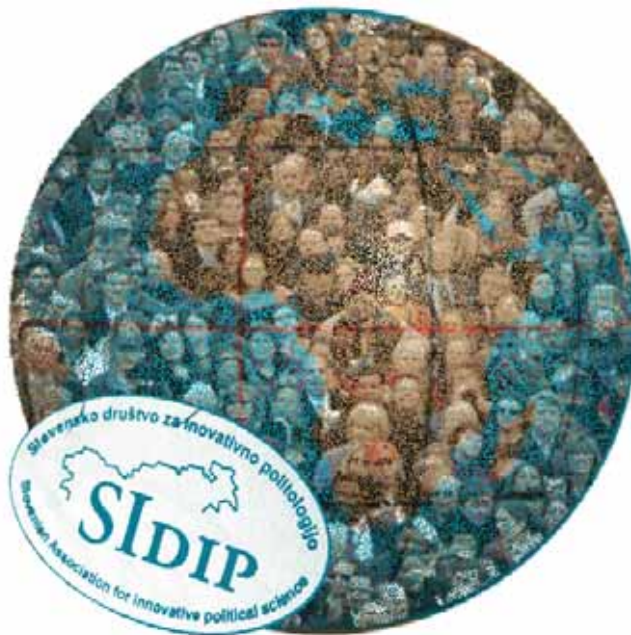


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Property Rights as a “Consequence” of Economic System: The Case of John Locke and Canadian Aboriginals

Mitja Durnik¹

Abstract

According to Locke, an aboriginal land was unoccupied before the settlement of the Americas by Europeans and people who lived there were in the “state of nature” – in a kind of a pre-political society where did not recognize property as the European nations did. Locke saw private property as an important determinant of economic development where the Aboriginal people were underdeveloped and living in simple-organized societies based on self-sufficient economy which could not produce any extra profit. In other words, in Locke’s view existed two economic worlds – one European who had a potential for making a profit, and one aboriginal, mainly connected with barter economy. The main argument is then the economic system in the large manner dictated the variety of property rights in colonial and aboriginal economy.

Key words: Colonialism, Aboriginal People, Property Rights, John Locke, Political Thought.

1. Two Different Economic Worlds and Property Regimes

John Locke’s defence of colonization is still a topic in many academic disciplines – from political science to economy and history – especially the application of his accusation that the settlement of Americas had been an “urgent” strategy for England at the time of economic crisis.

One of the main determinants in his theory (ideology) is the relationship between his advocacy of property rights and the perception of

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Aboriginal people in many parts of the world – from Australia to North America. The question of property is the key topic of this article and I want to show exactly how the economic system can be the main core for the consequent perception and definition of different versions of property rights.

The very general idea is that John Locke as an “advocator” of colonial settlement of the Americas defined that this land was unoccupied and people who lived there were in the state of nature – defined as a kind of a pre-political state. Regarding to his opinion, in that kind of a pre-political society people (Aboriginals) did not define and recognize property as the European nations did. Furthermore, natives did also not recognize any real form of private property which Locke defined as an important determinant for the economic development.

One of the main arguments in Locke’s theory was also that the Aboriginals were underdeveloped and were living in simple-organized societies based on self-sufficient economy which could not produce any extra profit.

In other words, in Locke’s view existed two economic worlds – one European who had a potential for making a profit, and one aboriginal, mainly connected with barter economy, of which a lack of a commonly accepted currency is typical. Regarding to Locke, the latter would be a necessary part of trading.

My hypothesis is the following: Locke’s idea of a state of nature was a demagogic “invention” for the accusation of the colonial settlement and what is more, also a simplification of the operation of aboriginal economy and property was a part of Locke’s doctrine.

1.1 The Economic Defence of Colonialism: Advocacy of Minority

Colonization in America was mainly seen as a kind of a solution for the economic crisis;² the majority saw this as a “contributing case”. During

²As Arneil (1996: 92) points out that during the latter half of seventeenth century, the English national economy passed through an era of crisis – several natural disasters and the demands of ongoing civil and international wars together drained public revenues. It was a great debate in the 1660s and 1670s over potential resources by which the Empire could recover the national economy. Despite the fact that trade and colonization were championed by Shaftesbury the majority of Englishmen at that time was against the colonization and especially against the permanent settlement of the territory. There were a few economic treatises, including those of Josiah Child, Charles Davenant, and Thomas Mun – which

the 1670s, many individuals who were involved in political affairs in England were against the new examples of colonization – especially plantations were in their eyes an ineffective method to enlarge the national wealth (Arneil, 1996: 92).³ One of the main arguments to oppose the colonization was also that if many good people had left the Kingdom, colonies would have become independent and hostile to the mother country. Arneil (1996: 93) points out that “these fears come to a head in 1663 over Carolina, Shaftesbury's and Locke's main colonial project”. Many people believed that the new province would become another territory as a potential competitor and drain to English trade.⁴

The Earl of Shaftesbury⁵ was the leading advocator maintaining that the questions of trade and plantations should be “united under the strong direction of one body and given a higher political priority” (Arneil, 1996: 94). Shaftesbury advocated the position that questions of trade cannot be treated separately from that of trade – the King agreed to this proposal, appointed a new *Council of Trade and Plantations* and proclaim Shaftesbury for the president of the Council (Arneil, *ibid.*). One of the ideas, regarding to defend the colonial policy, Shaftesbury presented, was that the settlement should produce specific crops that England needed as an economic advantage (economic offset) relating to other European states – and exclusively shipped back to England. Besides Shaftesbury, Locke was

defended the plantation. John Locke's *Two Treatises* defended the same position as mentioned defenders of American plantation. Locke put in this context much attention to the value of property and attacked conquest being the origin of property.

³ The statement that plantations could undermine English economy was a kind of majority opinion and not limited just to a few officials. For example, the diarist and official to the 16726 *Council of Trade and Plantations*, John Evelyn and who swore in John Locke as secretary to the Council, wrote (Arneil, 1996: 93) of “the ruinous numbers of our Men, daily flocking to the American Plantations” (Evelyn, 1674; in Arneil, *ibid.*).

⁴ The fear was so deep that king Charles II through the “*Royal Declaration and Proposals to All that Will Plant in Carolina*”, a second proclamation reinforcing the idea that “colonies were there only to serve the needs of England” (Arneil, 1996: 94).

⁵ Anthony Ashley Cooper, Earl of Shaftesbury (1621–1683) was an English statesman. During the English civil war he supported the crown but later joined the parliamentarians. Besides this, he was a member of the Commonwealth council of state. He supported Oliver Cromwell until 1644, when he turned against the protectorate because he did not believe in the autocratic rule. He participated in the Restoration of Charles II (1660). He was also named as one of the proprietors of Carolina and he had shown considerable interest for the colony. (The Columbia Encyclopedia, Sixth Edition, 2004: 43276). Lord Ashley advocates that England could make its economy better positioned through the colonization. Locke became his secretary and in this way he could collect information from all over the world. Regarding to some scholars, Locke was also deeply involved in the writing of the fundamental constitution of the Carolinas.

one of the few individuals who believed that America was a new source of wealth for England as well (Arneil, 1996:95–96).⁶

Industry (more specifically labour) rather than quantity or wealth of the land determines the value of property. Labour is strongly connected with setting property in motion and consequently this means that labour productivity is a large part of property value. When Locke wrote about labour in the *Second Treatise*, his attention was exclusively given to the “crop-growing, agrarian activity rather than of mining, grazing, manufacturing, or other forms of industry which could theoretically provide an equal claim to proprietorship through labour” (Arneil, 1996: 102). A lot of land in colonies was appropriated in vast quantities and without enough manpower it was necessary to cultivate the land in an appropriate manner (Arneil, 1996: 104).

Moreover, Locke also advocated that most manufactured commodities for manpower in America could be sent from England. This would mean the creation of new industrial centres in England. Additionally, the construction and navigation of ships would also mean an economic potential – mostly as a potential navigation knowledge and new employment. Both aspects would become an advantage for England in a case of proper management and control (Arneil, 1996: 105).

1.2 Colonial Perception of Property Rights

Perception of property⁷ and property rights was historically different in the eyes of European colonists and Aboriginal people in North America.

⁶ Many scholars often connect the ideas of Locke and Thomas Mun. Mun was an influential scholar on Locke. Both agreed that trade is a key factor in increasing the value of money (Arneil, *ibid.*).⁶ Firstly, Mun and Cradocke in 1660s, and later in the next years Devant and Child, advocated the position that England must invest in largescale settlement and cultivation of new lands – in their view this could be the foundation for a greater wealth (Arneil, 1996:97).

⁷ As Macpherson (1979: 1) noted, the meaning of property is not constant. The changes are seen in social relations where society, ruling elite or dominant class want to manage and serve the institution of property. Property becomes a controversial subject – this means that we do not have a single argument what property ought to be, and besides this, we have many opposite definitions what would be a social construction of property (Machperson, *ibid.*). One of the main difficulties within property definitions is also the dispute of differences between academic disciplines. As Macpherson (1979: 2) stated: «... the current common usage /.../ is a variance with the meaning which property has in all legal systems and in all treatments of the subject by philosophers, jurists, and political and social theorists. Within the current common usage, property is things; in law and in the writers, property is not things but rights, rights in or o things.» One of modern misconceptions is also that some modern

European world justified the colonization of territories with the idea that Aboriginals did not recognize a private ownership of the land, and due to the mentioned reason, Indigenous nations could not be primary owners of the land. In the core of the latter, the European political philosophy “invented” the term *state of nature*, and, consequently, natural right theory. The main idea was that in the state of nature individuals lived in chaotic conditions, without any government and the state, and the environment without a law. Such a perception was applied to the early life of Aboriginals.

From the seventeenth century up to now western theories of property usually in the large manner include next three premises (Tully, 1998: 347): “(1) equal individuals in the state of nature, behind a veil of ignorance, or in a quasi-ideal-speech situation, prior to the establishment of a legal system of property, and aiming to establish one society; (2) individuals within a set of shared and authoritative traditions and institutions derived from European history; (3) a community bound together by a set of shared and authoritative traditions and institutions.” Tully (1998: 348) states that claiming that everything was in the state of nature, where we had a kind of a pre-political state, in which also a real system of property did not exist, is a problem because it “... disposes the Aboriginals of their property rights, forms of government, and authoritative traditions...”. One of the main problems of political theory, from Hobbes, Locke and Grotius to Kant and Smith, is that it justified the European concept of property against Indigenous perception (Tully, *ibid*).

The idea that the state of nature is based on common property is an important determinant of traditional Christian belief. The fact that, for example, the Bible described societies based on common property as nomadic lifestyle “and government by some kind of political consensus did not prove anything else but that all societies possibly had their beginning there and all of them also seem to have moved out of this developmental stage” (Jahn, 2000: 124). Pufendorf (1927; in Jahn, 2000: 117) pointed out the Amerindians in “paradisiac” state of nature and Europeans at the same time found themselves in a world of sin, it not followed that the bible, having the “paradisiac” period, was valid for that period only.

writers define property as identical to private property and as an exclusive individual right – a right that enables to exclude others from the appropriation of property.

3. Locke' Vision of Economy and Property Rights

3.1 Locke's Possessive Individualism⁸

C. B. Macpherson defines Locke as the originator of “possessive individualism” and unlimited capitalist appropriation. At the same time Wood characterized Locke in a different way than Macpherson – as a theorist of early agricultural capitalism (Henry, 1999). In the article *John Locke, Property Rights and Economic Theory* Henry (1999) started with the assumption that Locke's theory could be “an authoritative foundation to the neoclassical theory”.⁹

Locke assumed that an individual in a non-proprietary society wanted to maximize things and get advantages for himself. The main idea is that all resources or land is “used in common by all, each of whom is led to use that resource beyond the level that a rational collective decision-making process would promote” (Henry, 1999). As Henry (1999) noted, Locke thought that when the commons were privatized, each individual wanted to use the resource optimally or efficiently, “as any inefficiency creates opportunity costs (lost income) for that individual owner only”.

Locke was a mercantilist and he advocated the accumulation of gold. Regarding to Macpherson (1962: 205) this was a proper aim of mercantile policy which “quicken and increase trade”.

At the same time Locke agreed that the accumulation of a sufficient supply of money is a driving force for trade. Locke also stated that the aim of individual economic enterprise was the employment of money and land as capital. He showed that the introduction of money is the opportunity and the reason (which did not exist before) for an individual that he can enlarge his possessions (Macpherson, *ibid.*). Money as commodity, because it has a value, can at the same time enter into exchange with other commodities.

⁸ Locke's (1952: 16–17) argument that, “God... has given the Earth to the Children of Men, given it to mankind in common.” Some theorists mentioned that the phrase “in common” could explain some elements of collectivism – what today would be called commonly owned or communally owned property. Some scholars noted that we can understand the mentioned phrase also just as an absence of ownership or open access property owned by no one or thing.

⁹ In the core of Locke's neoclassical position it is assumed that the commons are not insufficient to satisfy the needs of individuals, who want to maximize individual utilities. Because of the mentioned reason the land has to be privatized. At the same time individual property holders must work to satisfy required conditions. “Allocating their individual labour between leisure and effort to allow a level of output would satisfy their utility requirements. Land and labour, then, are the original scarce resources” (Henry, 1999).

One of the main purposes of money is to be used as a capital. Besides this, Locke saw land merely as a form of capital (Macpherson, 1962: 206). “The value of money, as capital, is created by the fact of its unequal distribution.” As Macpherson (*ibid.*) added, “nothing is said about the source of the inequality”. Locke accepted the latter as a “necessity of affairs and the constitution of human society”.¹⁰ Accumulation of capital, through the medium of money, is a result of consent of individuals to put a value on money; the wage relationship is based only on the free contract of the individuals (Macpherson, 1962: 218).

Locke (Macpherson, 1962: 216) presupposes that in the state of nature existed a kind of wage-labour. Labour was naturally a commodity where the wage relationship gives to the individual the right to appropriate the produce of another’s labour – this was a part of natural order. As Macpherson noted, the whole theory of property is a justification of the natural right to unequal property and to unlimited individual appropriation (Macpherson, 1962: 220).

3.2 State of Nature: Locke’s Demagogic Construct?

Locke’s state of nature is a kind of construct. His idea of the natural man is based on the descriptions founded in travel books he had in his library written by European explorers to the new world about their perceptions during voyages. His practical involvement in colonial administration through his secretarial work to the Lord Proprietors of Carolina and through the Council of Trade and also as a Commissioner on the Board of Trade was also questionable, because he advocated colonial policy of the English Crown (Arneil, 1996: 23–24).

Many theorists agree that the concept of the state of nature does not have any serious historical validity, at the same time Locke’s concept is more a kind of analytical tool rather a kind of historical abstraction. Dunn

¹⁰ Locke did not percept money just as medium of exchange but in the large manner as capital. Consequently, capital in his eyes was more than an income for its owners but the “fundament” for continuing investments. He was a mercantilist in a segment that advocated the wealth of nation rather than the wealth of an individual (Macpherson, 1962: 208). Money, regarding to Locke, has made it possible for an individual to “accumulate more the he can use the product of before it spoils” (Macpherson, *ibid.*). Futhermore, as Macpherson (*ibid.*) noted, Locke has “justified the specifically capitalist appropriation of land and money.” The latter is defined in his view as a natural right – a right in the state of nature. Locke at the same time admitted that the consequent inequality after the introduction of money is relevant and real – money leads to the unequal possession of land (Macpherson, 1962: 208–209).

wrote that state of nature is an “ahistorical condition”, a “topic for theological reflection” and without any empirical validity (Dunn, 1969; in Arneil, 1996: 21)¹¹. Arneil (1996: 22) said:

“The confusion over the historical authenticity of Locke's state of nature arises when commentators assume that the state of nature is only seen by Locke as an embryonic model of European society. Thus, those who conclude that Locke was only using the state of nature as a purely hypothetical construct reject the idea that he believed such a state existed prior to European civilization. One can reject this historical notion of a universal natural state while still recognizing that Locke believed that such natural states did exist at the time of his writing – namely, in America...”

In the core of the concept of the state of nature Locke also defined the right to property and at the same time the conditions that have to be fulfilled for one to own the land. He advocated a kind of possible existence of private property rights in the ideal state of nature.

3.3 Aboriginal Society as the State of Nature

In Locke's eyes political society derived from the delegated political powers of the individual members. The members of political society may recall their governors in a case that they acted on the contrary to their trust. Productive powers of a political society derived from the labour power, the property of the individual members. Locke's concept of political society put the question about the foundation for questions of political legitimacy (Tully, 1993: 137).¹²

¹¹ Locke's concept is questionable “... for in reconciling fact with theory, when the latter is established first in order to 'make a judgement' on the former, one must necessarily fashion 'things' to elucidate the theory rather than to understand the things in themselves”. Consequently, in explanation of concept Locke used only determinants which satisfied his theory (Arneil, 1996: *ibid.*).

¹² On the contrary as Locke, Hobbes points out that the life in the state of nature was “poor, nasty, brutish and short” (Ross, 2007). In the state of nature, every man has a right to a natural self-preservation and an absolute freedom to do what he wants. Regarding to classical liberalism, freedom is in a large manner defined quite negatively. The state of nature is also a “state” where “each individual is unshackled by rules, laws or institutions the human condition turns into a war of all against all” (Sparks and Isaac, 2004: 77). In the state of nature, all things belong to all men. The result of anyone having a possibility to own everything was that no one could own anything in particular. Hobbes denied that the first division or possession by contract could mean bringing back property rights to a pre-political

Tully (1993: 139) states that Locke's constructed political society and property in contrast to "Amerindian forms of nationhood and property in such a way that they obscure and downgrade the distinctive features of Amerindian polity and property". It is important to say that Locke defines aboriginal political society in a sense that Amerindian government is not recognizable as a legitimate form of political society, in historical terms, as less developed, regarding to the European political organization, located in the later part of the "state of nature". At the same time Locke recognized that aboriginal land or territory is not a legitimate type of property. It is pictured as an individual labour-based possession and defined as a property in an earlier stage of European development in the state of nature. Mentioned social constructions were served with a specific goal – to justify the dispossession of Aboriginal political organizations and territories. Locke was one of the main ideologists in this process and his theory of political society and property was in a large manner exploited in the eighteenth century and connected with theories of progress, development, and statehood (Tully, *ibid.*).

Everyone has a right and is free to exercise their labour in connection with the natural law for his preservation and without the consent of other people. Property in political society is defined as opposite term regarding to the natural mode of labour-based property – labour, appropriation and products are regulated by government and positive law (Tully, 1993: 142). Locke pointed out that the life in America is that of state of nature where individual and exclusive rights over one's labour and its products. Everyone can exercise his labour in the core of natural law, without the consent of others. European settlers ignored the Aboriginals

state. He tried to show that in the state of nature the right to preserve one would overwhelm establishing exclusive rights that others can recognize. Within the concept of natural law Hobbes defined a rule of first possession.¹² First possession, also like the obligation to agreements, was sanctioned by natural law, but it was disabled to bring property rights – the mutual recognition of ownership – to the state of nature (Hobbes, 1966: 100).

In contrast to Hobbes and Locke, Rousseau defined the state of nature in a positive way, saying that the life in the state of nature was not bad, but right on the opposite – good. Men were free and happy and not like in modern times where individuals under governments live under chains (Rousseau, 1978: 47). Ryan (*ibid.*) points out that the state of nature was a "system" where inhabitants were "asocial, un-propertied, speechless, amoral creatures who have more with orang-utan than the inhabitants of the eighteenth-century Paris". Natural man has a kind of remarkable property. This is his ability or capacity to learn and give his knowledge to future generations (Ryan, 1984: 57). Like an animal, natural man has no sense of time. He speaks about the natural balance between need and effort and is led by what he will eat and by the way how to satisfy his thirst (Ryan, 1984: 58).

and defined America as a *terra nullius*, an empty land where no jurisdiction was required (Tully, 1993: 147). At the beginning, European colonists were dependent on the aboriginal food, trade and survival. Indians defined themselves as nations that have their own authority and as self-governing nations as well.

Locke wrote that natives did not have institutions because they did not need them. They resolved disputes on ad-hoc and individual basis, similar to the state of nature. They had few disputes because they had little and limited property. In Locke's eyes, they also had limited desires and no desire to enlarge the possession of land due to the lack of money and small number of population. Tully (1993: 156–157) points out the difference between the limited desires of natives and unlimited desire of English settlers to accumulate possessions. In general we could speak about the difference between an individual in non-market society and on the other hand an individual who wants to maximize the profit in market societies.

3.4 Land¹³ in the State of Nature as Terra Nullius – Locke's Property Theory

Property is one of the main concepts which have origins in Locke's *Two Treatise of Government*. The creation of property and its preservation constitute the foundation of the state of nature and, moreover, civil society. Property, its origin, and protection are also central focal points that English colonial settlers used to advocate their settlement of a "land", which did not pertain to them before. Locke's chapter about property is a kind of philosophical "treatise" which changed the concept of natural rights to that of property as a basis of civil government, an exposition of the economic benefits of the English plantation, and a defence of England's right to American land (Armeil, 1996: 132). Locke used the concept of "natural rights"¹⁴ to explain or to defence the economic and political imperialism of

¹³ In his section *Of Property*, Locke (1952: 16–17) wrote that "God ... has given the Earth to the Children of Men, given it to mankind in common." In this sense, Aboriginal people and Locke together recognized that property has come from the Creator (God).

¹⁴ Christman (ibid.) talks about that there are possible at least two senses of "natural rights". A traditional definition is "a right is a natural right if and only if persons would have this right in the state of nature, prior to, and independently of, the establishment of any civil or political institution." The latter is a statement where especially Locke became recognizable. Christman (1994: 49) said that it is one major problem regarding to this conception: what things would exactly be in the state of nature. Regarding to the author, it is also a different

English Crown and relating to the Armeil's (ibid) definition, his concept of property somehow sounds as a kind of "... ethical justification, like those of Samuel Purchas and John Winthrop, of England's appropriation of American land" In Two treatise Locke uses the term "property" in two different ways: within the narrow definition land and objects are external to the individual which are owned by him, while the second definition implies the property within the individual as well, that is, his "Life, Liberty and Estate" (Armeil, 1996: 133). Tully (1993: 96) said that Locke did not use the modern concept of private property which as an anti-theory of common property emerged in the eighteenth century. Natural right to possess in Locke's property theory is connected with the labour, or as Simmons (1992: 223) said: "Locke's theory of property exploits fully intuition of 'naturalness' in the relation between labour and property." In his view, Locke's definition of property is moral and not civil or legal ownership. Moral relation is conceived with natural relation – all negative issues are sanctioned by natural law. Locke's property is in reality a natural right, but also a non-consensual natural right (Simmons, 1992: 224).¹⁵

sense of the term "natural right". Hart (1979; in Christman, 1994: *ibid.*): "A right is natural if it is not created or conferred by men's voluntary action". He meant that this is not a right derived from positive law or social institutions. At this point Stenier (1975) says that natural rights are non contractual and non-conventional. Chrisman (*ibid.*) put the following definition: "A right is a natural right if its possession is justified only with the reference to a certain set of natural attributes of persons that is without reference to social conventions, legal institutions or other legal relationship within among groups of persons."

¹⁵ Hobbes' definitions of property were a kind of demonstration on the incoherence of the doctrine that property rights are natural or have an origin in a kind of the natural community of goods prior to the creation of the sovereign. Property rights could exist only under a sovereign power that was created when individuals announced their right to all things and gave to the sovereign the authorization to "define and enforce mine and thine" (Horne, 1990: 26). Hobbes also defined that by demonstrating that property rights could not have existed in a state of nature and besides this, he made an argument that the rights are the result of civil laws, which "deserve their deepest respect". The idea that the citizen could have an absolute property relating to his goods, this is an idea that also the sovereign could be excluded, "a right to one's goods so strong that its violation by the sovereign could justify resistance" (Horne, *Ibid.*).

In Rousseau's view natural right did not exist in the state of nature because "in the pure state of nature a right is a claim, based on reasoning; a right cannot exist unless a violation of the claim is an 'injury' or 'injustice'. But a primitive man, being able to reason, is incapable of conceiving his rights" (Masters, 1964: 161). Rousseau gave much of his attention to deny that property is natural and at the same time he pointed out that no natural right to property existed. A man can possess something when he can actually keep it, or at the same time, excludes others from using things. In the state of nature, as Rousseau points out, we take from the nature what we want and need for the single purpose (Ryan, 1984: 54–55). All three authors presented different views what would be the life in the state of nature and the possibility of existence of natural rights in a pre-political state. Model presented by Ross (2007) shows differences between scholars:

3.5 Property and Political Society in a Civilization of Commerce and Improvement and Aboriginal under-Production

As mentioned, Tully (1993: 139) states that Locke's constructed political society and property in contrast to "Amerindian forms of nationhood and property in such a way that they obscure and downgrade the distinctive features of Amerindian polity and property". Aboriginal political society was defined in a sense that Amerindian government is not recognizable as a legitimate form of political society, in historical terms, as less developed, regarding to the European political organization, located in the later part of the "state of nature". In this sense many scholars disagree in case if a concept of property had any meaning in the state of nature as a pre-political state. For example, Murphy and Nagel (2002: 8–9) point out that property did not exist in the state of nature, or better, it is without any sense to speak about property before the existence of political society. This means that hypothetically, Aboriginals in history and also in time of being possess things without the government and law in a "western" point of view. At this point we meet a fundamental difference between Aboriginal political (social) organization and the "western" definition of the state and government. It is generally known that Aboriginals did not recognize a political society like European countries have. Benson (1989: 1) wrote that if a law exists and we have court and codes, then every primitive society is lawless. What is more, regarding to Benson, every aboriginal society is primitive.

Tully (1993: 155) points out that Locke's theory of historical development of politics and property presupposes different stages. Firstly, we have to present different degrees of industry among individuals and differences in possessions in the pre-monetary level, known as a state of nature. The introduction of money meant the next stage of historical development in Locke's eyes. When people recognized that their needs had to be satisfied with more than one thing, elastic demands (desires) changed pre-monetary economy of limited desires. Locke (ibid.) states that in this case people consequently want to enlarge their possessions and make surplus in the market through the core of industry. For the purpose of

Regarding to Hobbes, as mentioned, property rights could not have existed in a state of nature and besides this he made an argument that the rights are the result of civil laws. Locke's property is in reality a natural right. Despite the fact that Locke recognized a property in the state of nature, and he advocated private ownership, we can conclude that private ownership existed in the state of nature. Rousseau gave much of his attention to deny that property is natural and at the same time he pointed out that no natural right to property existed.

protection the property, people set up institutionalized legal and political systems to regulate and protect property.

In contrast to the idea of over-production and over-accumulation, Amerindian system in the eyes of Europeans had been seen as a system of under-production and replacement consumption. One of the Locke's ideas that God gave the "World to men in Common" regarding to Tully (1993: 156) meant that the land has to be cultivated. As a result of this idea Locke advocated that Aboriginals has a right to property in a very limited amount also because of the latter argument. Locke also understood that cultivation is a standard of "industrious" and "rational" use and in this way Amerindians in his eyes lacked of cultivation because of hunting and gathering. As a consequence, in Locke's opinion the land was not cultivated in a useful manner. Industrious use and labour which gave the right to property, European colonists equated with European agriculture, based on pasturage and tillage (Tully, *ibid*).

4. How to Explain and Understand Aboriginal Economy and Property?

4.1 Approaches to Study Native Economy

There is no approach which could explain the "nature" of aboriginal trade relations, modes of production and other economic aspects of native life. Determinants of aboriginal economic life have changed through the historical evolution of native economies.

Innis in his important work *The Fur Trade in Canada* recognized that the fur trade was an important interaction between two civilizations and at the same time "... the history of contact between civilizations, the European and North American..." (Innis, 1956; in Beal, 1994: 10).¹⁶ Innis himself recognized the importance of Indian technology and culture as important determinants in the fur trade and agrees that the fur trade started with fundamental changes in Indian economic organization. For him, especially

¹⁶ Some scholars said that the Staple-approach is an original contribution of Canadian economic history according to the world theory. Some others said that this is a kind of an alternative approach in a way to explain "the birth of an economy rather than a mainstream ... It tries to explain the behaviour of a society that basis its prosperity on staples at the same time /.../ and doesn't develop the infrastructure for the processing of the staples into the end products." (Prusnik, 2005: 42).

the technology and other articles of European manufacture limited the quality of life of Indians. As Innis mentioned, the history of fur trade is not the history of the Indians, but the history of marginalization of the Indians in history¹⁷. When new staples as lumber or wheat appeared, the fur trade and consequently the Indians got more and more dependent on them. The Indians were rational economic men and at the same time interested in making profit (Beal, 1994: 12).

Rich stated that Indians were professional traders but they did not respond to the operation of the price system in a way it would be dictated by a market economy. Regarding to Rich, a large part of interchanges between Englishmen and Indians was more formal and social than an economic relationship. At the same time the demand of the Indians for European goods was limited. Higher prices for fur meant smaller amount of fur needed to be exchanged for trade goods and Indians also insisted on fixed prices and standards and did not want to be included into the bargain process (Rich, 1960, in Beal, 1994: 14).¹⁸ Rotstein in some way made a step further and wrote that before mentioned formal and social features derived from Indian political institutions. At this point he also argued that Indian participation in the fur trade would be understood as an “extension of Indian institutional practices adapted from the ‘alliance system’, the political institution of the Council, and the ceremonial reciprocal gift exchange which ‘served as a confirmation of political agreement’” (Rotstein, 1972, in Beal, 1994: 16). Some scholars noted that Indians in the fur trade mostly did not response to market forces (Beal, 1994: 17).

Possible approach through which we can theorize about the marginalization is *dependency theory or dependency approach*. Dos Santos (1993: 194) points out that by dependence we mean “a situation in which the economy of certain countries is conditioned by the development and expansion of another economy to which the former is subjected”. Dos Santos adds that the relation between two or more economies presupposes the form of dependence when “some countries (the dominant ones) can expand and can be self-sustaining, while other countries (the dependent

¹⁷ As Peterson and Alfinson (1984) point out, Innis states that a fur trade was an “Indian trade” and was meant as far more than just a trade. It was defined as a “wider sets of contacts between Indians and white”.

¹⁸ As Peterson and Alfinson (1984) note, Rich moved away from the theoretical explanations of Innis and Hunt pointed out that Subarctic people did not maximize, accumulate, or take profit as classical theory explained but had rather “limited consumer demands”.

ones) can do this only as a reflection of that expansion...”¹⁹ In this context we can apply dependency theory to the economic relations between Aboriginal people and European settlers, with one exception – only on the ‘European’ side we can recognize the role of the state. Aboriginals have had their political society organized in a much different way than European colonists. Marx developed the theory of imperialism as a research about the process of expansion of the imperialist centres and their world domination (Dos Santos, *ibid.*). As a case of dependency theory (approach), translated into the relationship between the Aboriginals and European colonists, is recognized the example of Ray²⁰ who saw the Hudson’s Bay Company fur trade system as a “complex institutional arrangement designed to facilitate trade between two different economic systems” (Beal, 1994: 21). HBC had a monetized economy where the price system was dominated by the Aboriginal side. Ray recognized the economy as a barter system and rigid standards of trade. The system, described by Ray, between the Hudson’s Bay Company and the Indians southwest of Hudson’s Bay was an interaction between aboriginal hunting and gathering societies and the British version of mercantilist capitalism.

In *Indians as Consumers in the Eighteenth Century* Ray states that Cree and Assiniboine were buyers in equal relationship with European traders, who knew how to take advantage of Anglo-French competition in a

¹⁹ Dos Santos (1993: 195) argues that historic forms of dependence are defined (conditioned) by the basic forms of world economy which possess its own logic of development; the type of dominant economic relations in the capitalist centres and also the type of economic relations in the peripheral dependent countries. In his eyes it is possible to differentiate colonial dependence and financial-industrial dependence. Dos Santos explained colonial dependence as a “...trade export in nature, in which commercial and financial capital in alliance with the colonialist state dominated the economic relations of the Europeans and colonies by means of a trade monopoly were complemented by a colonial monopoly of land, mines and manpower (self or slave) in the colonized countries. Financial-industrial dependence (consolidated at the end of the nineteenth century) is characterized by the domination of the big capital in the hegemonic centres.

²⁰ Boeke wrote about a very similar approach to that of dependency on “dual market” – his “dual-economy” theory shapes co-existence and mutual penetration of two different social systems (Beal, 1994: 22). Frank (1967, in Beal, 1994:24-25) developed the theory of dependency and stated that the capitalist model was a starting point in the process of Aboriginal marginalization. He developed a “metropolis-satellite” model where a numerous set of relationships existed from the centre to the periphery. Frank points out that the main problem is not unfinished integration into the capitalist system; more important is a degree of integration. Watkins (1977, in Beal, 1994:27-28) has been in this context against the dualism in the aboriginal context: “The ‘modern sector’ is seen as essentially an ‘enclave, where development takes place /.../ traditional sector is stagnant and full of problems and is not experiencing the benefits of ‘development’”. Regarding to Watkins (*ibid.*), the solution “lies in moving people out of the ‘traditional’ sector /.../ into the ‘modern sector’”.

sense to obtain the highest quality at the best price and also enhanced and stimulated technological innovation between European manufacturers (Peterson and Alfinson, 1984).

In *Competition and Conservation in the Early Subarctic Fur Trade*, as in *Indians in the Fur Trade*, Ray paid attention on western Cree middlemen who “manipulated the fur trade to meet their own needs and thereby frustrated both the English at the Bay and the interior tribes who were forced to accept used goods at high mark-ups” (Peterson and Alfinson, 1984).

Ray and Freeman have been critical against Rotstein’s “treaty trade” definition and insisted that Subarctic Indians were not involved into a “treaty trade” but their behavior in the fur trade resulted from applying marketplace theory (Peterson and Alfinson, 1984).

A broader version of underdevelopment or dependency approach is called ‘*internal colonial model*’ which some authors adopted for analyzing economic development on a sub-national basis (Armstrong, 2000: 21). The essence of an idea is that internal colony is a part of a state which colonized its territory. Armstrong (2000: 21–22) states that “... theorists of internal colonialism have argued that the spatial structure of exploitation that characterizes the world economy and the process of structural social and economic polarization to which it gives rise, is also to be found”. Ward Churchill posited the concept of internal colonialism to explain the colonization of the Aboriginal people by European settlers within their native territories (Armstrong, 2001: 22).

Bourgeault stated that aboriginal-class exploitation has its origins in mercantilism – in his view, a system of merchant capitalism was posited between feudalism and capitalism: “Indians as a primary source of labour force for mercantilism were transformed from producers of goods and services entirely for collective use to a peasant or serf-labour force bound to particular trading posts, with the commanding officer (on behalf of the merchant capitalist) functioning as a feudal lord (Bourgeault, 1983; in Beal, 1994: 35).

Some scholars have tried to explain and understand marginalization of Aboriginal people through the core of *Marxian political economy*. From the historical point of view Aboriginals did not pay much attention to the potential of Marxist political thought. Bedford (1994: 102) states that due to the mentioned many Marxist scholars did not seriously count suggestions from Aboriginal leaders and Elders about the negative

sides of Marxist theory and revolutionary aspect.²¹ Aboriginal critique towards Marxist theory is oriented to the statement that Marxist scholars did not give much attention to respect the nature; a dominant position is the same as it is known for bourgeois society. Due to the mentioned, Aboriginal people continued with the critique in a sense that Marxist scholars accepted the Western ideology of progress which takes three forms: progress is inevitable, progress homogenizes and universalizes all human cultures and at the end progress is also good (Bedford, 1994: 104). The Marxist statement that industrialization is a precondition of proletarian revolution is for Means (1983, in Bedford, *ibid.*) “destruction for non-industrialized societies”.

4.2 Aboriginal Economies: Primitive Economies or Complex Economic Systems?

Locke, as mentioned, defined Aboriginal societies and economic systems in a pre-political state as primitive “creatures”. His view was that European economic system has been more developed and for its development it needed sources from new territories. Locke was also a great advocator of settling the land of Americas. It is clear, that he perceived Amerindian society as less developed and native economic system as primitive.

Many scholars define aboriginal societies in a pre-political or pre-industrial era as less developed, with barter economy, and simple organized economic-social relationship. But what Locke’s invented (state of nature) was a hypothetical and irrational concept with special task to advocate the colonization of Americas. As Widdowson (2005: 1) noted, traditional political economy in some way ignored Aboriginal people or aboriginal-white relations or shown them as individuals who are disorganized, underdeveloped and lived in poverty. That kind of

²¹ One of the main differences in perception or struggle between Aboriginal and Marxist definition is the fact that Indigenous people are not proletarians and usually they do not want to become proletarians. Means (1983), a leader of the American Indian Movement, points out (in Bedford, 1994: 103) that “in only manner in which American Indian people could participate in the Marxist revolution would be to join the industrial system, to become factory workers or ‘proletarians’ as Marx called them /.../ very clear about the fact that his revolution could occur only through the struggle of the proletariat that the existence of a massive industrial system is a precondition of a successful Marxist society”.

explanation, as Widdowson (*ibid.*) wrote, is very close to critics who claim that “this tendency is based on ethnocentric evolutionary theories that assume aboriginal peoples were irrelevant to Canadian development, justifying the dispossession of aboriginal peoples from their lands and the destruction of their political and cultural traditions.”

What is clear, and also Widdowson (2005:3) and other scholars recognized, is that Canadian political economy had a tendency to concentrate on the fur-trade era where natives were an important integral part – fur harvesters and middlemen. Due to the above mentioned, it is known as well that Aboriginals were also ignored as a research focus in political-economy field in the era of the fur-trade crisis when Canada begun with the process of industrialization. Another position of some theorist is that because of low productivity in production and simplicity of tribal cultures Aboriginals were assimilated “into the larger, more productive and complex society in which they were embedded” (Widdowson, *ibid.*).²²

Some Canadian political economists tried to explain aboriginal socioeconomic life as a separate system or identity where native economies could work as a self-reliant. The result of this imagination, scholars invented theories or approaches which could explain this way of relationship between Aboriginals and non-Aboriginals – domestic mode of production, dual economy, or mixed economy. According to Usher, there are two different modes of production in the north – domestic and capitalistic. The domestic form of aboriginal economy survived in a modified version. Furthermore, as Usher found out, both forms coexist; not as separate units, but as a part of a larger social formation industrial capitalism. Usher explained that even if industrial capitalism is dominant, the domestic mode always has a potential or reproductive power to reconstruct itself (Widdowson, 2005: 13). In the modern times, as Widdowson (2005: 14) states, speaking about the high potential of the concept “domestic mode of production” is a kind of romanticism. “Domestic mode of production” in her eyes consists of hunting and gathering practices which produced very small surpluses. In a case that we advocate the mentioned concept as an integral part of modern capitalist economy, Widdowson (*ibid.*) concludes that “preserving such economies today means that they must rely on an external mode of production with much more

²² Widdowson points out that the term “parallelism” was invented as a political strategy to explain the aboriginal “world” (native cultures) as a separate entity which could exist isolated from historical and material imperatives, indefinitely reproducing their distinctive economies, political systems and “world views”.

efficient labour processes, preventing aboriginal communities from ever becoming 'self-reliant'. The author is pessimistic also about the current idea of introducing aboriginal traditional knowledge in the modern context, writing this concept "essentially consists of a combination of junk science and superstition".

In the context of studying primitive societies Polanyi set up a model or approach, called substantivism as an opposite approach (theory) to formalism. Polanyi has wanted to construct a model which could explain comparative economics joint together past and present. Regarding to him, a formalist approach could not explain "primitive" economies because starts form the position from the market as a main tool in the economic system (Onorati, 2007:2). Polanyi (1968) pointed out that the substantive meaning of economic derives from man's dependence for his livelihood upon nature and his fellows. It refers to the interaction with his natural and social environment, insofar as these results in supplying him with the means of material want satisfaction.

Traditional thinking, which many people learned in schools that ancestors who inhabited the Western Hemisphere at the time of Columbus that existed in the large manner in small nomadic tribes or bands. Completely new way of thinking about the life in the Americas before Columbus landing has been promoted by Charles Mann in a book *1491 New Revelations of the Americas Before Columbus*. Mann (2001) points out that in 1491 were more people living in the Americas than in Europe. At the same time he states that certain cities, as Aztek capital Tenochtitlán, had far greater population than any other European city. In his book he also showed that Pre-Columbian Indians in Mexico developed corn by a breeding process so sophisticated that the journal *Science* described it as "man's first, and perhaps the greatest, feat of genetic engineering." Amazonian Indians, as Mann (2001) noted, invented the way how farming the land could be possible without destroying the rain forest. Regarding to the latter, modern scientist try to find this ecological knowledge. Mann (2001) has continued with the fact that for example James Wilson stated that at that time "the western hemisphere was larger, richer, and more populous than Europe." Many European explorers and that time were impressed by democratic spirit and respect for human rights in many Indian societies – especially in North America.²³ And finally, the maize, as corn is

²³ Mann (2001:10) notes that he asked seven different anthropologists, archaeologists, and historians, if would they rather have been a typical Indian or typical European in 1491.

called in the rest of the world, was regarding to Mann (2001: 9) “triumph with global implications”. This means that Indians were able to produce very different varieties of maize, applicable for large specter of different growing conditions – the crop did spread out the planet.²⁴

4.3 Aboriginal Property Rights

Many scholars research the question of native marginalization just through the strict lenses of legal framework. As Armstrong (2000: 17) points out, “... from the legal perspective, the question of resource ownership centres primarily upon the legal right to the beneficiary interest in the land”. Armstrong (ibid.) understood the limitation of legal approach: “This literature tends to survey Supreme Court decisions, without stepping outside the law itself to consider the social or historical context surrounding it”.

In the history of Americas we can meet a lot of court decisions which did not recognize the aboriginal title – explanations went towards the argument that the Indigenous people did not have the right to own the land, because they did not believe in private ownership.²⁵

The doctrine of aboriginal rights²⁶ had origins in the interdependency between colonialists and Aboriginal people from 17th and 18th century, from broad rules of equity and convenience and imperial policy. Therefore, regarding to the mentioned principles, the British law recognized a special branch, known as a “colonial law” or “imperial constitutional law”. It was an unwritten law, actually a doctrine of aboriginal rights. The doctrine applied

Nobody of them was not delighted by the question – this has been judging history from the modern aspect of their lives. Everyone chose to be an Indian at that time. And many settlers at that time had the same opinion.

²⁴ Mann (2001:9) points out: »Central and Southern Europeans became particularly dependent on it; maize was the staple of Serbia, Romania, and Moldavia by the nineteenth century. Indian crops dramatically reduced hunger, Crosby says, which led to an Old World population boom”.

²⁵ On the contrary, the idea of communal ownership was also unacceptable for the European legal system (Purich, 1986:39). Purich (ibid.) stated that aboriginal tribes or bands defined the land as a hunting territory or camping field. Between separate territories they did not make strict boundaries. Euro-Canadians defined the territory in the opposite way. They made strict boundaries and limitation of the property and precisely defined who owns each part, or better, who had the right to possess. If the land was not inhabited, nobody could claim the right to possess the field.

²⁶ Ivison (2003:321) stated that aboriginal rights derived from their own collective lives, self-understandings, political philosophies and practices. Besides this, they are justified in the core of them. Regarding to law, they are a complex mix of common law rights, treaty rights (not all circumstances), basic rights, and the collective human right of self-determination.

automatically to the new colony (Slattery, 1987; in Ivison, 2003: 325–326).²⁷ One of the main “fundamental” documents in the history of colonial law was the *Royal Proclamation of 1763*. According to Calloway (2006: 93), “scholars disagree on whether the proclamation recognized or undermined tribal sovereignty”.

Slattery (1987: 735) states that if we want to analyze Aboriginal rights in a historical-legal context, analysis could include three legal systems: “international law, the domestic law of the claimant European state and the domestic law of the native lands whose lands are claimed”.

Oren Lyons (1985; in Arnold, 1999: 12) put the exact explanation in what sense Aboriginal people originally defined property rights: “What are: aboriginal rights? They are the law of the Creator. That is why we are here: he put us in this land. He did not put the white people here: he put us here with our families. And by that I mean the bears, the deer, and the other animals ... We Aboriginal people believe that no individual or group owns the land, that the land was given to us collectively by the Creator to use, not to own, and that we have a sacred obligation to protect the land and use its resources wisely. For the Europeans, the idea that land can be owned by a person or persons and exploited for profit is basic to the system.”

Ivison (2003: 321) stated that aboriginal rights derived from their own collective lives, self-understandings, political philosophies and practices. Besides this, they are justified in the core of them. Regarding to law, they are a complex mix of common law rights, treaty rights (not all circumstances), basic rights, and the collective human right of self-determination.

²⁷ This doctrine was recognized by the courts to varying degrees from the 19th century onwards, but only really came into play in Canada with the *Calder* decision in 1971 and arguably in Australia with the *Mabo* decision in 1992 (Ivison, 2003:326). Ivison suggests that we could think about aboriginal rights in the core of common law rights. These would be legal rights, emerged from a complex cross-cultural practise of treaty making. The main idea is that “common law approach offers a context sensitive and complex inter-societal model for thinking about cross-cultural negotiations”. In this sense, aboriginal rights are the core of treaty negotiations among Indigenous population and the state and are not derivate from it (Ivison, *ibid.*). In a case that Aboriginals were sovereign and had the right to self-determination at the time of contact, consequently the British crown could recognize native population as equal ‘partners’ through some consent which could presuppose and equality and freedom for them (Ivison, 2003:326–327).

4.4 Anything but Collective Property?

Individual ownership²⁸ was in a large manner unknown to the Aboriginal people, and land was never a subject of the trade (Purich, 1986: 39). Flanagan (2000: 113) points out that the discussion about Indian definitions of property is “confused and ideologically charged”. Some scholars, who usually advocate aboriginal claims, define Indians as “proto-socialists and environmentalists”:

“... yet they also typically deny the distinction between savagery and civilization, so they have to maintain that Indian cultures incorporated in all institutions of civilization, including philosophy, science, law, and government; and since institutions of property are found in all civilizations, native partisans cannot deny that Indians had property without making them seem like savages (Flanagan, 2000: 114).”

The land was given on the general level to the community and individuals used and appropriated it. The land was also a source of food and even of social support. We can speak about the holistic approach: Aboriginals believed that the land was given from God and besides the man also plants and animals can use it (Purich, 1986: 39).

A major argument of Johansen (1999: 212) is that a majority of Aboriginals did not define the concept of property as an individual right per se. In most bands or tribes land was owned collectively and connected with aboriginal economic activities. Land was usually owned by a group, clan or extended families, tribe, or the nation as a whole. Early colonists often

²⁸ It is also important to say that Aboriginals recognized some form of private property or as Demsetz (1967: 350) said: “The question of private ownership of land among aboriginals has held a fascination for anthropologists.” Leacock (1954, in Demsetz, *ibid.*) showed that a close relationship existed, both – historically and geographically – between the development of private rights in land and the development of the commercial fur trade. As Flanagan mentioned, the Plains Indians did not have a real property, they had institutions of personal property. Private ownership was established, for example, for owning horses, hunting tools, food or weapons. Cooperative production did not influence communal ownership. Products of communal activities were divided between individuals. Food can be granted but not taken because it was private property and not communal. The forest hunters of North America also practised private property in the core of personal possessions. Hunting for them meant a very rational process, trapping animals one by one, rather than trapping one herd at the same time. Some earlier scholars meant that the Ojibwa had had a form of a private ownership in the pre-contact times, but later many of them accepted a theory of private ownership in the era of the fur trade. Indian trappers did not have a full ownership of the land, but they possessed just exclusive rights to harvest certain groups of animals in defined territories. (Flanagan, 2000: 116–118).

thought that the Aboriginal people defined property rights as a communal “thing”. Besides some exceptions, individual ownership was limited to things, which were handmade or used in daily economic interactions. For example, individuals could own bows, arrows or canoes. The productive estate of a village belonged to the group as a whole. Many authors admit that the Indians and European settlers did not equally understand the term “property”. For example, when the English colonists of New England defined that they bought the land, Aboriginals thought that it was a kind of a “trade”, meant as an agreement to share the property or the land. At the same time the Indians thought that they allowed to the colonists, what the European property theory could define as an “exclusive rights” without purchase and control. They often granted a property as a right granted to more than one owner and made a conflict between colonists, who thought Aboriginals granted the land in the individual sense (Johansen, 1999: 211).

Some scholars tried to make an application of common property theory to aboriginal property systems. Heller stated that the commons is a resource where all have liberty – a right to use, but at the same time nobody has a normative power to exclude others and no one has a duty to refrain from exploiting. The term “commons” includes (sometimes confusingly) two different aspects – open-access resources and commons property. In the core of open access, everyone can come in and take whatever he likes, but none has a right to manage or sell the resources. In the core of commons property, individuals as members of a group, have personal rights to manage or sell the resource and at the same time exclude individuals who are not members of the group (Eggertson, 2003; in Munzer: 2005: 148). As Eggertson (2003, in Munzer, 2005: *ibid.*) said: “Common property is the first step on the long and complex path from open access to individual exclusive ownership. In opposite, anti-commons is a resource where every person has a normative power to exclude others and at the same time nobody has a right to use resources without the permission of the others. The concept of private property is posited between the concept of a commons and anti-commons, a concept of state property is posited also in between”.

Phillips (2001) argues that Peter Usher perhaps made the best work on aboriginal property rights theory and critique of the application of common property theory to aboriginal economies in Canada. Usher argues that resources were social (communal) property, where everybody in a tribal or lineage group can be the owner, and at the same time “owned by

nobody in particular and managed collectively and in an egalitarian manner” (Phillips, *ibid*). Usher (1991, in Phillips: 2001) wrote that:

“There is /.../ a crucial distinction between common property in the state system and communal property in the indigenous system, which is most readily illustrated by Hardin’s ‘Tragedy of the Commons’ paradigm. What is omitted from his scenario of rational individuals acting in their self-interest is precisely the social arrangements constraining individualism that have characterized practically all known communal property systems, whether aboriginal or feudal. Indeed, these arrangements seem to have been achieved under the very conditions of social stability that Hardin supposed would ineluctably generate the tragedy of the commons.”

Phillips (2001) points out that there was no “tragedy of the commons” within the aboriginal economies until the Europeans introduced introduced a market and private property values in a forcible manner. Usher (1991, in Phillips *ibid*.) added: “... metaphor not for aboriginal tenure system, but rather for the laissez-fair industrial capitalism and the imperial frontier”.

4.5 Aboriginal Economies and Property Rights at the time of First Contact

4.5.1 First Contact

In continuing work we want to define a period called first contact²⁹. Due to the mentioned reason we will show how the economic and property rights

²⁹ As Phillips (2001: 1) noted, various Aboriginal groups did not meet Europeans at the same time. He mentioned that probably the first European contact was between Inuit and northeast coast Cree and the Norse around 10th or 11th century. It is also known that European fishermen made contact with the Micmac and other eastern Algonquian people and traded metal goods for furs with them before Cartier’s first trip into St. Lawrence in 1535. The expansion of the fur trade in the next two or three centuries meant that more Aboriginals made intensive contacts with European settlers. On the west coast contact was not made until the late 18th century – and also in this era and later only with the marine explorers and traders. Mackenzie came to British Columbia territory from the east side in the last decade of the 18th century but as Phillips (2001: 2) noted, the first fur trade posts were not set up until the first decade of the 19th century. In some parts of the western Arctic, the Inuit and Europeans did not come into contact until the late 20th century.

were defined as the time of first contacts. We will show the two determinants as a comparison between cultural areas as defined in Canadian literature about Aboriginal history.

Dickason (2006) points out that the first contacts between Europeans and “New-World” people had origins over much longer era than most people could realize. In the territory, today known as Canada, first meetings, for which scientists have reasonable records, began with the Norse, about 1000 BP and continued to the 1915, when members of the Canadian Arctic Expedition met some completely isolated tribes of Inuits, completely unknown to the Canadian Government.

4.5.2 Ethnic, Linguistic, and Cultural Nations and Economic Regions

We can define cultural areas as broad geographic units within each culture tend to be similar. The latter means that all members of the unit based their economies on the same similar resources, bison on the Plains or salmon on the Northwest Coast and also the cultural borrowing which possessed place between adjacent groups (McMillan, 1995: 3). Six native culture areas are defined in the Canadian territory, even though they are not all exclusively contained in the country: The Arctic, the tundra land of Canada’s far north, the Subarctic, the land of northern forests that embraces the majority of the country – usually divided into Eastern and Western Subarctic. The coastal part of Plateau, Plains and Eastern **Woodlands** belong to Canada (McMillan, *ibid.*) as well. It is necessary to point out that cultural areas are a kind of “artificial divisions”, set up for analytical or descriptive analyses and they do not always correspond to native identity (McMillan, *ibid.*).

On the primary level, we can differentiate three Aboriginal historical levels: prehistoric, proto-historic, and historic. All of them are the basis of eleven linguistic families. The biggest linguistic family is Algonquian which introduced the area from the Maritimes, through the Boreal forest regions to the Foothills of the Rockies. In the Subarctic region towards the west of the Hudson Bay and northern British Columbia were

First meetings can be, relating to Dickason (2006: 21), grouped into three main categories – nevertheless, each of them is rarely found in its pure form. *Collisions* are especially denied as transmissions of different disease and slave trade. Trade, evangelization, and colonial administration are defined as a second type, *relationship*. Finally, *contacts* are defined as a “short-lived”, usually peaceful, with some ritual displays. In the core of the latter explanation, usually both sides did not have any real knowledge of the other. (Dickason, 2006: 21–22).

the Athapaskan speaking nations. To the farther north in the area of low and high arctic were the Inuktituk speaking nations. Around the territory of the Great Lakes were the Iroquoian-speaking nations.³⁰ In the plains region, Siouan speaking Assiniboine moved to the west into the Canadian Prairies, but this had not happened until the proto-historic period.³¹ In British Columbia the biggest variety of linguistic groups were found: the Tlingit (far North and Alaska), the Tsimshian (includes the Nisga'a), on the northern mainland), the Haida (Queen Charlotte Islands), Wakashan (Kwakwaka'wakw and Nootka), central coast and northern and west coast parts of Vancouver Island; the Salishan composed of two groups: the Coast Salish on the south coast of the mainland and southern part of Vancouver Island, the interior Salish – in the interior plateau region. Kutenai, linguistic isolate group inhabited the southern plateau region of British Columbia (Phillips, 2001: 3). Beothuk Indians disappeared in the early 19th century because of genocide, economic deprivation and European diseases. Phillips (ibid.) noted that it is not clear if they spoke an Algonquian language or developed separate language. Some resources count Beothuk as the 12th aboriginal language group in Canada.

As Phillips (2001) noted we can divide Aboriginal territory through the economic zones which would be determined through the core of economic orientation and resource base of the aboriginal groups before contact, during the proto-historic era, and during the fur trade period and before the mid-nineteenth century. Atlantic region is known as an "Atlantic Maritime Hunters and Gatherers". Iroquoian farmers inhabited the western part of the Great Lakes. North from the east coasts to the Rockies were Subarctic Nomads, the area of Arctic was a territory where Inuit marine hunters existed. People of the Buffalo inhabited the plains, the park belt and foothills that surround the prairie. British Columbia has two economic zones – Fishers of the Pacific Slope and fishers, hunters and gatherers of the interior plateau (Ray, 1996, in Phillips, 2001: 3).

³⁰ In Canada these nations were the Huron, Petun and Neutral Confederacies, the latter allied with the Erie nation. In the United States were six nations: Seneca, Cayuga, Onondaga, Oneida, Mohawk, and Tuscarora tribes, and their confederation. The five (later six) nation confederacy was designated the Iroquois nation. It existed also the St. Lawrence Iroquoians but was gone by Champlain arrival (Phillips, 2001).

³¹ There were some disagreements about when Algonquian Cree migrated from northern Quebec and Ontario to the north edge of the Canadian prairie. Algonquian Blackfoot settlement of southern Alberta has origin in the prehistoric period.

4.5.3 Canadian Aboriginals – Property and Economic System

As Mann (2001) noted, Indians were far more developed as many western scholars states. But still, the majority of experts advocate that the Indian economy was less complex, less developed and their business was without real profit. We try to represent through the “concept” of first contact what were differences in aboriginal economies and differences in perception of property rights. We will also try to make a difference regarding to Locke’s view. As mentioned, Locke put the aboriginal life in the early stage of European development, as a kind of state of nature – pre-state political organization where people lived in chaotic conditions without government. We could say that we compare Locke’s concept of the state of nature and facts about aboriginal economy and property as many historians saw and defined. As Phillips (2001: 1) points out it is important to recognize a number of facts about the aboriginal peoples of North America. Aboriginal population was at the time of first contact composed of many different nations and ethnicities which had varying degrees of formalized governing institutions and very different economies – involving different lineage systems, inheritance rules, and property rights.

The Beothuk were the first Canadian natives starting continuous contact with the Europeans. Originally they were “Red Indians” – a term which was later applied in a wrong way to all other North American native people. Their social groups were small tribes where families were closely connected (McMillan, 1995: 47). Beothuk were mostly living on the coast by fishing, collecting shellfish, and hunting land and sea mammals. Men often went out in their bark canoes to catch seals and also small whales. They collected also birds’ eggs. They spent their time in autumn and winter in the interior, and their economy was focused almost on caribou. Historic documents which refer to Beothuk and represent them as an interior hunters, show only their last declining years when they had been largely excluded from very important coastal resources (McMillan, *ibid.*). They mostly travelled by sea; using birch-bark canoes on inland lakes, rivers, and along the coast as well.³²

³² McMillan (1995: 49) pointed out that: “... details on the final years of the Beothuk come from nineteenth century captives. In bungling attempts to establish communications, English colonists took a number of Beothuk prisoners, the most famous being Demasduit (better known to history as Mary March, after the months of her capture in 1819) and Shanawdithit,

Territory of the Micmac³³ nation (belongs to the group of East Coast Fisheries, Hunters and Gatherers) was divided into seven political districts and each of them had a district chief.³⁴ Every single territory (district) was determined by a natural resource or special environmental feature. Property was not defined in the individual sense. The size of social groups varied with the season. Winter camps consisted of small groups of some related families, while in the summer more resources allowed bands to be bigger (McMillan, 1995:50). Economic life of the Micmac changed with the seasons as people travelled between coastal area and mainland because of resources (McMillan, 1995: 53). The most important Micmac resource came from the sea, only a smaller part derived from hunting. But it was still important for the young Micmac member to become a great hunter. Usually they hunted animals with bow and arrow, or “*took them with snares set across game paths*” (McMillan, 1995:51). Despite the fact that hunting was less important than fishing, it was more prestigious to be a hunter in a Micmac band.

Cooper (1933; in Cummins and Steckley 2004) points out that in the Eastern Subarctic “heredity individual or family system prevailed”. All land was then owned by individuals or individual families. It was also known that every single part of the land was owned. The family-hunting band possessed property rights in the form of “owned” hunting territories (Phillips, 2001: 11).³⁵ Among the Mistassini, hunting groups did not hunt just at one single territory, but they usually moved to others as well. The

captured in 1823. Although a few individuals may have fled the island and mixed with neighbouring groups, Shanawdithit is considered to have been the last Beothuk. Her death of tuberculosis in 1829 marks the date of their extinction.”

³³ Early observer Nicolas Denys wrote that their traditional diet was consisted of meat, animal fat and fish.

³⁴ Chief (referred as a sagamore) had limited power over the group. The sagamore’s duties were preferably to provide leadership and give advices. Thwaites (1896–1901; in, McMillan, 1995: 50) listed the Jesuit Father Briard about the role of sagamore in the early seventeenth century: “All young people of the family are at this table and in his retinue; it is also his duty to provide dogs for the chase, canoes for transportation, provisions and reserves for bad weather and expeditions. The young people flatter him, hunt, and serve their apprenticeship under him, not being allowed to have anything before they are married ... all the young men capture belongs of the sagamore; but the married ones give him only a part, and if these leave him, as they often do for the sake of the chase and supplies returning afterwards, they pay their dues and homage in skins and like gifts.”

³⁵ There was even a debate between Speck (1927) and Morantz (1986) regarding to the *family* hunting territories. Morantz said that Speck was wrong and pointed out that, for example, rights to the animals were belonged to the individual. He mentioned HBC journals from the mid 19th century where it was written that hunting territories were in “terms of the individual, rather than the winter hunting group” (Cummins and Steckley, 2004: 18).

right to use the land retained in a family-based hunting group even if the mentioned rights might not be exercised every year or shared with other hunting groups. Anyone who needed food could hunt in other areas also without the permission of the owner. The Cree, for example, believed that the land belonged to the animals or to God³⁶ (Tanner, 1976; in Phillips, *ibid.*).

For example, The Cree were mainly hunters and moose, caribou, bear and beaver were the main source of food. Besides these animals also smaller ones were important for some seasonal survival – for Swampy Cree of the Hudson Bay Lowlands, for example, geese and other waterfowl were important. Snares and deadfall traps was often used as bows and arrows. On the other hand, fishing was not so highly valued, but still important allowing bigger social groups to catch the fish at good posts during the summer (McMillan, 1995: 112).³⁷ Cree-material culture³⁸ was

³⁶ In the Cree world hunting was a much larger activity than simply killing the animal. The Cree percept a hunt as a religious activity and only through a proper ceremony the Cree might take the animal from the Earth. It was a kind of a gift from the animal to the man or hunter. “The bear commanded particular consideration, but caribou, beaver and other animals also had to be respected.” The hunter always thanked to the animal and offered it tobacco. In a case he killed a larger animal, the fist was held to all members of the hunting group (McMillan, *ibid.*). Buffalo had a great effect on Plains Cree Cosmology, in sense of territory and identity. The cosmology of hunters and gatherers of the Canadian Subarctic showed that the Creator had placed there all living creatures and besides the mentioned, the Cree believed that the Creator allowed hunting to be a game only in the core of reciprocal respect. Hunting activity was a kind of a “holly” occupation controlled by “spiritual rules” (Martin, in Milloy; *ibid.*). For example, well known anthropological expert David Mandelbaum defines Woodland Cree activities in a sense that hunting was a religious practise, with magical control of a game with the main goal to provide serious supply of food. We could say that hunting was an activity where the hunter had to learn more about a kind of spiritual activity than to learn some other knowledge (Milloy, 1991:59). The consequence of the plentiful buffalo resource was the fact that a “larger and more permanent band community and in the reduction of hunting rituals generally and thus the influence of lesser spirits, promoted this principles in the form of a cosmology more clearly and exclusively balanced on an axis between the Creator that human community and its members (Milloy, 1991: 61).”

³⁷ Social organization among the Cree was set up on several levels: the nuclear family, the hunting group (or local band) and the community (or regional band). Young people usually married in early ages, a member of a band was not count as an ‘adult’ until married. They preferred cross-cousin marriages, even this was not an ‘inevitable rule’. In many cases marriages were monogamous but they knew also an ‘exception’ where a good hunter might have several wives, in many cases also sisters (McMillan, *ibid.*).

³⁸ Hunting was much larger activity than simply killing the animal. Cree percept a hunt as a religious activity and only through proper ceremony the Cree might take the animal from the earth. It was a kind of a gift from the animal to the man or hunter. “The bear commanded particular consideration, but caribou, beaver and other animals also had to be respected.” The hunter always thanked to the animal and offered it tobacco. In a case he killed larger animal, the fist was held, to all members of the hunting group (McMillan, *ibid.*)

similar to that of the Ojibwa. Because of harsh winters and freeze-up, it was indispensable to travel across their lands of waterways with light birch-bark canoes. Also snowshoes, toboggans and sleds were important in a sense that the Cree was mobile also during the strong winter time (McMillan, *ibid.*). House was a conical wigwam, often covered with moose or caribou hides more than birch-bark which was not common in the northern forests. In some areas winter houses were made of sod and soil over closely spaced poles (McMillan, *ibid.*).

The introduction of the horse was an important act in the history of the plains aboriginal economy. The horse appeared in Canada from the Spanish colonies in the south somewhere in the middle of the 18th century and had significant effect upon the social and economic organization of the plains peoples.

Iroquoian Farmers³⁹ of the Eastern Woodlands for example defined property as collectively owned. Clan, lineage and longhouse were the collective institutions. The major production decisions were in a large extent communal (collective) (Phillips, 2001: 8). All “unknown” land was also a common property. Every individual could plant as much as he wanted. This land then remained his for as long as he cultivated it (Tooker, 1978; in Phillips, 2001: 8).

Regarding to West Coast Fishers aboriginal groups, the most important living place was the permanent winter village, consisting of houses facing the sea. They also had a kind of summer houses or shelters for seasonal migration to traditional fishing posts or hunting areas. The most important was winter village which was the centre of political and economic organization. Each village was the “property” of the kinship or

Three to five nuclear families set up the hunting group living and hunting together in a large part of the year. The community was the largest social aggregate which included members who gathered at one location during the summer. In the later period trading posts became centres of gathering. Even did not operate as an economic units, this larger group provided opportunities for social contacts. The structure was flexible, and if the family was dissatisfied with conditions could join relatives in other groups (McMillan, 1995:112–113).

³⁹ In the last centuries before European contact, two branches of Iroquoian cultures set up in southern Ontario. Besides the Huron and Petun existed also the Neutral of southernmost Ontario. At that time agriculture was very important; beans, squash, and corn were dominant resources for eating. Hunting as an economic activity was not as important as in earlier periods of life. Warfare was widespread and many evidences show that also cannibalism was a practice in villages as an act where ‘winners’ caught other warriors (McMillan, 1995: 65).

McMillan (1995: 67) stated that the earliest description of Canadian Iroquoians come from the travel of Jacques Cartier. In 1534, on his first voyage encountered a fishing party from the village of Stadacona off the Gaspé Peninsula and took two of them, sons of the headman Donnacona, back to France.

lineage group. This corporate group held the territory and had important privileges such as names or ritual dances and songs (McMillan, 1995). They did not have the concept of individual private property in resources but as Phillips (2001) points out, there was unequal access to and to control over income, which was based on status and rank of a single aboriginal person. "Ownership of the territories was vested in local corporate groups of kin; control of territories and access to resources was gained by inheritance" (Seguin, 1986, in Phillips, *ibid.*). Most economic activities took place in the summer. Winter life in villages had a more important role in socializing the community and for the potlatch which played an important role in exchanging wealth as well.

The political organization of the Plateau Indians was in quite similar to that on the coast. The basic organization was a village where people lived during the winter months. The major economic activities – bison hunt, fishery and camas bulb harvest – were all communal. During the summer- and winter hunting and trapping season, smaller groups dispersed to small seasonal camps. The catch, despite small established groups, was communally distributed. The system of communal ownership was common to the plateau region. Kennedy and Bouchard (1988, in Phillips, 2001: 18) state that plateau society was egalitarian and communal in the large manner: "... Land and its resources were considered communal property, with a few exceptions. Some salmon-fishing stations were owned by individuals, while others were owned collectively by resident or village groups. Hunting grounds and root-harvesting grounds were generally opened to all who spoke the same language, and consent to use these areas was something extended to others." A plateau culture has many common elements. The basic unit was the village and usually composed of a common lineage. Villagers in a common language region, band or tribe would gather together in various times of the year for major communal economic pursuits. Natural resources were owned collectively under the supervision of a salmon or hunting chief, usually the headmen of the dominant village within the "system" (Phillips, *ibid.*).

Maritime Hunters of the Arctic had social and economic institutions that reflected the realities of the precarious existence. Collective action was necessary for survival in the shape of winter sealing camps, summer caribou hunts or fishing settlements. In the case of dispersed family-based hunting parties was the practise of collective production and sharing of the output restricted to the individual members of a nuclear or extended family or partnership (Phillips, 2001: 20).

5. Concluding Remarks: Locke and Canadian Aboriginals: Different Conceptions of Property and Economy

Locke's theory of property and political society made "a triumph" in the eighteenth century and was widely connected with theories of progress, development, and statehood (Tully, 1993:139). Locke used the concept of possessive individualism for the accusation of colonial settlement of the Americas.

General view, regarding to the type of property, is that Locke advocated private property as a fundamental core for the future economic development. But, as mentioned before, Locke's (1952:16-17) argument that "God... has given the Earth to the Children of Men, given it to mankind in common", some theorists understand that the phrase 'in common' could explain some elements of collectivism - what today would be called commonly owned or communally owned property. But we can understand the mentioned phrase also just as "an absence of ownership or open access property owned by no one or thing" (West, 2001:2).

For Locke, the invention of money was an important act and starting point towards developed economic system. In opposite, Aboriginal economy was in its earlier period a barter system, where money did not have any significant role. Later in aboriginal economic development, when Natives came into contact with Europeans (for example in the fur trade), money got an important role in making business. Monetization of aboriginal economy was one of the main factors for marginalization of the Aboriginal people in Canadian history.

In general, Aboriginal people did not recognize property as a private thing. In opposite, as mentioned, Leacock (1954, in Demsetz, *ibid.*) showed that a close relationship existed, both historically and geographically, between the development of private rights in land and the development of the commercial fur trade. Plain Indians, for example, had institutions of personal property. Private ownership was established, for example, for owning horses, hunting tools, food, or weapons. There also is a difference between aboriginal groups in terms of property rights and economic systems. General notion of many scholars is oriented towards explanation that property was perceived by Aboriginals in more "abstract" way. The Aboriginal people did not limit territory as strictly as "western perception" suggests. The leading idea was that the group or band own

things and at the same time things are delivered in the equal manner between members.

Even Locke clearly defined aboriginal economy as less developed and without the potential to make a profit; his description is regarding many scholars without any serious historical validity. Most of them, as mentioned before, presented Locke's imagination as an "ideological construct" or a kind of teleological reflection. Locke invented "state of nature" as an ideological core where he defined the Aboriginal people as beasts, who have limited desires and less developed economic systems. Many arguments from scholars are against Locke's opinion.

More serious is a debate if Aboriginal people in history had been potentially such an important economic force that could be equal partner to the Europeans. As Mann (2001) points out, Indians in the pre-Columbian era were far more developed and settled than many western scholars could imagine. He mentioned especially some plants, as for example, maize, which Indians "invented" and it became very important food for a majority of European states and also for the rest of the world. Innis points out that especially fur trade was very important period for aboriginal economy but at the same time also the beginning of the process of marginalization after 1870 when the fur trade became less and less important staple. Innis said that Indians were rational economic men and at the same time were interested to make a profit (Beal, 1994: 12). Especially Frank Tough put an important attention to the development aboriginal economy after the fur trade era. Rich recognized Indians as professional traders who could not respond to the price system dictated by a market economy (Beal, 1994:14). A true debate is then not of the assumption if Aboriginal people were real economic force or not, but more of their potential to make a profit as market economies can do.

We can conclude that property rights come as a "result" of economic systems. Locke clearly advocated private property even he said that the land at the beginning of development belonged to all individuals. The Aboriginal people recognized some form of collectivism as "variation" of property rights, and as mentioned, introduced some forms of individual property rights as well. But still, common property as a fundamental principle of aboriginal economy prevailed.

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