Competing Conceptions of Land in Canada: From Locke to Kulchyski and Coulthard

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Abstract

This paper examines the concept of land within the Canadian context, comparing John Locke's understanding of it against the position of Peter Kulchyski and Glen Coulthard, two scholars studying Indigenous affairs. In so doing, I identify several important distinctions between their respective epistemologies that are important for understanding different systems of land organization in Canada. Specifically, Locke's understanding is rooted in a biblical framework of natural rights that enables an anthropocentric position towards land and views land as instrumentally valuable. In contrast to Locke's position, Kulchyski and Coulthard's conception of land is holistic and emphasizes a subject-to-subject relationship between people and land, understanding it as intrinsically, rather than instrumentally, valuable. Taken together, these comparisons highlight the importance of culture in conditioning our understanding of land, and raise important questions regarding how these two systems of land organization can coexist in a single federal state.

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In the work of many scholars writing on contemporary Indigenous affairs and struggles, the question of land is central. It is an issue that animates debate over the unresolved relationship between the Canadian state and Indigenous nations, particularly through land title. However, the meaning of land itself also remains unresolved, and understandings of it vary among scholars. In this paper, I will

compare and contrast the perspectives taken on land between two distinct positions. The first, John Locke's position, is one that has been highly influential in how the Canadian state has understood land, as well as much of mainstream Canadian society. In contrast to his position, I will examine Peter Kulchyski and Glen Coulthard's understanding concerned primarily with Indigenous nations in the Canadian North. In doing this, I will identify clear discrepancies between the two positions, arguing that Coulthard and Kulchyski, unlike Locke, do not view land as there for the exclusive use of human beings and the betterment of their lives; land lives alongside humanity. These insights are revealing of a major issue in contemporary Canada. Locke's position is elemental to the liberal tradition that, in the contemporary Canadian context, unfolds as secular conception of land, wherein individuals are capable of owning a portion of land and then carrying out their desired activities on it. Challenging this position, Coulthard and Kulchyski express an Indigenous perception of land as alive and unbounded, begging the question of how two understandings of land that are potentially anathema to each other can coexist in a single federation with a single constitution. Moreover, this discrepancy further emphasizes the importance of allowing cultural perspectives to enter into discussions of land rights and rectification. It is not my aim to resolve these questions, but rather to illuminate the centrality of cultural understandings of land in contemporary debate.

John Locke's conception of the world, rights, and property are indelible features of Western political thought, highly influential commentaries on the principles of social organization that have been disseminated throughout settler societies including those in Canada and the United States (Ajzenstat, 2007, 4-5). As such, his ideas form an important component of the discourse surrounding the construction and maintenance of contemporary states like Canada and the U.S. Locke's *Two Treatises of Government* sets forth a combination of ideas meant to establish a well-ordered society, closely connected to natural rights. One of the central components

of this is property, to which he turns specifically in Chapter Five. It is his conception of property, as a crucial feature of the Western canon that I will examine.

In Chapter Five of *Two Treatises of Government*, Locke asks how anyone could have a property in any thing? (Locke, 2003, 111) In considering this question, it is important to be cognizant of Locke's distinction between 'property,' by which he refers to those things necessary for subsistence, and 'property in,' meaning something that a person can come to have (Tully, 1980, 3). Put another way, the question is how an individual can come to have an exclusive right to any one thing on the planet, ranging from food necessary for survival to property in land. The question is posed following various assumptions made about the nature of the world, with the intention of resolving the question of private property.

First, it is important to note that Locke views the planet as a gift from God to all humanity collectively. As such, the question is concerned with resolving how individuals could have a property in—could have an exclusive right to something given by God—to the collective whole, without the express consent of the entire collective (Locke, 2003, 111). Locke sets this concern aside to argueexplains that this fact in mind, the gift of the earth must be appropriated so that individuals can benefit from it, or else nobody would be able to utilize it, and survive for that matter (Locke, 2003, 111).

By posing the question in that context, Locke reveals his adherence to the epistemology of natural law. To clarify, natural law—and natural rights—are conceived of as above any one culture's orientation, above the discrepancy of human laws, and instead existing as universal and inalienable. It is due to this natural law that an individual person can come to have property in some thing. By parsing the logic involved in natural law, it is clear how Locke reasons to the point of having property in something. Importantly, each natural law is a consequence of a particular reason, a specific

perception (Tully, 1980, 4). In Locke's sequence of logic, the omnipotence of God—and humanity's relationship with God—are central. For Locke, God exists as an all-seeing, all-knowing sovereign, the creator of all aspects of the world. He explains that while God created the earth, it was "given to men to the support and comfort of their being" (Locke, 2003, 111). Life on earth is thus characterized by a hierarchy in which humanity sits below God but above everything else.

It is important to note that Locke's aforementioned framework was premised on a response to the earlier absolutist biblical interpretation of Robert Filmer, a theorist who was defending the absolute rule of monarchy during the English Civil War (Parker, 2004, 80 and 83). Filmer held a "literal-historical" understanding of scripture, and in effect, he argued that the concepts of freedom and equality were not compatible with scripture (Parker, 2004, 84). This literal-historical interpretation entailed a belief in the essential, unchanging nature of human society as a result of its creation by God. The result of this was that Filmer developed a "precise theory of government," that rested on a powerful framework that understood Genesis as "…the true, the unique and complete revelation of God's will on all things" (Parker, 2004, 83). Locke wrote his treatises after Filmer's death, and contested his argument for absolute monarchy, instead arguing that Filmer had interpreted the biblical texts incorrectly and that in fact humanity was absolutely free in the state of nature (Locke, 2003, 101). Of immense importance, however, is that Locke accepted Filmer's initial framework regarding natural law, while differing in his conclusion.

Returning to the logic involved in natural law and employed by Locke, humans are aware that they were created by and are subordinate to God, and thus know that they are obliged to survive so long as God is willing. This is one progression in natural reason to natural law; aware that it is the creation of God, it is humanity's duty to preserve itself. From this step, humanity must then seek

subsistence in order to fulfill this obligation. The right to subsistence proceeds from the right to preservation (Tully, 1980, 3).

From the standpoint that it is humanity's collective obligation to survive, the question becomes how individuals, the constituent parts of humanity, are able to survive. This is a matter of appropriation, wherein Locke explains that "food for the wild Indian must be his, or a part of him, and no other can have a right to it, before it can be utilized to support his life" (Locke, 2003, 111). To then lay claim to something given to the collective, such as food, the individual must establish their right to it. To do this, Locke assumes that each individual has a "right to himself" (Locke, 2003, 111). This is an exclusive right, and leads to the understanding that the individual has a right to their body and the labour that is directly connected to it. Therefore, by applying their labour to an aspect of the collective commons, they are putting themselves into it, "joining it to something that is his and making it his own" (Locke, 2003, 112). Put another way, they are mixing the essence of themselves, to which they have an exclusive right, with an element originally belonging to all, although as other individuals have not placed themselves, through their labour, into the object in question, the individual who has establishes their particular right to it. Labour thus excludes the common right of other, because the labour is the "unquestionable property of the laborer" (Locke, 2003, 112). To labour on something thus removes it from the state of nature where it was common. Importantly, Locke also states that "nothing was made by God for man to spoil" (Locke, 2003, 113). Here, he explains that the right to have property in things exists so long as they can be taken advantage of before spoiling.

This reasoning is applied to the ownership of land, where the notion of property in land becomes apparent. Just as by picking berries to eat, by labouring on land the individual extends the self into the land, enclosing it from the commons (Locke, 2003, 113). As an aside, it is important to note that Locke also emphasizes the right of first

occupancy, which functions as a mechanism to prevent loss and theft, by refuting the notion that one can, without consent, take the land of their counterpart. (Locke, 2003, 110). As much land as a person can work thus belongs to them. Importantly, in addition to this reasoning is the notion that "God gave the world to men in common, but with the intent for them to draw maximum benefit from" (Locke, 2003, 114). As such, that land which remains uncultivated and common is waste, and is equated with the notion of spoiling, a breach of natural law.

Simply cultivating land, however, is not the final benchmark in determining whether humanity is deriving the maximum benefit as God intended. Locke explains that as certain communities developed, and were able to exploit more land in a productive fashion, they could make use of more land (Locke, 2003, 114). In addition, those communities that are not able to make full use of their land are simply wasting it, as they have more than they can make use of (Locke, 2003, 119). By cultivating it, humanity as a whole benefits, because more conveniences for the inhabitants can be yielded. Locke articulates this point when he explains that "…it is labour indeed that put the difference of value on every thing" (Locke, 2003, 117). He further explains "…that of the products of the earth useful to the life of man, nine-tenths are the effects of labour" (Locke, 2003, 117). In effect, for Locke it is productive labour that puts the value in land.

Two final points are worth noting in Locke's conception of land. First, he emphasizes that once land becomes scarce in a 'developed' society, it is by compact within that society that further organization of the land is determined (Locke, 2003, 117). This demonstrates a shift in organizing principles following a stage of development, wherein human beings then determine how it is to be organized. The final point worth mentioning is that exceeding the bounds of property lies in useless waste and decay, not in the largesse of possessions (Locke, 2003, 120). This fact, along with the use of non-perishable

currency, allows for large amounts of land to be appropriated by individuals, so long as they can barter what is perishable on their developed land for something non-perishable.

Unlike Locke, Peter Kulchyski and Glen Coulthard share similar understandings of land that are responsive to some First Nations perspectives. Kulchyski—in *Aboriginal Rights are not Human Rights* and Coulthard—in *Red Skin White Masks*—each refer to the concept of land throughout their theorizing. Whereas Locke had built a step-by-step argument directly pertaining to his position on land, Kulchyski and Coulthard tend to invoke certain broad terminologies as core features of their understanding of land. From there, they attach real-world examples and ideas from Indigenous societies to the terms in order to illustrate how they conceive of land, and how land informs their epistemology. This creates an intentionally broad framework, rather than a concise procedural argument regarding their understanding of land. In analyzing how they conceive of land, it is thus useful to examine the concepts which they associate with it, rather than tracing an explicit argument throughout their works.

Kulchyski and Coulthard assemble their concepts of land in a similar fashion, associating it with unique "cultures," or "modes of life." Kulchyski articulates his understanding of culture as more than expressive practices, for it also entails ways of organizing time, space and subjectivity. It refers to forms of economic activity, such as sharing, and political activity, like participatory democracy (Kulchyski, 2013, 23). This is comparable to Coulthard's "mode of life," which he equates with the dual processes at work in Marx's "mode of production," (Coulthard, 2014, 65); these include the resources, technologies, and labour used to produce materials for survival, as well as the forms of thought, behaviour and social relationships that condition and themselves are conditioned by these productive forces. Thus, "culture" for Kulchyski and "mode of life" for Coulthard are largely synonymous, articulating the particular tenets

of a given society. For Indigenous societies, land and the ideas it encapsulates form the base of these unique modes of life.

In discussing land, neither Kulchyski nor Coulthard perceive a relationship between the divine and human beings, wherein the planet was intended as a gift specifically for the use of a special species, humanity. Rather, they tend to view land in a multi-dimensional format, encompassing everything that exists in, on, and around it, of which human beings are one aspect. This is made clear when Coulthard explains that Indigenous people have a responsibility "to uphold the relations of reciprocity that shape our engagements with the human and non-human world—the land" (Coulthard, 2014, 170). In doing this, there must be a rejection of "the perpetual exploitation of our lands," accompanied by a return to land-based practices that promote sustainability and a relationship with the land as opposed to narrow accumulation of capital (Coulthard, 2014, 171).

An image of the land as made up of all of its constituent parts, and the relational quality that accompanies this, is succinctly presented in Coulthard's retelling of Dene elder George Blondin's story of his own brother hunting moose (Coulthard, 2014, 61). Recounted briefly, the story explains the relationship between a raven, unable to kill food for itself, and a human being, able to kill but unable to locate a moose. In a mutually beneficial and respectful relationship, the raven alerts the hunter to a faraway source of food, and points the hunter in the right direction. The hunter, upon killing the moose, then leaves some of the meat for the raven to eat, acknowledging their equal responsibility in ensuring the others subsistence.

The story of the raven and the hunter accurately summarizes several important themes in Kulchyski and Coulthard's understanding of land. It reveals, first of all, the idea that 'the commons' is a space not intended for human beings alone. It is, rather, a place that includes, and is meant to include, all of the constituent parts of the land. With

disparate species sharing the land, it follows that a reciprocal relationship is embodied within it, as exemplified by the story. For one part to subsist, so too must the others. Included in this relationship, and demonstrated in the story, is that an acknowledgement of this interdependence entails a degree of respect within the relationship. Coulthard phrases it as the land harboring "profound insights into the maintenance of relationships within and between human beings and the natural world built on principles of reciprocity, non-exploitation and respectful coexistence" (Coulthard, 2014, 12). The land embodies this reality, and in its relationship with one of its components, humanity, it provides that lesson. Coulthard terms this position "grounded normativity," by which he refers to a "place-based foundation" of thought (Coulthard, 2014, 13). It is this grounded normativity, with its stress on sharing, mutual dependence, and egalitarianism between humans and non-humans, as well as among humans, that provides much of the base for each author's epistemologies.

Their conception of land is further displayed in their identification of a specific form of Indigenous economic organization, which Kulchyski terms a "hunting mode of production" (Kulchysky, 2013, 30), and also "bush culture" (Kulchyski, 2013, 158), while Coulthard refers to it as a "bush mode of production" (Coulthard, 2014, 171). Both modes of production, as stated earlier, entail ideational and material social processes, and for these authors they are intimately tied to, and shaped by, the land. They perceive clear lessons from the land that impact these social forces, which they then draw out.

Kulchyski explains his view that Indigenous cultures are bush cultures, and furthermore that bush culture "allows us to think a lived relation to and in this landscape" (Kulchyski, 2013, 158). The assertion of a "lived relation" with the land implies a subject-to-subject relationship between people and the land. The land is made up of all its constituent parts, which are all subjects with a relationship to one another, in which the previously mentioned

attributes of respect and reciprocity, coexistence and non-exploitation, are inherent.

This subject-to-subject relationship is revealing of the view of land as living, and of the emphasis on an ongoing relationship based on mutual subsistence. A subject-to-subject relationship also precludes a subject-to-object relationship. That is to say, by actively acknowledging the subjectivity of land, it becomes highly problematic to simultaneously claim ownership over it as one would an object of property, due to its equal status as a subject. From this stance, two important points emanate. First, land as a whole, and all of its constituent parts, hold agency, as evidenced by the story of the raven and the hunter. Together, the two of them compose two elements of the land, and are capable of making conscious decisions regarding their existence as components of the land. Second, the fact that the various components of the land have agency makes the idea of having 'property in' the land problematic. Land, from Coulthard and Kulchyski's perspective, is not set out for the exclusive use of human beings and the betterment of their lives; it lives alongside them.

The final point to be made here is that in this bush, or hunting, mode of production, cultural expressions that are directly influenced by the land "enunciate egalitarianism and participation" as Kulchyski explains (Kulchyski, 2013, 31). The land is thus viewed as non-hierarchical and privilege of place does not belong to any one part of it. Coulthard takes a comparable stance in asserting that a bush mode of production entails the "harvesting and manufacturing of local renewable resources through subsistence activities" (Coulthard, 2014, 171). The intention is a connection with the land in the form of a living relationship of subsistence and sharing, not a one-sided relationship stemming from a subject-to-object position.

By comparing Locke's position to that of Coulthard and Kulchyski, a multitude of variations are visible in how they conceive of land. It is

possible to create a very long list of nuances between the two positions, but for summary purposes, differences can be assembled into two broad variations in epistemology. This includes an anthropocentric view of land, associated with Locke, contrasted with a holistic understanding held by Kulchyski and Coulthard. Second, Locke places an instrumental value on land, while Kulchyski and Coulthard perceive inherent value in it.

Locke's view of land can be called anthropocentric on the grounds that it places human beings at the centre of a discussion concerning land, relating all points regarding land back to human needs. In doing this, land is translated into property, and property as an idea is then isolated from the idea of common land. Property becomes a relationship between a specific area of land and specific people, whereby they are the owners and sovereigns of that space (Meyer, 2009, 104). Non-human components of the land may be discussed in their effects on human beings, positive or negative, but ultimately the non-human world is viewed as subordinate to the human one. This ties closely to the notion that private property is where the largest concentration of an individual's material wealth is, and must be managed with that fact in mind (Meyer, 2009, 103). This contrasts directly with Kulchyski's point that Indigenous societies' wealth did not come in the form of material accumulation, but rather in a "wealth of time." (Kulchyski, 2013, 31).

Kulchyski and Coulthard's position towards land can be described as holistic as a result of the stress that they place on its relational quality. Land, for them, is not a one-way relationship between human beings and an objective world. Rather, human beings exist as components of the land alongside everything else that exists with it, and therefore do not hold a position above it. This perspective can be envisioned as a complex web of reciprocal relationships and obligations, where all the components of the land co-constitute it (Nadasdy, 2002, 247). As such, their notion of land is far broader

than Locke's, as it entails all the things that exist on the land as fundamental to its overall constitution.

The second epistemological difference between the two positions concerns how the value of land is understood. For Locke, the value is instrumental. Left to itself and undeveloped, it is considered "wasted space," offering no contribution to humanity. It is the labour of human beings that adds value to land, making it productive in an effort to increase the material comfort of humanity (Locke, 2003, 118). Moreover, it is efficient labour that continually raises the material productivity of land—that places value in it. Locke illustrates this point when discussing the importance of agriculture in creating value in land. Human labour, using the land to create useful products for humanity, is what increases land value (Locke, 2003, 117). Land is thus positioned within developmentalist terms, deriving value insofar as it can yield material comforts.

For Kulchyski and Coulthard, the value of land is intrinsic rather than instrumental. The land, as it exists (or existed) prior to Lockean notions of development, constitutes a valuable mode of life, sustaining that mode of life through its material parts and delivering ideational lessons for social organization. It is not important solely as a space that something could or has taken place; rather, it is important as a place by itself. This notion is apparent in Vine Deloria, Jr.'s work, which Coulthard cites in reference to his understanding of land. Deloria argues that many societies, including European ones, have invested specific places with special significance, such as areas of the Eastern Mediterranean with religious significance. However, Deloria explains that these places are important because an important event took place there. For many Indigenous societies, the saliency of place, and land, is important because of the concepts that the land encapsulates, not solely because of an event (Deloria, 2003, 67-69). This belief also appears in Kulchyski's writings, including *Like the Sound of a Drum,* wherein he emphasizes the importance of "…long-term ties to specific places" (Kulchyski, 2005,

79). For Kulchyski and Coulthard, the value in land is not presented in the form of its future developmental potential, but for the way of life that it is part and parcel of.

A number of insights and questions are raised through a comparison of these distinct epistemologies. Importantly, it reveals an alternative to the utterly dominant conception of land in Canada, based on a Lockean theory of private property. It becomes apparent that Locke's conception of land, and theories based on it, are by no means the only way to conceptualize land. There exist alternatives, and alternatives with long histories behind them. Moreover, it would seem worthwhile to discuss the merits and the shortfalls of the dominant approach, as well as of the alternate understandings outlined in this paper. That is another endeavour, and would need to address a great many more issues, not least of which would be how these epistemologies are interpreted. As seen from this brief analysis, questions of value, productivity, civil society, citizenship, and organizing principles would all need to be considered in such a project. Perhaps this would provide a more thorough understanding of these two separate epistemologies, as well as a catalyst for determining whether or not they are reconcilable in Canada today or in the future.

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