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Appropriating Lockean appropriation on behalf of equality[1]

Michael Otsuka

In what follows, I consider the extent to which John Locke's account of property can be interpreted – or something revisionary that remains recognizably Lockean can be reconstructed from his writings – in a manner that provides a sound justification for an egalitarian distribution of resources in contemporary societies. In particular, I examine Locke's account, in Chapter 5 ('Of Property') of his *Second Treatise of Government*, of the conditions under which one can come privately to own land in a state of nature – where 'land' encompasses land in the narrow sense, spatial regions above and below it, and the natural resources therein. I shall argue that the Lockean 'enough and as good' proviso grounds egalitarian as opposed to libertarian or sufficientarian claims over worldly resources. These egalitarian claims apply to contemporary post-industrial money-based service economies as well as to primitive agrarian barter economies. But the full 'luck egalitarian' complement of equality of opportunity for welfare cannot be derived from a Lockean approach that focuses on our egalitarian claims to unowned bits of the world.

I. The Lockean proviso

According to the Lockean proviso, one can acquire unowned land (and its fruits) provided that, after one has done so, there is 'enough, and as good, left in common for others' (II.27).[2] As I shall interpret the proviso,

[1] Besides the editors and contributors to this volume, I thank Peter Vallentyne, Alex Voorhoeve, and two anonymous readers for their comments.

[2] This notation refers to §27 in the second of Locke's *Two Treatise of Government* (1988 [1689]). Throughout this chapter all such references will be to the numbered sections of the *Second Treatise*.

its justification traces to the following more general underlying normative principle: one is entitled to acquire worldly resources so long as one's acquisition does not give rise to a legitimate complaint on the part of anybody else.

This general principle has been embraced by opponents as well as proponents of egalitarianism. Robert Nozick, for example, famously appeals to the proviso in his defence of the inequalities of laissez-faire capitalism. Nevertheless, his understanding of the proviso is of a piece with the general principle articulated above, since Nozick writes that 'Locke's proviso that there be "enough and as good left in common for others" ... is meant to ensure that the situation of others is not worsened.'[3] The implicit assumption here is that if one doesn't worsen the situation of others, none will have a legitimate complaint.

Nozick embraces a version of the proviso according to which you may acquire previously unowned land (and its fruits) if and only if you make nobody else worse off than she would have been in a state of nature in which no land is privately held but each is free to gather and consume food and water from the land and make use of it. Nozick argues that a capitalist society without a welfare state could emerge from the state of nature without violating this proviso. He advances the view that the lot of each person would be improved by the fruits of capitalism. The improvements would be great enough that no one will be made worse off than he or she would have been if he or she had remained in a state of nature.[4] Surely some in a capitalist society without public or state welfare provisions will starve in the absence of charity. But Nozick must maintain that they are not worse off than they would have been in a state of nature and therefore that they would also have starved (again, in the absence of charity) in a state of nature.[5]

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[3] Nozick 1974, 175.
[4] See Nozick 1974, 177.
[5] See Cohen 1995, 85-86.

Nozick's version of the proviso is unsound for the following reason.[6] My acquiring unowned land might eliminate other people's opportunities to improve their situation in the future even though it makes people no worse off than they would have been if they had remained in a state of nature. Under Nozick's proviso, one can pre-empt others from making any acquisitions of their own that would improve their situations over that in which they live no better than a meagre hand-to-mouth existence of hunters and gatherers on non-private land. This acquisition is objectionable both because it condemns others to such a miserable existence and because it is manifestly unfair that a first grabber be allowed to monopolize all opportunities to improve one's lot through acquisition.

A natural solution to these problems with Nozick's version of the proviso is its replacement with an *egalitarian* version, according to which one's enclosure of land must be such that everyone else retains the opportunity to enclose an equally good plot of land. In other words, 'enough, and as good' should be interpreted to mean 'enough so that everyone else can acquire an equally good share of unowned worldly resources'.[7] Such a reading is suggested by Locke's assertion that 'He that had as good left for his improvement, as was already taken up, needed not complain' (II.34).[8]

Considerations that tell in favour of an egalitarian version of the proviso offer grounds not only for rejection of Nozickian laissez-faire capitalism. They also provide grounds for rejection of more redistributive approaches to justice in holdings which call for the provision of a sufficient level of goods, rather than for the realization of equality above and beyond such sufficiency. To take the most well-known defender of such

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[6] Here I follow Cohen 1995, ch. 3, in a manner that draws on Otsuka 2003, 22-24.

[7] I formulated such an egalitarian proviso in Otsuka 2003, 24. Here, however, I replace the term 'advantageous' with 'good'.

[8] Karl Widerquist suggests such a reading, by drawing attention to the phrase 'as was already taken up'. See Widerquist 2010, 12.

an approach, Harry Frankfurt has argued that, when everyone has enough, further differences in their wealth and income are not a matter of moral concern. He writes, for example, that we 'tend to be quite unmoved, after all, by inequalities between the well-to-do and the rich; our awareness that the former are substantially worse off than the latter does not disturb us morally at all'.[9] In mounting his case against equality, however, Frankfurt equivocates between two senses of 'enough'. At times, what he means by 'enough' is roughly 'so much that that one doesn't really care whether one has any more'.[10] I agree with Frankfurt that if the differences are ones that people don't really care about, then they are not morally problematic. But here the target of his critique is a straw man, since no sensible egalitarian would mount any serious objection to such differences. At other points, Frankfurt's case against egalitarianism involves an appeal to an understanding of 'enough' which is along the different lines of 'enough to meet one's needs'.[11] Even, however, when 'needs' are expansively construed, so long as people care about more than the meeting of such needs, a Lockean thought experiment involving acquisition in a state of nature can be deployed in order to defeat an account of distributive justice that is limited to the satisfaction of needs.

Imagine that you and I are identical twins who inhabit a two-person state of nature. Each of us would acquire a sufficient amount to meet his needs, generously construed, if he enclosed one tenth of the commons. Suppose that I then proceed to enclose nine tenths of the commons. If you affirm a sufficiency-based account of distributive justice, and the accompanying claim that inequalities above the level of sufficiency are not morally problematic, you would lack grounds to complain of any injustice,

[9] Frankfurt 1987, 32.
[10] See, for example, ibid., Section VII and the top of p. 33.
[11] See, for example, ibid., p. 32, from the middle of p. 33 to the top of p. 34, and the top half of p. 37. I am indebted to Jerry Cohen for drawing my attention to the manner in which Frankfurt's case against equality rests on an equivocation.

since, by hypothesis, I have left you a sufficient amount. Nevertheless, you have a complaint of injustice: namely, that I have not left enough and as good for you to appropriate because I have not restricted myself to a share no greater than half of the commons. Such reflection on Lockean justice in acquisition in a state of nature reveals that we have an egalitarian claim to worldly resources that extends beyond the realm of sufficiency, assuming that this realm is understood as covering needs without also encompassing everything that one has reason to care about. In this light, recall Frankfurt's contrast between the well-to-do and the rich. Assume that they are both situated within this realm and that the explanation of the greater riches of the latter is solely traceable to the fact that they have taken it upon themselves to unilaterally appropriate a much greater portion of the commons. I submit that we would and should now react with moral disapprobation rather than indifference.

A related counterexample can be pressed against John Simmons's reading of the Lockean proviso. According to Simmons, one's appropriation leaves enough and as good for another just in case one leaves that person with 'the opportunity of *a living* – a condition of nondependence, in which one is free to better oneself, govern one's own existence, and enjoy the goods God provided for all'.[12] Simmons notes that this requirement does not necessarily mandate the leaving of equal shares for others. Rather, it is sufficient to leave others with nothing greater than 'access to an independent livelihood'.[13] Once again, as in the case of Frankfurtian sufficiency, so long as there are things that people care about beyond independence, Simmons's version of the proviso permits the monopolization, through appropriation, of access to these things. That, however, would involve the appropriation of an unfairly unequally large share of the earth. We need to move beyond a standard of nondependence to one of equality.

[12] Simmons 1992, 293.
[13] Ibid., 294.

The following question now arises: how strong a standard of equality does the Lockean account support?

I would resist a weakly egalitarian reading of 'equally good shares' according to which there is such equality just in case shares are such that none would prefer to trade her plot of land with anybody else's.[14] In other words, I would resist a reading where such equal goodness involves the satisfaction of an envy test.[15] To explain my resistance, I ask you to imagine that you and another person are the only two shipwreck survivors on a desert island whose land is of uniformly high quality throughout. The two of you seek to divide the island between yourselves, in accordance with an egalitarian version of the Lockean proviso. Suppose, however, that you are twice as large as the other person and therefore require twice as many calories to survive. If you divide the island equally, then your harvest from the land you farm will never be quite enough to satisfy your appetite. The other person, by contrast, will always have enough to feast. Here I think your smaller colleague will leave you with enough and as good land in an egalitarian sense only if he leaves *twice as much* land for you to acquire. Only then will each of you be left with enough and as good to better yourself to the same degree as the other person. One's coming to acquire previously unowned resources under these terms leaves nobody else at a disadvantage (or, in Locke's words, is 'no prejudice to any others'), where being left at a disadvantage is understood as being left with less than an equally good share of resources (or, in Locke's words, being left with less than 'enough and as good').

To generalize from the above discussion, on my preferred more

[14] Hillel Steiner (1987) once embraced such a reading. That article does not reflect Steiner's later (1994) view, which is more strongly egalitarian.
[15] Such a test figures prominently in Dworkin's theory of 'equality of resources' – though he applies this test to bundles of natural resources and 'personal resources', where the latter involve physical and mental capacities. See Dworkin 1996, 45–8. In the main text above, however, the envy test is applied more narrowly just to natural resources.

strongly egalitarian version of the proviso, shares are equally good insofar as they make it possible for each to better herself to the same degree as anyone else, where betterness is specified as the attainment of the same level of welfare as anybody else.[16] Acquisition on such terms would not give rise to a legitimate complaint on the part of anybody else. Any more weakly egalitarian versions of the proviso, such as one that satisfies the envy test, would, like Nozick's or Simmons's non-egalitarian provisos discussed above, unfairly allow some to acquire greater advantage (in terms of wellbeing) than others from their acquisition of unowned land and other worldly resources. People who are less able to convert resources into welfare would not be compensated for this disability, whereas they would be so compensated on my version.

Under my version of the proviso, unlike Nozick's, we would not see the rise, as we would under laissez-faire capitalism, of a class of largely propertyless workers whose fates are not much better than they would have been in a state of nature, nor would we see the rise of a small class of capitalists with full property rights over enormous expanses of land or other natural resources. Rather, land and other resources would be much more widely dispersed to the equal advantage of all, where such equality would also extend beyond the level that merely reaches Frankfurt's threshold of sufficiency or secures Simmons's condition of nondependency.

Moreover, this equal advantage would be preserved across generations, given that, on my egalitarian reading, the 'enough and as good' proviso applies intergenerationally: the members of each

[16] See Otsuka 2003, 27. The phrase 'to the same degree' can be interpreted either as 'by the same increment of increase in welfare' or 'to the same absolute level of welfare'. See my discussion on pp. 28-29 (ibid). A 'same increment' reading can be more plausibly derived from a Lockean focus on claims over land than a 'same absolute level' reading. For the latter, one needs to appeal to different considerations, such as those of luck egalitarian unfairness to which I appeal in the book. I also maintain, however, that the two readings converge, given the sound assumption that we would all be equally badly off, because dead, in the absence of any resources.

generation are required to ensure that, at their deaths, resources that are at least as valuable as those that they have acquired lapse back into a state of non-ownership. Since, moreover, individuals possess only lifetime leaseholds on worldly resources, they have nothing more than lifetime leaseholds on whatever worldly resources they improve. Any worldly object they improve through their labour lapses into a state of non-ownership upon their death and hence is not bequeathable.[17]

II. Money

In the previous section, I have defended an egalitarian interpretation of the Lockean proviso. I have also maintained that, so interpreted, it has substantial implications regarding the distribution and transfer of resources in contemporary societies. One might challenge the notion that a proviso regarding the enclosure of land in a state of nature could have implications for advanced industrial societies some distance removed from such circumstances. Such a challenge might be buttressed by the claim that Locke denied that the 'enough and as good' proviso reached as far as a societies that had advanced, via the introduction of money, beyond simple barter economies. In this section, I shall consider and reject this latter claim.

Locke says that 'since gold and silver, being little useful to the life of man in proportion to food, raiment, and carriage, has its value only from the consent of men, whereof labour yet makes, in great part, the measure, it is plain, that men have agreed to a disproportionate and unequal possession of the earth' (II.50). What are his grounds for maintaining that consent to treat gold and silver as money implies an agreement to 'disproportionate and unequal possession'? Is such agreement meant to encompass a suspension of the proviso's 'enough and as good' restriction on enclosure? I would resist such an

[17] For a discussion of the intergenerational implications of an egalitarian version of the proviso, see Otsuka 2003, ch. 1, sec. V.

interpretation of Locke according to which consent to money implies consent to the suspension of the proviso. There is, instead, a plausible reading according to which the proviso retains its force, yet inequality in possession is justified by virtue of the fact that a non-spoilage condition that Locke also places on the acquisition of property no longer imposes such pressing, and equalizing, constraints on accumulation.[18]

Locke offers the following articulation of and rationale for such a non-spoilage condition:

> The same law of nature, that … give[s] us property, does also bound that property too. God has given us all things richly … [t]o enjoy. As much as any one can make use of to any advantage of life before it spoils, so much he may by his labour fix a property in: whatever is beyond this, is more than his share, and belongs to others. Nothing was made by God for man to spoil or destroy. (II.31)

Locke also maintains that money gives rise to opportunities for large and unequal accumulations because it overcomes the problem of spoilage of what one produces or exchanges via barter.[19] On this reading, the more

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[18] For a contrasting account of Locke's understanding of the bearing of consent to the value of money on inequality, see Penner (forthcoming).

[19] Locke maintains that money can arise 'out of the bounds of society' by means of consent to confer value on gold and silver as mediums of exchange. In maintaining that it can arise in a state of nature, Locke's account of the origins and nature of money is out of line with a chartalist account. According to chartalism, money is essentially an IOU that is either created or authorized by the state, as the only acceptable way of discharging one's tax liabilities, whose payment is coerced via threat of punishment. Some chartalists have argued that, once the manner in which money is bound up with state coercion is recognized, Locke's justification of inequality is undermined. (See Bell et al. 2004.)

I would maintain, contrary to these chartalists, that, even if it is only via imposition of taxes that money arises, Locke's argument for inequality goes through with equal force (however great), given that money provides a means of accumulation without spoilage. Note that, even if money arises via a mafia-style protection racket rather than the state, it might still provide a means of

industrious and talented will be able to become far wealthier than others through the increased opportunities that money provides for the accumulation of wealth as the result of production and trade.

I would also maintain that Locke's reference to agreement to a 'disproportionate and unequal possession of the earth' needn't imply the lapsing, or otherwise imply the absence, of a specifically *egalitarian* version of the Lockean proviso. According to Locke, prior to the introduction of money, the demand for land was limited, and nobody had reason to enclose an especially large tract of land. This is for the reason that, in the absence of money, the goods that one could produce from the land were largely perishable (e.g., crops). Hence one could not accumulate much via production or barter with other landowners without violating the spoilage constraint. No non-wasteful purpose would be served by enclosing a very large plot of land. To make this point, Locke asks us to suppose

> an island, separate from all possible commerce with the rest of the world, wherein there were but an hundred families, but there were sheep, horses and cows, with other useful animals, wholsome fruits, and land enough for corn for a hundred thousand times as many, but nothing in the island, either because of its commonness, or perishableness, fit to supply the place of money; (II.48)

He then asks:

> what reason could any one have there to enlarge his possessions beyond the use of his family, and a plentiful supply to its

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accumulation that is justified by the fact that one can now do so without spoilage. One might object that the genesis of such accumulation is unjust, given that it occurs via unjustly imposed money. But if those who accumulate are themselves all *victims* of the protection racket, I don't see how their accumulation would be rendered illegitimate by the fact that they have been unjustly victimized.

> consumption, either in what their own industry produced, or they could barter for like perishable, useful commodities, with others? Where there is not some thing, both lasting and scarce, and so valuable to be hoarded up, there men will not be apt to enlarge their possessions of land, were it never so rich, never so free for them to take: for I ask, what would a man value ten thousand, or an hundred thousand acres of excellent land, ready cultivated, and well stocked too with cattle, in the middle of the inland parts of America, where he had no hopes of commerce with other parts of the world, to draw money to him by the sale of the product? It would not be worth the enclosing, and we should see him give up again to the wild common of nature, whatever was more than would supply the conveniencies of life to be had there for him and his family. (II.48)

An implication of this passage is that where, by contrast, there *is* 'some thing, both lasting and scarce, and so valuable to be hoarded up,' in that case some will be 'apt to enlarge their possessions of land'. As a result, 'disproportionate and unequal possession of the earth' (II.50) might arise, with the introduction of money, in a manner that does not violate the spoilage constraint.

To maintain that such inequality might arise is not necessarily, however, to reject an egalitarian proviso on appropriation. Inequality in land is consistent with such a proviso, so long as the inequality of appropriation arises in circumstances in which a sufficient amount of land remains unowned. To illustrate this point, we can replace the island in Locke's example with a sparsely populated continent of farmers who now possess money. These circumstances will give rise to valuable opportunities, for those who have greater desire to accumulate wealth through productive labour, to appropriate more land than others choose to appropriate. Such unequal appropriation would be consistent with an egalitarian version of the proviso – i.e., would leave others with the

opportunity to appropriate an equally good share – so long as there remains sufficient unowned land for others to appropriate. In this case, 'possessions in different proportions' might be fully explained by 'different degrees of industry' (II.48) rather than by any failure to leave enough and as good. Here unequal plots of land would not imply encroachment on anyone else's opportunities to enclose.

Locke maintained that, on account of the resulting 'increase of people and stock', the introduction of money would typically give rise to scarcity 'amongst that part of mankind that have consented to the use of money'. Among these people there would no longer be 'more [land] than the people who dwell on it do, or can make use of' (II.45). In such conditions of scarcity in which all land is appropriated, and none is left unclaimed, universal satisfaction of the proviso implies that each actually appropriates an equally good share of land. Even if we accept the strongly welfare egalitarian interpretation of equal shares that I defended in the previous section, the opportunities to accumulate to which money gives rise may nevertheless yield significant inequalities in levels of wealth at the end of the day. These inequalities will, however, be consistent with what has come to be known as 'luck egalitarianism'. This is because they will be purely a matter of differently chosen 'degrees of industry' among individuals whose plots of land provide them with equal opportunities to better themselves. These differences will not be a matter of factors beyond their control.

III. Luck egalitarianism and the diminished role of labour

Locke appears to regard labour as a necessary condition of coming to have a title to any bit of the world. He writes, for example, that 'God gave the world … to the use of the industrious and rational, (and labour was to be his title to it;) not to the fancy or covetousness of the quarrelsome and contentious' (II.34).

We should, however, acknowledge that labouring is not the only way to stake a claim to worldly resources. For, if it were, then

> incapacitated individuals who are incapable of mixing any of their labour with worldly resources would be unfairly deprived of any method of acquiring resources which might nevertheless be useful to them. They ought to be entitled to stake a claim simply by publicly proclaiming the boundaries of the worldly resources over which they claim rights of ownership.[20]

I acknowledged that

> [p]erhaps the mere staking of a claim that does not leave others at a disadvantage would not be sufficient to generate a property right. One might need to add that the resources in question must be of some use to the claim-staker, where 'use' is read broadly to include the benefit one could derive from trading them for something else or from investing them.[21]

In defence of such a broad construal of 'use', I draw your attention to II.46, where Locke describes exchange as a form of use – or at least of keeping resources, e.g., plums, useful.[22] It follows that those who are disabled from producing can nevertheless still make use of resources by buying and selling them.

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[20] Otsuka 2003, 22n29.
[21] Ibid.
[22] Locke writes: 'If he gave away a part to any body else, so that it perished not uselesly in his possession, these he also made use of. And if he also bartered away plums, that would have rotted in a week, for nuts that would last good for his eating a whole year, he did no injury; he wasted not the common stock; destroyed no part of the portion of goods that belonged to others, so long as nothing perished uselessly in his hands. Again, if he would give his nuts for a piece of metal, pleased with its colour; or exchange his sheep for shells, or wool for a sparkling pebble or a diamond, and keep those by him all his life he invaded not the right of others, he might heap up as much of these durable things as he pleased; the exceeding of the bounds of his just property not lying in the largeness of his possession, but the perishing of any thing uselessly in it.' (II.46)

Moreover, Locke's contrast in the passage from II.34 quoted above – between, on the one hand, the claims of the 'industrious and rational' and, on the other hand, the 'fancy or covetousness of the quarrelsome and contentious' – lends itself to a luck egalitarian reading that is sensitive to the presence versus the absence of responsible choice. My preferred welfare egalitarian version of the proviso broadens Locke's explicit focus on labour into a wider luck egalitarian sensitivity to the choices of responsible agents, which is perhaps implicit in the passage from II.34. An implication of my approach is that disabled people should have opportunities to appropriate by means of the staking of extensive claims that are useful for the purpose of generating income from the rental and sale of natural resources. The staking of such claims via public proclamation can give rise to property rights, the upshot of which is that others must obtain their permission before they may make use of what has been claimed. The

> disabled could justify their equality of opportunity for welfare not on the grounds of a positive right to demand that unwilling others come to their assistance by sharing the hard-earned fruits of their labour, but rather on the grounds that they have a right to a share of worldly resources that enables them to secure the same level of advantage as anybody else. They would not, therefore, need to respond to any charges of parasitism or free riding, since their case for equality of opportunity for welfare would rest on nothing more than the staking of a claim to a fair share of worldly resources to which nobody else has a prior or stronger moral claim.[23]

IV. To what extent does a Lockean approach *justify* equality?

In this section, I consider the following question: to what extent can equality of opportunity for welfare be derived from our equal Lockean

[23] Otsuka 2003, 35.

claims to natural resources?

Here I shall begin with an explanation of why the full luck egalitarian complement of equality of opportunity for welfare cannot be derived from a Lockean approach that focuses on our egalitarian claims to unowned bits of the world. Such claims stand in the way only of those inequalities that are sensitive to our holdings in natural resources and will therefore fail to establish such equality of opportunity insofar as levels of welfare are insensitive to such holdings. Where there is such insensitivity, a defence of such welfare egalitarianism will have to be grounded in considerations that are completely external to a Lockean approach, such as the cosmic unfairness of some being less well off than others through no choice or fault of theirs. We need therefore to reach beyond Locke, and appeal to normative considerations that have nothing in particular to do with our claims to natural resources, in order to justify the full complement of equality of opportunity for welfare.

Lockean egalitarian claims over the world do not, for example, justify the redistribution of eyes and other body parts. A pure form of luck egalitarianism would, by contrast, discern an injustice when some are sighted and others blind even when the only way to equalize their fates is by transplanting an eye from each of the sighted to each of the blind.[24] In previous work, I have argued that a robust form of self-ownership is compatible with a comprehensive form of equality of opportunity for welfare.[25] In defending this form of egalitarianism, I appealed to the familiar luck egalitarian claim that it is unfair when some are less well off than others through no fault or choice of theirs. I still maintain that such equality of opportunity for welfare is *compatible with* robust self-ownership. Here I am advancing the different claim that this full complement of equality of opportunity for welfare cannot be *derived from* a Lockean approach which is grounded in equal claims to natural

[24] See Cohen 1992, 70, and cf. Nozick, 1974, 206.
[25] See Otsuka 2003, ch. 1, sec. IV.

resources.[26]

I should also note that a Lockean-proviso-based argument grounded in equal claims to the world does not involve any commitment to a *telic* form of egalitarianism. For it condemns only those *acquisitions* of worldly resources that do not leave enough and as good for others in a strongly egalitarian sense. This would, in Parfit's terminology, be a deontic version of egalitarianism.[27] It provides, moreover, a third way between, on the one hand, a ubiquitous form of telic luck egalitarianism that applies even to Parfitian divided worlds, natural injustices, and the distribution of body parts, and, on the other hand, reciprocity-based egalitarian requirements that arise only when people enter into social cooperation. On the contrasting Lockean deontic account of egalitarian justice, the act of acquisition triggers requirements of egalitarian justice even if such an act does not give rise to or involve any cooperation with others.

A Lockean approach which focuses on the force of people's claims to unowned land provides justification for an egalitarian interpretation of the proviso on which the measure of the equality of shares is sensitive to people's ability to transform land (and other natural resources) into welfare.[28] There is also a justification, from within this approach, for the strength of claims to land to be attuned to opportunity rather than outcome (i.e., to be responsibility sensitive).[29] Moreover, there is a justification for ruling out, as breach of 'enough and as good', the disruption of equality as the result of the choices of individuals to *transfer* natural resources (either unimproved or improved) to others.[30] More generally, there is a strong Lockean case for egalitarianism insofar as

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[26] See Otsuka 2003, 28-29, where I note that the egalitarian version of the proviso that I there defend is not grounded in such equal claims.
[27] See Parfit 1991.
[28] Recall my earlier discussion of the two unequally sized individuals with different nutritional requirements.
[29] See my discussion in the last section ('Luck egalitarianism and the diminished role of labour').
[30] For a discussion of such cases, see Otsuka 2006, 101-3.

differences in people's opportunity for welfare are a function of their ownership of land (and other natural resources).[31]

Of course, being alive rather than dead is a necessary condition for being able to enjoy any opportunity for welfare. Moreover, given that we would all be dead if we had no access to natural resources, one can always induce an inequality in opportunity for welfare between two people by depriving one, but not the other, of what he needs to survive. But, among those who have enough resources to sustain themselves, there are various sources of welfare that are insensitive to our holdings in natural resources.

It would be a stretch, moreover, to maintain that a Lockean approach provides a justification for the equalization of benefits derived from services (either exchanges or transfers), where inequalities in such benefits are not themselves in any way explained by differences in people's shares of natural resources. A focus on claims to land that are justified by the Lockean proviso will not therefore justify equality of opportunity for welfare in all cases. Consider the following case:

> **Economic Partnership:** Beta and Gamma form an economic partnership from which they exclude Alpha. The partnership itself and the rewards which they receive do not involve resources, since the partnership consists of nothing more than the trading of services. For example, they provide one another with physiotherapy and acupressure in order to alleviate various ailments, or they offer one another tutorials on their differing areas of expertise.[32]

Let us assume that differences in one's ability to generate welfare from the provision of such services are completely independent of one's

[31] See n. 16 {check #: increment v. absolute level discussion} above, which is also relevant to the question, now under discussion, that I raise at the outset of this section.
[32] Here I am quoting from Otsuka 2006, 103-4.

resource holdings.[33] If there is a case for equality here, it will not be grounded in Lockean claims to land (and other natural resources). Any case for equality would have to be justified entirely on other grounds, such as a commitment to luck egalitarian fairness.

Dan Moller has recently argued, against a Lockean justification of egalitarianism in contemporary societies, that

> [e]mpirically speaking, in modern economies, wealth is overwhelmingly the product of *services*, not of the initial acquisition of natural resources. For countries like the contemporary USA, the distribution of natural resources has almost nothing to do with who has what property, or who is rich or poor and why. This means that the Lockean approach to explaining private property is largely irrelevant, as are left-criticisms that are focused on it, be they strictly Lockean, or Georgist, or other kinds of offshoots. What really needs to be explained is private property deriving from transfers following services. This might seem trivial if we imagine those transfers themselves go back to wealth in natural resources a step or two removed, but as I show that is not the case. For most contemporary wealth, it is services or something close enough all the way down.[34]

These claims are not, however, established in Moller's ensuing discussion.

One argument he offers on their behalf is that the proportion of economic value traceable to services as compared with land (and other

[33] This is a simplifying assumption, given that, as I noted above, lack of food, air, water, and the like will make a difference. As I note later, one's location – one's geographic proximity to others – can also make a difference.
[34] Moller 2017, 2.

natural resources)[35] is much higher than it was in agricultural societies of Locke's times. Moller writes that

> about 80% of the value of American economic output (by GDP) derives from *services*. The US is toward the high end of the spectrum – modern European economies are closer to 70% – but the trend toward GDP being dominated by service sector work in advanced economies is unmistakeable. ...The economic importance of the kinds of agricultural activity that so preoccupied Locke and that feature prominently in philosophical discussion has plummeted until now it is completely trivial....[36]

But the ratio of the economic value of services to that of land does not settle the matter.

First, one would need to establish how much of the economic value of such services should be attributed to labour versus land. This, as G.A. Cohen notes, is a conceptually tricky matter.[37]

Second, even if we stipulate that labour is responsible for a vast multiple of economic value, in comparison with land, that does not justify a suspension of the constraint on our acquisition of land by the proviso that we leave enough and as good for others. On the contrary, as Locke argued, such responsibility of labour for this vast multiple provides an explanation for how it is possible to satisfy the proviso rather than grounds for its supersession. He wrote:

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[35] I shall henceforth drop the parenthetical reference to 'other natural resources', which shall be taken as read in subsequent references to 'land'. See the opening paragraph of this paper.

[36] Moller 2017, 5-6. He defines a service as corresponding 'roughly to tertiary sector output not the result of primary resource extraction, farming or secondary manufacturing including construction. It includes fields such as banking, retail, hospitality, dining, entertainment, law, healthcare, education, design and computer programming.' (ibid.)

[37] See Cohen 1995, ch. 7.

> …he who appropriates land to himself by his labour, does not lessen, but increase the common stock of mankind: for the provisions serving to the support of human life, produced by one acre of inclosed and cultivated land, are (to speak much within compass) ten times more than those which are yielded by an acre of land of an equal richness lying waste in common. And therefore he that incloses land, and has a greater plenty of the conveniencies of life from ten acres, than he could have from an hundred left to nature, may truly be said to give ninety acres to mankind: for his labour now supplies him with provisions out of ten acres, which were but the product of an hundred lying in common. [He adds:] I have here rated the improved land very low, in making its product but as ten to one, when it is much nearer an hundred to one… (II.37)

Here Locke is saying that, when one compares the amount of commonly owned land which people must use in order to sustain themselves as hunter-gatherers with the lesser amount of enclosed land on which they can subsist, we can see that taking land out of common ownership and privatizing it in no way lessens the stock available to others. Far from depriving people of enough and as good for their comfort and sustenance, enclosure of subsistence plots of farmland increases the opportunities for others to sustain themselves.[38] Hence we, so to speak, leave more than enough and as good for others by retreating from the wilds in which we hunt and gather in order to becoming subsistence farmers.

There would remain a compelling case to provide people with equal opportunity to transform natural resources into welfare, in accord with a strongly egalitarian interpretation of the proviso. We would therefore still need to know to what extent differences in opportunity for welfare trace to land. Moller therefore must establish the claim that people's

[38] See Cohen 1995, 187-8.

inequalities in opportunity for welfare in a service economy are not, or are only trivially, a function of their ownership of land.

Moller does not establish this claim. He maintains that:

> Vast amounts of wealth get created without natural resources playing an important role. It is true that some of that wealth involved manufacturing or processing physical assets, but even then the reasons for the sudden wealth-creation weren't discovering some extra trees and rocks to make into houses and aeroplanes, but technical innovation, specialization, trade, and the other appurtenances of modern capitalism.[39]

Even a very high contribution by innovation, specialization, and trade to the economic value of society does not, however, establish the truth of the above claim. Even in the absence of the discovery of extra natural resources, one's enjoyment of the value of improved resources may be a function of one's access to land. Consider the simple case of agricultural land which Locke discusses. Locke maintains that the improved value of a given unit of such land is near to 100 times greater than its unimproved value. Let us grant this claim for the sake of argument. Let us also suppose that any increase in the total value of all land is not at all down to the discovery of new land but entirely down to innovation in farming techniques. It would remain the case that differences in people's opportunities for welfare would be a non-trivial function of their access to land. This would hold true whether or not access to innovative farming techniques was equal. In order to realize equality, opportunities for welfare that arise from improvements of the value of land would need to be equalized.[40]

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[39] Moller 2017, 8-9.

[40] This is one respect in which the Lockeanism under discussion is more egalitarian than a Georgist tax on the unimproved value of land, according to which, on Peter Vallentyne's formulation, 'agents must pay the full competitive

This sensitivity of opportunity for welfare to access to land applies to an economy dominated by services as well as an agricultural economy: land makes a significant difference to one's ability to generate income and therefore welfare, even in an economy dominated by services. For many service providers, the location of the place where one provides one's service or resides will make a large difference to the amount of income one is able to generate. To take a banal example, shops and restaurants on the high street (or main street) will achieve much more foot traffic than more out of the way places. There are various other advantages that location also confers. As Noah Smith writes:

> for most of human history, the value of land came mainly from the value of its natural productive power – the fertility of the soil, or the minerals beneath the earth. But in the modern age, land has value for a very different reason, summed up by the real estate mantra: location, location, location.
>
> In a city or suburb, land's value comes from location. People want to be close to the companies where they work. Companies want to be close to the people they employ. Stores want to be close to the consumers they serve, and consumers want to be close to the stores. Companies in the same industry want to be close to one another, so they can keep an eye on rivals, absorb ideas and poach talent.…
>
> As our economies become more complex, there are more kinds of stores … and more industries to cluster together. Therefore, the value of location increases, which pushes up the value of land.

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value of the natural resources that they appropriate'. As Vallentyne explains, an upshot of such a tax is that 'agents who produce more—because they work longer hours or because they are more efficient producers owing to greater productive talents—pay the same taxes (rent) as those with less advantageous unchosen personal endowments who own equally valuable natural resources. Those with strong egalitarian inclinations will reject this view, and hold that persons with greater unchosen advantage should pay higher taxes, since they can reap greater benefits from natural resources.' (Vallentyne 2000, 8.)

> It doesn't matter how much empty land is out there – who wants to live on the Kansas prairie? What matters for the value of modern land is the incentive to locate close to other people. And unless we all start telecommuting and living entirely online, location will become more and more valuable as our economy becomes more complex.[41]

In other words, locations – spatial regions independently of what they contain – are natural resources which are of high value in present-day circumstances. The passages from the *Second Treatise* which I quoted in my earlier discussion of the significance of money show that, for Locke, proximity of human beings to one another makes the following difference: if one is able to engage in commerce with others, that will make it easier to generate a surplus on large landholdings without violating the spoilage proviso. The possibilities for accumulation without spoilage become greater with the introduction of money. These passages demonstrate that Locke was attentive to facts about proximity and its relevance to possibilities for trade and industry which are akin, albeit in more bucolic form, to the considerations that Noah Smith mentions in the passage above. There is, therefore, a Lockean case for egalitarianism grounded in claims to land, which applies to the post-industrial service economies of today as well as the agrarian societies of Locke's day.

[41] Smith 2015.

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