2. HISTORICAL OVERVIEW

2.1 Taiwan

Just as the patterns of aboriginal relations with the government in Canada are an extension of historical forces in that country, so the direction of such relations in Taiwan will be closely influenced by what has come before. The island was almost exclusively the domain of its aboriginal inhabitants before large-scale migration from the mainland beginning in the 17th century of Han Chinese, the largest ethnic group in China. Although the Dutch presence on the island could more accurately be described as a trading post rather than a colonial power, it had a tremendous impact on the political and social structure of the island's inhabitants. It was during this period that immigrants from the Chinese coast grew in number and displaced many of the west-coast groups from their traditional land. This pattern of migration also led to the current demographic situation wherein the aboriginal population makes up less than 2 percent of the island's total population. Given the importance of creating a nation-building ethic that forms a natural extension of historical forces, a brief examination of the history of the aboriginal relationship to government is in order.

Although not much is certain about the exact nature of the political and economic relationships on the island prior to the arrival of the first Westerners in or around 1590 (at which

time the island inherited from Portuguese sailors the name it still carries today, Formosa), the

first European visitors found the island populated by approximately 70,000 indigenous persons,

about 1,000 Han Chinese settlers and farmers and even a few Japanese traders and pirates. The

latter two groups were largely transient entrepreneurs, with a few traders in deer, salt and other

items. The aboriginal economy appeared to be largely one of subsistence agriculture and hunting,

especially deer.

The Dutch established their presence on the island by building a fort in what is now

Tainan City. While the Dutch were developing parcels of land in the southern part of the island,

Spanish forces were doing likewise in the north. The recorded history of Taiwan is generally

believed to have begun during this period of European presence. Indeed, many cultural,

economic and social changes were underway during this relatively brief but important period.

Prior to the Europeans' arrival, Taiwan was widely considered terra incognita. Not long after

they had established a presence, however, the Europeans turned the island into something of an

early trading hub, with goods from Asia transhipped to Europe (Brown, 2004: 37). In addition to

setting up a taxation system, the Dutch administration built schools that gave a romanized

writing system to the coastal Siraya language. It was the practice of Dutch missionaries to

provide religious instruction in native languages, thus creating the need for a writing system for

the first time in Taiwan. The Sirayan, or Sinkan, writing system was also used in Western literary instruction, and became so popular that records indicate it was still in use as late as the early nineteenth century, over a century and a half after the Dutch expulsion from Taiwan.

Dutch colonizers were also the first to initiate a large-scale transmigration program of Han Chinese settlers to the island to work in agriculture. The aboriginal populations did not take well to farming in the Dutch model, thus creating the need to import workers (Ka, 1995: 12), and about 35,000 Han Chinese came to the island during this period to cultivate rice and sugar. In addition to these demographic and economic adjustments, the Dutch East India Company also imported new belief systems. Unlike agriculture, the aboriginal inhabitants appear to have taken to Christianity when the first missionaries, members of the Dutch Reformed Church, successfully spread their evangelical beliefs among the locals in the early 1620s. The Spaniards in the island's north likewise brought with them Catholic missionaries, mostly Dominicans, who were quite successful in converting many of that region's aboriginal inhabitants to Catholicism (Rubinstein, 1991: 19).

These missions were not to last long, however. After expelling the Spanish in 1642 (Copper, 1999: 25), the Dutch themselves were driven off the island in 1662 (Hsiao et al, 2002: 164) when the Ming Dynasty loyalist and pirate Zheng Chenggong took the island by force and

effectively put an end to the European presence on Taiwan. Zheng, known in the West as

Koxinga, was a "pirate" general loyal to the Ming Dynasty, which he was intent on restoring

after it had met its end in 1644. His appropriation of Formosa and its transformation into his own

independent kingdom was to have aided him in that quest, and he instituted policies that had a

great impact on the aboriginal inhabitants. He and his heirs brought over their armies, who when

they weren't preparing for the restoration of the Ming Dynasty spent their time working the land

as farmers. The number of Han Chinese on the island is estimated to have grown to over 100,000

during this era (Spence 55). This activity further assimilated them with local people, while other

populations migrated into the island's interior.

Koxinga's plan to maintain the Ming Dynasty in Taiwan never came to fruition, however,

and in 1683, his grandson lost Taiwan to Ch'ing [Qing] forces. For the first time in history,

Taiwan was nominally part of China, although in reality, the throne was unable to exert much

control over this frontier territory. For almost the next two centuries, the transmigration of Han

Chinese increased, with people fleeing poverty in China despite attempts to stem this flow.

The Ch'ing [Qing] court considered the island somewhat of an economic burden that was

tolerated in order to keep it from falling into the hands of pirates and, later, the Japanese, who

had set their sights on acquiring the island. During this time, there were many clashes between

the indigenous population and Han Chinese settlers; so many so that a popular saying at the time declared that "every three years there is an uprising, every five years a rebellion." Fearing the expense of dealing with these conflicts, and to make sure migrants would return to their ancestral graves, the Ch'ing [Qing] court attempted to ship as many Han Chinese inhabitants as it could back to the mainland, and instituted a prohibition on travel to the island by anyone but male workers (Davison et al, 1998: 10). This ban was repealed and re-instituted until it was finally abandoned in 1788, but despite efforts to stem migration, the Han Chinese population increased at approximately 2 percent per annum during the first hundred years of Ch'ing [Qing] rule. Illegal immigration and natural population growth meant the Han Chinese inhabitants required more land, and new settlements reached northward and eastward. Prior to 1887, the Chinese officials stationed in Taiwan considered it a "backward" place, and their edicts were cruelly enforced, prompting social instability (Copper, 1999: 27).

In response to this pressure, the island's aborigines were forced to either move further into the island's mountainous interior, lease land to the Han Chinese, or become assimilated into the growing Han population. Intermarriages were increasingly common during this era, given the absence of Han Chinese women on the island due to an immigration ban (Hsiao et al, 2002: 169). Eventually a tenant farming system developed on the island. Powerful Han landlords used

tenancy contracts extensively, however enforcement was spotty as the government had a

minimal ability to maintain order, let alone enforce tort. Still, Ch'ing leaders were eager to turn

aboriginal farmers into tax-paying subjects. Han Chinese and so-called "cooked," or civilized,

aborigines were forbidden from venturing into the wilderness and sparking a conflict with the

"raw," or uncivilized, aborigines. To this end, a border of trenches and earth mounds was built to

stem further illegal land claims.

An interesting incident occurred in 1871 that not only involved the island's aboriginal

residents, but had international repercussions. A vessel from the Japanese Ryuku islands became

shipwrecked near the southern point of Taiwan where the Paiwan people decapitated the four

crewmembers surviving the wreck (Wang, 1990: 45). The Japanese government, seeking to use

the incident as a pretext to test the Ch'ing [Qing] court's level of commitment to the island,

demanded compensation. The Chinese government refused, pointing out that the area where the

incident occurred was outside their effective jurisdictional control of the island (Cauquelin, 2004:

14). The Japanese seized upon the opportunity to send a military mission to pacify the area in

1874. The mission was deadly for the Paiwan, and for the Japanese as well. The event was

interpreted as a case of Japan testing strengths prior to colonization. At this point, Japan was in

the throes of the rapid modernization period that accompanied the Meiji Restoration, and it was

keen to follow the Western example and become a colonial power in its own right. Taiwan's geostrategic position would have facilitated Japanese access to points father southward. In view of this obvious interest on the part of the Japanese, China began to re-evaluate Taiwan's importance to the country's maritime defence. This is when the island's administration was raised from a single prefecture to two prefectures in 1875.

A similar test of the Ch'ing [Qing] government's dedication to Taiwan took place a decade later, this time with a French blockade of Keelung Harbor (Li, 1956: 120), after which the island was finally declared a province with its first governor appointed in 1887 and attempts were made to modernize (Brown, 2004: 52), including carrying out a land survey and launching infrastructure projects like the island's first railroad: 60 kilometres of track connecting Keelung with Hsinchu.

It should be noted that, despite 200 years of nominal sovereignty over the island and its late designation as a province, by the time of the outbreak of the First Sino-Japanese War, only roughly 45 percent of Taiwan was under effective Chinese administration. The remainder, though remote, mountainous and underpopulated, remained under the control of the aboriginal people who lived there (Befu et al, 2001: 224). The island's status as a province of China lasted about ten years, until 1895 when it was ceded in perpetuity to Japan as a spoil of war. In many

ways, the First Sino-Japanese War was a quest for ideological dominance in East Asia (Huffman, 1997: 202). Japan's victory in this conflict surprised many observers and vindicated that country's colonial ambitions.

Japan's interest in acquiring Taiwan for its strategic and economic significance became a reality with the Treaty of Shimonoseki. The new colonial rulers exploited their new territory for the benefit of the home islands. They made Japanese the official language and embarked on a remarkably efficient modernization and industrialization campaign, building a self-sufficient economy on the island, constructing railroads and expanding Taiwan's larger cities, paid for with the institution of a land tax system (Ka, 1995: 58). It was during this time that the first structured ethnographic studies of the island's aboriginal populations were conducted, by Japanese anthropologist Tori'i Ryuzo in 1897 (see review and refs. Blundell, 2000: 4).

Ryuzo's friend and fellow anthropologist Ino Kanori argued that such studies would yield information that would make the aborigines easier to control, and the colonial government led by Governor General Kodama Gentaro supported this research, which yielded the classification for the first time of nine of the island's distinct aboriginal ethnic groups: Amis, Atayal, Bunun, Paiwan, Saisiyat, Tsou, Puyuma (now Pinuyumayan), [also Pingpu], Yami and the Rukai people (Befu et al, 2001: 247). It should be noted that these terms conferred upon them by Japanese

ethnographers and in many cases are not accurate representations of how the peoples refer to themselves. The Yami people, for example, now often go by Tao, which in their language means means "people," just as the meaning of Atayal is "brave man" or "genuine person" in that language. The Amis people, furthermore, actually call themselves Pangcah, meaning "human" or "people of our kind." "Amis" really means "north." The Pingpu actually represents several groups of plains aborigines that, over the decades since pioneer settlements began growing on Taiwan's West Coast, have been largely assimilated into Han Chinese culture, losing their languages and traditions but still being identified as a separate ethnicity than the Han majority. Support in the Japanese colonial government for ethnological research was so great that Orchid Island, home of the Yami people, was sealed off until the 1930s and restricted for the exclusive use of anthropologists and other scientists. The first Japanese census of Taiwan conducted in 1905 recorded 784 aboriginal villages, 46,432 Pingpu aborigines, and 36,363 mountain-dwelling aborigines ("Aboriginal Milestones 1901A.D.-1950A.D.").

Part of Japans's plan to make Taiwan its colonial model whose example could be followed by subsequent acquisitions involved efforts to exert total control over the entire island and all of its inhabitants. To that end, in 1906 Governor-General Sakuma Samata launched the Five-Year Aboriginal Pacification Plan. The following year, the Beishi aborigines and those of

the Hsinchu area become pacified, and the brutal techniques used to subdue further groups included such shows of force as bombardment by warships.

In 1910 the Regulations for the Supervision of the Aborigines was promulgated. That year, the government began to actively assimilate the island's aboriginal peoples and give them a Japanese identity, partly by building schools in mountain villages. The vast majority of aboriginal children were enrolled in schools by 1940, learning about Japanese language and customs in addition to mathematics and trades. Meanwhile, as Japanese identities took root, many traditional practices were being lost, including tattooing and headhunting (Befu et al, 2001: 224). The Office of the Governor-General executed its political orders through an administrative system administered by Japanese bureaucrats, with Taiwanese employed only at the lower levels of the bureaucracy. Through an extensive and penetrating network of police stations and schools, police officers and teachers were the front-line workers and, to subjects in remote mountain villages, the face of the colonial government.

At least 100 incidents of armed revolt against the Japanese occupiers took place during the first two decades of the occupation. The last, and biggest, was the Wushe Uprising of 1930, in which the Atayal people of Taichung County attacked and killed 135 Japanese and and injuring 215 at the Wushe Primary School (Qiao, 2001: 9). Subsequent attacks on police stations

and other offices were held to seize weapons and ammunition in preparation for further

resistance. The rebels held Wushe for three days.

The reaction of the Japanese colonial government was swift and deadly. 1,163 policemen,

800 soldiers, and 1,381 mercenaries used their greater numbers, superior firepower and even tear

gas to overwhelm the rebellion, even enlisting the aid of rival Atayal sub-groups. Eventually the

counterinsurgency operation escalated to the use of poison gas dropped in cannisters from

airplanes. The uprising lasted 50 days and ended in the deaths of more than 900 Atayal and the

surrender of about 500, at a cost of 49 Japanese soldiers and 22 aboriginal mercenaries (Qiao,

2001: 10). Revenge killings followed when rival Atayal who had fought for the Japanese

murdered an estimated 200, despite the fact that they were supposed to have been in the

protective custody of the Japanese. The uprising was a surprise to officials as the natives in the

area were thought to have been successful examples of the government's assimilationist policy at

work.

Whereas the mountain-dwelling aboriginal groups were largely ignored by previous

governments, the Japanese attempts at social engineering had an enormous impact on tribal life.

Previously, improving one's status used to rely on demonstrating proficiency in activities such as

headhunting, but by the 1940s it had become a matter of education, and people who worked

within the Japanese-imposed social structure were often elevated to the level of village chiefs, further consolidating the Japanese agenda. This went hand-in-hand with a Japanese policy, continued later by the KMT, designed to further remove aborgines from their traditional lifestyles and domesticate them by supplanting their custom of swidden horticulture and inculcating a more sedentary, farming-based lifestyle on reservation land.

Despite the brutal pacification campaigns of just a generation earlier, many aborigines volunteered to fight for the Japanese army in the Second World War (Befu et al, 2001: 224). Even today, many older aboriginal people in remote villages speak Japanese rather than Mandarin, in addition to their tribal tongue.

The island was bombarded heavily by American air power during World War II, at the conclusion of which it was handed over to the Chinese Nationalists in accordance with the promises made in the 1943 Cairo Declaration (Brown, 2004: 9). The Chinese Civil War between Chiang Kai-shek's Nationalists and Mao Zedong's Communists was still going on, however, and by 1949, Chiang Kai-shek and his Nationalist, or Kuomintang (KMT), government was forced to Taiwan, making it, the Pescadores and a few surrounding islands the only remaining territory controlled by the Republic of China. Many of the Japanese methods of administration over indigenous peoples continued on unchanged by the KMT. To the island's aborigines, the

successive periods of colonization that began with the Dutch and Spanish and was followed up by the Zheng clan, the Ch'ing [Qing] Dynasty and then the Japanese, carried on, this time with the Chinese Nationalists at the helm.

Chiang, an ardent anti-communist, feared that the relatively inaccessible mountain regions might become a haven for communist sympathizers, and so considerable attention was paid to the area. As the KMT gradually consolidated its control over the island, it began to impose its will more directly in the remote areas, and mountainous land in the central part of the island was taken over by the government, which banned non-state ownership. The new government, adept at the use of propaganda, recast historical events such as the Wushe Incident as examples of brave anti-Japanese—and therefore, by extension, pro-Chinese—insurgencies and declared that the aboriginal inhabitants were "mountain compatriots." KMT re-education centres replaced the Japanese schools that were built in the mountain villages, and a series of studies was taught that focused on the language, history and culture of China. Whereas the Japanese had forced aborigines to adopt Japanese names, they were, in the 1950s and 1960s forced to take Mandarin names.

A series of policies were implemented to "modernize" the "backward" lifestyles of indeginous people, or to "make the mountains like the plains," (clearly a reference to the plains

aborigines, or Pingpu, who had been completely assimilated by this point). These included

teaching Mandarin as the official language, and efforts were made to instill Han Chinese culture

and traditions in the lives of the island's aboriginal inhabitants with the aim of eventually

eliminating any remnants of their own cultures and replacing it with the Han Chinese culture.

This policy to "plainize" the mountain people lasted until the 1980s, resulting in the eradication

of languages and customs and the creation of an even stronger stigmatization attached to

aboriginal identity than existed under previous regimes.

There were regulations instituted during this period to govern the private sale of

agricultural goods grown on state-owned land, but in actuality land and produce was being sold

illegally as enterprises from other parts of the island wanted access to the fertile mountain areas.

Because the land cultivated by aborigines was state-owned, they did not have title to it, and were

therefore unable to borrow money on it, effectively keeping them out of the economic system.

By the mid-1960s, the KMT acknowledged the failure of its policy and began opening the land

in these areas to private companies and individuals. During this period and well into the 1980s,

the government also tried to fight encroachment by dividing and registering parcels of land and

turning over control of it to aboriginal families. The small size of these land parcels, the absence

of farmers cooperatives, and the fact that aboriginal groups lacked a long history of concepts

such as land ownership led to a situation where they were often cheated out of their reservation land, and the total land area they actually controlled gradually diminished. It was the market-led agricultural production that decimated the subsistence economies in aboriginal villages and had a negative impact on the social and political fabric of society.

The KMT government instituted policies that suppressed any attempts to create a movement for aboriginal nation building, and created in aboriginal communities a deeply held fear of even discussing such issues ("One Year On: Society - Aboriginal autonomy remains far from certain," 2001: 21). It did this the way it consolidated its control over the island's entire population during the martial law era. This was known as the White Terror period, when activists, intellectuals and anyone that could be considered a threat to the KMT regime ran the risk of being summarily arrested and accused of sedition (Kang, 1979: 17). An estimated 140,000 Taiwanese were arrested or killed for real or perceived opposition to the KMT, and a mood of anxiety suffused society, as anyone could be picked up by the authorities at any time and accused of being communist spies. Much of the aboriginal elite was eliminated in this way, and Taiwan's population was held in check by the pervasive sense of fear that was created. If fear of prosecution was the stick that kept people from even discussing the notion of nation building, there was also a carrot. The KMT chose certain trusted aborigines to serve the state, such as by

administering indigenous areas. This increased the personal power enjoyed by these individuals, and ensured loyalty to the government. Another tactic was for the KMT to create political factions within otherwise unified ethnic groups by luring community leaders into joining the party, and then campaigning for party candidates.

During this period, very few aborigines were afforded the luxury of concerning themselves with issues of human rights or autonomy, because economic restraints imposed by the KMT administration ensured that most indigenous people did not agitate on post-materialist issues: most were far more concerned with feeding their families than with high-minded notions of nation-building. This situation taught aboriginal leaders that it was far more effective to lobby for small concessions, often monetary, from the government than to concern themselves with nation building. For decades, Taiwanese aborigines who wanted to succeed in society had to hide their heredity. It was not until the mid-1990s that the government began to take steps to pull back from assimilationist policies and begin to expand aboriginal rights and raise awareness of the island's aboriginal peoples. Much of this effort was part of a wider drive to move the island's political center away from the Sino-centrism exhibited by the Chiang regime and toward a more localized identity for Taiwan.

Formed in the mid-1980s, the Alliance of Taiwan Aborigines was the first activist group in the country specifically concerned with issues of indigenous rights. It lobbied for land rights, territorial autonomy, and economic integrity. Churches, too, provided logistical and financial support to the movement, and by the 1990s, these efforts began to bear fruit. The Constitution was amended in 1994 to include, among other changes, a new designation for aboriginal peoples from "mountain compatriots" (sometimes translated as "mountain siblings") to "original inhabitants" to better reflect their position as the first peoples to inhabit the island (Hsieh, 1994: 404). From the late 1980s to the early 1990s a number of land recovery movements were initiated, mostly by aboriginal elites based in the metropolitan centres, to retrieve lands that were designated by executive decree governing reservation land but had been appropriated through eminent domain to create national parks, or purchased under the table by Han Chinese businessmen and conglomerates. The executive order pertaining to this land tenure system stipulated that only aboriginals were allowed to hold title to certain land parcels in the mountain areas, and these movements lobbied for the return of these lands to their original indigenous owners (Chen, 2002: 6).

Meanwhile, in the education system, mentions of aborigines in text and curricula were more frequent and less dirisive after martial law was repealed, and government funds were being

made available for the establishment of museums and cultural activities to stimulate interest in

the island's indegenous heritage (Hughes, 1997: 99). The overall localization movement was

spearheaded by then-president Lee Teng-hui, who was arguably attempting to move the nation's

politics into a realm where independence—as opposed to the previous KMT dream of retaking

the mainland—was the endgame. In a famous example of embracing aboriginal heritage, Lee

himself underwent a blood test that indicated he had aboriginal genes, in addition to his Hakka

and Fukienese heritage.

This movement toward an ethic of localization was a response to the "culture war" being

waged between Taiwan and the People's Republic of China for the hearts and minds of the

people of Taiwan (Hughes, 1997: 95). Beijing wants the people of Taiwan to self-identify as

Chinese, as this would make it easier to politically annex the country without resorting to the use

of force. People who lean towards formal independence for Taiwan generally push for a

Taiwanese identity to take precedence. This identity crisis is far from resolved, even today. By

the time the localization movement began, the people of Taiwan had lost their representation in

the United Nations as the Republic of China seat went to the People's Republic of China. Taiwan

was recognized officially by only a handful of countries, and was a virtual pariah, due to the

PRC's diplomatic blockade, in the international community. This is despite the fact that the

island had become an economic and high-technology powerhouse. Once the PRC had begun

opening up its own economy, and the two countries appeared to be heading toward a situation in

the not-too-distant future when they would be on a par in economic and quality-of-life terms, the

PRC and Taiwan's pro-unification forces began to play up the island's Chinese identity, whereas

the pro-independence factions attempted to instill a widespread sense of Taiwanese identity. In

the latter framework, anything that was uniquely Taiwanese was highlighted, and aboriginal

identity fit the bill perfectly.

In all fairness, it should be pointed out that proponents of re-unification were not

necessarily in opposition to the exploration and rediscovery of aboriginal heritage, and may have

considered it consistent with the cultural and literary "Searching for Roots" movement launched

in the PRC in the late 1980s. However, advocates of a separate identity for Taiwan latched onto,

and began a wholesale appropriation of, aboriginal culture to justify their vision of a

non-Chinese Taiwan. In fact, the island's aboriginal social movement started almost concurrently

with the organized political expression of pro-independence forces, during the 1980s. In

particular, 1984's establishment of the Alliance of Taiwan Aborigines marked the first official

gathering for this purpose, and after martial law was repealed in 1987, the movement only grew,

and when the alliance was recognized in 1991 by the United Nations, it has acquired significant

credibility in the eyes of the central government, which hungered for recognition by international organizations.

On the domestic political front, since the watershed moment of the lifting of martial law, Taiwan saw a period of political liberalization and gradual democratization that carried on into the 1990s. The government for the first time began to account for some of its actions, including acceptance of and an official apology for the bloody February 28th Massacre (known as 2-28) that took place in 1947. Relations with Beijing had ameliorated somewhat during the 1980s, (Copper, 1999: 171) but by 1989, the Tiananmen Square Massacre and what appeared like the fall of world communism (exemplified by the dissolution of the Soviet Union) gave rise in Taiwan to a shift away from identification with the Chinese. By 1989, opposition parties were no longer illegal, and the Democratic Progressive Party was growing in strength.

Lee became president when Chiang Ching-kuo died in 1988 and for the first time in its history, Taiwan had a native-born leader. In 1990, Lee was elected by the National Assembly, after which he embarked on a fervent democratization campaign. Reasoning that, in light of events surrounding the fall of the Berlin Wall, the future of world politics would move away from first-world vs. second-world dictatorships and toward one of alliances between liberal

democracies, he began positioning Taiwan as a democracy that could stand in opposition to communist claims that Han Chinese people are not suited to the concept of democracy.

In 1991, the National Assembly of the Republic of China—the members of which had been elected in 1947, prior to the government's retreat to Taiwan—were finally pushed into resigning, and elections were held for their replacements. The KMT continued to enjoy a majority in the body, but the DPP made an impressive showing, winning almost a third of the seats. More importantly, the elimination of the old National Assemblymen removed the KMT's institutional advantage and put control of the body in the hands of the voters (Rigger, 1999: 156). In the ultimate expression of popular democracy, the island's first free election with universal suffrage was held in 1996. To demonstrate its distaste for the exercise in democracy, the PRC conducted military exercises and launched missiles into the Taiwan Strait in an attempt to frighten Taiwanese voters into voting Lee out of office in favour of his staunchly pro-unificationist opponent. The effect was essentially that of a military blockade of the island (Brown, 2004: 4). The exercise backfired, however, and Lee won the poll.

During this period, the aboriginal rights movement was growing in strength and putting pressure on the government. The Council of Indigenous Peoples was created as a Cabinet-level institution, and in July of 1997, a constitutional amendment was passed that for the first time

37

resolved to "actively preserve and foster the development of indigenous languages and cultures."

Article 10 puts the onus on the government to "safeguard the status and political participation of

the indigenous peoples," in accordance with the will of the relevant ethnic groups. In an

interesting addition, it also extended these protections and responsibilities to the people living on

Penghu, Kinmen, and Matsu, which are outlying islands belonging to the ROC. In so doing, the

amendment clearly illustrated the viewpoint of the administration, which sought to live up to its

responsibilities in the protection of the rights of minorities, rather than the very different

responsibilities associated with addressing the right to self-government of an indigenous

population. (Simon, 2006)

By 2000, Taiwan had become a democracy, and in a surprise election upset, the

opposition DPP candidate, Chen Shui-bian, won the presidency. At the time, this handover of

power was expected by many observers to lead to, at best, eventual self-rule for the island's

aboriginal peoples, and at least, a significant boost to aboriginal rights. It should be noted that

Taiwan's indigenous groups have a tendency to vote KMT, however the DPP held certain

policies—and Chen had made several campaign promises—that gave rise to this expectation.

While on the campaign trail on Orchid Island in 1999, candidate Chen Shui-bian signed a

document titled "New Partnership between Indigenous Peoples and the Taiwan Government,"

which affirmed the aboriginal peoples' natural rights as antecedents to the arrival of the

nation-state in Taiwan and recognized their right to self-government. In this same vein, the 2000

DPP White Paper on Aboriginal Policy recognized the historical fact that successive colonial

governments of the island had treated aborigines unfairly, including the loss of their

long-established ways of life and freedom to follow their customs and traditions. As a policy

guide, it proposed, in principle, to offer restitution by addressing issues of land rights, social

welfare, education, sovereignty, and the right to participate in forming government policy. In

many ways, it promised the forging of a new partnership between indigenous peoples and the

ROC government.

The document has been criticized, however, in that it frames its discussion of inherent

sovereignty as contingent upon Taiwanese independence from the PRC, arguably the DPP's

raison d'etre, and the apparent real impetus behind the bold new partnership it was proposing

(ibid). Still, the paper was innovative in its conception of the Taiwanese identity. In order to

differentiate the Taiwanese people of the island from the mainlanders that arrived with the KMT,

it described this portion of the population, these "new Taiwanese," as Métis; the descendents of

Han Chinese migrant workers and aboriginal women. In this way, the document was able to

exclude the mainlanders from an ethnic standpoint and make a compelling argument for the

Taiwanese administration to be considered something other than an occupying power, as the KMT had been before it. The White Paper therefore attempted to appropriate the indigenous identity for the purpose of advocating Taiwan independence.

Despite these contradictions, several pieces of legislation have been passed concerning the rights of the island's aborigines since the DPP government took power in 2000. These include the Provisional Regulation for Indigenous Senior Citizens' Welfare Living Allowances and the Status Act For Indigenous Peoples. Partly in an effort to be seen as sensitive to environmental issues and partly because national parks are a great source of tourism revenue, the government has assigned much of the island's forested areas to be managed by the ROC Bureau of Forestry. The consent of indigenous populations using the land was never sought before such decisions were made. The creation of Taroko National Park meant the relocation of Fushih Village. Meishan Village had to move because of Yushan National Park. There are numerous other examples of aboriginal peoples being displaced without their consent due to the national parks system in Taiwan.

By turning large swaths of land into national parks, the laws governing those areas took precedence, eliminating any local land-use rights that the inhabitants might have otherwise enjoyed. It also put strict restrictions on traditional aboriginal activities such as hunting and

felling trees. Taiwan's national parks also have very little to do with environmental conservation, despite all the lip service paid to the politically correct concept. In fact, they become overrun with tourists and construction of modern facilities to create a tourism infrastructure. Moreover, by handing administration over to a new body, existing relationships between the inhabitants of the area and the relevant governmental organs at the county and city-level were rendered inapplicable.

Starting in 1999, a plan to turn the Chilanshan region of Yilan county into a national park was strongly opposed by members of Atayal aboriginal group who lived there. What the government did not understand was that the national parks were widely regarded as a symbol of oppression among indigenous people. In August of 2000, government negotiators had failed to reach a consensus with environmental lobbyists, and members of the Atayal group were asked to participate in park administration. At this point, the administration of Chen Shui-bian had been installed in the government, and efforts were being made to follow through on the DPP government's campaign platforms, including eventual autonomy for the island's aboriginal people. This new administration came up with a compromise: it was decided that the focus of the park would not be environmental, but it would instead be made into something of an experiment in aboriginal self-rule. The government plan called for the park to be administered using a joint

management mechanism between the government and the Atayal, with the protection of their

culture as a primary goal. Moreover, the Atayal group would be given the unprecedented rights

to administer resources in the park according to the Atayal's customs. The plan was not to have

been a fully autonomous region, but an intermediary co-management step on the road to

self-rule.

Initially, the leadership of the Atayal people, the Cabinet's Council of Indigenous Peoples

and environmental groups appeared to agree on the plan. Even an Atayal name was adopted for

the new park, Makao. The experiment would not come to fruition, however, as aboriginal

legislator Kao-chin Su-mei rallied several members of the Atayal group to protest the creation of

the park on the grounds that it was an incomplete solution to the question of self-rule. Although

some aboriginal people in Taiwan have questioned this legislator's dedication to bettering the

life of Taiwan's aboriginal people, there was still considerable polarization of opinion on the

Makao Park issue. There was enough opposition to the plan that that funding was denied for a

planned preparatory study.

2.2 Recent legislation

Perhaps the legislative proposal that comes closest to keeping Chen Shui-bian's promise

of providing a degree of autonomy to aborigines is a 2003 draft proposal of a statute on the

establishment of aboriginal autonomous regions, drafted by the Council of Indigenous Peoples. If

passed, the Indigenous Self-Determination Law would support the creation of some form of

representative bodies for each of the country's indigenous groups, or multiple-group autonomous

areas in the cases of smaller groups with sufficient similarities in culture, traditions and desire to

share responsibility for administering a zone. Interestingly, the Chen administration has

supported the redefinition of the government-aboriginal relationship as one based on a

"nation-to-nation" pattern, echoing the government's desire to deal with the PRC on a "special

state-to-state" model.

Reports suggest that Orchid Island would probably be the most likely candidate to serve

as a test case for the creation of the first aboriginal autonomous zone. Orchid Island's indigenous

inhabitants, the Yami, differ greatly in customs and traditions from the nation's other groups.

They are more closely related in this respect to the peoples of the Batanes Islands in the northern

Philippines. Furthermore, as an island, Orchid Island has clear, unambiguous boundaries, and its

people were spared much of the Han Chinese influence that afflicted the nation's other groups

until the 20th century, thanks in large part to this isolated geographic situation. These conditions

make the Yami of Orchid Island a promising case for initiating the first autonomous region. In

addition to the Yami, other groups that are likely to be able to successfully implement and

administer autonomous zones would be those that share a large population and who live in a

clearly defined area, such as the Tsou, Paiwan, and Rukai. On the other hand, it would likely be

difficult for smaller groups who are comparatively scattered around the island to successfully

form zones.

As it stands now, the reservation land system is administered by an executive ordinance

called the Aborigine Reservation Land Development Management Procedure, pursuant to section

37 of the Mountain Slope Conservation and Utilization Law, amended in 2000, and Section 17,

paragraph 2 of the Agrarian Development Law. In its general provisions, the order stipulates that

registration of reservation land be handled by local registration authorities as assigned by

municipal indigenous affairs departments. It directs administrators at the village level to establish

reservation land rights evaluation committees to investigate and mediate land-rights disputes,

evaluate all transfers and utilization applications, negotiate reallocation compensation and

appraise land lease applications. These committees must be composed of 80 percent aboriginal

members. The legislation delineates the procedures to be followed for submitting applications for

land transfers or sales and land use, and lays out the regulations for what constitutes reservation

land, who is entitled to it, and how they may utilize or dispose of it. Section 15 of Article 2, for

example, governs land grants for cultivation, surface, lease and gratis land-use rights, stipulating

that reservation lands shall be non-transferable and non-leasable except to aboriginal heirs, other

aboriginal members of the original household or an aboriginal relation within three degrees of

kinship.

Although the legislation goes into detail appertaining to how reservation land is to be

administered, it is restricted to utilization issues and does not touch on the topic of reservation

political administration except insofar as to mandate the establishment of the aforementioned

types of committees. To address the issue of power sharing, the Council of Indigenous Peoples

drafted the Indigenous Self-Determination Law that delineates the latitude of legislation creating

autonomous areas. By the time the draft was passed by the Executive Yuan in June 2003 and sent

to the Legislature, however, its 104 clauses had been reduced to just 15.

Two very relevant pieces of legislation were enacted during Chen's tenure as president,

adding to the dialogue in the issue of aboriginal rights: the National Land Rehabilitation

Regulations and the Basic Law on Indigenous Peoples, both of which were passed in January

2005. However, the Indigenous Self-Determination Law, like many laws before the Legislative

Yuan that year, was not passed as of the end of 2005. According to the draft, it would create a

mechanism to set aside territory that would be administered by indigenous committees. It should

be noted that, although this legislation would the best hope for achieving a degree of

self-government provided for in ROC legal canon, it has still come up against resistance by

legislators and constitutional scholars, who have attacked it for being too vague on the workings

of the proposed autonomous areas. Proponents of the draft support a measure of vagueness,

explaining that it is intended to provide sufficient flexibility to allow each aboriginal community

to design a governmental body that best suits its unique needs, although much of the reason for

the vagueness is designed to ensure that the draft is acceptable to politicians on both sides of the

aisle—a necessary component of many draft laws in Taiwan's current combative legislative

environment.

In the preamble to the 15-article draft, it states that self-rule is the best way to protect the

rights and heritage of Taiwan's aboriginal peoples. It mandates creation of an autonomous region,

imbued with the authority of a bona fide government body, for each of the island's recognized

groups, but it does not specify at what level these governmental units would reside compared

with other sub-national ROC levels of government. Although the draft states that the central

government would not play a heavy-handed role in setting up the autonomous areas, which it

promises would be done in a way that is sensitive to cultural and historical factors, the

Cabinet-level Council of Indigenous Peoples would play the part of oversight organ regarding

the preparatory phase in their creation.

Each autonomous area would be given the responsibility of designing its own ruling bodies, ideally following each group's cultural and traditional leadership structure, and would have the authority to control use of community land resources and economic development. Although the central government would be handing over this control, it would still be responsible for making payments in the form of subsidies and otherwise assisting in good faith in the successful creation and development of the aboriginal autonomous regions. One of the stipulations on the formation of the government bodies set up by the autonomous areas is that they be non-discriminatory and democratic in nature. Also, once in place, each such governing body would be subject to existing rules on government bodies at the local level. In case of dispute between aboriginal governments, or between aboriginal governments and municipal or county governments, the Executive Yuan shall be the mediating body, whereas disputes between the aboriginal governments and the central government shall be sent to the Legislature for resolution.

One of the drawbacks of the bill is that, although the autonomous units are given the authority to pass laws and regulations within their jurisdictions, it does not address the issue of the extent to which they would be empowered to enforce those laws or adjudicate infractions. Moreover, it does not clearly specify whether or not they would be allowed to raise revenue

through taxes, as are county and municipal governments around the island. It also fails to create a clear mechanism for creating autonomous regions on land that is currently under the administration of other government bodies. Though this bill would allow the creation of such zones, other laws stand in the way of effectively implementing its provisions. In its current form, legislation governing matters of water and soil conservation, construction techniques, environmental impact assessments and forestry management all form bureaucratic and legislative obstacles to the operation of autonomous zones.

Earlier draft laws for the creation of aboriginal autonomous regions were flawed in that they imagined that one area would be created and set aside for all of the island's aboriginal groups to administer. This was unrealistic. However, they were superior in other ways, such as detailed provisions governing the election of ruling bodies and the raising of tax revenue. Indeed, they were perhaps too detailed, setting out such stipulations as what qualifications would be required for civil servants in the new governments and what manner of laws they would be allowed to pass. Nevertheless, more detail is required in the current draft to spell out exactly how the autonomous area governments would fit in the current administrative hierarchy in Taiwan.

In areas where aboriginal people live with large populations of Han Chinese, there is also the risk that any attempts to create such zones could ignite ethnic conflict. There is already

significant resentment to rules in certain villages and other areas with laws decreeing that only

aboriginal persons can seek high office, for example, and for Han Chinese businessmen in

high-mountain areas, the movement to return land to aborigines has been met with less than

stellar acceptance. This resistance will be discussed in greater detail.

Another drawback of the proposal is vagueness on how the central government will be

able to compel the national courts to recognize the differing laws and regulations that would be

in place in such areas, especially with regards to issues such as property and domestic issues.

Moreover, there is the issue of Taiwan's indigenous peoples giving up their claims to

sovereignty if they accept the institution of autonomous areas, as the bill would make such

governments subordinate to the ROC central government.

A series of talks called "Forum for Austronesian Indigenous Peoples" was held in 2004

for aboriginal leaders to address just such issues and to develop a consensus on the institution of

nation-to-nation relations with the government. Several leaders took part, including academics,

Council of Indigenous Peoples officials and members of groups such as the Taiwan Indigenous

Communication Association, to discuss how the aboriginal community could respond as a

cohesive unit to help realize the administration's promise to create a "semi state-to-state"

partnership with the island's aborigines ("Forums for Aboriginals planned," 2004: 02). As the

participants discussed such topics as why aboriginal people should be granted the right to

self-determination, afforded protection by the constitution, and other fundamental issues, the

example of Canada's First Nations came up again and again as a possible model for Taiwanese

aboriginal groups to follow in creating a new partnership with the central government.

2.3 The Canadian Example

The political systems in use in Canada's north are an extension of historical forces and

development that grew out of the colonial policies of early European settlers. The relatively

recent indigenous calls for self-government have led to diverse new autonomous regions with

forms of government that reflect the unique political, demographic and geographical

characteristics of the areas themselves.

Despite this diversity, one common element is the overall theme of increased integration

of aboriginal issues with government priorities at the local, national and extra-national levels,

with an overall increase in participation of aboriginal actors in the political process, despite the

differences in the political systems themselves. How did aboriginal interests gain currency and

an increased influence in mainstream politics in Canada is a question worthy of more study, if

the answer has any bearing or can provide any blueprint for the development of Taiwan's own

aboriginal groups and their efforts for self-determination within the current political system in place on the island.

The political structures in view in Canada today are partly the result of how the nation was built, from a Western historical point of view, and how these changes affected the populations living in the vast northern regions of the country, which colonists long considered an untamed frontier. The Inuit adapted to their harsh environment by deriving sustenance and raw materials from Arctic wildlife, as the region has very little edible flora. The men fished and hunted mostly whales, walruses, caribou and seals, although in some regions this was supplemented with seaweed and birds, as well as musk oxen and polar bears during particularly lean years. While the hunters were almost exclusively men, the women cleaned, sewed and cooked and cared for the children. Inuit families took many forms, with divorce, polygamy and sexually open marriages reasonably common.

Before the trade in goods with Europeans began, their material culture consisted mostly of animal skin and bone, which was used to fashion kayaks and the larger, open-air umiaks, dog sleds that were pulled by teams of huskies, clothing, and tools. In some cases, depending on geography the availability of raw materials, wood and soapstone were used as well. Knives were made from the sturdy ivory of walrus tusks. To help in navigating, the Inuit would often leave

stone markers called inukshuk as navigation aids in a natural landscape devoid of other

landmarks.

Goods were shared within a household, which often included three generations, and then

with the wider community. The results of a successful hunt belonged to the hunter and his family,

and were sometimes shared with the larger community, as sometimes several families wintered

in a common area. As nomads who could live several months of the year on the Arctic ice, the

Inuit did not, before the arrival of Europeans, have a concept of land ownership, and areas not

utilized by other families were considered free for use in camping and hunting.

In the process of building the political construct that would eventually become Canada,

the employment of strategies such as colonialism and assimilation were the order of the day. A

brief examination of the model of nation building will help put this development in historical

perspective. In the nation-building process, the state's impetus to formulate a standard economic

and cultural paradigm within its domain must contend with counterclaims by groups that desire

participation in the body politic and economic activity.

The development of nation building in Arctic Canada followed the conventional pattern

experienced in Europe, with a period of state formation and consolidation of territory followed

by cultural integration and standardization (Flora et al, 1999: 58). In the modern era, the concept

of human rights and the precepts of democracy have contributed to deviations from this pattern,

with differing results depending on political systems and historical forces. In the far north, nation

building was a process by which diffused populations became connected through the institution

of new political structures. This process can lead to closer ties between a political system and the

people it serves. In today's world, with advanced communications and transportation systems,

this relation is an even closer one, with the center of federal power even more closely integrated

with the far-flung populations whose lives its actions and decisions affect. The process can also

lead to greater communication within communities in vast territories the likes of which are seen

in Canada's north, and hence to greater social cohesion (Bakvis, 1981: 45).

The conflict of the center versus the periphery takes on especially relevant importance

given the geographical characteristics of the Canadian example. As Canada is the world's

second-largest nation by territorial holdings and with only a population of some 30 million (most

of whom are concentrated near the southern border with the United States), issues such as the

strengthening of political citizenship, efficient use of resources and the provision of public

welfare take on special urgency.

The official policy toward minorities for much of Canadian history has therefore been

one of nonrecognition of Indian sovereignty and the state assuming a paternalistic and

ward-guardian role (Cote, 2001: 15). In reaction to this, minority groups such as aborigines have appropriated the concept of nation building and used it to refer to their struggle for autonomy, which includes efforts to create the institutions of self-rule. The task was a difficult one, as the forces of history can be difficult to overcome.

The period of colonization of Canada's arctic regions was a long one, with some communities beginning to interact with officials, traders and missionaries as early as the 17th century, while other regions, such as in British Columbia, for example, remaining relatively unaffected until well into the 19th century. Areas that were relatively easily accessible thanks to rivers, for example, or forgiving terrain were the first to be appropriated by colonizing forces, whereas the more inaccessible areas—especially those in the far North—took much longer to succumb, or were able to withstand assimilationist forces due to the sporadic nature of such contact: isolated trading posts and intermittent state representation. Aboriginal communities living in the latter regions, such as the Copper Inuit of Victoria Island, were therefore able to hang on to their languages and cultures for a much longer period of time.

Later, as Canada's indigenous groups began to engage in nation building, these demographic features became a crucial factor in determining the form such nation building would take. Another important factor was the imposition by colonial forces of borders and

boundaries that in many cases were antithetical to aboriginal realities. In northern Canada, for example, the Inuit ethnic group was incorporated in several separate political structures, such as the Northwest Territories, Quebec, the U.S. state of Alaska, and Newfoundland, which itself was a separate country until it joined confederation to become a Canadian province in 1949. In addition to state-directed delineation of boundaries, forces such as the Royal Canadian Mounted Police, the church, colonization companies, and the powerful Hudson Bay Company exerted what could effectively be called political control in these northern regions until Ottawa began exercising a less laissez-faire political influence on the running of the Arctic region in the period following World War II (Grant, 1988: 3).

Another force generating divisions within and among Inuit populations was the church, with missionaries in some areas propagating new writing systems and religious practices to individual groups of Inuit. In Labrador, for example, the Inuit there adopted Roman Orthography to inscribe the Inuktitut language, a practice dating back to at least 1794 when Otto Fabricius used it to translate the Holy Bible into the local language. Farther east; however, a syllabic writing system was used.

In the absence of the unifying influence of a common religious affiliation or writing system (the latter even more important given the fact that Inuktitut has more than 20 dialects), it

was difficult for the aboriginal inhabitants of the Canadian north to organize and coordinate their efforts in any proto-self-rule movement. It was not until the 1970s that Nunavut began to develop as a political reality. It also made the Canadian government's goal of assimilating its indigenous population easier to achieve. (Assimilation was the goal promoted by Canada's policies for a century and a half, even if it was not explicitly stated as such, according to the 1996 Royal Commission on Aboriginal Peoples.)

Official attempts at assimilation continued until as recently as 1969, when the government of then Prime Minister Pierre Trudeau advocated the repeal of the Indian Act and suggested that federally administered reserve lands be transferred to provincial control. The aboriginal community strongly protested the White Paper not just for its policy recommendations but for some of its underlying assumptions, including the fact that it was little more than a tinkering with the existing flawed paradigm (Howlett, 1994). When the policy paper was finally abandoned in 1970, it left an atmosphere of distrust and resentment in its wake, especially with regards to the consultation process that led to the White Paper's creation. This experience strengthened the determination of Canada's aboriginal peoples to jointly push for a new relationship with the Canadian government.

The period of assimilation was followed by one of decolonization and negotiations. The period following World War II and during the Cold War from the late 1940s to the early 1990s was something of a turning point because of government attempts at decolonisation, though these activities did not diminish indigenous attempts to build new political structures and demand their rights. The decolonisation period was therefore marked by a pattern of negotiations between aboriginal leaders and the federal government.

In many communities in the Canadian Arctic, colonialism lasted a long time, and proper municipal governments did not come into being until the 1950s or 1960s. The Inuit members of those communities were not granted the right to vote in Canada's federal elections until 1962—1966 for territorial elections. In the late 1960s and 1970s, a robust indigenous movement began in the Northwest Territories. This became the launching pad for negotiations between government at the federal and territorial level and the region's aboriginal peoples.

In the Canadian Arctic, indigenous peoples generally focused their efforts on hashing out land claims agreements. They had largely been inspired by what had been accomplished in nearby Alaska with the Alaska Native Claims Settlement Act (ANCSA). From the very start of negotiations, however, the Canadian natives set their sights higher than their Alaskan counterparts and demanded economic, social, cultural, and political rights. This is largely due to

the fact that, in Alaska, indigenous people are in the minority, whereas they constitute close to a

majority in the territories (Keskitalo, 2004: 133). The first of the agreements to be signed was the

James Bay and Northern Quebec Agreement, which affected the Inuit and Cree peoples living in

that area. Before too long, a labyrinthine system of negotiations and agreements would come to

define the Canadian experience with regards to aboriginal self-government.

It was in the early 1970s that the Inuit people of the Northwest Territories launched their

claim for self-government, which by 1976 had essentially become a call for the creation of

Nunavut. Despite the fact that the westernmost Inuit, or Inuvialuit, left the negotiating table, the

basic claims first enunciated in the 1970s remained largely intact until the mid-1990s, when

Nunavut's establishment became a legal mandate. This is not to imply that the process was

without difficulty, however. A poll was held in 1982 in which the people of the Northwest

Territories voted on whether or not they wanted to split the territory. Those that favoured the

division (82 percent in the Nunavut region) outnumbered those that were against it in the western

part of the territory. This tendency to employ referenda is as much a part of the Canadian

example as negotiations have been.

An agreement in principle was reached in 1991, and the following year, a referendum

was held among the indigenous peoples to ratify the agreement. In a landslide majority, that

referendum decided the border of what would become Nunavut. The Nunavut Laws were passed

by Parliament in 1993, and six years later, the territory of Nunavut was a reality. Although the

new territory initially did not have any elected representatives, the federal government agreed to

negotiate with leading Inuit organizations.

In fact, it was not until 1979 that an Inuit became a member of parliament. It was in this

year that the new Legislative Assembly of the Northwest Territories included aboriginal peoples.

Later, the government of the Northwest Territory confirmed legitimacy upon the Inuit

negotiators by engaging them in talks. The Inuit Tapirisat of Canada (the nation's national Inuit

organization representing the Inuit regions of Nunatsiavut in Labrador, Nunavik in northern

Quebec, Nunavut, and Inuvialuit in the Northwest Territories) was successful in pressuring the

government for representation in parliament through the creation of the federal electoral district

of Nunatsiaq.

Members of the Dene—a group with traditional territory in the Arctic who speak the

Na-Dené language family's Athabaskan languages—formed the Indian Brotherhood in 1969 to

represent some 7,000 descendants of the very Dene leaders that signed two historical treaties

with the government, one in 1899 and the other in 1921. In 1975, they published what they called

the Dene Declaration, which vocalized their demand that as a nation they had the right to

traditional lands, self-determination, and special status under the Canadian Constitution

(Dickerson, 1992: 101).

In 1976, they initiated land claim negotiations with the government. By 1990, the

Dene-Métis Association and the federal government had settled on an agreement that included,

among other provisions, that Dene were entitled to land and monetary reimbursement, but that

they had to give up their native title in exchange. Negotiations soon resumed, this time for

self-government and individual land claims. The government first reached agreements with the

Gwich'in and the Sahtu Dene and Métis involving land in the Mackenzie Valley, and other

agreements with other peoples followed. Most of the agreements to date include some provision

for a form of self-government. Indeed, the land claims agreement process has become almost

commonplace in federal government relations with First Nations peoples.

The normal claims procedure in Canada today begins when an aboriginal organization

submits to the government a statement of claim clearly identifying the claimant group and its

desires. The validity of the claim is then assessed by the departments of Justice and of Indian

Affairs and Northern Development, which then inform the organization filing the claim whether

or not it can be placed on a waiting list of claims for active negotiation under the government's

Comprehensive Land Claims Policy. In the primary stage, talks center around reaching

consensus on a framework agreement that sketches out the extent and boundaries of what can be

covered by negotiations. In some cases where renewable and other resources may fall under the

jurisdiction of sub-federal governments, representatives from these governments will participate

in the talks, and indeed the entire land-claims procedure itself. An "agreement-in-principle" is

then sought that will essentially include the features to be found in the settlement package. As

part of these talks, some form of self-government is often part of the package being negotiated.

In one case in particular, a procedure known as Treaty Land Entitlement led to the creation of a

reserve. A period of review and modification by all parties to the talks then follows, after which

the agreement is passed into law and thus becomes entitled to constitutional protection. Only

once the agreement-in-principle is enacted into law can implementation of the settlement

agreement begin.

As an example of the utilization of this mechanism, the Council of Yukon Indians was

created to initiate the land-claims process in 1973, and negotiations with the government led to a

pair of tentative agreements, in 1976 and 1984. The General Assembly of the Council of Yukon

Indians rejected the agreements during the refining phase, however, because they did not include

provisions for self-government. The parties went back to the negotiating table in 1985, and eight

years later emerged with an umbrella agreement and several self-government agreements with

individual Yukon First Nations representative groups. These were put into effect in 1995 with

the passage of the Yukon First Nation Land Claims Settlement Act (Canada) and Yukon First

Nation Self-Government Act (Canada). To date, more than half of the 14 Yukon First Nations

enjoy legal and binding self-government agreements.