about it from its real essence, and since the real essences of moral particulars are (nothing but) abstract ideas, and since abstract ideas are in principle perfectly knowable, it follows that everything that can be known about any moral particular can be *deduced* or demonstrated *a priori*. This is in stark contrast with natural objects and organisms: all we can deduce about them is what can be deduced from our abstract ideas of them; but everything that is true of them is established by something else, some obscure unknowable mind-external quality that makes them what they are. Therefore, where there is very little about substances that can be deduced *a priori*, *everything* about moral particulars can be deduced in this way.

In a passage with which Waldron struggles at some length, Locke considers an objection to the claim that morality is capable of demonstration:

Nor let any one object, that the names of Substances are often to be made use of in Morality, as well as those of Modes, from which will arise Obscurity. For as to Substances, when concerned in moral Discourses, their divers Natures are not so much enquir'd into, as supposed; v.g. when we say that *Man is subject to Law*: We mean nothing by *Man*, but a corporeal rational Creature: What the real Essence or other Qualities of that Creature are in this Case, is no way considered. And therefore, whether a Child or Changeling be a *Man* in a physical Sense, may amongst the Naturalists be as disputable as it will, it concerns not at all the *moral Man*, as I may call him, which is this immoveable changeable *Idea, a corporeal rational Being*. (E III.xi.16: 516–7)

Locke's response to the objection is to say that terms that are ordinarily used for kinds of object and organism – terms like “man” – are not so used in moral discourse. There they function in the way that terms like “adultery” or “kinneah” function. The real essence of man in the moral sense is just his nominal essence, namely the abstract idea expressed by the term. What follows is that while virtually nothing about a human organism can be known *a priori*, everything about the moral man can be so known – by examining our abstract ideas, considering the aims they embody, and drawing out their logical implications; in other words, through consideration of the purposes that are served through categorizing particulars as specified by an abstract idea. Thus, far from being denigrated by the discrepancy to be found between real and nominal essence in the case of the human organism, the prospect for knowledge about moral facts regarding human beings is elevated by virtue of the identity found between real and nominal essence in the case of the moral human person and the perspicuity of both nominal essences and the purposes for which they have been formed. (Waldron draws a very different moral from the passage. See pp. 67 ff.)

Let us return now to the justification of egalitarianism through appeal to a species line. Locke believes that the following sentence is true: “Human beings are naturally worthy of equal treatment”. The words “human beings” that appear in this sentence express, like all general terms, an abstract idea. Further, and importantly, the abstract idea is the *real* essence, as well as the nominal essence, of each member of the species “moral man”. If it is the existence of a natural species line that justifies Locke's commitment to egalitarianism, then the way to determine if this sentence is true would be to examine the nominal essence of the species—examine, that is, the thing that places individuals into the kind—and determine that something about it dictates that individuals who fall into the kind are worthy of equal treatment. Now if there were a discrepancy between the real and the nominal essence this approach would be entirely unsatisfactory. We think that to have the justification of egalitarianism we want, we need

egalitarianism to fall out of the *nature* of human beings, and not merely to fall out of the arbitrary manner in which we classify them. But according to Locke, in the case of the moral men, that which classifies them *is* their real nature. In justifying egalitarianism through appeal to nominal essence, we are justifying it through appeal to real essence, for in this case the real and the nominal essence are just the same. So, Waldron is wrong. Locke's views about real and nominal essence do not undercut the justification of egalitarianism through appeal to a species line.

It is true that Locke's view to the effect that one thing places a particular organism into the kind "human being" and quite another makes it what it is undercuts a *biological* species-based justification of the claim that every human being deserves equal treatment. But that is not the claim that Locke is making in asserting equality. Rather, he is claiming that every moral man is deserving of equal treatment. It is a further question what the relationship is between the biological and the moral category; it is a further question, that is, which biological human beings, if any, are moral men. But it is the moral men who are worthy of equal treatment, and it is their real essence (in principle, perfectly knowable) that makes them so.

The position just attributed to Locke is in partial agreement with the position attributed to Locke by Waldron. Commentators have sometimes felt that the *Treatises* rest their egalitarianism on a *mind-independent* joint to be found in nature between human beings and everything else. And it is true that Locke denies that there are any such joints. So Waldron is right to reject this position. However, Waldron goes on to identify something mind-independent on which to rest Locke's egalitarianism, namely similarity with respect to the power to abstract. But here Waldron distorts Locke's position. To deny, as Locke does, that there are no real and mind-independent joints to be found in nature is not to imply that there no real and natural joints to be found; in the case of the moral kinds, there are. Locke's point in asserting that in mixed modes the real and nominal essence are both an abstract idea is to say that in the case of moral categories there are joints in nature, but they are mind-dependent.

The point that Waldron overlooks here intersects with a brief critique that he offers of the justification of egalitarianism on broadly instrumentalist or utilitarian grounds – a critique that is meant to seal the case for the inadequacy of secular justifications of equality. (Species-ism and utilitarianism are taken by Waldron to largely exhaust the theoretical resources available to secularists for the task of justifying egalitarianism. If neither works, Waldron seems to assume, then it is safe to conclude that no secular argument is adequate to the task.). As noted already, Locke holds that abstract ideas are generally created voluntarily by the mind; those that serve as the real and nominal essence of the morally salient particulars are no exception. Thus, he thinks that where the natural boundaries between moral particulars lie is established by a voluntary act of essence-creation, or

idea-creation on our parts. There is, then, something if not arbitrary about the locations of these boundaries, at least contingent; neither logical requirements nor metaphysical boundaries established by the mind-independent, deep structures of things determine which particular moral men exist and which do not. Rather, it is our aims and purposes—the human aims and purposes that shape our conceptions of things—that determine the existence of moral particulars. It seems to follow then that if egalitarianism is to be justified by appeal to something about that which makes moral men what they are (namely, the abstract idea), and if the abstract idea is created voluntarily (i.e., by our minds), and if such human creations express and are shaped by our aims, then egalitarianism is to be justified by appeal to some *purpose* that the principle of equality serves, or some purpose served by the abstract idea of the moral man from which egalitarianism flows.

The basic idea here is that it is useful to us in some way to have a conception of the moral man that implies egalitarianism, and further, that the particular use or uses served by the conception determine its content. What purpose is served by such a conception, according to Locke? There may be many, but among them is this: through creating and employing in communication the idea of the moral man, we are able to escape the state of nature with all the familiar problems that attend it (i.e., the inability to engage in large scale cooperative activities, the domination of the weak by the strong). People cannot be motivated to give up their private right to punish those who have harmed them without public acknowledgement of the fact that what each is giving up is a purely *reciprocal* right, a right that each person has equally with respect to every other. Thus our natural escape from the state of nature requires employing a concept that brings with it commitment to equality. In the end, then, it seems that the sort of species-based justification of egalitarianism that Locke's nominalism allows collapses into a broadly instrumentalist justification of the doctrine: egalitarianism is justified, on such a view, because of its connection to an outcome that we aim to produce, namely, the state of society, an end that is furthered through employment of an idea of the moral man that implies the principle of equality. We are not trying to achieve equality, for Locke; we are trying, among other things, to escape the state of nature, and that escape is provided by reaching agreements about what each of us is owed as a moral man, a concept which itself implies the principle of equality.

Waldron agrees that the basic terms involved in theories about human equality (e.g., “moral man”, “human”, “equality”) are concepts that can only be defined with reference to the purposes that animate them. Indeed, he devotes several pages to making a powerful case for the necessity of a purposive approach to definitions here (pp. 46–48). But in his reading, the purposes that shape the content of the relevant terms are drawn, not from our own interests, nor from any secular ideas or theories about the aims and goals we might have, but rather, from the Bible. This seems to follow from

an implicit belief that the purposes that shape the content of the relevant terms emanate not from our selves, but from God. Waldron does not explicitly formulate this as a proposition that either he or Locke takes to be true, but it is difficult to make sense of the position that Waldron adopts without this belief. For while Waldron affirms the necessity of purposive reasoning when it comes to determining the content of the category of human beings to whom the principle of equality applies, he roundly rejects all forms of instrumentalist justifications of equality, such as that sketched above or that provided by utilitarianism, claiming them to be inadequate to the relevant justificatory task.⁴ Yet the only thing that appears to differentiate the kind of purposive reasoning that Waldron favors from the kind that he rejects is the idea that the purposes which animate his preferred style of reasoning are *God's* purposes, derived (as exemplified by Locke) from revelation through good faith readings of the plain meaning of the biblical text. It is as if, for Waldron, the (supposed) fact that the purposes are God's serves to rid purposive reasoning of its otherwise instrumentalist or utilitarian character.

But why are instrumentalist and utilitarian arguments to be rejected? Waldron's argument against the utilitarian justification of egalitarianism is two-fold and contained in just a few brief passages. First, he argues that a utilitarian justification for the principle of equality is bound to be circular and question-begging. Equality "cannot be defended on utilitarian grounds except in a question-begging way", according to Waldron, because the principle that every person counts equally "is partly *constitutive* of utilitarianism". The thought is that you aren't a utilitarian if you count one person's utility more than another's. Thus, the utilitarian calculus presupposes the very principle it might be marshaled to justify. Assuming that in this context as in others, this sort of circularity in an argument is fatal (an assumption we will critically examine shortly), Waldron concludes that utilitarianism cannot possibly supply the necessary theoretical foundations that he is looking for and dispenses with it accordingly (p. 14).

Notwithstanding this initial hasty dispatch, Waldron returns to utilitarianism in the text a few more times. In these subsequent passages, he offers a second criticism based on the claim that moral principles of any sort, including the principle of equality, cannot be adequately justified through appeal to any end that is served through the adoption of them, or through the adoption of any set of concepts or doctrines that imply them. On this view, even if rules of conduct derived from utilitarian cost-benefit calculations turn out to be identical to those embedded in the moral law, they cannot be morally justified by citing their usefulness. As Waldron puts it, quoting Locke's *The Reasonableness of Christianity*, "'The law of nature, is the law of convenience too,' and as such its principles have been understood 'as bonds of society, and conveniences of common life, and laudable practices.' But still that's not morality." (p. 102).

This is an old argument, on the basis of which deontological theories of morality are conventionally distinguished from instrumentalist ones. According to this broadly Kantian position, to act as dictated by a moral principle solely to further an independent end that is served through so acting is not to recognize or respond to the features of that principle by virtue of which it is *moral*. Waldron sides with the deontologists, and takes Locke, also, to side with them, when he claims that a utilitarian justification can't imbue the principle of equality with the requisite sense of "normativity" even if it can be used to establish a rule of conduct with the same content as that principle (p. 102).

It is open to question, however, both (a) whether Waldron is right to place Locke on the non-instrumentalist side of this divide, and (b) whether instrumentalist conceptions of morality are really impotent to justify the principle of equality. More fundamentally, it is open to question whether any useful purpose is served by drawing the conventional distinction between deontological and instrumentalist theories in this context.

The first point—that Locke's moral theory is not readily distinguishable from instrumentalist theories, and is in fact best understood as a species of them—is perhaps the easier one to make, though it flouts a certain conventional view of Locke and natural law theories. Consider another passage in which Waldron once again draws a distinction between instrumentalist conceptions ("the law of convenience") and deontological/non-instrumentalist conceptions ("the law of nature") and assigns Locke to the deontological side of the divide. According to Waldron,

Locke sees divine sanctions as key to the whole enterprise of morality and natural law. "[T]he true ground of Morality ... can only be the Will and Law of a God, who sees Men in the dark, has in his Hand Rewards and Punishments, and Power enough to call to account the proudest Offender." [citing E I.iii.6: 69] True, in the *Essay* he acknowledges that God has, "by an inseparable connexion, joined virtue and public happiness together, and made the practice thereof necessary to the preservation of society, and visibly beneficial to all" (ibid.), so that in principle one might base one's whole morality on earthly convenience without any thought of God and his sanctions. But elsewhere (particularly in *The Reasonableness of Christianity*), Locke insists on the inadequacy of a purely interest-based account of natural law. Though "[t]he law of nature, is the law of convenience of too," yet so conceived, it can never really "rise to the force of a law" [citing RC: 142]: "That could not be, without a clear knowledge and acknowledgement of the law-maker, and the great rewards and punishments for those that would, or would not obey him" (RC: 144).

The idea of God is necessary for the idea of natural law to distinguish it from mere “conveniences of common life, and laudable practices” (ibid.), and to show “the strictness as well as obligation of its injunctions ... with the inforcement of unspeakable rewards and punishments in another world” (RC: 122). (p. 225)

Here Waldron ascribes to Locke part of the argument that we have just been considering, “the inadequacy of a purely interest-based account of natural law”. Notwithstanding the overlap in *content* between “the law of convenience” and the moral law, Waldron takes Locke to hold that rules of conduct based solely on the law of convenience (derived from considerations of self-interest and the desire to avoid punishment) are not really *law*, are not really *moral*, and thus do not express (let alone justify) a moral principle of equality.

But it seems clear from the passages Waldron quotes that Locke is *not* making the deontological claim that acts conforming to the law but performed out of fear of punishment are not truly moral. On the contrary, far from eschewing fear of punishment, Locke is invoking it as “the true ground of Morality”. It is true that he distinguishes the law of nature that he espouses from “the law of convenience”, but the only thing that distinguishes the two, in this account, is the magnitude and predictability of the punishments faced by wrongdoers under the two legal regimes, *not the role of punishment itself*. The difference in magnitude stems from the fact that under the law of nature, as Locke conceives of it (as in most traditional theological accounts), punishment for wrongdoing is certain and horrible (“unspeakable”) whereas in the temporal world crime is all too often committed with impunity, or followed with unpleasant consequences that fall short of what is deserved. A law based only on “earthly” convenience will necessarily omit consideration of the consequence of our actions in the afterlife and reflect the (merely temporal) reality that crime often goes unpunished and virtue unrewarded, leading to a discounting of the personal costs of crime. Locke avoids—or more precisely, compensates for—this supposed deficiency of conventional utilitarian schemes in traditional fashion by introducing divinely-ordained law and just deserts meted out in the afterlife by God. In doing so, he is not so much rejecting utilitarian thought as he is correcting or refining it, by replacing the law of earthly convenience with a law that encompasses consequences beyond the earthly realm (still a law of convenience, just not a strictly earthly one).

The point is that reliance on any system of rewards and punishments in constituting morality—be those rewards and punishments this-worldly or other-worldly—is inconsistent with the basic reason for favoring a deontological over an instrumentalist scheme to which Waldron appeals, namely, that actions undertaken with the expectation of earning a reward,

or avoiding a punishment, are not really moral. The passage just examined, the passage that Waldron chooses to discuss, illustrates that Locke, in contrast to Waldron, thinks the selfish desire to avoid punishment and receive reward is perfectly consistent with moral action. And there are other passages that illustrate that Locke endorses an even stronger position, which stands in even starker contrast to Waldron's: Locke holds that a rule of conduct counts as a moral rule only if backed by a threat to punish offenders. For instance:

[S]ince it would be utterly in vain, to suppose a Rule set to the free Actions of Man, without annexing to it some Enforcement of Good and Evil, to determine his Will, we must, where-ever we suppose a Law, suppose also some Reward or Punishment annexed to that Law. It would be in vain for one intelligent Being, to set a Rule to the Actions of another, if he had not in his Power, to reward the compliance with, and punish deviation from his Rule, by some Good and Evil, that is not the natural product and consequence of the Action it self. For that being a natural Convenience, or Inconvenience, would operate of it self without a Law. This, if I mistake not, is the true nature of all *Law*, properly so called (E II.xxxvii.6: 351).

Locke's point here is that a rule counts as a law only if "deviation from" it is followed by some punishment that would not attend it in the ordinary course of things, without intervention from the law-giver. Precisely that which distinguishes laws from other rules, for Locke, is what Waldron takes to undermine their status as law.

Certainly, then, Waldron's view of Locke as exemplifying a non-instrumentalist approach to morality is mistaken. But even if Waldron is mistaken in classifying Locke as a non-instrumentalist, it might still be the case, as he contends, that a non-instrumentalist theory is required to undergird the principle of equality. But this too we contest.

As the example of Locke suggests, it is possible for a moral theory to be such that the classification of it as deontological or instrumentalist is at best difficult, possibly impossible. Locke, after all, is—rightly—seen as one of the foremost exponents of the view that human beings have certain rights that are not to be violated even to further the pursuit of important and compelling ends. This makes his view sound deontological. However, since, on Locke's view, God sees to it that, with necessity, any act that transgresses another's inalienable right will fail to serve the actor's long term ends, taking into consideration his standing in the afterlife, Locke might be better classified as a utilitarian, or even an ethical egoist (since the right action, for him, is the one that serves the actor's long term good, even though it serves the good of the aggregate of persons as well). ("[T]he true ground of Morality ... can only be the Will of and Law of a God, who sees Men in the

dark, has in his Hand Rewards and Punishments, and Power enough to call to account the proudest Offender".) The question, then, is what good is served by emphasizing the deontological elements of Locke's moral theory at the expense of the utilitarian elements, as Waldron does.

Waldron seems to think that to take seriously the instrumentalist aspects of Locke's moral theory is to undercut the possibility of justifying egalitarianism in Lockean terms. Whether or not he's right about this depends on the success of his two criticisms of instrumentalist justifications of equality: first, that the standard-bearer of instrumentalist theories, namely utilitarianism, presupposes the principle of equality, and so is incapable of being used to justify it without circularity; and second, that an instrumentalist justification necessarily fails to explain the special normativity of the principle of equality. It appears, however, that these two criticisms are inconsistent with one another. If, as Waldron is correct to observe, the principle of equality is built into utilitarian thought, it is hard to see how utilitarianism lacks the resources to invoke the principle of equality as a reason for right action. To the contrary, if Waldron is correct, then one of the reasons favoring any utility-maximizing rule of conduct is that that rule is consistent with, or even entailed by, the principle of equality. This suggests, then, that if utilitarianism does indeed presuppose the principle of equality, it also invests it with the kind of normative authority that Waldron's second criticism claims to be missing from utilitarian justifications of equality; it does not merely provide instrumental reasons for egalitarianism.

Still, Waldron is surely right that there is something circular in utilitarian justifications of the principle of equality. However, it is not obvious that circular justifications of fundamental, basic moral principles, such as equality, are avoidable. Nor is it necessarily the case that circularity in the justification of such a principle indicates a failure of justification. Some have taken just the opposite view, suggesting that self-endorsement is the very mark of a fundamental principle of human nature (which, perhaps, all true moral principles are); the basic moral principles, on this view, are those that advise us to endorse those very principles.⁵ It may well be that human nature is such, or that human understanding is such, that circular justifications are the best we can provide in this domain, or, to put the point more modestly, that circular arguments cannot be eliminated from our best (albeit always imperfect) understandings of the basic conundrums of human ethical life.

Waldron himself ought to find this more charitable attitude toward circularity agreeable, since the position he endorses itself rests at bottom on a circular proposition. Boiled down to its essence, Waldron's view—which he ascribes to Locke—is that persons are those who can recognize others as persons. We can observe that this is circular: Which capacities are we exercising when we exercise our distinctively human, or personal, capacities? Those that help us to recognize other persons as persons. But what are we

recognizing about another when we recognize her as a person? Only that she has certain capacities. Which? Those that make it possible for her to recognize other persons as persons. And which capacities are those? The answer, of course, returns us to the first question in this chain. But, in our estimate, none of that deprives the view of its status as the deep insight that we, in fundamental agreement with Waldron, take it to be. What makes us each worthy of equal treatment, and better treatment than other creatures, is that we, and only we, each have the capacity to recognize our fundamental equality and worthiness of respect. This is circular. But, since equality is not a theorem of the right moral theory, but instead one of its axioms, it is not clear that we should hope for any other kind of justification of it. (It is for the same reason that we earlier expressed our skepticism about the conclusion that Waldron draws from his analysis of Locke's biblical argument with Filmer: in their differing interpretations of the bible, natural equality is as axiomatic for Locke as natural inequality is for Filmer, which is why it seems unwarranted to conclude that it is Locke's reading of the Bible which leads him to the conclusion that humans are equal, rather than the other way around.)

This brings us back to the issue of the religious nature of the liberal case for equality. Waldron asks us to consider the possibility that the principle of equality necessarily depends on the kind of religious conception that grounded Locke's theory of equality—and that no theory of equality can stand without that religious foundation. Before tackling this issue directly, it may be helpful to take stock of our argument thus far. Waldron denies that Locke is a species-ist, and more generally questions whether any theory of liberal equality can rest on a species-ist approach. Further, he denies that Locke accepts a utilitarian or any other instrumentalist view of morality and more generally denies that liberal equality can be supported on instrumentalist grounds. We claim, contrary to Waldron, that Locke, properly understood *is* a species-ist, albeit one of a singular kind. We claim, further, that Locke also accepts an instrumentalist justification of equality; his justification for the principle of human equality and his view of what it is that constitutes the essence of personhood (or human-ness) together rest on instrumentalist grounds. This may seem contradictory. How can a theory be at once species-ist and instrumentalist? How can it rest simultaneously on essentialist claims about the nature of the human species and on instrumentalist reasoning about natural human aims? Locke provides the answer in his account of the relation between nominal and real essences in the case of “mixed modes”. Under that account, three things follow: (1) A species-based justification of egalitarianism and conception of the human is possible (albeit not a biological species-based theory). (2) The species-based theory of equality that is available to us collapses into (or, in effect, just *is*) an instrumentalist justification based on the human aims that are built into the very concept of the human. (3) Because those aims are enshrined in our

abstract ideas, they are perfectly knowable; they are knowable through human reason, that is, through the activity of reasoning about our reasons, which are perspicuous precisely because they are our own purposive invention.

In short, egalitarianism is true because without it *the very point* of categorizing some creatures as “moral men”—as creatures invested with the capacity for recognizing others as invested with the capacity for recognizing others as invested with the capacity for recognizing others, etc. etc. —would be undermined; and since there is no more to the “moral man” than what guides our act of categorizing some creatures as such (namely our abstract idea and the natural purpose furthered through employing it) this is all the justification of egalitarianism we could want or need. Still, it is true that this view does not involve giving *reasons for* egalitarianism—reasons can't be given for that which is presupposed as basic in an adequate moral theory—and thus to some this view may appear to skirt the question of justification, rather than answering it.

Waldron claims that religious doctrines supply what he takes to be missing from instrumentalist or species-ist theories. But what exactly does religious doctrine supply, according to Waldron? If there's something missing from an approach that simply insists on the axiomatic status of the principle of equality, how does Christian religious doctrine fill the hole?

It is not easy to tease out the precise role that religion plays in Waldron's argument. In various places in the book, Waldron seems to suggest that, as a matter of logical or conceptual necessity, religious doctrines must be asserted in order to justify egalitarianism. For instance, in chapter 3 he writes,

When I catch a rabbit, I know that I am *not* dealing with a creature that has the capacity to abstract, and so I know that there is no question of this being one of God's special servants, sent into the world about his business. But if I catch a human in full possession of his faculties, I know that I should be careful how I deal with him. Because creatures capable of abstraction can be conceived as “all the servants of one Sovereign Master, sent into the World by his order, and about his business,” [2nd T: 6] we must treat them as “his Property, whose Workmanship they are, made to last during his, not one another's Pleasure” [2nd T: 6] and refrain from destroying or harming or exploiting them. *That*, it seems to me, is the interest that is driving and shaping Locke's moral conception of “man,” and motivating the interest in the particular range of capacities that forms the basis for Lockean equality. (p. 81)

The point seems to be that to recognize a creature as possessing the cognitive capacities for appreciating and being guided by natural law is to

recognize that God intended this creature to be treated with the same care as oneself. The capacities that distinguish “moral men” from other creatures support the principle of equality because in them we can see God’s egalitarian intent. There is no denying that this is an idea that Locke sometimes expresses; he does think it clear that we are all “sent into the World by [God’s] order, and about his business”. But is this idea an essential and inseparable element in any adequate justification of egalitarianism? If it were, then among other things, it would have to provide an adequate justification itself but, as a matter of fact, it doesn’t. To say that you and I were both intended by God to appreciate natural law and guide our conduct in accordance with it isn’t to say that I wasn’t intended by him to have dominion over you. The fact that we both have what it takes to guide our conduct as God intends drastically under-determines the case for egalitarianism. In addition to making us all alike in this respect, he made us very different in other respects. Don’t those differences also tell us something about what he intends? And couldn’t they be appealed to to show that he actually intends us to be treated very differently from one another? God’s intent for us can only serve to justify egalitarianism if supplemented with an account of *why* God intended what he did. We need to know what role equality plays in our flourishing; but once that is specified, the fact that *God intended it* stops playing any essential justificatory role. If we can see what place acceptance of the principle of equality plays in the furthering of the particular purposes that we are to further (such as escape from the state of nature) then that role will serve to justify the principle independently of God’s intent. Thus it doesn’t seem likely that even this small a dose of religious doctrine is essential on logical or conceptual grounds for justifying the principle of equality.

It could be, however, that what Waldron really means to claim is not that Christian religious doctrines are conceptually or logically required to justify egalitarianism but, instead, that they are historically necessary; he might be claiming, that is, that a society cannot hope to become one in which the principle of equality is accepted, appreciated, motivationally efficacious and taken to be justified without first accepting certain elements of Christian thought. Some will doubt this empirical proposition.⁶ Even if it were true, though, it is not clear why, once society has internalized the principle of equality, the elements of Christian thought could not later be discarded, like the proverbial ladder that is kicked away—a possibility that Waldron seems not to want to accept.

It is difficult to tell which of these propositions Waldron means to endorse: the thesis of logical necessity, or the weaker thesis of merely historical necessity. Inasmuch as he resists the possibility of kicking away the religious ladder, he seems to favor the former, but he does not say this directly, and the book remains open to either interpretation. Another area of ambiguity in the book concerns the content of the particular religious

beliefs that Waldron takes to be necessary, (or takes Locke to take to be necessary) to the liberal idea of equality, either conceptually or historically. Waldron does not directly espouse any particular theological conception or set of religious doctrines. Instead his approach is to ascribe certain religious beliefs to Locke, and then to suggest that we might require the same or similar beliefs to support our own commitment to equality. The beliefs that Waldron finds to be necessary to Locke, and perhaps to us as well, are articulated differently in different parts of the book. But in a few key passages he reveals a picture of Locke's religious beliefs considerably more sectarian in character than many readers have taken them to be. Waldron buries this rather startling version of Locke's Christianity in a few dense passages in the book. But it appears to be the case that it is this, and not some more anodyne version that Waldron is suggesting may be indispensable to a liberal theory of equality. We therefore focus our last set of comments on fleshing out this version of Christianity (Waldron's own presentation of it is rather compressed) and considering its implications for the liberal project of tolerance, which forms the subject of the last chapter of Waldron's book.

Many readers have favored a view of Locke's theological position which emphasizes its "liberal" elements: the emphasis on the doctrine of Christian liberty, which holds that faith cannot be coerced but must be arrived at through an act of individual free choice, or freedom of conscience; the doctrine of religious tolerance, derived by Locke from the principles of Christian liberty, charity, and love; and, at least as importantly, the valorization of human reason as an instrument of religious understanding, as against the competing fideist position that holds that religious truth cannot be apprehended by reason unsupported by faith (or the still more radical fideist position which views reason as the enemy of truth). This is the highly rationalist version of Christianity that was promoted by Socinians and other exponents of what eventually came to be known as "liberal" Christian theology, as it evolved from the Deism of the eighteenth century through the Unitarianism of the nineteenth century into liberalism tout court (i.e., either a purely secular liberalism or a highly generic version of "religious" faith from which all exclusionary, particularistic, and potentially divisive elements, such as insistence on the divinity of Christ, were purged).⁷

Waldron recognizes all of these elements of Locke's religious thought: the principles of religious liberty and tolerance, and the affirmation of the power of human reason, all teased out of Christian doctrine. Indeed, Locke's affirmation of the powers of intellect of the ordinary person lies at the heart of Waldron's claims about the Christian foundations of Locke's egalitarian and "democratic" vision. But Waldron emphasizes other aspects of Locke's writing about religion as well, ones that fit much less comfortably either with liberal Christianity (as it is commonly understood), or with contemporary secular liberalism.

The religion that Waldron attributes to Locke is not the sort of generic belief in God, or “respect” for the “Judeo-Christian” biblical tradition favored by many Americans today; it is not a generic religiosity at all. Nor is it the sort of Christian ecumenicism that seeks to transcend (or at least finesse) the doctrinal issues that historically divided Christian sects and denominations from other religions and from one another. It is not a rationalist faith, although it does accord respect to human reason. The theology that Waldron ascribes to Locke is a particular form of Protestant theology: a theology formed in the crucible of the Reformation, shaped by religious controversies, and based on a particular approach to reading the bible (*sola scriptura*), and a particular understanding of the role of, and the way to, Jesus Christ.

That Waldron’s Locke is no ecumenical Christian, or theological rationalist comes through most clearly in passages like the following, where Waldron directly addresses the missing element that he thinks Locke’s Christianity supplies:

What was needed was something altogether different [from what reason or philosophy can provide]: that people should be told their duties by “one manifestly sent from God, and coming with visible authority from him” (RC: 139). The specific resource which, according to Locke, affords the clearest basis for our knowledge of and obedience to natural law and morality, is the Christian religion, the teachings of Jesus Christ, underwritten by the miracles that demonstrate His credentials, inspired by the example of His life and ministry, and taught as by “one having authority” (RC: 143 and 148). (p. 103)

Clearly, this is not what is commonly understood today as liberal Christianity. This is a serious statement about the distinctive role of the ministry of Christ *and his miracles*, one that grows out of centuries of Christian and, particularly, Protestant thought. Historians of Christianity will readily discern the presence here of positions that were developed in the context of bitter—sometimes lethal—controversies over the divinity of Christ, the function of his Coming, and the modes of human understanding through which religious truth is apprehended. Far from being uncontroversial truisms that all but die-hard atheists, or at least all Christians, might agree on, the theological positions being taken here are ones that historically divided Christians from Jews, Protestants from Catholics, and “liberal” Protestants from more conservative ones.

In Waldron’s depiction of Locke’s beliefs one hears the echoes of centuries of Protestant polemics: polemics against Judaism and “Mosaic law”; polemics against Catholicism; and arguments among Protestants over the role of human reason versus supernatural phenomena such as miracles,

divine revelation, and being “saved” through Christ. It is not clear how much of this particular tradition of Protestant thinking Waldron means to impart. He may well have no intention of incorporating all or most of the views associated with this theological tradition into his analysis. For those familiar with it, however, the echoes are hard to miss, and they raise a number of important questions regarding the liberal or illiberal nature of the particular form of Christianity that Waldron is at least tentatively endorsing as the necessary philosophical foundation for any theory of human equality.

From a liberal point of view, perhaps the most disquieting elements of the Protestant theological tradition invoked here are those that make the case for “superseding” Judaism and Catholicism, as well as those which argue for the inadequacy of reason and the necessity of (a highly particular form of) faith. Knowingly or not, Waldron’s description of Locke’s religious beliefs echoes these strands of Protestant thought with regard to the following key points which he sees Locke as making:

1. Reason will only take you so far. Reason (conceived of, per Locke, as including the power to abstract) enables us to recognize the *existence* of a moral law that applies to us and other human beings. But it might not be sufficient on its own for us to discern the specific *content* of the moral law, i.e., the particular rights and duties that are owed and the proper subjects of those rights and duties. And even if unaided reason could guide us to a correct understanding of the moral law’s content, it is still not enough to establish its *normativity*. In order to recognize the special obligatory character of the law and why it is binding *on us*, we need not just reason but also faith and revelation as well. On this way of thinking, it may well be that we can’t even to get the content right without the aid of revelation. (According to Waldron, “Locke’s philosophical agenda would be satisfied if reason pointed us reliably in the direction of moral revelation, and if reason also provided resources for establishing the veracity of revelation and for figuring out its (complex) relation to reason.” (p. 97)) But even if reason did establish the content of law without the aid of revelation, it could not by itself establish either the subjective element (the moral motivation) or the objective element (the moral authority) that constitutes the special binding quality of the law. For that we need not just faith, but revelation, and not just revelation but the added inspiration of the life and teaching of Jesus Christ—not, evidently, the historical Jesus, but the divine Christ (p. 104, p. 192, p. 207, and p. 211).⁸
2. The coming of Jesus Christ is necessary not just to endow the law with the requisite normativity, but also to correct for the deficiencies of the prior (Mosaic) revelation and of the Jewish and Catholic faiths. These deficiencies were and are two-fold. First, the Mosaic law is faulty because it was only given to the Jews, and thus failed to encompass the

rest of humanity. In a footnote to his crucial passage on the special ministry of Christ quoted above, Waldron observes that “So far as the revelation to ancient Israel was concerned, Locke says that ‘that revelation was shut up in a little corner of the world, amongst a people, by that very law, which they received with it, excluded from a commerce and communication with the rest of mankind’ (RC: 137) whereas ‘our Savior, when he came, threw down this wall of partition’ between Jews and Gentiles (RC: 138)” (fn. 51, p. 103). So the revelation of Mosaic law is inadequate because it is exclusive to the Jews.⁹ Christ was needed to overcome this exclusivity built into the distinction drawn between Jews and Gentiles by the first revelation.

3. But there is another defect in Mosaic law, which is regarded not only as characteristic of the Jewish faith and people, but as having been replicated by the Catholic Church as well. Mosaic law was inadequate not just because it was exclusive to the Jews, but also because it distinguished those with superior intellect from everybody else, and gave them the power to interpret the law. Because the meaning of Mosaic law was (or was thought to be) obscure, the majority of people were forced to be dependent on the minority who had arrogated the power of interpretation to themselves. “The whole purpose of Christ’s teachings”, Waldron says, echoing this criticism of Judaism and Catholicism, “was to clarify the moral law—in Locke’s words, ‘clearing it from the corrupt glosses of scribes and pharisees’ (RC: 122).” (p. 192). Christ came to deliver us from this monopoly of experts. But Catholicism failed to live up to this promise by recreating a hierarchy of “scribes and pharisees.” What is problematic in both the Jewish and Catholic traditions on this view is that they understand the meaning of the Bible, of revelation, and of the moral law, generally, to depend on interpretation; and they take interpretation, in turn, to be the special province of a cadre of legal/intellectual experts—Pharisees and, later, rabbis in the “corrupt” Jewish tradition, and priests and popes in the equally corrupt and corrupting hierarchical, casuistical and Jesuitical traditions of the Catholic Church. What Protestantism was intended to do was precisely to liberate us from interpretation and the grip of the authorized interpreters. Or, to put it another way, it was *the coming of Christ* that was meant to deliver us from interpretation and interpreters. And it is Protestantism’s special mission to recall us to the plain meaning embodied in *sola scriptura* and, above all, in personal knowledge (love) of Christ.

Waldron reflects the Protestants’ traditional distrust of interpretation and hostility toward glossators in passages like the following where he enunciates the basic rationale behind the Protestant principle of *sola scriptura*:

If an understanding of revelation required us to assume that the words might mean something other than what they ordinarily mean, then we might as well not have revelation at all, for we would then be at the mercy of interpreters whose own credentials may be much more of an issue than anything they might try to convince us of on the basis of the gloss they impose on the scripture. (p. 192)

Waldron's Locke is squarely within a certain Protestant tradition when he scorns being "at the mercy of interpreters" and extols the literalism of the "plain meaning" style of interpretation as characteristic of the more "democratic" approach of the "specifically Christian revelation" (p. 192). The Christian revelation is thought to be more democratic precisely because it eliminates the distinctions drawn between Jews and Gentiles, and between an intellectual elite/high priesthood of interpreters and ordinary people equipped with ordinary intelligence. The extolling of (ordinary) human reason, the dignifying of the ordinary person, and the endorsement of an anti-interpretive, plain meaning approach to construing the meaning of the bible on this account go hand in hand. Outsiders to this tradition tend to think of this "plain meaning" approach as a quintessentially fundamentalist approach to interpretation. But Waldron is right to point out that from another point of view, this is not a fundamentalist, but rather a liberal, democratic approach to interpretation inasmuch as it intended to safeguard the equal right of each and every normal human being to determine the meaning of the Bible and religion for him or her self.

There are at least three fundamental arguments converging in this set of ideas that Waldron ascribes to Locke: (1) an argument against systems of political authority, which license a hierarchy of "expert" interpreters to dominate others, as both Judaism and Catholicism, with their emphasis on interpretation and interpretive expertise, were seen by Protestants to do; (2) an argument against exclusivity, which the Mosaic law of Judaism also was taken to typify; and (3) an argument against the sufficiency of unaided reason as a way to apprehending moral Truth. There is both a positive and a negative side to these core tenets of Protestantism from a liberal point of view. On the positive side of the ledger, they represent a genuine commitment to the democratic principle of political equality, and the universalist principle of including all people within the bonds of community and social obligation, as well as an appropriate attitude of humility about the powers of human reason and the dangers of human arrogance involved in the exercise of reason and political power. On the negative side, however, these very same principles could be—and historically often were—taken to imply their very opposites. Thus, the arguments for equality, inclusion, tolerance, universalism, and humility were used at various points in time to justify the exclusion (or brutal suppression) of Jews and Catholics and other religious dissenters on the grounds that *they* refused to accept the principles

of equality, inclusion, tolerance, universalism, and humility. But this was always the fundamental paradox of Christianity: that its insistence on catholicity could license the rejection of those who refused the invitation to join the “universal” church, just as the commitment to freedom of conscience and a truly “voluntary” faith could be used to justify the suppression or coercion of those who were viewed as denying these principles.

This raises the basic question of whether it is possible to embrace the Protestant theology that Waldron attributes to Locke without at the same time endorsing religious intolerance. This is emphatically *not* to say that anyone who subscribes to these basic tenets of Protestantism is by implication an anti-Semite or otherwise a bigot. Although a long tradition of Christian anti-Semitism and anti-Catholic sentiment among Protestants found an intellectual basis in the positions described above, such bigotry was by no means a necessary outcome of them, and many Christians now and in the past have found ways of distinguishing their condemnation of religious creeds that (in their view) fail to fulfill the universalist promise of Christianity from hatred of the followers of those creeds. (Hate the sin, love the sinner is just one of several strategies which readers may, or may not, find satisfying.) But the basic tension within Protestantism, and Christianity more generally, persists: the aspiration towards universal and voluntary inclusion seems to imply a refusal to accept those who refuse to accept “the universal church”.

Waldron addresses some but not all of the dimensions of this tension. He does not discuss the tradition of anti-Jewish polemics that grew out of this tension, and the faint echoes of this tradition that can be heard in his repetition of the familiar charges that Mosaic law is exclusive and particularistic, and the culture of the Pharisees elitist and legalistic, suggest he may well be unaware of them. Certainly there is no reason to impute Protestant views to him wholesale—though if one were to do so, it would be important to point out that Protestant attitudes towards Judaism were in fact quite complex, and hardly wholly negative. Indeed, from the beginning, the principle of *sola scriptura* and the project of recuperating the Bible from centuries of Catholic “corruption” led Protestant thinkers to be deeply engaged in the study of the Hebrew bible (in the original Hebrew)—a fact that may help to explain what Waldron regards as a great unsolved mystery about Locke: why he spent so much less time discussing the New Testament than he did the Hebrew Bible in his biblical arguments. In fact, this was completely in keeping with the wider intellectual culture of seventeenth-century Protestantism that Waldron rightly situates Locke in. This was a culture deeply immersed in the study of Hebrew language and the Hebrew Bible, and even rabbinic thought. And, as recent scholars of this “Christian Hebraism” have noted, the sustained intellectual exchange that occurred between Jewish and Protestant scholars may well have contributed to the

development of an attitude of greater tolerance and even appreciation for Jews and Judaism on the part of Protestants—an attitude that was codified nowhere more forcefully than in John Locke's writings on toleration.¹⁰

The final chapter of Waldron's book focuses directly on this important part of Locke's political philosophy, expounded in his *Letters Concerning Toleration*. And, while Waldron has nothing directly to say about the treatment of Jews and Judaism in a theory of tolerance grounded in Protestant theology, he has much to say about the parallel question of whether Locke's theory of tolerance expressed bigotry or prejudice against Catholics. In this chapter, Waldron makes a compelling case that Locke was far more tolerant of Catholics than many critics have held him to be, even though he personally found Catholicism to be "ridiculous". Waldron argues persuasively that a careful reading of the *Letters* shows that Locke justified withholding tolerance from Catholics only in a few circumscribed circumstances—namely, when a Catholic's allegiance to papal authority actually led him to resist the sovereignty of his own state rulers, and/or when he favored subjecting others to intolerance. Otherwise, Waldron contends, Locke held that Catholics fell within the ambit of tolerance every bit as much as other Christians. Indeed, Waldron claims, this logic led Locke to support the extension of tolerance to members of all religions, subject to the same limited exceptions (to wit, for political subversion, and for intolerance.) The only group that Locke thought was generally not to be tolerated, according to Waldron, was atheists.

As Waldron sees it, the arguments for the tolerance of followers of different faiths and for the intolerance of atheists are two sides of the same coin. Both rest on the basic reciprocal logic of equality expounded by Locke: a person, deserving of equal rights, is someone who can recognize the personhood, and right to equal respect, of other persons; those who, because of some defect, are unable to recognize the equal personhood and rights of other persons forfeit their own right to equal respect and personhood. By the same token, those who are intolerant, those who refuse to tolerate people with different beliefs, are not to be tolerated; and those who refuse to accept the political authority of a sovereign who protects the equal rights of its citizens (perhaps because they give their allegiance to a foreign power) likewise forfeit their rights to tolerance and equal respect. A similar logic explains the withdrawal of rights from felons and the postponement of rights for minors who are not yet mentally competent to recognize the personhood of others.

Because, as explained above, Locke sees a belief in God as a necessary pathway to the recognition of the personhood of other persons, for him (and for anyone who shares this belief in the necessity of belief in God), atheists will *always* fail the test of recognizing others as equals (unlike, say, Catholics who only *sometimes* fail the test). Perhaps the most startling thing about Waldron's book is that he numbers himself among those who share this

belief. He is accordingly surprisingly sympathetic to Locke's position that atheists cannot be tolerated.

Not that he is prepared to endorse Locke's conclusion. He states, in apparently no uncertain terms, that "as a bottom line position, this view—that atheists should be excluded from public life—is not an option for us". (p. 235). Yet Waldron does not hide his basic sympathy with the logic that, he thinks, led Locke to this view. "[T]he atheist cannot really get hold of the notion of human equality. On Locke's account, the atheist doesn't have the wherewithal to make sense of that idea" (p. 234) because, on this account, recognition of the existence of God and God's law is a precondition to recognizing the humanity and equal worth of others. Waldron repeats this idea numerous times in a way that seems to imply that it is not just "on Locke's account", but on his own understanding as well, that belief in God is necessary to recognition of the moral law which implies that other persons are persons worthy of equal respect.

We have offered several reasons to dispute this conclusion. Boiled down they come to two:

- (1) Once one recognizes the type of purposive reasoning that Locke's view of nominal and real essences makes available, a style of reasoning at once species-ist and instrumentalist, there is no reason to conclude that secular reasoning—reason unassisted by faith—is incapable of determining the content of the class of persons to whom equal respect is owed, or of justifying the basic principle of human equality. Secular theory, in other words, is not inadequate in the way that Waldron claims. Purposive reasoning provides a direct pathway to belief in equality without the additional (optional, dispensable) belief that the purposes that motivate the principle of equality are God's. Belief in God is therefore not a necessary pathway to belief in the equality of other persons.
- (2) The particular religious beliefs that Waldron ascribes to Locke, and prescribes (tentatively) for us, bear a troubling, paradoxical relationship to the liberal values of equality and tolerance that Locke and Waldron both uphold. On the one hand, they express a genuine commitment to universal inclusion and freedom of belief, to democratic equality and tolerance. On the other hand, those very same principles have been used to justify—and may logically require the justification of—the placement of limits on tolerance. Christian intolerance has taken many forms: the suppression of dissenting beliefs, the subordination or forced conversion of adherents of non-conforming beliefs, the exclusion of dissenters from the public sphere, or from society altogether. All of these practices have been justified in terms of the need to protect a religion of freedom, universalism, tolerance, and love from the encroachments of the intolerant. It is possible to argue that

certain of these practices can find no real justification in the theology that Waldron describes, and that the attempts that have been made to press this theology into the service of their justification represent a distortion of the Protestant tradition. But it is not possible to argue that this tradition sanctions *no* form of intolerance or exclusion—as Waldron's account of the rationale for refusing to tolerate atheists (and, in particular circumstances, members of non-conforming religions as well) makes clear. The undeniable fact is that, notwithstanding Protestant theology's very real liberal aspirations, illiberal ideas are contained within it as well.

Indeed, the particular version of Protestantism that Waldron attributes to Locke is considerably more sectarian and conservative in character than what many liberal Protestants today are willing to subscribe to. Waldron's Locke may even be more sectarian and conservative than the actual historical Locke—but that is a question we will leave to future Locke scholarship. The point to be made here is that the particular religious beliefs that Waldron thinks are necessary to liberal equality, the core tenets of traditional Protestant theology, contradict fundamental liberal values (even if they also, at the same time, embody them.)

There is good reason then for liberals to refuse to accept the invitation to endorse these religious beliefs as their own: liberals committed to tolerance and equality ought to refuse the invitation to subscribe to beliefs that logically require refusing to tolerate disbelievers. If, as Waldron suggests, a Christian commitment to tolerance and equality depends on a belief in God, and implies the need to exclude atheists and others who lack this “wherewithal”, then liberals should not make this their commitment (especially since, in our view, they can find a perfectly adequate basis for their commitments to tolerance and equality in secular purposive reasoning).

Given the troubling implications of Waldron's strong argument for the necessity of Christian foundations, the conclusion that secular theories of liberalism are adequate to the task of justifying equality, and specifying its content, may come as a relief. But secular liberals should not be too quick to congratulate themselves for having escaped the basic paradox of tolerance and universalism that plagues Christianity. For the very same paradox reappears in secular versions of liberalism. The same logic that demands intolerance of those deemed to be “intolerant” by the lights of Christian doctrine continues to demand intolerance of those deemed to be intolerant by the lights of secular liberalism today. Secular liberalism endorses the placement of limits on tolerance, and it justifies those limits and draws their boundaries in precisely the same terms as Christianity always has: those deemed to be intolerant and unaccepting of the basic values of freedom, human equality, and universalism are the ones who forfeit their rights to

freedom, equality, and tolerance. From this point of view, we can see that modern liberalism has aspired to be a “universal church” no less than Christianity has—and it has fallen short of its universalist aspirations in precisely the same, paradoxical, way. The difference, of course, is that the secular version of “the church” does not require, or depend on, a belief in God; nor does it depend on other traditional, and controversial, religious doctrines, such as the depravity of man, or the inadequacy of reason.

Whether the removal of such beliefs has served more to humanize and further liberalize universalism, or, rather, to de-humanize it, and foster its more tyrannical tendencies is anyone’s guess. As a matter of intellectual history, Waldron is surely right to see that liberalism derives from the aspirations of Christian, and especially, Protestant thought. By reminding us of liberalism’s Christian origins, and at the same time excavating Christianity’s liberal ideals, he has effectively challenged the more reductive and negative characterizations and stereotypes of religion and theology that unfortunately prevail among many secular liberals today. In doing so, he has elevated the discussion of the relationship between liberalism and religion to the level of seriousness that it deserves, and for that alone his book should be regarded as having provided an enormously valuable service.

However, once the history of the acceptance of egalitarianism is described it seems fairly clear that it is, like much history, purely contingent. Is there really any reason to think that we couldn’t have come to be a society accepting of the principle of equality through some other, secular route? Or through a route that intersected with a very different sort of religious doctrine from that which Waldron’s Locke espoused? And even if we couldn’t have arrived at equality except through this route, can we really be sanguine about a conception of equality that depends on the kind of religious doctrine that Waldron’s Locke espoused?

If the Christianity of Waldron’s Locke has some frighteningly illiberal, as well as liberal implications, it may be comforting to note that Locke’s philosophy may provide Waldron with what he is looking for (a philosophical foundation, or route to, the principle of human equality) without carrying Locke’s Christian beliefs, or indeed any religious beliefs in its trail. As we have seen, Waldron purports to reject instrumentalist solutions to the intellectual problems that he thinks any self-respecting theory of human equality has to overcome in favor of a deontological approach. But Locke’s approach completely elides the distinction conventionally taken to exist between utilitarian/instrumentalist and deontological theories of rights and obligations. And so, too, does the approach endorsed by Waldron himself *inasmuch as his favored approach rests on adopting Locke’s understanding of real and nominal essences*. Despite Waldron’s own self-understanding and protestations to the contrary, Waldron’s Locke—and Locke’s Waldron, as it were—are both

instrumentalists in their approach to defining and defending the principle of human equality, even as they are at the same time exemplary deontological theorists. And if an instrumentalist moral theory *could be* adequate to the task of justifying egalitarianism, as we have argued it might, then there seems to be no reason to conclude that a secular approach is necessarily deficient in the way that Waldron says.

In the final analysis, then, Waldron does not succeed in making the case for the necessity of religious belief to a belief in equality. However, his compelling excavation of the Christian roots of liberal political theory, and the liberal roots of Christian theology, should make us all mindful of the “arrogance” of a liberal secularism that turns a blind eye to its own practices of suppression and intolerance, and denigrates the intellectual substance—and the liberality—of the religious traditions out of which it grew. For that, and for elevating the discussion of the relationship between liberalism and religion to the level of seriousness that it deserves, we owe Waldron a great debt.¹¹

Notes

1. References to Locke's works will be abbreviated as follows. *An Essay Concerning Human Understanding*, Ed. P. H. Nidditch, (1975), Clarendon Press: Oxford, will be referenced as “E” followed by book, chapter, section and page number. *Two Treatises of Government*, Ed. P. Laslett, (1988), Cambridge University Press: Cambridge, Book II, will be referenced as “2nd T” followed by the number of the cited paragraph. *The Reasonableness of Christianity*, Thommes Press: Bristol, (1997), will be referenced as “RC” followed by a page number.
2. And again: “It may seem to us now that we can make do with a purely secular notion of human equality; but as a matter of ethical history that notion has been shaped and fashioned on the basis of religion. That is where all the hard work was done” (p. 242).
3. There are many published discussions of Locke's conception of essences and kinds. For a start, see Michael Ayers, “Locke versus Aristotle on natural kinds” *Journal of Philosophy* 78, 1981, pp. 247–71; Ruth Mattern, (1986) “Locke on natural kinds as the ‘workmanship of the understanding’” *The Locke Newsletter*, 17, pp. 45–92; and David Owen, (1991) “Locke on real essence” *History of Philosophy Quarterly*, 8, pp. 105–18.
4. To clarify our terminology: An instrumentalist justification of a moral principle, like the principle of equality, shows a connection between the principle and progress towards achieving some end. A utilitarian justification of a moral principle is a species of instrumentalist justification in which the end in question is identified with the good of the aggregate of persons.
5. Such is the view ascribed to Bishop Butler by Stephen Darwall. See Stephen Darwall, (1995) *The British Moralists and the Internal ‘Ought’*, Cambridge University Press: Cambridge; Ch. 9.
6. The proposition that atheists are unable to respect the equality of others is, at least as a sociological matter, simply untrue. Waldron recognizes this, but his argument seems to be that an atheist cannot justify her belief in equality, and if she mistakenly believes otherwise, this is to be explained by the fact that her beliefs are inherited from centuries-old religious traditions of thought. This is what Waldron means by living on borrowed time. But here, then, it is not the historical necessity of Christian doctrine in supporting egalitarianism, but its conceptual or logical necessity on which Waldron insists and, as

we have seen, there seems little reason to follow him in his belief that Christian doctrine really must be invoked to justify belief in equality.

7. Waldron acknowledges Locke's "toying with various Socinian and unitarian possibilities" (p. 215).
8. Waldron does not go so far as to say that what is needed is the personal experience of salvation or being born again. But it is hard to understand what else the emphasis on the supernatural aspect of Jesus Christ—"and his miracles"—is meant to signify.
9. Waldron does not attempt to explain how to reconcile this description of the particularism of the law handed down at Sinai with the universalism of "the natural law material in Genesis," i.e., the Noahide law, which he acknowledges exists (pp. 188–89). For general discussion of Noahide and natural law, see Suzanne Stone, (1991) "Sinaitic and Noahide Law: Legal Pluralism in Jewish Law," 12 *Cardozo Law Review* 1157.
10. See S. Ettinger, "The beginnings of the change in the attitude of European society towards the Jews," 7 *Scripta Hierosolymitana* 193, 195–96 (Alexander Fuks & Israel Halpern Eds. [1961]). On Christian Hebraism more generally, see *Hebraica Veritas? Christian Hebraists and the Study of Judaism in Early Modern Europe* (Allison P. Coudert & Jeffrey S. Shoulson Eds. [2004]); Frank E. Manuel, (1992) *The Broken Staff: Judaism Through Christian Eyes*.
11. Thanks to Cliff Ando, David Myers and Greg Keating for comments on an earlier draft.