



**AN ANALYSIS OF THE ADVENT OF THE  
UNITED NATIONS FROM A LOCKEAN  
PERSPECTIVE**

*By Kunal Parekh and Hetav Dave  
From Gujarat National Law University*

**ABSTRACT**

Hobbes, Locke and Rousseau have played a vital role in theorizing the formation of the nation-state as we know it today under the concept of “Social Contract”. John Locke was the most liberal of the three, and maintained the importance of individual rights, before and after the formation of the State.

Over the years, his theories have been used in various areas of law and jurisprudence. However, one area that surprisingly has not seen its application, is the United Nations. The authors of this paper seek to show that the formation of the United Nations and its working are a form of the Social Contract as propounded by John Locke. The era before the United Nations was like the State of Nature. The State of War caused by the World War II led to a broad international organization, which largely functioned as an impartial arbiter in charge of preserving international peace and security, largely similar to the functions of a Lockean State. With the factors leading up to the creation of the UN and its functions thereafter being largely similar to that of a Lockean State, the UN can be seen as a practical example of

what John Locke foresaw in his Second Treatise of Government.

**INTRODUCTION**

The construct of the Social Contract Theories developed from the political thought of seventeenth and eighteenth-century Europe and designed the basis for the artificial context of the modern state.<sup>1</sup> Since no historical or social evidence about the Social Contract has ever existed, there is no proof that the Social Contract was ever more than an intellectual theory.<sup>2</sup> The individual in this construction makes rational decisions to maximize its self-interest in an anarchic state structure<sup>3</sup> where the reason of the state is paramount. As a result, objective interests are created, which political agents set out to fulfil. The self-interested, logical egotist person in the state of nature<sup>4</sup> embodies this Machiavellian picture of the state. Struggles for resources and terror of other states form the justification in the state of war for preventive action. Locke explains the origin and nature of political authority from the state of nature within the framework of social contractualism. He justified the Glorious Revolution and wanted to establish a constitutional government.<sup>5</sup> Locke conceptualizes a sovereign less commonwealth with several coexisting claimants to supreme authority.<sup>6</sup> An understanding of Locke's sovereign less state i.e., his theory of state of nature helps us better understand the tensions embodied in discourses about nation's natural rights,

<sup>1</sup> MARIE BATTISTE, RECLAIMING INDIGENOUS VOICE AND VISION 15 (UBC Press 2000).

<sup>2</sup> PETER STEIN, LEGAL EVOLUTION: THE STORY OF AN IDEA 1 (Cambridge University Press 1980).

<sup>3</sup> J. BAYLIS AND S. SMITH, THE GLOBALISATION OF WORLD POLITICS 143 (Oxford University Press 2001).

<sup>4</sup> G. S. KAVKA, HOBBSIAN MORAL AND POLITICAL THEORY 78 (Princeton University Press, 1986).

<sup>5</sup> 2 GOUGH, JOHN., JOHN LOCKE'S POLITICAL PHILOSOPHY 288 (Oxford University Press, 1973).

<sup>6</sup> John T. Scott, *The Sovereignless State and Locke's Language of Obligation*, 94 AMERICAN POL SCI REV, 547, 547 (2000).



popular sovereignty, and international relations and the development of the UN.

### NATION STATE IN LOCKE'S STATE OF NATURE THEORY

John Locke, by introducing the concept of State of Nature in the Second Treatise in 1689,<sup>7</sup> offers us accounts of authority and political obligation, the limits on political power, and the occasions for justified resistance.<sup>8</sup> Locke said that life before the social contract was a total bliss.<sup>9</sup> According to him, the State of Nature was happy and tolerant, where humans who lived together were free and equal and yet insecure and dangerous in their freedom. According to Locke, the natural human condition is "a State of perfect Freedom" and "a State of Equality, wherein all Power and Jurisdiction is reciprocal, no one having more than another."<sup>10</sup> According to him, man in a State of nature is not in state of continuous warfare; it is a state of peace, goodwill, preservation and mutual assistance.<sup>11</sup> People co-exist under the law of nature, which they impose themselves. However, he believed that the State of Nature is not a state without morality.<sup>12</sup> People are presumed to be equal to one another in such a state, and therefore equally proficient of discerning and being bound by the Law of Nature. People possess various rights, including property rights,

which in the state of nature was central to the growth of subsequent theories of rights.<sup>13</sup>

One of the prominent features of relations between states, as opposed to relations between associates within a state is the degree to which they arise in a sense that resembles the state of nature metaphor. Prior to the creation of international laws or treaties, states are situated toward one another in two ways that reflect the Lockean's state of nature.

First, there is no authority that positions above the parties to any recognized treaty or international agreement. For example, in the medieval period, the feudal system was segmented into territorial units and quasi-autonomous institutions that were governed by overlying loyalties and allegiances, and geologically intertwined jurisdictions and political enclaves,<sup>14</sup> which lacked the possessiveness and exclusiveness associated with the modern concept of sovereignty.<sup>15</sup>

Second, any such agreement must be enacted with the express consent of the parties involved, not with the implicit consent that Locke was compelled to use in response to the problem labelled at the outset of this section., "Every Man, that hath any Possession, or Enjoyment, of any part of the Dominions of any Government, doth thereby give his tacit Consent, and is as far forth

<sup>7</sup> JOHN LOCKE, SECOND TREATISE OF GOVERNMENT ¶ 4 (1689) (Hereinafter, "LOCKE").

<sup>8</sup> A. John Simmons, *Locke's State of Nature*, 17 SAGE PUBLICATIONS, INC., 449, 451 (1989).

<sup>9</sup> RAYMOND WHACKS, UNDERSTANDING JURISPRUDENCE 31 (Oxford, 2020).

<sup>10</sup> JOHN LOCKE, *supra* note 7.

<sup>11</sup> MARTIN CARNOY, THE STATE AND POLITICAL THEORY 282 (Princeton University Press 1984).

<sup>12</sup> PETER LASLETT, LOCKE: THE SECOND TREATISE OF GOVERNMENT IN TWO TREATISES OF GOVERNMENT, 348 (Cambridge University Press 1988) (Hereinafter, "LASLETT").

<sup>13</sup> *Ibid.* at 138.

<sup>14</sup> C. TILLY, THE FORMATION OF NATION-STATES IN WESTERN EUROPE 15 (Princeton University Press 1975).

<sup>15</sup> J. CANNING, A HISTORY OF MEDIEVAL POLITICAL THOUGHT 300-1450, 84 (Routledge 1996).



obliged to Obedience to the Laws of that Government.”<sup>16</sup>

Thus, it is observed that how for Locke, the norms deduced from the law of nature governed the international state of nature even as independent societies remain the primary executors of the law of nature in the international society.

### LOCKE’S SOCIAL CONTRACT THEORY AND ITS RELEVANCE IN FORMATION OF UNITED NATIONS

Locke suggested that the State of Nature can devolve into a state of war particularly with respect to concerns over life, health, liberty or possession.<sup>17</sup> When struggle breaks out in the state of nature, people identify the need for impartial authority and move from the state of nature in two stages, first by forming a community and then government.

While the State of Nature is the State of liberty where persons differentiate the Law of Nature and therefore do not harm each other, the state of war commences between two or more men once one man pronounces war on another, by trying to make him his slave, or by stealing from him.<sup>18</sup> Since the State of Nature absences civil authority, once war begins it is probable to continue. And this is one of the sturdiest reasons that men have to abandon the State of Nature by contracting together to form civil government.

Property plays a vital role in Locke’s argument for civil government and the contract that establishes it.<sup>19</sup> It is the protection of their property, that men seek when they decide to abandon the State of Nature. John Locke reflected property in the State of Nature as insecure because of three conditions; they are: Lack of established law; Lack of impartial Judge; and Lack of natural power to execute natural laws.<sup>20</sup> As a result, man in the state of nature felt obliged to protect his property, and in order to do so, he entered into the Social Contract.<sup>21</sup> Having shaped a political society and government through their consent, men then got three things which they lacked in the State of Nature: laws, judges to adjudicate laws, and the executive power necessary to enforce these laws. Locke made life, liberty and property, his three cardinal rights.<sup>22</sup>

The current work will focus on construction of the United Nations around *jus ad bellum* before World War II respectively, and thus how moving to the war was legally justified from Lockean’s Social Contract Theory. The definitive approach to this question is the statement that, before 1945, international law provided every sovereign state basically unrestrained right to wage war or that international law was at least ‘indifferent’ as to this sovereign right.

In the 1930s, success waned as the Axis Powers (Germany, Italy, and Japan) gained influence, eventually leading to the start of World War II in 1939. Many scholars believe

<sup>16</sup> LASLETT, *supra* note 12, at 257.

<sup>17</sup> *Ibid.* at 138.

<sup>18</sup> JOHN DUNN, *LOCKE* 46 (Oxford University Press 1984).

<sup>19</sup> PETER LASLETT, *INTRODUCTION TO JOHN LOCKE, TWO TREATISES OF GOVERNMENT* 111 (Cambridge University Press 1963)

<sup>20</sup> Richard Ashcraft, *Locke's State of Nature: Historical Fact or Moral Fiction?* 62 *AMERICAN POLITICAL SCIENCE REVIEW* 898, 905 (1968).

<sup>21</sup> LASLETT, *supra* note 12, at 200.

<sup>22</sup> J.H. Bogart, *Lockean Provisos and State of Nature Theories* 95 *THE UNIVERSITY OF CHICAGO PRESS JOURNALS* 828, 833 (1985).



that the Treaty of Versailles, was responsible for the causes of World War II, including the rise of Adolf Hitler and the Nazi Party. The Treaty chastened Germany crippled its economy by forcing substantial reparation payments and removing ownership of property (territories) that was required for economic wealth and activity.<sup>23</sup> Geopolitical necessity offered bountiful ground to plant with creative thoughts about how best to foster peace and prosperity after the Second World War. Three crucial factors permeated the world organization's establishment.<sup>24</sup> The name "United Nations," was first used in the "Declaration by United Nations" during the Second World War<sup>25</sup> which intended, in the words of the Charter's opening paragraph to "save succeeding generations from the scourge of war".<sup>26</sup>

The Charter is the founding instrument of the UN, setting out the rights and obligations of member states, and establishing the United Nations organs and procedures.<sup>27</sup> 50 nations and several non-governmental organizations signed the Charter which provides the means to help maintain international peace and security, to help those most in need to lead better lives, and to formulate policies on matters affecting all of humanity.<sup>28</sup>

Thus, it is observed that the state practice at that time required a recognized reason for going to war, which was justifiable measure applied by a state to safeguard its own independent 'existence' by thwarting foreign intervention or by pursuing vital territorial or other interests, such as the protection of the 'honor' of the sovereign state. In this context, notions of 'necessity'<sup>29</sup> and 'self-preservation' of the state are often mentioned as a justification for waging war.<sup>30</sup> This is quite similar to Locke's social contract theory where he discussed about three interrelated commands and how violation of these commands leads to a war like situation, which eventually leads to submission of powers to some common authority.<sup>31</sup> The three interrelated commands are as follows: First, "no one ought to harm another in his Life, Health, Liberty or Possessions". Second, every individual "is bound to preserve himself". Third, each person ought "when his own Preservation comes not in competition, as much as he can, to preserve the rest of Mankind".<sup>32</sup> The creation of the United Nations is rightly observed from Locke's social contract theory because it is by means of contract that individuals (here nations) agreed to submit their powers (natural rights) to a majority rule in order to

<sup>23</sup> THE CAUSES AND INITIAL COURSE OF WORLD WAR II, [http://www.teachersuperstore.com.au/assets/wp-content/uploads/2012/07/Oxford-Big-Ideas-History-Australian-Curriculum-Year-10-Workbook\\_Chapter-2.pdf](http://www.teachersuperstore.com.au/assets/wp-content/uploads/2012/07/Oxford-Big-Ideas-History-Australian-Curriculum-Year-10-Workbook_Chapter-2.pdf) (last visited Apr. 11, 2021).

<sup>24</sup> DAN PLESCH AND THOMAS G. WEISS, WARTIME ORIGINS AND THE FUTURE UNITED NATIONS, 108 (Routledge, 2015).

<sup>25</sup> HISTORY OF THE UNITED NATIONS, [https://www.condorcet.com.au/sites/condorcet/files/page/history\\_of\\_the\\_united\\_nations.pdf](https://www.condorcet.com.au/sites/condorcet/files/page/history_of_the_united_nations.pdf). (Last visited Apr. 9, 2021).

<sup>26</sup> Thomas G. Weiss, *The United Nations: Before, during and after 1945*, 91 *International Affairs* 1221, 1222 (2015).

<sup>27</sup> U.N. Charter art. 2.

<sup>28</sup> WELCOME TO THE UNITED NATIONS, [https://visit.un.org/sites/visit.un.org/files/UN\\_Visitor\\_Centre\\_booklet.pdf](https://visit.un.org/sites/visit.un.org/files/UN_Visitor_Centre_booklet.pdf) (last visited Apr. 8, 2021).

<sup>29</sup> F. PADDEU, JUSTIFICATION AND EXCUSE IN INTERNATIONAL LAW 108 (Cambridge University Press 2018).

<sup>30</sup> 9 JAMES CRAWFORD, BROWNIE'S PRINCIPLES OF PUBLIC INTERNATIONAL LAW 43 (Oxford Public International Law 2019).

<sup>31</sup> RICHARD COX, LOCKE ON WAR AND PEACE, 108 (Oxford University Press 1960).

<sup>32</sup> JULIAN FRANKLIN, JOHN LOCKE AND THE THEORY OF SOVEREIGNTY 238 (Cambridge University Press 1978).



organize themselves as a peaceful community. The creation of the UN was needed to organize these nations into a peaceful community so as to maintain international peace and security, and rights of the individual states.

## THE UNITED NATIONS AND ITS WORKING

### a. Membership

Any peace-loving nation is allowed to become a member of the United Nations.<sup>33</sup> The process for the admission of any nation-state into the United Nations is also mentioned in the Charter.<sup>34</sup> However, whenever a State applies for the membership of the UN, it must also consent to all the obligations that come along with said membership.<sup>35</sup> Applicants are even required to attach a formal declaration of acceptance of all the obligations that come along with becoming a member of the UN.<sup>36</sup> When the applicant agrees to the obligations spelled out in the UN Charter, it also implicitly consents to upholding the “traditions of the organization”.<sup>37</sup>

As a general rule, these obligations need to be accepted without any reservations.<sup>38</sup> The concept of membership under Article 4(1) of the UN Charter is based on the principles of “equality” and “indivisibility”.<sup>39</sup> Hence,

admission with reservations cannot be allowed, as doing so would create additional rights or duties that the new member would be entitled to/bound by, thereby going against the very concept of equality.<sup>40</sup>

Most Social Contract theorists agree that the power the State enjoys, is a result of agreement of individuals to be subjugated to said power.<sup>41</sup> In fact, Locke even goes on to state that Man “cannot be subjected to the political power of another without his own consent”.<sup>42</sup> He goes on to state that when individuals in the society consent to form the State, they also agree to submit to the determination of the majority.<sup>43</sup> As long as he enjoys the rights given to the citizens of the State, he also consents to being ruled under it. And as long as this consent exists, he also consents to obeying all the laws of that State as long as his civil liberty is maintained.<sup>44</sup>

A resemblance can certainly be seen between the manner in which membership to the UN is obtained and subjugation under a government as propounded by the Social Contract theory. Both are formed on the basis of absolute freedom and the need for consent. It can be seen that everyone is free to not be a part of the overarching organization that is under formation, however if they do consent to being a part thereof, then they must fulfill all the obligations that come along with this

<sup>33</sup> U.N. Charter art. 4, ¶ 1.

<sup>34</sup> U.N. Charter art. 4, ¶ 2.

<sup>35</sup> BRUNO SIMMA ET AL, *THE CHARTER OF THE UNITED NATIONS: A COMMENTARY* 349 (3rd edn. Oxford University Press 2012). (Hereinafter, “SIMMA ET AL”).

<sup>36</sup> Rules of Procedure, 2019, A/520/REV.19, r. 135 (United Nations General Assembly).

<sup>37</sup> 6 REPERTORY OF PRACTICE OF UNITED NATIONS ORGANS, Supp 3 Vol I, 185 (United Nations 1966).

<sup>38</sup> Friedrich Klein, *Die Mitgliedschaft in den Vereinten Nationen*, 1(2) AVR 147, 158 (1948).

<sup>39</sup> Hermann Mosler, *Die Aufnahme in internationale Organisationen*, 19 ZAÖRV 275, 288 (1958).

<sup>40</sup> SIMMA ET AL, *supra* note 35, at 350.

<sup>41</sup> Bardo Fassbender, *The United Nations Charter as Constitution of the International Community*, 36 COLUM. J. TRANSNAT'L L. 529, 559 (1998).

<sup>42</sup> LOCKE, *supra* note 7, at ¶ 95.

<sup>43</sup> *Ibid*, ¶ 97.

<sup>44</sup> *Ibid*, ¶ 119.



protection as well. While State sovereignty is still given utmost importance under the UN Charter.<sup>45</sup> Locke too gives importance to individual liberty by making provisions for its protection.<sup>46</sup> Thus, it can be seen that the provisions for admission into the UN bear an uncanny resemblance with submission of individuals to the State as per social contract theorists.

### b. Extent of Power with the United Nations

The United Nations usually acts through two of its principal organs, i.e., The General Assembly and the Security Council. The General Assembly takes up and deliberates on all matters that are of international concern and within the ambit of the Charter.<sup>47</sup> However, its power is restricted to passing non-binding recommendations only.<sup>48</sup> The Security Council is the body that has the power to pass binding resolutions, and therefore, for the purposes of this section, the analysis will be restricted to the powers vested with the Security Council.

Historically, the Security Council was characterized as the world's "policeman".<sup>49</sup> The main function of the Security Council is to enforce the decisions of the UN by passing binding resolutions, acting much like the executive in the domestic jurisdictions of any country.<sup>50</sup> At the same time, it can also

undertake legislative functions.<sup>51</sup> These binding decisions are usually taken for the resolution of threats to international peace, and for the pacific settlement of disputes.<sup>52</sup> These decisions include various measures such as international sanctions which result in interruption of economic relations, means of communication, and the severance of diplomatic relations.<sup>53</sup> It can also begin blockades and demonstrations with the use of armed forces in order to restore international peace.<sup>54</sup> All member states are obligated to carry out these binding resolutions of the United Nations by virtue of Articles 25 and 2(5) of the UN Charter.<sup>55</sup> Non-compliance with these resolutions would constitute a violation of the Charter.

According to Locke, in the State of Nature, man had the right to do whatever he deemed best for himself and the rest of mankind. With the advent of the State, this right is given up to the State for the regulation of the society to the extent to which the same is required.<sup>56</sup> This power, that is given up, is used by the State to regulate the society and results in the curtailment of individual liberty. As a result, Locke defined Political Power as the right of making laws with for the regulating and preserving of property, and of employing the force of the community, in the execution of such laws, and in the defence of the

<sup>45</sup> U.N. Charter art. 51

<sup>46</sup> LOCKE, *supra* note 7, at ¶ 131.

<sup>47</sup> NORMAN WEIB, *KOMPETENZLEHRE INTERNATIONALER ORGANISATIONEN* 143 (Springer 2009).

<sup>48</sup> SIMMA ET AL, *supra* note 35, at 463.

<sup>49</sup> U.N. *Conference on International Organization*, Vol VI, 29 (Doc 1006, 1/6) (1945).

<sup>50</sup> ANTONIOS TZANAKOPOULOS, *DISOBEYING THE SECURITY COUNCIL: COUNTERMEASURES AGAINST WRONGFUL SANCTIONS* 7 (Oxford University Press 2001).

<sup>51</sup> SIMMA ET AL, *supra* note 35, at 783.

<sup>52</sup> *Ibid*, 795.

<sup>53</sup> U.N. Charter art. 41.

<sup>54</sup> U.N. Charter art. 42.

<sup>55</sup> HANS Kelsen, *THE LAW OF THE UNITED NATIONS: A CRITICAL ANALYSIS OF ITS FUNDAMENTAL PROBLEMS* 95 (Stevens 1950).

<sup>56</sup> Locke, *supra* note 7, at ¶ 129.



commonwealth from foreign injury; and all this only for the public good.<sup>57</sup>

Once again, a similarity can be seen in the power granted to the UN and that given to the State by Locke. Both exist for the protection of the community that has empowered them. While Locke's government seeks to preserve the property of its citizens and protect them from external force, the United Nations Security Council works to preserve international peace and security, which would result in the protection of its member states. The similarity does not end here. A Lockean government would execute its laws with the help of the force of the community,<sup>58</sup> while for the UN relies on its member states to execute all of its resolutions.<sup>59</sup> Therefore, the extent of the power granted and the manner in which it is carried out, is almost identical between a Lockean State and the United Nations.

### c. Limitations on the Power

The power that the UN enjoys, is by no means absolute in nature. The ICJ has stated that its "*purposes are broad indeed, but neither they nor the powers conferred to effectuate them are unlimited.*"<sup>60</sup> These broad powers are subject to certain "constitutional limitations."<sup>61</sup> The basic idea behind this is that higher power must be accompanied with

additional safeguards and accountability so as to avoid its use in an arbitrary fashion.<sup>62</sup> The Security Council is mandated to act in accordance with the "principles and purposes" of the UN Charter, and cannot go beyond them.<sup>63</sup> At the same time, all of its actions must be proportionate to the breach of international peace and cannot go beyond this limit.<sup>64</sup> Moreover, the Security Council has to ensure that it does not abuse the powers vested in it.<sup>65</sup> This is based on the principle of good faith and characterizes the manner in which the powers are used, rather than their existence itself. Examples of abuse of power are when it is used for purposes other than those prescribed in the Charter, when this use impedes the sovereignty of the member states or when they are used in an arbitrary manner.<sup>66</sup>

The power enjoyed by the Lockean State was not absolute either. This is because, according to Locke, if one were to look at history, one would see that absolute power in no way purifies a man's blood.<sup>67</sup> The power in the utmost bounds of it is limited to the public good of the society. It is a power that has no other end but preservation, and therefore can never have a right to destroy, enslave, or designedly to impoverish the subjects.<sup>68</sup> The State does have the right to put restrictions on an individual's liberty and employ the force of the community, only in

<sup>57</sup> *Ibid* at ¶ 3.

<sup>58</sup> *Ibid*, at ¶ 131.

<sup>59</sup> U.N. Charter art. 2(5).

<sup>60</sup> Certain Expenses of the United Nations, Advisory Opinion, [1962] ICJ Rep 151 (July 20).

<sup>61</sup> Prosecutor v. Dusko Tadic, Case No IT-94-1-AR72, Decision on Jurisdiction ((Int'l Crim. Trib. for the Former Yugoslavia) (Oct. 2, 1995).

<sup>62</sup> WALKER ET AL, EUROPE'S CONSTITUTIONAL MOSAIC 276 (Hart 2011).

<sup>63</sup> U.N. Charter art. 24, ¶ 2.

<sup>64</sup> VERA GOWLLAND-DEBBAS, UNITED NATIONS SANCTIONS AND INTERNATIONAL LAW 72-74 (Kluwer 2001).

<sup>65</sup> Vera Gowlland-Debbas, *The Relationship between the International Court of Justice and the Security Council in the Light of the Lockerbie case*, 88(4) THE AMERICAN JOURNAL OF INTERNATIONAL LAW 643, 663 (1994).

<sup>66</sup> SIMMA ET AL, *supra* note 35, at 822.

<sup>67</sup> LOCKE *supra* note 7, at ¶ 92.

<sup>68</sup> *Ibid*. ¶ 135.



the execution of such laws, all of which are to be directed to no other end but the peace, safety, and public good of the people.<sup>69</sup> Locke said that even though the State is the supreme authority of the commonwealth, it cannot use the power it has over the lives and fortunes of the people it seeks to govern arbitrarily.<sup>70</sup> because it cannot be supposed that when the social contract was formed, they intended to give anyone an absolute, arbitrary power over their persons and estates, and put a force into the magistrate's hand to execute his unlimited will arbitrarily upon them.<sup>71</sup>

The main reason there are limitations on the powers of the Security Council is to ensure that these powers are not used in an arbitrary manner, and so that they do not impede the sovereignty of the State. Similarly, Locke also realized that there was a history of despotic and arbitrary use of powers by those who were in absolute control. He also uses the term “arbitrary” and protection of liberty while defining these limitations to power. Furthermore, he delves into the reason these powers were given to the State in the first place, which was resolution of disputes and, protection from external force. Similarly, the very reason the UN exists is to ensure peaceful settlement of international disputes and maintenance of international peace and security. In both cases, arbitrary use of power would prejudice the empowering community and therefore, safeguards have been put up in both systems.

## CONCLUSION

A similarity is noticed between the way sovereign States came together to form the

United Nations, and the Lockean theory of Social Contract for the creation of State. Initially, in the absence of an international organization, there were numerous sovereign States in charge of their own respective domestic governance. On an international front, there was a significant amount of cooperation as can be seen by the formation of multiple treaties between nation-states. However, there were disputes on multiple fronts, most of them being territorial in nature. A parallel to this can be drawn with the State of Nature described by John Locke wherein all humans were in charge of their own wellbeing and had the right to life, liberty and property, which can be similar to State sovereignty on an international front. According to Locke, over a period of time, disputes with regards to individual properties arose which led to a State of war, a parallel to which would be World War II.

Eventually, it was realized that protection of these rights and adjudication of these disputes was required with the help of an impartial ruler, leading to the creation of the State. However, contrary to Social Contract theorists such as Hobbes, Locke proposed that this Ruler did not have absolute power and was accountable to the people of the Republic. At the same time, the people retained most of the rights they held during the State of Nature. Similarly, after the UN was created, State sovereignty was still retained by the member states, and only a small amount of power was given up, so as to ensure international peace and security. Therefore, the factors leading up to the creation of the United Nations, and later on its working, can be characterized can be

<sup>69</sup> *Ibid.* ¶ 131.

<sup>70</sup> *Ibid.* ¶ 135.

<sup>71</sup> *Ibid.* ¶ 137.



regarded as a practical example of a Lockean Social Contract.

## REFERENCES

### a. Articles

- A. John Simmons, *Locke's State of Nature*, 17, SAGE PUBLICATIONS, INC., 449 (1989).
- Bardo Fassbender, *The United Nations Charter as Constitution of the International Community*, 36 COLUM. J. TRANSNAT'L L. 529 (1998).
- Friedrich Klein, *Die Mitgliedschaft in den Vereinten Nationen*, 1(2) AVR 147 (1948).
- Hermann Mosler, *Die Aufnahme in internationale Organisationen*, 19 ZAÖRV 275 (1958).
- J.H. Bogart, *Lockean Provisos and State of Nature Theories* 95 THE UNIVERSITY OF CHICAGO PRESS JOURNALS 828 (1985).
- John T. Scott, *The Sovereignless State and Locke's Language of Obligation*, 94 AMERICAN POL SCI REV, 547 (2000).
- Richard Ashcraft, *Locke's State of Nature: Historical Fact or Moral Fiction?* 62 AMERICAN POLITICAL SCIENCE REVIEW 898 (1968).
- Thomas G. Weiss, *The United Nations: Before, during and after 1945*, 91 International Affairs 1221 (2015).
- Vera Gowlland-Debbas, *The Relationship between the International Court of Justice and the Security Council in the Light of the Lockerbie case*, 88(4) THE AMERICAN JOURNAL OF INTERNATIONAL LAW 643 (1994).
- 6 REPERTORY OF PRACTICE OF UNITED NATIONS ORGANS, Supp 3 Vol I (United Nations 1966).
- 9 JAMES CRAWFORD, BROWNLIE'S PRINCIPLES OF PUBLIC INTERNATIONAL LAW (Oxford Public International Law 2019).
- ANTONIOS TZANAKOPOULOS, DISOBEYING THE SECURITY COUNCIL: COUNTERMEASURES AGAINST WRONGFUL SANCTIONS (Oxford University Press 2001).
- BRUNO SIMMA ET AL, THE CHARTER OF THE UNITED NATIONS: A COMMENTARY (3rd edn. Oxford University Press 2012).
- C. TILLY, THE FORMATION OF NATION-STATES IN WESTERN EUROPE (Princeton University Press 1975).
- DAN PLECH AND THOMAS G. WEISS, WARTIME ORIGINS AND THE FUTURE UNITED NATIONS (Routledge 2015).
- F. PADDEU, JUSTIFICATION AND EXCUSE IN INTERNATIONAL LAW (Cambridge University Press 2018).
- G. S. KAVKA, HOBBSIAN MORAL AND POLITICAL THEORY (Princeton University Press 1986).
- HANS Kelsen, THE LAW OF THE UNITED NATIONS: A CRITICAL ANALYSIS OF ITS FUNDAMENTAL PROBLEMS (Stevens 1950).
- J. BAYLIS AND S. SMITH, THE GLOBALISATION OF WORLD POLITICS (Oxford University Press 2001).
- J. CANNING, A HISTORY OF MEDIEVAL POLITICAL THOUGHT 300-1450 (Routledge, 1996).
- JOHN DUNN, LOCKE (Oxford University Press 1984).
- JOHN LOCKE, SECOND TREATISE OF GOVERNMENT (1689).
- JULIAN FRANKLIN, JOHN LOCKE AND THE THEORY OF SOVEREIGNTY (Cambridge University Press 1978).

### b. Books

- 2 JOHN GOUGH, JOHN LOCKE'S POLITICAL PHILOSOPHY (Oxford University Press 1973).



- MARIE BATTISTE, RECLAIMING INDIGENOUS VOICE AND VISION (UBC Press 2000).
- MARTIN CARNOY, THE STATE AND POLITICAL THEORY (Princeton University Press 1984).
- NORMAN WEIB, KOMPETENZLEHRE INTERNATIONALER ORGANISATIONEN (Springer 2009).
- PETER LASLETT, INTRODUCTION TO JOHN LOCKE, TWO TREATISES OF GOVERNMENT (Cambridge University Press, 1963)
- PETER LASLETT, LOCKE: THE SECOND TREATISE OF GOVERNMENT IN TWO TREATISE OF GOVERNMENT (Cambridge University Press 1988).
- PETER STEIN, LEGAL EVOLUTION: THE STORY OF AN IDEA (Cambridge University Press 1980).
- RAYMOND WHACKS, UNDERSTANDING JURISPRUDENCE (Oxford 2020).
- RICHARD COX, LOCKE ON WAR AND PEACE (Oxford University Press 1960).
- VERA GOWLLAND-DEBBAS, UNITED NATIONS SANCTIONS AND INTERNATIONAL LAW (Kluwer 2001).
- WALKER ET AL, EUROPE'S CONSTITUTIONAL MOSAIC (Hart 2011).

**c. Cases**

- Certain Expenses of the United Nations, Advisory Opinion, [1962] ICJ Rep 151 (July 20).
- Prosecutor v. Dusko Tadic, Case No IT-94-1-AR72, Decision on Jurisdiction ((Int'l Crim. Trib. for the Former Yugoslavia) (Oct. 2, 1995).

\*\*\*\*\*