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Abstracting and Indexing services:
Table of Contents

The consolidation of national parliaments within an enlarging EU (Muiris MacCarthaigh)  
5-31

Teaching Donkey to Talk: Nukes and Theology in Tehran-Washington Discourse  
(Lasha Tchantouridze)  
33-51

Property Rights as a “Consequence” of Economic System: The Case of John Locke and Canadian Aboriginals  
(Mitja Durnik)  
53-90

Notes for contributors  
91
The consolidation of national parliaments within an enlarging EU

Muiris MacCarthaigh

Abstract

As national parliaments emerged in the context of national states rather than international organisations, fulfilling functions demanded by virtue of European Union membership challenges their traditional modus operandi, especially in the field of legislative oversight. Considerable attention has been given as to how best national parliaments might adapt and expand their oversight capacity in order to examine EU legislation and policy, thus underwriting the legitimacy of the expanding Union’s work. This debate raises fundamental questions concerning the responsibilities not only of national parliaments, but also of the various other institutions employed by the Union. As well as considering this issue, this article also interrogates how best we can conceptualise the role of national parliaments within the new modes of governance inspired by the demands of EU membership. To begin, the paper considers how the contemporary analysis of European legislatures has developed.

Keywords: Parliaments, EU, Accountability, Committees, Legislation

National Parliaments and the EU

Apart from their representational and law-making functions, national parliaments are the principal national forum for the deliberation and oversight of public policy in most western democracies (Wheare, 1968; Blondel, 1973; Mezey, 1979); Lijphart, 1984; Laundy, 1989; Norton, 1990; Olson and Mezey, 1991; Copeland and Patterson, 1994; Norton, 1998; Lijphart, 1999; Döring and Hallerberg, 2004). The study of national parliaments continues to be a dynamic sub-field of political science,

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sustained by innovative new approaches to understanding the roles, powers and functioning of legislatures. For many European states, membership of the European Union and the ensuing transfer of responsibilities has presented particular difficulties and raised fundamental questions about the future role of national parliaments in the European project (Flintermann et al., 1994; Norton, 1996; Smith, 1996; Maurer and Wessels, 2001). Coinciding with a new emphasis during the 1990s on the roles and duties of national parliaments in the European Union (Norton, 1996), significant strides have also been taken in the systematic comparative analysis of national legislatures using institutional theory drawn from a rational choice perspective (Döring, 1995(a); Döring and Hallerberg, 2004). Lijphart’s seminal categorisation of parliaments into either Westminster or consensual-style remains influential, and the comparative approach has contributed significantly to our understanding of how legislatures have responded to the European project. However, recent exceptions notwithstanding (Kiiver, 2006); O’Brennan and Raunio, 2007), the paucity of comprehensive cross-national surveys of the relationship between national parliaments and the EU system of governance reflects a conceptual and practical uncertainty concerning the role of national parliaments in that system. This has not been helped by the wide variation as to what constitutes a ‘national parliament’ in a member state – with understandings ranging from the unicameral Danish Folketing to the Belgian combination of federal and regional assemblies.

Conventional wisdom has it that the project of European integration has been detrimental to the development of national parliaments. The argument goes that, already finding it difficult to adequately involve themselves in the work of their respective governments, such parliaments have witnessed a further erosion in their influence due to membership of the Union, whose Treaties they periodically ratify. Indeed, this perceived shift in law-making influence ‘upwards’ to the EU institutions has allowed the ‘decline of parliaments’ thesis, already a century old, to persist. The reason why there is concern about the role of parliaments in the EU is that membership of the Union has resulted in some of the traditional roles of member-state legislatures being impinged upon i.e. law-making and scrutiny of the executive. Nonetheless, ensuring that national parliaments are not ‘left

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2 For more on challenges faced by national parliaments in their pursuit of accountability, see MacCarthaigh, M ‘Accountability through national parliaments: practice and problems’ in

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behind’ has been a pre-occupation of recent EU Treaties (below) and it has been argued that ‘defining the role of national Parliaments in the European Union architecture has occupied Inter-Governmental Conferences over the past 12 years’ (COSAC, 2004(b): 5).

As Maurer demonstrates, the three principal functions of national parliaments in the EU decision-making process are executive oversight, ratification of EU Treaty amendments, and implementation of EU legislation (2001: 38). As well as this, however, EU legislatures also have important roles to play in terms of legitimising the wider EU project and providing a forum for deliberation on the direction of that project. Despite its failure to win popular approval in certain member-states, the draft EU Constitutional Treaty was critical insofar as it formally recognised the role of national parliaments in the European governing architecture for the first time. It is therefore timely that our understanding of where and how national parliaments fit into the EU system of governance be advanced further. In order to achieve this understanding, it is necessary to briefly consider the historical development of national parliaments in the EU.

The Developing Recognition of National Parliaments

If only belatedly recognised in an explicit manner, national parliaments have implicitly been important actors in the process of European integration. In all member-states, including those who use the referendum procedure, the ratification of EU Treaties has required the approval of the national representative body, however constituted. This assent has provided an important source of democratic legitimacy for the Union, and is complemented by the fact that one of its key organs, the Council of Ministers, is composed of representatives appointed to office by those same legislatures.

Traditionally, the European Parliament has been viewed as less influential an organ of the EU than the Council and Commission, a position not alleviated by the fact that its plenary sessions shuttle between Brussels and Strasbourg (and Luxembourg prior to 1981). In order to meet the challenges of membership and partial loss of legislative competency, all

member-state legislatures proceeded to put in place some form of mechanism to scrutinise directives and regulations emerging from ‘Europe’. These ranged from the presentation of documents before a chamber to improved ex-ante oversight such as the ability of a committee to approve the actions of the government in respect of EU affairs. As we shall see, how legislatures developed this scrutiny and oversight capacity was very much predicated on existing traditions and methods of pursuing domestic parliamentary accountability. It is important to note, however, that as a consequence of this restructuring, the belief that the role of national parliaments with respect to the EU was and should be that of a ‘watchdog’ has dominated much of the literature on the subject since then.

While European Affairs Committees existed in all national parliaments (and in some cases each chamber), it took some years for a mechanism to emerge to co-ordinate their activities. In 1989 the Conference of European Affairs Committees (COSAC) was created on French initiative, comprising of representatives from the respective European Affairs committees and of the European Parliament. Initially, the policy-influencing power of COSAC was limited and its discussions confined to the future of the EU after the Berlin Wall. There was great variety in how influential the constituent European Affairs Committees were within their domestic parliamentary setting and the European Parliament’s delegations tended to dominate proceedings (Kiiver, 2006: 122). In 1990 an Assizes or gathering of national parliaments along with the European Parliament was convened in advance of the Maastricht Treaty. It was only with this Treaty on the European Union of 1992 that the contentious issue of the role of parliaments in EU governance took a significant step forward. Its ‘Declaration on National Parliaments’ argued that it was important to encourage the involvement of parliaments in EU decision-making and envisaged a ‘conference of parliaments’ which would become involved in the decision-making process and with the EP itself. It also suggested that the Commission should give individual parliaments proposals ‘in good time’ in order that they consider them. However, the Declaration was aspirational and did not establish any

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3 The issue of regional assemblies being represented in COSAC is an interesting one. However, while COSAC is a forum for national parliaments, Regional Legislative Assemblies (RLAs) have their own body, the Committee of the Regions. Approximately one third of the 25 member-states have regional assemblies and some of them are indirectly represented on COSAC by virtue of the fact that some member states use their second Chamber to represent regional assemblies, thereby allowing RLA representatives an alternative voice at European level.
penalties for failure to sufficiently involve national parliaments in the various process of governance.

The 1997 Amsterdam Treaty was preceded by significant discussion concerning national parliaments. The final Treaty contained a ‘Protocol on the role of National Parliaments in the EU’, which extended the range of documents to be communicated to national legislatures, including green and white papers. It also resulted in a six-week window being created, during which time such parliaments could comment on EU legislation. The role of COSAC was also developed and it was given the right to make submissions to any EU institution, particularly in the areas of subsidiarity, freedoms, security and justice, and fundamental rights. Indeed, by this stage COSAC had consolidated its presence to the point whereby it was considered the representative body for national parliaments at EU level.

More recently, and in recognition of an emerging ‘democratic deficit’, the Treaty of Nice invited legislatures to participate in the debate on the future of Europe. In an annex to that Treaty, the ‘Declaration on the Future of the Union’ emphasised the need to examine the role of national parliaments in the process of further European integration and Treaty-making. Furthermore, in anticipation of the new EU Constitutional Treaty, the Laeken Declaration of December 2001 committed members to the establishment of a Convention, which included 2 representatives from each of 28 national parliaments. The Convention established eleven working groups, one of which was concerned with National Parliaments, to deliberate and produce a report for the Convention’s Praesidium.

The working group considered three main issues, namely, the role of national parliaments in scrutinising governments; their role in monitoring the application of the principle of subsidiarity; and the role of and function of multilateral networks or mechanisms involving national parliaments at the European level (Conv 353/02: 22 October 2002). The result of this work was the insertion of a ‘Protocol on the Role of National Parliaments in the

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4 These were the national parliaments of the 15 existing member states, the 10 accession states, and three candidates for the Union – Bulgaria, Romania and Turkey. The legitimacy of the delegations was enhanced by the fact that representatives of the various parliamentary oppositions were included in delegations. The other Convention members were a representative from each of the 28 states, 16 delegates from the European Parliament and 2 delegates from the Commission.
European Union’ to the draft Constitutional Treaty. One of the principal demands of this protocol was to oblige the Commission to send national legislatures all EU documentation directly, rather than leaving it at the discretion of the respective governments. Also, a ‘Protocol on the Application of the principles of Subsidiarity and Proportionality’ was included, which provides parliaments with an oversight role in respect of the key organising principles of the EU.

Under its provisions, every national parliament would receive 2 votes (one per chamber in bicameral systems) and if one-third of the votes are submitted to claim that a Commission proposal does not comply with the subsidiarity principle, the Commission is urged to ‘review’ the proposal\(^5\). This ‘yellow card’ is a new power for national parliaments consistent with encouraging greater involvement in the activities of the EU and to enhance their ability to express their views on matters of interest to them. However, it only allows for a six week window in which this ‘card’ can be used – no increase on the period provided for under the Amsterdam Treaty’s protocol\(^6\). Also, the Commission is not obliged to change its proposal and can choose whether it wishes to ‘maintain, amend or withdraw’ its proposal. If an individual parliament wishes to pursue the matter further, it can only do so with the help of its government through the Court of Justice, as parliaments do not have the right to bring actions before the Court. Also, under Part III of the proposed Treaty, there is provision for any individual legislature to block an attempt to move from unanimity to QMV voting in respect of areas such as taxation. This is known as the ‘passerelle clause’ and can also be traced back to the Maastricht Treaty\(^7\).

From the perspective of these Treaties and Declarations alone, there have been essential changes concerning the role and place of national parliaments in the EU. Formally, at any rate, they have gained new functions and (potential) powers, including more direct access to

\(^5\) This is reduced to one quarter on issues concerning judicial co-operation in criminal or policing affairs.

\(^6\) An experiment by national parliaments on the enforcement of subsidiarity organised by COSAC in late 2004 found, amongst other issues, that the six weeks window was insufficient (see Kiiver, 2006: 150-3).

\(^7\) The passerelle is akin to a ‘footbridge’ clause, allowing the Council (subject to a unanimous vote) to transfer responsibility, originally for some aspects of Justice and Home Affairs, from member governments to the Community and its supranational institutions. Like the acquis communautaire, the passerelle is a one-way passage i.e. there is no provision for the transfer of powers in the opposite direction.
documentation, as well as a say in the identification of problems and the subsequent selection of a preferred policy option. Of course, critics argue that protocols were not necessary to achieve this and national parliaments could in most instances request their governments to provide information or take particular actions. However, the intent of such protocols goes beyond simply actions and can enhance the legitimacy of national parliaments involvement in EU legislation, to the benefit of the Union as a whole.

The belief that national parliaments should be more formally recognised in the EU system of governance is reflected in the substantial change in the role of COSAC in recent years. Since 2003, it has evolved from being a platform for the exchange of views on EU issues to a forum for the exchange of best practice in respect of EU scrutiny by national parliaments. All COSAC meetings now have a session concerning the exchange of such practices and the bi-annual COSAC reports provide comparative tables on such procedures\(^8\). COSAC has also been instrumental in initiating the aforementioned ‘subsidiarity and proportionality’ checks within national parliaments, though the process to date has revealed many deficiencies and obstacles to be addressed before such checks become a routine part of the respective legislatures’ work. In particular, it was discovered that only a small number of parliaments had the ability to respond to Commission proposals within the 6-week timeframe, while others found it problematic to adequately distinguish between the two principles (COSAC, 2007).

However, the question remains that if national parliaments are really at the heart of the European project, why is their role is not more fully embedded in the main body of the EU Constitutional Treaty, as opposed to simply the protocols? The answer to this lies in the fact that national parliaments are not a homogenous group, and do not act collectively to influence the EU system of governance. As Benz argues, the participation of national parliaments in the EU is not a matter to be regulated by a European Constitution. Rather, it is for individual member states to explore how best they see their representative assembly and executive dealing with the challenges of EU governance (Benz, 2004: 897). Indeed, it would appear counterproductive for national parliaments within the Union to seek to maximise recognition and influence through the development of their ‘veto’ potential. The Constitutional Treaty’s protocols recognise that while it is the

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\(^8\) This was, in part, an initiative undertaken by the Danish presidency.
wish of the EU to ‘encourage greater involvement’ of national parliaments in Union activities, there will of necessity always be limits to that involvement given the existence of different accountabilities and jurisdictions. For example, as already noted, it is debateable how significant a development it has been to offer national parliaments the function of ensuring that the principle of subsidiarity is adhered to. Also, while a consensus appears to have been reached to bolster the scrutiny role of national parliaments by providing them with a greater range of documentation\(^9\), this is still some distance from the development of potent agenda-setting powers.

**National Parliaments and the European Parliament**

From the beginning of the European project, there has been an unusual relationship between national parliaments and the European Parliament, and it is worthy of comment here. Under the original agreements forming the European Economic Community, a European Assembly was provided for, consisting of members of national legislatures who were ‘seconded’ to the European arena. In this regard, it acted not only as an indirectly elected representative forum for European citizens, but also as a representative body for legislatures. From 1962, the Assembly became known as the European Parliament and in 1979, direct elections to that body were held for the first time. Despite the fact that the contemporary European Parliament claims not to consider national parliaments as rivals in a struggle to represent the European citizenry, for many years after 1979, the European Parliament and national parliaments co-existed in an uneasy relationship. This was a consequence of the competition for scarce democratic legitimacy and a suspicion by the parliaments that their position

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\(^9\) The Protocol of the Role of National Parliaments in the EU states that the Commission shall send national parliaments all published green and white papers, annual legislative programmes, and ‘any other instrument of legislative planning or policy strategy’ at the same time as it sends them to the EP or Council. It also requires that all legislative proposals sent to the EP and Council shall be sent to national parliaments. Furthermore, national parliaments will receive the agendas for and outcomes of Council meetings at the same time as their respective governments. Similarly, the Protocol on the Application of the principles of Subsidiarity and Proportionality envisage that the Commission will send all legislative proposals (including amended ones) to national parliaments and that legislation resolutions of the EP and positions of the Council will be transmitted to national parliaments. The Commission will also send national parliaments an annual report on the application of Article I-9 on Fundamental Rights at the same time as it sends it to the European Council, Council of Ministers and EP. Also, Article I-58 of the Treaty states that the EP and national parliaments shall be notified of any applications to the Commission by a European State wishing to join the Union.
was being gradually undermined at this supra-national level. Indeed, the fact that there was no formal provision for national parliaments to be consulted in the decision-making process added to the feeling amongst those assemblies that their role was being diminished\(^{10}\).

Reflecting the evolving role of national parliaments in the EU, there has been substantial alteration in their relationship with the European Parliament in recent years. As demonstrated above, since the Maastricht Treaty introduced the co-decision procedure, and subsequent Treaties extended its application, the European Parliament has asserted its role in the legislative process, and its self-confidence has developed accordingly. As noted above, a consequence of this has been a substantial debate over the role of national parliaments.

The number of meetings between counterpart committees of the European Parliament and national parliaments has quadrupled in recent years, rising from 10 in 1998 to 40 in 2002 (COSAC, 2004(a): 16). However, the asymmetrical information which has dogged national parliaments in terms of legislative oversight arises again at this level. For while MEPs have a good understanding of how domestic politics and legislatures operate, many MPs do not feel comfortable in their understanding of the decision-making process at EU level. Since 2005, a number of ‘joint parliamentary’ and joint committee’ meetings have taken place, with representatives of the European Parliament or its committees meeting with delegates representing national parliaments or their equivalent committees.

It is important to note that the influence of national parliaments in the EU does not begin and end with COSAC, interparliamentary bodies and the various provisions under the new Treaty. Like many other representative bodies, such as national trade unions and sectoral lobby-groups, national parliaments have themselves attempted to increase their influence in the EU decision-making process through establishing their own offices in Brussels. The national parliaments of Denmark, Finland, France, Italy, Latvia, Lithuania, Poland, Sweden, Slovakia and the UK, amongst others, are now represented in Brussels with offices in the European Parliament. These permanent offices are housed in the European Parliament building

\(^{10}\) Nonetheless, in most member-states, NPs did have some say as to how Directives were to be implemented.
itself and further enhance the ability of member-state legislatures to be kept informed about EU affairs and to augment their ‘early-warning’ systems.

This returns us to the provision in the new EU Treaty for one-third of national parliaments to have a ‘yellow card’ over matters which they view as contrary to the subsidiarity principle. In spite of the fact that national parliaments are not mandated to ensure oversight of EU legislation on behalf on citizens outside of their jurisdiction (Kiiver, 2006), incentives exist nonetheless to form links with each other and to adopt common positions on issues of mutual concern. Alternatively, it raises questions concerning the democratic legitimacy of a procedure whereby the national parliaments of the nine smaller member-states could veto a proposal agreed by the other more populated states.

Another factor not addressed in the literature on the European Parliament is the role played by national parliaments in recruiting, inducting and socialising future MEPs (and indeed Commissioners and Council members) into the norms of parliamentary politics and negotiating. Many MEPs have held office in national parliaments before election to the European stage, and some have been former Cabinet members. Dual membership of the European Parliament and a national assembly, though a practice in decline, is still to be found scattered amongst member-states. Membership of national parliaments provides a useful forum for learning the modus operandi of legislative oversight, bargaining and inter-party co-operation. Indeed, many of the newer activities practiced by the European Parliament, such as attending ‘conciliation committees’ (along with the Council – see below) are activities which occur at national level also. Furthermore, the members of the respective Committees on European Affairs provide a useful pool of talent for the European Parliament, and provide a useful forum for engaging aspiring MEPs with the issues of concern at EU level.

However, this is not a one-way process and for parliamentarians from those states which practice a majoritarian form of parliamentary politics, such as Britain and Ireland, the consensus-building approach of the European Parliament has demanded adaptation to a new form of political engagement. There are also provisions in some member states concerning the ability of their MEPs to address, attend and vote in their respective European Affairs Committees. Informally, MEPs are also accountable to their national political parties and would be expected to provide policy
advice concerning EU affairs and forthcoming legislation. MEPs therefore offer another route for national parliaments to develop their understanding of EU affairs.

Conflict between loyalties along committee or party grouping lines, which is a defining feature of modern parliamentary politics, is also replicated at the European level. All MEPs are members of both committees and parties, and the interplay between the two is part and parcel of European parliamentary politics. While committees are accepted as key to the success of the European Parliament, party membership is not to be ignored and indeed cannot be, given that the distribution of portfolios within the EP is decided by party grouping size. The principal European parliamentary party groupings, the Socialists and the European People’s Party, operate whipping systems and those who remain loyal to the party line have a greater chance of gaining one of the more sought-after posts, such as committee chairmanship. Discipline is not as tightly enforced as in some domestic legislatures, however, and it is accepted that domestic realities can on occasion require MEPs to vote against the (European) party line on specific matters. Indeed, it may be argued that many of the European parliamentary party groupings are held together purely because the greater numbers offer a better chance of gaining key positions. To be a member of the smaller party groups may be important for consistency with domestic political norms, but it can lead to relative ineffectiveness at EU level.

It is not solely along the committee-party loyalty dimension that there is tension in the European Parliament. National party leaderships must exercise some modicum of control and consistency within their membership at EU level. Voting against traditional domestic party values or policy positions at EU level is often used by parliamentarians at national level to berate members of other parliamentary parties. Similarly, MEPs must obviously be kept informed of their own parliamentary parties’ positions on issues. Indeed, for those political parties who do not fit comfortably with any of the European parliamentary party groupings, it can be very difficult to make one’s presence felt.

However, while the European Parliament may be a representative assembly and act in a manner often resembling a national parliament, there the similarities end. The European Parliament does not elect the powerful European Council or Council of Ministers, the latter of which in fact more
closely resembles key features of a national parliament in terms of its law-making powers. Furthermore, the ability to censure either body is in the domain not of the European Parliament, but of the national parliaments who put into power those members of government who sit on them.

We turn here to consider in more detail the two functions most commonly associated with national parliaments in the EU system of governance. These are bridging the accountability or ‘democratic’ deficit between the Union and its citizens; and scrutinising EU legislation.

**National Parliaments and the ‘Democratic Deficit’**

One of the key functions of a parliament is to provide consent for the political system in order that the power exercised by those in control is popularly accepted. Given that the issue of further European integration is itself emerging as a significant cleavage in the political systems of many member-states, the role of national parliaments in mediating and reflecting public concerns becomes more important. Ensuring that democratic participation is enhanced within an enlarged Union has been a dominant characteristic of the current phase in EU institution-building. Since the Laeken summit in 2001 which followed the Irish ‘No’ to the Nice Treaty, tackling the issue of how best to link EU citizens to the institutions of the Union has resulted in a series of institutional reforms. One of the most significant of these was changing the format of Council meetings from being completely *in camera* affairs, to a situation whereby selected meetings are public.

Kiiver argues that the most important question concerning national parliaments in the European Union is not how their role should be strengthened but whether it should be augmented in the first place. He proposes that national parliaments are ‘pre-existing domestic bodies…rooted in their own constitutional setting, and…should be approached with great prudence, if at all’ (2006: 18). While there is merit in his argument that the wide variety in structure, method of election, history and intra-parliamentary complexity of national assemblies makes discussion of ‘the’ national parliaments as a unitary actor in the European hierarchy unrealistic; national parliaments are nonetheless inter-connected by the unique and national character of their work. Member state-specific differences should not preclude us from acknowledging that national
parliaments will continue to feature as important players in the European project, not least because they ratify the Treaties on which the Union is based.

While the significance of the parliamentary dimension to EU governance has been recognised as fundamental long before Laeken, great uncertainty remained as to how best to increase the role of individual legislatures. The often-debated democratic deficit is not a fault of the EU institutions alone, but also of the EU’s constituent members and their respective national democratic institutions. It is accepted that national parliaments have a role in addressing this, but there seems little agreement as to how best they should set about this task. Parliaments are not simply formal institutions for ratification of EU law, but play an integral role in informing citizens on EU affairs and initiating deliberations on EU integration.

The commitment to making greater use of ‘framework directives’ and the Open Method of Co-ordination (OMC) provide new challenges for national parliaments in terms of scrutiny and oversight. This is because such non-binding ‘soft laws’ are co-ordinated by bureaucrats and governments, and not subjected to routine parliamentary examination. However, if treated in the manner of other Commission proposals, legislatures and their committees still retain the ability to develop their discretion as to how EU objectives are translated into national policies and laws (Raunio, 2005: 12).

Within the EU, the accountability gap is perceived to be at its widest with respect to the Council of Ministers. In theory this should not be the case. As Kiiver points out, the Council derives its legitimacy from the fact that individual Ministers are accountable to their respective national parliaments (Kiiver, forthcoming). However, while constitutional provisions for the accountability of members of the executive to the legislature exist in most EU states, the ability of most parliaments to fulfil their domestic scrutiny obligations leaves much to be desired. Also, the unidimensional parliament-executive dichotomy often used when discussing the role of legislatures in the EU can be misleading, and is at odds with the reality of European parliamentarism, which involves a web of interactions between government and opposition parties, frontbenchers and backbenchers.\(^\text{11}\)

\(^{11}\) For more on this see King, 1976 and Andeweg and Nijzink, 1995.
It is therefore unrealistic to suggest that parliamentarians in member states would have the capacity or informational resources to simultaneously oversee all EU matters. Furthermore, no individual parliament is mandated to scrutinise the work of the whole Council, and there is little desire amongst EU legislatures to collectively do so. Nonetheless, many national parliaments have developed methods for providing some form of formal accountability mechanism, which is outside of the existing domestic mechanisms such as PQs and interpellations, to deal with the performance of their Ministers in the Council.

The best-known example of a new oversight mechanism is the ‘parliamentary scrutiny reserve’. Originating in Britain, it is an undertaking by the Government not to agree to a measure in the Council of Ministers if Parliament has not yet completed its consideration of the proposal, unless there are specific reasons for doing so. Since the Maastricht Treaty, other parliaments such as that of France have adopted this practice but it has been used tactically in the Council by Ministers to give themselves more time to consider proposals. How the reserve is applied varies considerably between national parliaments (Maurer and Wessels, 2001). Although the debate continues as to its merits, the reserve acts as another avenue of democratic accountability by involving national parliaments more closely with the intricacies of Council meetings.

As Benz identifies, the restriction by a national parliament of its government’s negotiating ability can result in that government’s inability to negotiate a satisfactory compromise and the risk that a sub-optimal decision may be agreed upon (2004: 876). However, giving a government a free hand to negotiate in European affairs reduces the role of the legislature to mere symbolism and fails to address the democratic deficit. It appears to be widely accepted that the most progressive method for reducing the discretion of Ministers to act against the wishes of the legislature is to attempt to limit their ‘terms of reference’ in advance of negotiations. This can be done by the national parliament itself or the European Affairs Committee.

Such ‘mandating arrangements’ originated in Denmark and are also associated with the legislatures of Sweden, Finland and Austria. Many new EU member states have also adopted this procedure but there are differences in scope of how ‘binding’ the national parliament’s decisions
are. In the Polish *Sejm* for example, the government must seek approval from the Foreign Affairs Committee before Council meetings. Similarly, in Latvia the EU affairs Committee must approve all official positions prior to their submission\textsuperscript{12}. Naturally, a balance must be struck, as a situation whereby national parliaments could constrain governments would lead to significant difficulties in a key arena of EU governance. In other national parliaments, informal channels of influence can be as effective as formal ones, and in the cases of France, Britain and Ireland, there is a strong emphasis on the use of a documents-based system of scrutiny.

Of course, as Bergman points out, in the final analysis, individual national parliaments can choose to remove their government, thus altering the shape and even political colour of the Council itself (1997: 375). This point is also developed by Benz, who argues that parliaments can go beyond formal mechanisms of dealing with EU affairs (below) to adopting more direct forms of engagement. He cites examples such as making government proposals public, informal co-operation with particular Ministers as opposed to the government, or even a situation whereby national legislatures may by-pass government and make their own contacts at EU level (2004: 887-8).

Strong national mechanisms of scrutiny are not, however, inimical to the success of Council members and may indeed be a requisite for enhancing citizens’ trust in the legitimacy of EU decisions. Furthermore, the ability of Ministers and governments to negotiate successfully may be augmented by strong levels of scrutiny in their national assembly. However, addressing the democratic deficit is not solely about censuring Ministers, but also requires legislatures to more actively engage themselves in the design and processing of EU legislation, as well as more regular discussion of EU affairs.

Recognising this, the European Council called for a period of ‘reflection’ in the aftermath of the rejection of the Constitutional Treaty by several member-states in 2005. At a meeting of COSAC later that year, it was proposed that ‘special responsibility for this endeavour lies with national parliaments and the European Parliament’ (2005(a): 5). Indeed, several parliaments proceeded to ratify the Constitutional Treaty during late-2005

\textsuperscript{12} For a more detailed account see COSAC 2004(b): 35-6.
and early 2006 and by 2007 18 of the 27 national parliaments had ratified the Treaty. Furthermore, several invited Commissioners to address them and the free-flowing nature of the debate concerning EU matters in the Irish Dáil with Commissioner Marion Fischer Boel was acclaimed by both parliamentarians and the Commissioner herself. In September 2006, an important new development was initiated whereby the Commission transmits new proposals and consultation papers, including its Annual Policy Strategy to member-state parliaments and invites comments. This has been welcomed by the parliaments though the impact of the views delivered on the various policies has not yet been evaluated.

National Parliaments and EU Legislation

The distinctive nature of EU business is one of the principal reasons why national legislatures have found it difficult to deal with EU matters, falling as it does somewhere between domestic and foreign policy. Traditionally, legislatures elect governments and constitutions bestow on these governments the power to conduct foreign affairs and sign Treaties. Legislative assent was not always necessary and left national parliaments ‘in the dark’ with respect to such matters. In part, the seemingly insatiable demand for scrutiny of EU affairs by national parliaments provides some redress for the loss of sovereignty over legislative matters experienced by parliaments within the European project. The unique nature of the acquis communautaire has elicited a variety of responses and institutional innovations from parliaments, particularly in respect of scrutiny of EU regulations and directives, but also with regard to EU negotiations more generally. These range from the aforementioned strict ex ante and ex post oversight powers of the Danish legislature, to the relatively free hand in EU matters granted to the Greek government by the Voulí.

The European Convention’s Working Group on National Parliaments argued that a number of basic factors had an impact on the effectiveness of scrutiny of EU affairs in parliaments. These included:

- The timeliness, scope and quality of information received

13 For more on the activities of national parliaments in the aftermath of the rejection by France and the Netherlands of the EU Treaty, see COSAC 2006:6-16.
• The possibility for a national parliament to formulate its position with regard to a proposal for a European Union legislative measure or action
• Regular contacts and hearings with Ministers before and after Council meetings, as well as European Council meetings
• Active involvement of sectoral/standing committees in the scrutiny process,
• Regular contacts between national parliamentarians and MEPs
• Availability of supporting staff, including the possibility of a representative office in Brussels (Conv 353/02 (22 October 2002)).

Naturally, however, the Convention stopped short of recommending the ideal means of achieving and practicing these factors. The difficulty of how best to manage EU affairs generally is manifested in the different methods employed by member-states over the years in order to manage EU affairs and reduce problems arising from issues of asymmetrical information. Indeed, the Protocol on the Role of National Parliaments in the EU recognises that the manner in which individual legislatures scrutinise their governments is a matter for themselves. In general, however, most of the ‘older’ states have tended to house their EU affairs division within Departments of Foreign Affairs. However, in the ‘newer’ accession states, there has been a marked tendency to use the office or Department of the Prime Minister for co-ordinating EU matters.

With regard to the process of scrutinising EU affairs, national parliaments were faced with two options - adaptation and innovation. In practice, most legislatures witnessed a measure of each but in particular, those parliaments that already had well-developed sectoral committee systems had an advantage in terms of more efficient processing of legislation. This is consistent with Lane and Ersson’s typology, which classifies European legislatures according to those that operate a form of ‘cabinet parliamentarism’ and those that practice ‘committee parliamentarism’ (1998: 209). In the former type of legislature, such as that of Ireland, Greece, France and Britain, the domination of the assembly and its work by the cabinet government provides an unfavourable environment for the

14 The issue of how national parliaments deal with informational disadvantage is well documented in Maurer and Wessels, 2001; Norton, 1996; and Smith, 1996.
15 Naturally, there are exceptions to this. For example, the Premier’s office in the UK and Finland take a lead role, while in Latvia and Malta, EU affairs are regarded as a matter for Foreign Affairs.
development of effective mechanisms of scrutiny. The demands of EU membership required particularly strong innovations in both countries, with the House of Lords in Westminster re-inventing itself somewhat to take a stronger role in EU affairs, and a specialised committee being established in the largely committee-free Irish Dáil upon its accession to the EU.

Committee parliamentarism applies to parliamentary systems where committees are traditionally well-integrated into the work of the legislature, and in such an environment, using committees to oversee EU legislation and related affairs is relatively straightforward. A good example is the German federal parliament, where both the Bundestag and Bundesrat have long-established committees to deal with EU affairs. As with most other Lower Houses in the bicameral parliaments of the EU, the Bundestag has a Committee on EU Affairs. In addition, the Bundesrat has both a Chamber on European Affairs and a Committee on Questions of the European Union. Of course, allied to the institutional provisions for oversight is the strong parliamentary culture of executive oversight in Germany, and EU matters are subject to more rigorous scrutiny in such an environment. Other examples of national parliaments where committees are well-developed institutions of scrutiny include Belgium, Sweden and Finland.

In parliaments where committees have an established tradition of policy-formulation, as well as the ability to alter legislation, it can be expected that a more developed level of expertise in various policy areas will be found. This also contributes to knowledge of expected policy outcomes, as well as deference among committee memberships to each other, a situation Strøm refers to as ‘gains from trade’ (2001). Such practices are particularly useful for managing the large volume of EU legislation which comes before parliaments each year. In short, it may be surmised that those legislatures that exercise committee rather than cabinet parliamentarism respond more easily to the challenge of scrutinising EU legislation, and overseeing their government’s positions in respect of EU matters.

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16 This dichotomy is largely consistent with Liphart’s ‘Westminster’ versus ‘Consensus’ typology, a point identified by Maurer 2001
17 This was the Committee on Secondary Legislation of the EEC.
18 Article 23 of the Basic Law actually requires that both Houses ‘participate in matters concerning the European Union’.
19 Consisting of representatives of the Länder delegations in the Bundesrat.
This is not to say that committees have not been the mechanism of choice for all national parliaments in dealing with EU matters. As already noted, all such parliaments now have European Affairs Committees. However, just as there is great variation in the dynamics governing the executive-parliament relationship in individual member states, so too is there difference in how European Affairs Committees formally interact with other bodies within their parent chamber(s). In Portugal, for example, the Committee on European Affairs and Foreign Policy can request opinions from specialist committees and use them to present reports to government. In Italy and the Netherlands, the equivalent Committees are expected to sift through EU legislation before passing it to the relevant specialist committee or even government itself (Maurer and Wessels, 2001: 448). In Germany, members of the well-resourced Committee for European Affairs bypass government and go directly to the EU institutions for information. In Britain, the House of Commons has not only a European Scrutiny Committee but also several specialist select committees looking at different policy areas. Second chambers, where they exist, may also be involved in the oversight process, either directly as in Italy where power is divided equally between chambers, or indirectly through the European Affairs Committee as in Ireland. However, there is no consensus as to whether it is desirable to have one European Affairs Committee per bicameral national parliament, or to have one per chamber.

A distinction may be drawn here between scrutiny and oversight in respect of EU legislation. While scrutiny refers to the process of examining completed legislation and providing assent for its acceptance, oversight refers to engagement in the policy formulation stage of that legislation. The emphasis on oversight is also made in the most recent bi-annual report from COSAC, which categorises member-states into those that have adopted either document-based or else mandating systems for monitoring EU affairs. It argues that ‘the principal feature of a document-based approach is a sift of EU documents at the early stages of the decision making procedure’ (COSAC, 2005(b): 10). The document-based systems allow national parliaments and their MPs to inform themselves of the progress of EU legislation in its embryonic stages and where difficulties may lie. The mandating systems seek to place limits on what Ministers and government representatives can agree to in Council negotiations without first consulting with parliament. In practice, almost all member-states have a modicum of each in their processes of oversight and scrutiny. Indeed, a
successful mandating system is predicated on a good documents-based oversight capacity.

In more recent years, innovations with respect to oversight of EU affairs has cross-pollinated between jurisdictions. For example, the Slovak Republic has adapted its existing structure to reproduce as closely as possible the effective and innovative Dutch method of co-ordination and oversight. The Finnish Grand Committee system of legislative oversight has been embraced by Estonia, Slovenia and Hungary. Indeed, within the new EU member-states, there has been much common sharing of knowledge and best practice in how to manage EU affairs in both the parliamentary and central government arenas. This is not a new development, however, and it was no coincidence that Sweden, Finland and Austria all adopted broadly similar oversight practices to the successful Danish model upon their accession in 1995 (Kiiver, forthcoming).

There is a range of factors offered by commentators to facilitate better understanding of the processes adopted by parliaments in undertaking scrutiny of EU legislation. Maurer (2001) argues that three factors are key – the scope of documentation received, whether or not national legislatures receive proposals in good time, and the impact of scrutiny by a national parliament on its government’s room for manoeuvre. Apart from the actual procedures adopted, Bergman (1997) also cites several variables for understanding the activities adopted by each member state with respect to scrutiny of EU legislation. These include:

- Whether or not the political culture of the member state pro or anti EU integration.
- Are EU affairs regarded as foreign policy matters for governments or do national institutions have a complementary role in their oversight?
- Is the member-state a federal one and if so how are the constituent parts of the federation to be involved?
- Are minority governments prevalent, thus resulting in stronger parliamentary influence on the executive?
- Is EU scrutiny an issue in the domestic struggle for power?

With regard to the first of Bergman’s variables, there appears to be a strong correlation between the role of a national parliament in the oversight of EU
affairs, and the size of the EU-sceptic population in a member state. Indeed, it is no coincidence that the most lauded model of oversight in terms of EU affairs occurs in the member-state which has a very large EU-sceptic minority i.e. Denmark\(^\text{20}\). Institutional responses to EU scepticism are also to be found in Britain, where both Houses take an active part in overseeing EU affairs. In Ireland, the unexpected rejection of the Nice Treaty in 2001 resulted in unprecedented reforms at the parliamentary committee level. The ‘beefing-up’ of the scrutiny role of the European Affairs Committee, including the creation of a sub-committee on European scrutiny, was a direct consequence of this expression of concern by Irish citizens\(^\text{21}\). In this respect, it may be argued that national assemblies can play an ‘assuaging’ role in terms of popular concerns over EU integration.

Norton argues that the way in which parliaments react to the demands of EU membership varies not just according to existing constitutional arrangements, political culture, and party systems but also the parliamentary norms and practices, and even the extent of the parliamentary workload in each member-state (1996: 9-11). Related to this last factor is the issue of size. It is significantly easier for the larger legislatures in Britain, France and Germany to examine all EU documents with a greater degree of intensity than their counterparts in Malta, Luxembourg and Cyprus. In part this is due to the staffing and financial resources available within those parliaments, but also the resources employed in Brussels and Strasbourg which provide a form of early warning for them.

While EU affairs can often be the source of political conflict, it is true to say that no national parliament has been able to use scrutiny of EU affairs as a vehicle for increasing its influence over domestic matters. Indeed, the path-dependent nature of the mechanisms for scrutiny has determined that the subordinate position of legislatures to their executives in most member-states will shape the method of dealing with EU issues also. For example, in the case of the Danish *Folketing* and the Dutch *Tweede Kamer*, the legislature’s agenda-setting ability in respect of legislation and scrutiny is

\(^{20}\) The frequency of minority governments and the inability of governments to ignore the European Affairs Committee are also often offered as reasons for the Danish system.

\(^{21}\) Another outcome of this rejection was the creation of a ‘National Forum on Europe’ to hear the views of citizens and interest groups on European integration. Members of both chambers of the Irish *Oireachtas* were on the Forum.
already relatively well established (Döring, 1995(b); Döring, 2001). The issue of path-dependency is also raised by Dimitrakopoulos in his study of the French, British and Greek legislatures (2001). He argues that the reforms witnessed within legislatures varied to a large degree according to the existing institutional arrangements within those parliaments.

While national parliaments are developing their capacity to make their views known on EU legislation as it makes its way through the principal European institutions, questions remain concerning the ability of legislatures to shape that legislation in its formative stages. While they will now receive the Commission’s proposed annual legislative programme, it remains the case that they have little agenda-setting influence over the Commission, its consultative and expert committees. Nor indeed do they hold much sway over the work of the European Council, or examine such issues as Council Working Group processes or COREPER meetings. These are areas which may be fruitfully exploited by national parliaments seeking to exert more authority over the progress of legislation. The fact that many national parliaments have already begun to strengthen their early-warning systems (above) demonstrates that this view is shared by member-state governments as well as legislatures.

Before leaving the issue of EU legislation, it must be recognised that the Commission is currently spearheading a drive to reduce the amount of legislation produced by the EU in favour of better regulation. In December 2003, the European Parliament, Council and Commission agreed an ‘Inter-Institutional Agreement on Better Law-Making’. This agreement commits the Council and European Parliament to providing a stable framework for ‘soft law’ such as co-regulation and self-regulation, and to improve co-ordination and simplification. The use of EU standards in place of national regulation, as well as the application of OMC is also advocated. If these proposals are successful, it should consequently reduce the burden on national parliaments to scrutinise EU legislation. Parliaments will also be presented with greater levels of discretion concerning the domestic transposition and implementation of EU ‘framework directives’.

**Conclusions**

As detailed above, none of the EU Treaties specify what the role or place of national parliaments in respect of the EU system of governance should be.
Instead, it has been left to such assemblies to decide how best to make their presence felt in an ever-changing institutional and political environment. This has raised questions of democratic legitimacy and competence, and has ensured that for the foreseeable future they will be much debate over the issue.

There has been much analysis of how the adaptation of national parliaments to the demands of EU membership has been to a large degree predicated on existing domestic traditions. However, while there is merit to this, the increasing cross-fertilisation of ideas via communications between officials, formal and informal party links, as well as networking between MPs and MEPs cannot be dismissed. While there may be agreement on certain issues, such as the effectiveness of committees in the process of scrutinising EU legislation, convergence on a single ideal method of scrutiny, oversight and deliberation is unlikely.

One of the paradoxes of the European Union is that while national parliaments have an important role to play in connecting ‘Europe’ to its demos, no European Treaty can oblige national parliaments to perform tasks outside of those that fall within their individual national domains. The democratic legitimacy of the Union is arguably best expressed through the scrutiny of EU legislation and oversight of Council decisions which national parliaments are tasked with performing. National parliaments are not a unitary group and while this article has largely focussed on existing formal oversight practices, the informal influence of parliaments on their governments is worthy of further analysis. For the European Parliament in particular, partnership with national assemblies is key to its success. It can never have more democratic legitimacy than them and therefore achieving high levels of agreement through the various formal and informal channels remains essential.

The EU is not, and never was, about finding the perfect institutional arrangement for governance. It is about finding efficient and practicable solutions to common problems and the success of the institutions it employs will be measured by how well they can help achieve those means. While the EU decision-making process challenges national parliaments to constantly adapt and innovate, its evolving nature also allows such legislatures to influence it. In the final analysis, governments can no more
afford to ignore their national assemblies than they can their political parties or electorate.

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Teaching Donkey to Talk:
Nukes and Theology in Tehran-Washington Discourse

Lasha Tchantouridze

Abstract

This paper addresses the question of religion in international politics, most specifically, in the on-going discourse between the United States and Iran. The two letters written by Iran's President Mahmoud Ahmadinejad to President Bush and American people are used as a background for analysis. The letters are significant as they represent a unique case in modern international relations of interstate business being done through public epistles. Despite the fact that the US and Iran are very much at odds with each other, the presidents of the two countries display remarkable similarities in their outlooks on pressing social issues. Dominant values of the modern international system; however, do not allow for much sympathy for such outbursts of rhetoric in public letters, as the system itself makes most states follow almost the same set of values. The question of Israel figures prominently in Ahmadinejad's letters, as this state is the usual target of Iranian propaganda, and it also would be the most likely target of Tehran's nuclear program.

Keywords: Iran, Nuclear, Ahmadinejad, Israel, Bush

Introduction

Mixing religion and politics is not a new phenomenon in international politics, but it has become somewhat more prominent since the end of the Cold War. In the 1990s, it was Huntington who first poured religion and other things into a bizarre method of classifying cultures. He used religion as one of the criteria to classify civilizations among such other criteria as ethnicity, race, tradition, geopolitical construct, and nationhood. Besides

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that fact that Huntington used a blatantly flawed scholarly approach to qualify a single concept, he also indicated that religion signified the bad things by defining potentially the most anti-Western 'civilization' by it – the Islamic civilization. Two other suspicious 'civilizations' had a mixture of religion and ethnic background as the defining criterion: the Hindu civilization and the Slavic-Orthodox civilization (Huntington, 2002).²

Huntington’s approach to defining civilizations is no different from a child classifying dogs by size, friendliness, colour, smell, and cuteness. Despite this, the idea of the clash of civilizations has caught on. A lot of opinion-makers around the globe started talking about it, mostly in private, occasionally in mass media, and academic circles. Al Qaeda ideologues were not far behind to follow this discourse as they were very happy to oblige with outrageous versions of the 'clash' (bin Laden, 1996). For Islamic fundamentalists it is the Crusaders and Jews who are the bad guys of world politics poised to dominate and dictate social order in every single Muslim village. Their manifests have been on par with Huntington and his followers in terms of accuracy, rigour, and scholarship. However, whether such analyses of current or historical events are flawed or not is irrelevant: as Huntington’s bank managers and al Qaeda recruiters have found out crude explanations of complex things with admixture of religion and ethnic factors fascinate, interest, and mobilize people.

After 9.11 the whole issue of religion in international politics has become even more sensitive, indeed: on one hand there is Christianity, and Islam, with their own doctrines, and on the other hand democracy, freedom, and justice that are supposed to work around doctrines. Dichotomies between religious doctrines and secular societal values normally would not be a problem, if there were no violent struggles among peoples who are very often followers of these two great religions, and some of Judaism as well. The latter should be mentioned here, as it is not very popular nowadays among the Muslims of the Middle East and Central Asia where most of these 'clashes of civilizations' take place.

This paper seeks to comment on current Christianity/West – Islam/East discourse. There is much going on in this regard, from President Bush’s

² With this new edition of the book, an unabridged audio book on cassettes was also offered with special sound effects and Paul Boehmer as the narrator.
Iraq project to ‘Knight Bachelor’ Salman Rushdie.\(^3\) In this paper, analysis is set against the background of the epistles sent by one prominent follower of Islam to one also prominent follower of Christianity and 'his' people – President Ahmadinejad’s letters to President Bush and the Americans. Iran’s president is an interesting character, to say the least, and he is more moderate and informed in his pronouncements of 'clashes' than al Qaeda ideologues and Huntington-type analysts. I also believe Ahmadinejad's letters to represent a unique case in modern international politics: Iran and the US are bitter rivals, both presidents claim to be ardent followers of their respective religions, and it seems rather unusual in any setting of one president to address another in a long public letter that is full of religious commentary and rhetoric.

Ahmadinejad’s letters, most would argue, have been occasioned by the ongoing stand-off between Tehran and Washington on the issue of Iran’s nuclear program. Iran’s leaders insist that the nuclear program has peaceful purpose only (Ministry of Foreign Affairs of the Islamic Republic of Iran, 2007; and Presidency of the Islamic Republic of Iran, 2007), while its detractors point out that any advanced nuclear program could lead toward atomic bombs (CBS News, June 22 2007, The Jerusalem Post, March 24 2007). Since Tehran and Qom, Iran’s spiritual capital, are both known to favour \textit{fatwas} and drastic acts of various sorts, opposition to the nuclear program is understandable. Tehran’s nuclear gamble has very high stakes, and it is also a very difficult project to see through without major hiccups, almost as difficult as to teach a donkey to talk. The United States remains its most prominent foe, and Washington’s calls to disrupt Iran’s nuclear desires have been heard around the globe.

It would be fair to claim that with his letters President Ahmadinejad has tried both to criticize the US administration, and identify shared values between the two nations. The current US president has won two elections and received endorsement by the majority of US electorate mostly because of his exposition of traditional and conservative values based on Christian teachings. Mahmoud Ahmadinejad, the current president of Iran, is a noted promoter of traditionalist and conservative values derived from the teachings of Kuran, who also has been elected to his office by the Iranian

\(^3\) Perhaps there is bitter irony in awarding the title of 'knight bachelor' to a person who has spent years hiding from his enemies.
people. Despite the fact that the US and Iran are very much at odds with each other, the world views of the two presidents seem to be very close: they both insist on the centrality of God in human political endeavors, as well as on higher values that should be paramount in policy making. In one of the most striking paradoxes of current international politics, the presidents of Iran and the US find themselves astonishingly close on most social issues, and worlds apart on crucial political questions concerning the Middle East.

Ahmadinejad Complains

In his May 2006 letter addressed to George W. Bush, President Ahmadinejad speaks of the contradictions between Christian values and US behavior in Iraq, and its treatment of the prisoners at Guantanamo (Ahmadinejad, 2006a). The underlying rationale in Ahmadinejad's polemic is that evidence found in US foreign policy conduct contradicts the values of President Bush's widely publicized Christian faith. The Iranian president bitterly points out that today's world is nowhere near to the ideal of universal justice Jesus Christ emphasized in His teachings:

Can one be a follower of Jesus Christ (PBUH), the great Messenger of God, feel obliged to respect human rights, present liberalism as a civilizational model, announce one's opposition to the proliferation of nuclear weapons and WMDs, make war and terror his slogan, and finally, work towards the establishment of a unified international community – a community which Christ and the virtuous of the Earth will one day govern, but at the same time, have countries attacked, the lives, reputations, and possessions of people destroyed and on the slight chance of the... criminals in a village, city or convoy... set [them] ablaze (Ahmadinejad, 2006a).

His second November 2006 letter, Ahmadinejad addressed directly to the American people. He squarely blames the US administration for "many wars and calamities" "in this part of the world" (Ahmadinejad, 2006b). Ahmadinejad notes similarities in values held by the American and the Iranian peoples, and argues that such values bring the two nations together. "While divine providence has placed Iran and the United States
geographically far apart," he writes, "human values and our common human spirit" have brought "closer together" (Ahmadinejad, 2006b).

The Iranian president's letters are without equals in modern international politics: the president of a major regional power addresses the president of a global power, his rival, and then writes a letter to citizens of that country. One president is a committed Muslim, and the other is a born again Christian. Both of them wear their faith on their sleeves. Relations between their two countries are very tense, and there is no relieve in sight while relations between the two faiths are at a critical juncture as well.

Ahmadinejad's letter is critical of Bush's policies, but respectful as he emphasizes the doctrinal similarities between Christian and Muslim faiths: common prophets, belief in Jesus Christ (who is God to Christians, and a great prophet to Muslims), belief in one God who is active in the world, monotheism, the judgment day, salvation, the second coming and the promised world – the kingdom of God. Ahmadinejad also makes references to the issues that Mr. Bush also has stressed many times in his public speeches: "the attacks on... cultural foundations and the disintegration of [traditional] families," and "the fading of care and compassion" in modern societies (Ahmadinejad, 2006a). Ahmadinejad emphasizes that both Iranians and Americans are "God-fearing, truth-loving and justice-seeking, and both seek dignity, respect and perfection," and "both greatly value and readily embrace the promotion of human ideals such as compassion, empathy, respect for the right of human beings, securing justice end equity, and defending the innocent and the weak against oppressors and bullies" (Ahmadinejad, 2006b).

Extremists and/or illiterates from both Christian and Muslim sides believe that theologies of two faiths are fundamentally opposed and irreconcilable. In fact, as Ahmadinejad highlights it, Christian and Muslim theologies are remarkably close. Christianity had a lot of influence on the birth of Islam, especially the so called monophysite brand of Christianity. The 7th century Christians even thought that Islam was just another Christian heresy. For instance, it was St John of Damascus who held this idea among others (John of Damascus, c730). He served in a Muslim led government of Damascus, in which one of his closest friends was a leading figure, and the friend's father was the caliph of the city.
The Iranian president's passionate letters are very careful not to blame Christians and Christianity for many political problems that plague today's world. Instead, he calls President Bush to adjust American policies in accordance with the teachings of God, and His prophets. He stresses common values and ideals, as well as common problems and dangers experienced by most nations around the world.

It is difficult to say whether these letters have contributed to the opening of a new venue of communication and problem-solving between Washington and Tehran. Clearly intended for this purpose, the letters called for a direct dialogue between the two capitals. The US and Iran did start meeting and talking in Iraq first secretly, and then publicly. Ahmadinejad even echoed some Republican senators in their criticism of the United Nations system: "the people of the world have no faith in international organizations, because their rights are not advocated by these organizations" (Ahmadinejad, 2006a).

It has been common for both the US and Iranian governments, as well as for the governments of many other countries, to stress their 'own values,' and portray them as superior to those of others. This is a form of rhetoric and it is mostly intended for domestic public consumption and/or international posturing. The universal human values are, indeed, universal. Ahmadinejad makes a good point noting these similarities (Ahmadinejad, 2006b). The values of the international system are also the same for all states: every nation-state wants to survive, be economically wealthy and militarily secure; the governments of all countries want to remain independent and sovereign, they seek prestige and new opportunities, etc. These are the values of the international system, of which the nation states are still the most important actors.

From Religious Wars

Ironically, the modern international system was born out of squabbles of medieval European Christians – the 1648 Peace of Westphalia ended the Thirty Years War, of which Roman Catholics and Calvinists had been most prominent participants (Osiander, 1994: 16-19, Poli©ensk, 1978: 199). This treaty formally established the most important principles of the modern international system: non-interference, sovereignty, and states’ rights to
engage in diplomacy, trade, as well as to make peace and war (Osiander, 1994: 77-82, Goldstein, 2005: 25).

The Peace of Westphalia is regarded as a formal birth year of the modern international system. Of course, making of the new international system was not a one year project; the transition lasted for a generation, but the 1648 treaty symbolizes the birth of inter-state arrangements that we take for granted today (Goldstein, 2005: 25, Kegley and Raymond, 2001: 3-10). Further, the treaty facilitated for the organization of nation-states, and all kinds of modern state and market institutions were born right before or soon after the Westphalia: large regular armed forces (Lee, 1991: 43-44), standardized drills and weapons (Guthrie, 2003: 21-27), and eventually formal government ministries, property systems, central banks, paper money, and so forth.

The Westphalian system is not the only international system. There have been others: city-states, medieval feudalism, the Holy Roman Empire, the Byzantine and Russian systems, to name few. International systems come and go, they are historical creations but were not established by God (there have been such claims made, but there is no evidence of this at least in Christian doctrine and Scriptures). Instead, the systems are better regarded as cultural phenomena created by humans, and there is no other reason in the world why the Westphalian system should be the dominant one today except for the fact that it has trampled all others through European military, economic, and cultural expansion since the 17th century (Black, 2002: 1-4).

It was during that long European war of the 17th century that massive propaganda efforts were undertaken by the warring sides. Both Roman Catholics and Protestant groups distributed propaganda material denigrated and criticizing their enemy – leaflets, pamphlets, line drawings and posters (Jowett and O'Donnell, 2006:73). In 1622, the Roman Catholic Church even established a special department, Sacra Congregatio de Propaganda Fide, an organization in charge of propagating faith. This was done primarily to promote faith in the new world, but concerns related to Protestant opposition had to be adequately addressed as well (Jowett and O'Donnell, 2006: 73-74). In the 20th century, Ayatollah Khomeini likewise assigned huge significance to propaganda:
The term propagation is so important an issue that one could say the world is propagation governed. One should note that the most effective device which can help the revolution achieve its fruitful goals and expand it all across the world is propagation, the correct one. In this case one should not exaggerate. We possess what does not need any exaggeration. You should introduce Islam to the world as it is really, through the correct form of propagation…. You should propagate for God’s satisfaction and this is a matter of high importance. The propagation is as harmful to the arrogant and cruel people as it is suitable to the benefit of the oppressed and the needy. …. The usage of propagation as a tool is much more effective than the usage of arms in the battle field… (Khomeini).

Soon after the victory of the Islamic revolution, the Islamic Propagation Organization was founded in Tehran. Thus, the formal state propaganda and public relation apparatus currently skillfully used, among others, by Iran’s president also dates back in the 17th century European politics.

The Treaty of Westphalia formally ended, at least among the European officialdom, the medieval holistic (or totalitarian) view of human associations, according to which the matters of the church were not separate from political organizations. Europeans had fought and dies for their versions of Christianity, and not necessarily for their political entities. It is impossible to ever completely separate faith or religion from politics, but organizational tautology between the church and the state had to end in order to provide room for political compromise and diplomacy. One is unlikely to make concessions on the doctrine of the church, but politics, especially in international relations is built on compromises.

Many would agree that the Westphalian ideal of the sovereign decision-maker, as advocated by French cardinals Richelieu and Mazarin (Croxton, 1999: 273-274), is still alive in the United States, despite a spectrum of religious discourse that surrounds the Bush administration. The same ideal is not; however, present in Iran – the whole idea of the Islamic revolution in that country was a rebellion against the Westphalian system, which has been seen by the cleric-revolutionaries as a set of institutions imposed by the West, which was foreign and harmful for the Persian culture. The Islamic Republic of Iran has attempted instead to make the religious and political organizations function as one organic whole guided by Shia
conceptions of justice (The Office of the Supreme Leader, 2007). However, so far they have not gone far from the Westphalian model abandoned in 1979, and the issue of justice in Iran has been trampled daily – a common disease for all revolutionary regimes. According to human rights reports, human rights and freedoms further deteriorated in Iran in 2006 (Human Rights Watch, 2007).

We should address the case of the State of Israel as well, since the state in that country, in a sense, has become holier than religion, especially for secular Jews and in public discourse. It seems that Zionism, against which Ahmadinejad rails so much, a secular religion, has replaced the ancient religion of the Jews in its overall importance and meaning for the Jewish society. The modern Jews, unlike their ancient ancestors, fight and die not for God as much as they do for the state – just like most soldiers in most other places in the world. In public discourse and in academic writings there are claims equating ant-Zionism with anti-Semitism or anti-Judaism (Wistrich, 1985), as if being against a set of institutions means being against religion. In such discourse, religion here becomes synonymous not only with the concept of nation, but also that of the state (Drake, 2002: 203-205).

Ahmadinejad in his many anti-Israel pronouncements, and his letters to Bush and Americans, has condemned Zionism. It was his declaration – "world is better without Zionism," and his comments regarding the 2006 Lebanon war – that was translated into American public discourse as him calling to wipe out the State of Israel. In December 2006, the Iranian government organized a conference to promote revisions of common knowledge, perceptions, and attitudes toward the holocaust (BBC News, December 11 2006). This act by the official Tehran to 'revise' historical facts, and aggravate people concerned with the questions of holocaust, Zionism and anti-Semitism is not likely to be the last, as Iranian propaganda tries to 'outlaw' the State of Israel itself.

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4 According to recent comment by the Supreme Leader of Iran, Sayyid Ali Khamenei, "unfair interntational relations" is currently on the "verge of collapse" (June 10 2007, [http://www.leader.ir/langs/EN/index.php](http://www.leader.ir/langs/EN/index.php)).

5 On June 8 2007, BBC News quoted Ahmadinejad saying that "the hegemony of Israel had collapsed, and the Lebanese nation pushed the button to begin counting the days until the destruction of the Zionist regime."
Israelis, on the other hand, face armed groups that have rebelled against the institutions of the modern international system, the central player of which is the nation-state. At the same time, Israelis are holding on to these institutions for dear life as they are seen the only guarantors of Jewish survival in their ancestral homeland. The radical armed groups, especially Hezbollah and Hamas, have themselves championed and promoted 'distinct' forms of human organization, based on their interpretations of Islam, because as they claim, the Western system has failed in the Muslim world (The Hizballah Program, 1985: 3).

State of Israel's creation itself has been a testimony to the privileges given to the institutions of nation-state in modern era. After World War II, the United Nations resorted to unprecedented steps in order to give Jews a credible protection from future persecution and atrocities. The world war victors' choice to grant Jews statehood in Palestine was obviously guided by their own preferences for such institutions. It was, after all, these institutions that had brought immense power and influence to the United States, and had helped the United Kingdom and the Soviet Union win the global battle with Nazism. However, the creation of Israel was still an exceptional move: the United Nations' 1947 Partition Plan decreed large sections of land in Palestine to be given to Jews, i.e. a minority group of people most of whom were either immigrants or foreigners. Resolution 181 called for the creation of separate Arab and Jewish states no later than October 1 1948, and the land under the British mandate was supposed to be divided in eight parts. Of these eight, three were to be given to the Arab State, and three – to the Jewish State. One part, the town of Jaffa, was expected to become an Arab enclave within the Jewish State, and one more, Jerusalem, an international city administered by the UN Trusteeship Council (The Plan of Partition, p. 1).

Evidence that the Westphalian system has failed in many parts of the world is painfully obvious even without Hezbollah's clarification: in Africa, the Middle East, predominantly Muslim countries many states are broken, deeply corrupt and/or exist in the grip of perpetual tyrannies. The Westphalian system was born in Europe, it is essentially an European system, created by Europeans for Europe. Therefore, it should not come as a surprise that it does not work everywhere. In Turkey, for example, the nation-state was implanted by force by Kemal Pasha Ataturk at the cost of suppressing religion, and ethnic minorities. The system works better in
Turkey than in many other predominantly Muslim countries, but there is also price Turkish society has to pay for it: frequent suppression of freedoms, civil strife and war, a very strong role for the military, and marginalized minorities.

The violent resistance to the Westphalian system; however, has been promoted as 'holy' enterprise by some, most notably by al Qaeda and its mimics at the extreme end of resistance to Western influence in the world, and the leaders of Iran, the Hezbollah, and other groups of similar distinctions (bin Laden, 1996, The Office of the Supreme Leader, 2007). At its more moderate end, this rebellion is, in other words, not a rebellion of Muslims against Christians or a 'clash of civilizations,' but it is a rebellion against the Westphalian system and the established supremacy of the nation-state in international relations.

There is an alternative traditional story or myth championed by some 'rebels,' most notably Sunnis: once there was a single Islamic state, which was just and much superior in its approach to justice, freedom, education, ethnic, cultural, and religious minorities than any other political structure before or after it. This is as true as the claim that once there was a single Christian state as it was so wonderfully imagined by the Papacy as late as the beginning of the 19th century, when in 1806, the Holy Roman Empire was finally formally dissolved by Napoleon (Lee, 1991: 62). However, there was never a single Christian state or an empire, even under Charlemagne and his successors, as they were bitterly opposed and even despised by the Christian Eastern Roman Empire more popularly known as Byzantium. Such common civilizations or empires or states defined by religious identity have only been imagined for ideological or public relations purposes, but such imaginations are real. They are as real as al Qaeda suicide bombers or the Clash of Civilizations book sales numbers. The bottom line is that there has never been a single Muslim or a Christian state, at least in the modern understanding of this concept that implies nation-statehood with all its institutions, simply because there had not been the idea of nation-states and empires organized around a mother nation prior to 1648. When such national organizations became possible after 1648, the concepts of 'Muslim'

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6 This story is becoming quite popular among young mainstream Muslims as well. For instance, some Muslim students in my classes have expressed their support for such an interpretation of world history, and Islam's place in it.
and 'Christian' became increasingly irrelevant in international relations, and instead, more mundane and vulgar human desires guided by greed and selfishness replaced Europeans' quest for power.

It is true; however, that there once was a common Muslim society, especially following decades and centuries after AD 622, and there was a common Christian society, at least for most of the time between 325 and 1054. The Muslim society was guided by many different rulers, some of them very just and enlightened, and others very violent and bloodthirsty. So was the case with the Christian society. However, to make claims that there was something in the past that resembled the modern state structures is very wrong and misleading. Any attempts to recreate that utopian state will end just like the Taleban experiment in Afghanistan: a set of very oppressive and violent institutions that would get eventually overthrown and destroyed by foreign intervention.  

Values and Interests

The current dangerous stand-off between the United States and Iran is not occasioned by the fact that these two countries have fundamentally different values, as Ahmadinejad himself notes in his letters, but it is so mediated by the reality of the diametrically opposed interests of these two nations. In his letters, Mr. Ahmadinejad prominently addresses one major area of disagreement between his country and the US: the state of Israel and Palestinian territories (Ahmadinejad, 2006a). However, he fails to note that there are policy preferences and priorities that feed such opposed interests in both Iran and the United States and elsewhere, not universal human values or religious norms.

The Iranian president puts in a single short paragraph the most pressing and urgent issue of current affairs – Tehran’s desire to acquire advanced nuclear technologies. For him this is merely a matter of scientific research

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7 It should be noted, that it was the United States that gave a major boost to political Islam in Afghanistan and Pakistan. In the 1980s, Washington actively supported and funded Islamist groups in Afghanistan and Pakistan, because they were seen as effective tools in US’ global struggle with communism. The United States failed to anticipate a transformation of these groups into a major anti-Western force, as the groups Washington funded in the 1980s became al Qaeda, the Taleban, and their numerous minor affiliates in the 1990s.
and development, "one of the basic rights of nations." According to Ahmadinejad, it is not proper to view scientific progress as a crime as if we were in the Middle Ages. Thus, Mr. Ahmadinejad avoids responsibility associated with the development and ownership of such technologies, and asks rhetorically: "why is it that any technological and scientific achievement reached in the Middle East regions is translated into and portrayed as a threat to the Zionist regime?" (Ahmadinejad, 2006a).

It is very likely that with his letters Mr. Ahmadinejad wanted to communicate more with the audiences in other countries, especially in his neighbourhood, rather than the United States. The letters are replete with rhetorical passages and theological references that may not be taken favourably in Washington. However, he does reiterate his willingness to engage in a direct dialogue with the US administration, and outlines some common grounds for it. The question of a direct dialogue between the two capitals is in order as UN agencies, Europeans and others find themselves incapable of dealing with implications of Tehran's nuclear program.8

The values that are common to all members of the international system are not difficult to identify if we look carefully at the actors involved in the case of Iran's nuclear program. What values would they like to preserve the most? Iran wants to survive as an Islamic State as it feels threatened by the United States; hence, the whole mess around its nuclear program. The State of Israel wants to survive as well, and it feels threatened by Iran and its proxies; hence, the 2006 war with Hezbollah in Lebanon. The United States desires survival as well, which it will not do if it does not have access to resources; hence, the war in Iraq and pressure on Iran. After a closer examination, the desire to survive may not seem the only vital issue that concerns these countries, as there could be other important systemic values attached to it as well – power, prestige, prosperity, and so forth.

Do these international actors struggle to survive as religious or cultural entities? No, they fight to survive as nation-states, i.e. a set of sovereign institutions committed to protect a population within defined geographical

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8 The United States and Iran have made baby steps in bilateral relations since Ahmadinejad mailed his first letter in May 2006 as the two sides have met in Iraq the Ambassadorial level in May 2007 (The Guardian, May 29 2007). The talks; however, were not a direct result of Ahmadinejad's letter – preparations were already underway in March 2006 (Karon, 2006).
boundaries. Does religion have anything to do with this struggle? Not directly, but the trouble is the American and Israeli way of survival does not agree with the Iranian way and vice versa. That is why religion is always highlighted when it comes to clashes of civilizations, axis of evil or desires to outlaw Zionism. Religion has come handy for many generations of rulers and ideologues of various brands as they have used it in general discourse with great skill to denigrate other cultures with ‘weird’ belief systems and customs.

**Iran's Nuclear Expectations**

In October 2004, I answered questions from the Iranian Students' News Agency (ISNA) on the topic of Iran's nuclear program. One of the questions dealt with Iran's right to develop a peaceful research of atomic energy. I wrote the following:

The members of the Non-Proliferation Treaty could develop nuclear programs for peaceful use. However, experience and history of such developments suggest that most nuclear technology could have dual use. That is, it would be relatively easy to build nuclear weapons once peaceful nuclear technology is well developed. It is estimated that countries like Japan and Germany could manufacture nuclear bombs very quickly if they decided to do so. This is why nuclear technology adds to security dilemma: countries may want to increase their economic wealth or security, but at the same time other countries many feel threatened by such developments. Germany and Japan are not perceived as dangerous because of their well-defined policy that renounces the development of nuclear weapons. They are also well integrated with their neighbours and trading partners. Iran, on the other hand, finds itself in a very difficult neighbourhood, which is less stable and predictable, but very important for world's economic growth. Therefore, it would be logical to expect that Iran would try to guarantee its survival in this neighbourhood as much as possible. Because of this, many policy makers in Washington and elsewhere suspect that Tehran's ultimate desire is to have access to well developed peaceful nuclear technology that could be used for military purposes, if circumstances require so (Tchantouridze, 2004).

[Almost] three years have passed since then, and nothing has changed in Tehran's approach to the question of nuclear technology. The negotiations
with Europeans have failed, and Iran remains unmoved by threats of UN sanctions. There could be only one reading of Iran's staunch commitment to the nuclear program, and its unwillingness to compromise on it: Tehran, indeed, tries to develop peaceful atomic energy program to its fullest, so it is able to manufacture nuclear weapons very quickly if its national survival asks for it.

Iran's nuclear capability will not likely to ever match with that of the United States. Tehran will not be able to achieve strategic parity with the US for the next century or two – it is a smaller country, does not have intercontinental ballistic missile capabilities, array of satellites, ocean going navy nuclear submarines and aircraft carriers. Even if Iran develops nuclear weapons anytime soon, the only American things they could possible target would be US military and civilian satellites, provided Tehran builds missiles capable reaching the geostationary orbits first. However, nuclear Iran could be a very real and credible threat for the State of Israel, the chief US ally in the Middle East.

Let us entertain a scenario, according to which Iran has a capability to quickly manufacture as many nuclear warheads as Israel can. Currently the State of Israel has a strategic edge as it possesses nuclear capability (whether that capability is real or potential is irrelevant, since Israel's nation-state based enemies believe it to be real, and they feel deterred by it). If that become a reality, Israel would lose its strategic edge and confidence. A nuclear war between Israel and Iran will be very unlikely, but Hezbollah, Hamas and like organizations would harass Israel with greater consistency and perseverance. Israel would not be able to pursue its enemy beyond its borders, and the Lebanon war circa 2006 will become a history. Such incursions would be deterred by conventional retaliations by Iran, and Syria. Israel may not be able to escalate in response, as this may trigger nuclear response from Iran. If we imagine unimaginable, a nuclear war between Iran and Israel, the latter's disadvantage would become painfully clear – Iran has a huge advantage in terms of real estate, geographical size, and size does matter in nuclear strategy. With a very unlikely equal nuclear exchange between Israel and Iran, the latter would sustain massive damages but survive, and the former would be annihilated.

Such a scenario is; however, in no one's interest. Iran will not gain anything from a nuclear exchange with Israel, as it would destroy a whole series of
holy sites, not to say anything about many millions of people in and around Israel. Further, it may provoke retaliation or even a preventive strategic strike by the Americans and their allies. A preventive strategic strike would become very likely if a hypothetical conventional war between Israel and Iran and its allies escalates. In other words, nuclear weapons may become a liability rather than advantage for Iran.

Israel would maintain a strategic edge even over nuclear Iran as long as the United States remains firmly committed to the region. But how long this firm commitment will last? Would it last for another 30 or 80 years or longer? How long will the US survive as the dominant global power? Will its influence last beyond the end of cheap crude oil reserves? Could it be challenged by other emerging or re-merging global players? These and similar questions (Wilner, 2007: 21) pose dilemmas that no one can solve with great certainty, but it is clear that Tehran is banking on such uncertainties that are unavoidable in the Middle East.

Conclusion

According to one tale, Mullah Nasreddin once volunteered to teach Sultan's favourite donkey Arabic, as Sultan was promising generous funding to anyone who would undertake such a remarkable task. Mullah requested minimum five years for his project, took money and the donkey and went home. His wife was horrified, and commanded Mullah to take the donkey back to Sultan so to avoid an imminent death penalty in five years. Mullah Nasreddin refused and replied: "five years is a long time; in five years time either this donkey will be dead or me or the Sultan himself…"

Iran's nuclear program, like Mullah Nasreddin's talking donkey, is a long-term project. Strategists in Tehran expect someone to wither away in Middle East’s tough international political and military environment, and its geopolitical landscape to change. They need to be careful, though, that it is not them who bites the dust first. Tehran needs to tread carefully so to avoid wrath of the United States. After all, the nuclear donkey may never talk, while Iran needs to survive as it has done many times throughout centuries.

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

Mitja Durnik

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

\(^2\)As 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). 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.

The Earl of Shaftesbury 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).  

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

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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.).  

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.
3. Locke’ Vision of Economy and Property Rights

3.1 Locke’s Possessive Individualism

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”.¹⁰

Locke assumed that an individual in a non-propertied society wanted to maximize things and got 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 “quickened and increased 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.

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¹⁰ 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.

¹⁰ 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”.\footnote{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.). Furthermore, 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).} 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
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)\(^\text{11}\). 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).\(^\text{12}\)

\(^{11}\) 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 eighteen 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. 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 eighteen-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 Land\textsuperscript{13} 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 \textit{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”\textsuperscript{14} to explain or to defence the economic and political imperialism of

\textsuperscript{13} In his section \textit{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).

\textsuperscript{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).\(^\text{16}\) 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

\(^\text{16}\) 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 history\(^{17}\). 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 middle-men 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 was 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 percept Ameridian society as less developed and native economic system as primitive.

Many scholars defines 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.).

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 exists 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 maze, as corn is

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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.”

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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 (Ivision, 2003:326–327).
4.4 Anything but Collective Property?

Individual ownership\(^{28}\) 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 contact\(^29\). 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

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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 artic were the Inuktikut speaking nations. Around the territory of the Great Lakes were the Iroquoian-speaking nations. 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. In British Columbia the biggest variety if 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 ( Kwakuitl 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 coats 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 Philips, 2001: 3).

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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 Micmac 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. 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). 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 God\textsuperscript{36} (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).\textsuperscript{37} Cree-material culture\textsuperscript{38} was

\textsuperscript{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 “holy” 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).”

\textsuperscript{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.).

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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

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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 Gaspe 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 eighteen 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 percept 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, maze, 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.
Bibliography:


Notes for Contributors

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