

**A Comparative Analysis of Co-Management Agreements for National
Parks:
Gwaii Haanas and Uluru - Kata Tjuta**

by

Karen Lesley Sadler

A practicum
submitted to the Faculty of Graduate Studies
in partial fulfillment of the requirements for the

Degree of Masters of City Planning

**Department of City Planning
University of Manitoba**

Winnipeg, Manitoba
August 2005

© Karen Lesley Sadler

ABSTRACT

A Comparative Analysis of Co-Management Agreements for National Parks:

Gwaii Haanas and Uluru - Kata Tjuta

Co-management agreements for land and resource management can be viewed as emerging forms of a participatory planning model. They strive for equal aboriginal involvement and result not only in more equitable management strategies, but also incorporate aboriginal worldviews and traditional knowledge. This type of planning model is an iterative learning process for all parties involved and is most effective when mechanisms and processes to develop a co-management agreement are situational and contextually appropriate to each location and aboriginal group involved. Co-management agreements should be valued as interim forms that bridge restrictions on and exclusion of aboriginal peoples' use and influence in relation to land and natural resources, on one side, and complete control through self-government, on the other.

This practicum assesses levels of co-management for two case studies by: reviewing relevant literature, analyzing the co-management agreements and plans of management and surveying key personnel at Uluru – Kata Tjuta National Park in Australia and the Gwaii Haanas National Park Reserve and Haida Heritage Site in Canada. The study does conclude that the degree of involvement of aboriginal participation is still wanting, but is higher than it would be if no such framework had been applied. To achieve the full benefits of equality in power distribution, the author suggests that co-management at the highest level should be negotiated either within or as part of land claims agreement or as part of a land title transfer to traditional owners.

ACKNOWLEDGEMENTS

Firstly, I would like to thank my Advisor, Dr. Ian Skelton for his knowledge, perceptiveness and his advice to “get on with it”, without, I would never have finished. Thanks also to my committee, Elizabeth Sweatman (internal) and Dr Fikret Berkes (external), for their support. I would also like to thank the Maxwell Starkman Scholarship Fund for the opportunity to explore Australia and develop my interest in aboriginal co-management. I would like to extend a grateful 'thank-you' to the people who participated in this research and to those at Uluru – Kata Tjuta National Park and the Gwaii Haanas National Park Reserve and Haida Heritage Site who provided information and direction. I would like to say a special thanks to Lynette Liddle, for her honest perspective and her passion.

Finally, I have to say 'thank-you' to: all my friends and family, for their encouragement: particularly my parents, Margaret and Barry Sadler, for supporting me through the process and to Al Stevens for his faith in me (and financial support). Most importantly of all I would like to say thank you to my son Max for the much needed distractions and for providing the impetus to graduate before he does. Of course, I cannot leave out my dog Mailo, whose walks suffered at the end.

TABLE OF CONTENTS

ABSTRACT.....	II
ACKNOWLEDGEMENTS	III
TABLE OF CONTENTS	IV
1 CHAPTER - INTRODUCTION.....	1
1.1 BACKGROUND INTRODUCTION.....	1
1.2 FOCUS OF PRACTICUM.....	2
1.3 PROBLEM STATEMENT	4
1.4 OBJECTIVES	8
1.5 RESEARCH APPROACH	9
1.6 ORGANIZATION.....	11
2 CHAPTER – BACKGROUND.....	13
2.1 ABORIGINAL – NON-ABORIGINAL RELATIONS IN CANADA AND AUSTRALIA.....	13
2.1.1 <i>Alternative Perspectives on Aboriginal Self-determination</i>	21
2.1.2 <i>Perceptions and Cultural Bias</i>	25
2.2 ABORIGINAL LEGISLATION IN CANADA	27
2.2.1 <i>Land Claim Process in Canada</i>	29
2.3 ABORIGINAL LEGISLATION IN AUSTRALIA.....	35
2.3.1 <i>Northern Territory</i>	39
2.3.2 <i>Land Rights Process in Australia</i>	42
2.4 NATIONAL PARKS LEGISLATION AND POLICY	43

2.5	CONCLUSION.....	46
3	CHAPTER – CO-MANAGEMENT	47
3.1	CO-MANAGEMENT: THE ALTERNATIVE	47
3.1.1	<i>Levels of Co-management.....</i>	<i>51</i>
3.2	GOOD GOVERNANCE.....	53
3.2.1	<i>Characteristics of Good Governance and its Importance to Co- Management Initiatives.....</i>	<i>54</i>
3.3	CONCLUSION.....	64
4	CANADA AND AUSTRALIAN CO-MANAGEMENT FOR PROTECTED AREAS: EXAMPLES	66
4.1	GWAII HAANAS – CANADIAN EXAMPLE	67
4.1.1	<i>Background.....</i>	<i>67</i>
4.1.2	<i>Management Plan for Terrestrial Area – Summary.....</i>	<i>70</i>
4.1.2.1	Land Ownership.....	71
4.1.2.2	Board of Management.....	73
4.1.2.3	Aboriginal Participation.....	74
4.1.2.4	Backcountry Management Plan	82
4.1.2.5	Proposed National Marine Conservation Area Reserve	83
4.2	ULURU - KATA TJUTA – AUSTRALIAN EXAMPLE	84
4.2.1	<i>Background.....</i>	<i>84</i>
4.2.2	<i>Uluru Kata – Tjuta Plan of Management – Summary.....</i>	<i>87</i>
4.2.2.1	Land Ownership.....	88
4.2.2.2	Board of Management.....	90

4.2.2.3	Aboriginal Participation.....	91
4.3	CONCLUSION.....	100
5	ANALYSIS: EVALUATING THE AGREEMENTS.....	104
5.1	PARTICIPATION	105
5.2	ACCOUNTABILITY	110
5.3	TRANSPARENCY.....	114
5.4	CONSENSUS DECISION-MAKING	118
5.5	INCLUSIVENESS.....	121
5.6	LEGITIMACY	124
5.7	CONCLUSION.....	125
6	CONCLUSIONS AND RECOMMENDATIONS.....	131
	WORKS CITED.....	138
	APPENDIX A – TIMELINE: CANADA.....	149
	APPENDIX B - TIMELINE: AUSTRALIA.....	152
	APPENDIX C -QUESTIONNAIRE.....	161

1 Chapter - Introduction

1.1 Background Introduction

For the last century the Federal Government of Canada has indicated in a number of annual reports and documents its intention to make Canada a better place for aboriginals to live (Frideres & Gadacz, 2001: 1). Despite the fact that a variety of strategies, policies, and recommendations have been initiated, with varying degrees of success, to meet that goal, for many reasons, socio-economic conditions, for the majority of aboriginal people in Canada, have not greatly improved.

Marginalization of indigenous groups is not limited to Canada and native peoples in other Commonwealth countries face similar challenges as they share a common history of strained relations, colonization, paternalism and assimilation. This can be attributed to the continuing ideology of paternalism, which has resulted in policy decisions being made on behalf of aboriginal people, with little or no consultation, (refer to Chapter 2). An alternative vision is one of reconciliation and self-determinism. This viewpoint is advanced by collaborative initiatives such as aboriginal stewardship and co-management agreements (refer to Chapter 3).

Planning is an important component in the development of effective and efficient land and natural resource management strategies. It can be an integral part of capacity building within aboriginal communities and can act as a vehicle to advance self-

government. One area where aboriginal participation has been formalized in Canada and Australia is that of land-claim and land-rights agreements. These have been particularly significant in northern Canada, and central Australia and other remote areas, where aboriginal peoples have played an important role in national park planning and development.

Recently, positive steps have been taken through planning, to address the lack of aboriginal voice in policy decisions that affect them. This practicum focuses on the positive changes in governmental initiatives that have occurred, in the past two decades, in terms of increased aboriginal involvement in public and land-use policy in Canada and Australia through co-management agreements. It is becoming more common that aboriginal peoples' values, beliefs and traditional knowledge are incorporated into decision-making and planning processes, and that those decision-making processes are inclusive and incorporate community members.

1.2 Focus of practicum

The subject of this practicum is the comparison and analysis of co-management agreements as a 'best-practice' example of protected area management and natural resource partnerships between aboriginal groups and governments. A comparative analysis of two examples, one in Canada and one in Australia are made against a similar historical and constitutional background of European occupation and aboriginal dispossession. The two examples are:

- The Gwaii Haanas Agreement (creation of the Gwaii Haanas National Park Reserve) between the Council of the Haida Nation and the Federal Government in British Columbia, Canada (refer to Section 4.1), and
- The partnership between the Anangu peoples and the Australian Government for the joint management of the Uluru-Kata Tjuta National Park in the Northern Territory Australia (refer to Section 4.2).

Co-management agreements have helped mitigate strained aboriginal – non-aboriginal relations and have allowed for the reinstatement of a degree of control by aboriginal people over land and resource use decisions that directly affect them. In general, co-management agreements provide the legal/political framework in which parties can engage in collaborative planning. They can be stand-alone agreements or part of a larger legal document, i.e. land claim and land rights agreements.

Effective co-management arrangements utilize the characteristics of good governance: participation, accountability, transparency, consensus decision-making, inclusiveness and legitimacy. The co-management agreement is examined as an alternative to traditional planning processes, and is an approach that can ameliorate power imbalances and the exclusion of aboriginal people in decision-making about land and natural resources. A successful co-management agreement is structured so that an equitable partnership is developed with emphasis on participation and empowerment. A partnership process, as defined by Lowry, Adler and Milner, is one in which significant authority is delegated to (or assumed by) a group of people who represent different community interests to develop public policy in a particular area (Lowry et al., 1997: 180).

1.3 Problem Statement

Aboriginal - non-aboriginal relations are a global and complex issue that has negatively affected indigenous peoples socially, economically, culturally and in many other ways. Public policy in a number of sectors bears heavily on aboriginal peoples' way of life including: education, health, justice, legislation, social services and the environment. In terms of land and resources aboriginal – non-aboriginal relations can be particularly tenuous as the issue of “ownership,” control and occupation of land compound the problem.

Colonization by Europeans has dispossessed many traditional users of the land the world over. This practicum provides a general overview of the impacts of colonization on Canadian and Australian aboriginal people but does not intend to be inclusive. It focuses specifically on partnerships between government and aboriginal people, with regard to protected areas located on traditional aboriginal lands, to illustrate the benefits of co-management agreements as a collaborative planning tool.

It is important to realize that making use of co-management agreements, to create partnerships between aboriginal groups and Federal, Provincial, and Territorial Governments for land and natural resources, is a relatively new idea and was first introduced in Australia in the mid 1980's and in Canada in the 1990's. Further, adding to the complexity of creating and implementing a co-management agreement

for land and natural resources can be the designation of national park status to the area in question which provides additional layers of legality and criteria.

The *National Parks Act* 1930 and 1988 provides the legislation for national parks in Canada and its purpose statement identifies that:

The national parks of Canada are hereby dedicated to the people of Canada for their benefit, education and enjoyment, subject to this Act and the regulations, and the parks shall be maintained and made use of so as to leave them unimpaired for the enjoyment of future generations. (Canada, National Park Act 2000, and c.32: Section 4 (1)).

The concept for the creation of national parks is for the protection of the natural environment as well as to allow for public use. As a result, activities in national parks are limited to those that have minimum or non-consumptive impact on the environment (Eagles: 1993: 59). The downside to the establishment of national parks are the strained relationships between governments and aboriginal groups, as protected lands were often established and located on traditional lands without input from native peoples traditionally associated with those lands. Consequently, the creation of national parks often disrupted social, cultural and economic systems and resulted in entire communities being displaced or otherwise adversely affected (Berg et al., 1993: 227).

The argument can be made that the purpose of protecting and preserving our environment by establishing national parks is for the good of all and should outweigh

the needs of a few. However, one of the objectives of this practicum is to illustrate how an emerging planning practice (co-management agreements) can marry disparate needs in a way that addresses both protection of the environment and benefits traditional owners. Co-management agreements such as the Gwaii Haanas Agreement and the agreement for Uluru Kata Tjuta National Park have an extremely high level of aboriginal involvement. This practicum argues that to ensure a positive outcome, the planning process, to establish and manage national parks located in traditional territories, actively engage traditional land-users whose economy and culture are intrinsically dependent upon the continued maintenance of the environment.

Recently there has been a shift in public policies and legal decisions towards aboriginals becoming more self-sufficient and self-governing in Canada and Australia. This shift created numerous opportunities for aboriginal communities to build better relationships with various levels of government, have stronger decision-making power and create their own vision of the future. To further these initiatives there is a need for capacity building and skill transfer within aboriginal communities in order for both parties to be able to 'come to the table' on more equal terms. Co-management resource agreements provide aboriginal people with one opportunity for empowerment, by gaining knowledge and experience by sharing equally responsibility and decision-making on lands traditionally used by them.

In planning literature, there is no unifying or underlying theoretical explanation of empowerment and like citizen participation; empowerment is not equal (Rocha, 1997: 31). Arnstein's Ladder of Citizen Participation categorizes participation along an axis of actual decision-making power from non-participation (1) to citizen control (8) (Arnstein, 1969: 218). The characteristic of good governance, participation is particularly important in developing effective co-management agreements for natural and resource management that reflect a high level of aboriginal involvement.

Furthering that, co-management agreements for land and natural resources usually incorporate some level of traditional ecological knowledge. Traditional ecological knowledge, as defined by Hobson (1992) provides non-aboriginal people with an alternate understanding of the relationships between different features of an ecosystem and local, site-specific knowledge regarding the natural environment that has been accumulated over generations of close contact with all aspects of local ecosystems. As important, it requires institutional frameworks and social networks at different levels to be effective (Folke, 2004: 7).

The use of traditional ecological knowledge is one mechanism within co-management agreements that encourages aboriginal peoples' participation in a way that is reflective of personal knowledge and beliefs. Hopefully, as well, co-management resource agreements may positively influence future government policy and may have implications for the ways that land claim processes affect aboriginal sovereignty.

1.4 Objectives

The objective of the practicum is to assess whether co-management models can be an effective and equitable method for managing national parks in lands traditionally occupied or used by aboriginal groups. The evaluation of the effectiveness of co-management agreements includes the extent in which the characteristics of good governance are reflected within the agreements and the corresponding plans of management for protected areas. The intent is to assess what makes co-management work under the constraints of the agreements and plans of management, as each agreement is unique to the parties involved.

More specifically, this practicum will examine historical and contemporary literature regarding aboriginal-non-aboriginal relations, restricted to land dispossession and exclusion from using resources in Canada and Australia. This will provide the reader with the necessary background to understand the value of inclusive / collaborative planning processes that encourage equitable aboriginal participation from the on-set. In addition, the study will address self-determination, the direction in which aboriginal – non-aboriginal relations may move in Canada, if inclusive processes for land and resource management, land claims and self-government initiatives are supported.

Second, this study seeks to identify a set of ‘best practice’ criteria, for good governance, which can result in more successful resource partnerships between

aboriginal peoples and government (refer to Section 3.2.1). Co-management agreements for land and natural resources challenges conventional resource management approaches as well as conventional paternalistic approaches to aboriginal policy. When successful, a resource co-management partnership balances the varied goals of all parties involved. Two examples of co-management agreements for protected areas, between aboriginal traditional landowners and the Australian and Canadian governments will be discussed and compared, to draw similarities and differences that may inform planning theory and practice, in general, and aboriginal joint management for protected areas, in particular.

1.5 Research Approach

Thanks to an award I received from the Maxwell Starkman Scholarship Fund, interest in this topic was tweaked while visiting Uluru-Kata Tjuta National Park as part of a trip to Australia to explore aboriginal culture. This practicum employed a three-fold research approach to evaluate the current success of the two co-management agreement examples: a literature review, an analysis of the co-management agreements and plans of management at both parks, and a research questionnaire. The literature review focused on two subject areas. One area, pertained to historical and constitutional issues on aboriginal – non-aboriginal relations, specific to land and resources, in both Canada and Australia. This provides a contextual background for readers unfamiliar with the negative impacts of European occupation and aboriginal dispossession, as well as, constitutional issues surrounding contemporary aboriginal

land claims. The other subject area comprised of current research on co-management agreements, as a framework for achieving more equitable decision making regarding natural resources, and the characteristics of good governance, as indicators with which to measure the degree of aboriginal participation and the success of co-management agreements.

The second approach was an analysis of the co-management agreements and plans of management for Gwaii Haanas National Park Reserve and Haida Heritage Site and Uluru-Kata Tjuta National Park. This background identifies the similarities and differences between the two examples and outlines their strengths. It also provides the reader information regarding how the parks are managed and what are their specific key issues, objectives and goals regarding aboriginal participation and preservation of aboriginal culture.

The third research approach was a questionnaire that was distributed to several national park representatives, involved in the planning and joint management of both the Gwaii Haanas National Park Reserve and Haida Heritage Site and the Uluru-Kata Tjuta National Park. Refer to Appendix C for the questionnaire. The questionnaires¹

¹ A consent form outlining how the material was to be used for the purposes of this practicum, consistent with the ethical review requirements of the University of Manitoba was provided to all participants. To protect individual anonymity, descriptions of the participants in the practicum are generic enough that identification cannot easily be made.

were delivered by email and over the phone. Questions were developed from the information gathered through an initial literature review. The intent was to be ‘ground-truthing’ or corroborative exercise, rather than a primary research instrument. The objective was to obtain individual attitudes and feelings towards the specific examples, as well as general co-management theory.

Efforts were made to increase the number of respondents but was hindered by several constraints. The primary constraint was a combination of geography and cross-cultural differences, that being the inability of the author to do face to face interviews with aboriginal staff at the national parks. Further, both parks were facing issues during the time the research was conducted. In Uluru Kata Tjuta, the Park was experiencing staffing difficulties, due to high turnover rates and staff was otherwise occupied. At Gwaii Haanas National Park and Reserve, management was engaged in external circumstances² and delegated the questionnaire to be completed by one participant.

1.6 Organization

This practicum is divided into 6 chapters, including this introduction. Chapter 2 focuses on the historical and constitutional issues of aboriginal – non-aboriginal relations, as they relate to land and resources, in both Canada and Australia. It is

² On-going negotiations for the proposed Marine Park, as well as external negotiations regarding land claims.

important to the reader in that it is the backdrop for identifying the current global shift to more equitable and cooperative partnerships between aboriginal groups and government. Chapter 3 illustrates how co-management agreements, as a contemporary planning model, embrace constituencies and alternative forms of knowledge that have traditionally been excluded from the planning process. Integrating the characteristics of good governance into the agreement fosters two-way communication and aboriginal participation and the potential for a paradigm shift, away from paternalism towards a partnership model in which science and traditional indigenous knowledge are incorporated into resource management decisions. Chapter 4 provides background on the Gwaii Haanas National Park Reserve and Haida Heritage Site as the Canadian example for co-management agreements and plans of management and Uluru-Kata Tjuta National Park as the Australian example. Chapter 5 deal with research responses, and draws out the implications of on the ground implementation of co-management agreements. It also focuses on what degree the characteristics of good governance contributed to the success of the co-management agreements and plans of management for protected areas. Chapter 6 provides conclusions and recommendations.

2 CHAPTER – Background

2.1 *Aboriginal – Non-Aboriginal Relations in Canada and Australia*

The focus of this section is on contemporary aboriginal – non-aboriginal relations and how that relationship is intrinsically linked to historical circumstances and perceptions. A historical context is important in understanding the current situation, as it provides a framework to readers unfamiliar with historical precedents of aboriginal land dispossession and exclusion from areas of traditional use and occupation. The literature focuses, in general terms, on the negative impacts on social, cultural, and traditional life that have occurred as a result of colonization and subsequent governmental policy.³ This study supports the widely held view that paternalism and assimilation continue to impact aboriginal people in Canada and Australia today.

Colonialism involves a relationship, which leaves one side dependent on the other to define the world. At the individual level, colonialism involves a situation where one individual is forced to related to another on terms unilaterally, defined by the other (Monture-Angus, 2000: 363).

³ It is important to consider that the ideology of colonization, although significant, is not an isolated influence and that there are a number of other factors that have contributed to the current socio-economic conditions that indigenous people experience in Canada and Australia. No two people have the same experiences. This is a complex issue and this practicum will be a synthesis of commonalities and by no means an all-encompassing analysis, as every aboriginal group and individual may have differing opinions and perceptions. Another important consideration is the social and geographic isolation of remote aboriginal communities from other aboriginal communities as well as major centres, due to vastness of Canada and Australia.

Blauner in his article, entitled 'Internal Colonialism and Ghetto Revolt', distinguishes between colonialism as a social, political and economic system and colonization as a process. He identifies four components, which are evident to both external and internal processes of colonization:

- The colonizer's forced assimilation of the ethnic group
- Their systematic attempts to destroy its culture
- Their manipulative administration of ethnic group members, and
- Their racist dominance over them.

Frideres and Gadacz (2001) have furthered this, and applying this colonization process to the experience of aboriginal people in Canada has identified the seven characteristics of colonisation.

1. The incursion of the colonizing group
2. The destructive impact on the social and cultural structures of the colonized
3. & 4 The interrelated process of external political control and aboriginal economic dependence.
5. The provision of low-quality social services (health, education etc.) for the colonized
6. & 7 The social interactions between whites and aboriginal people resulting in colour-lines and racism (Frideres and Gadacz, 2001: 7).

Aboriginal groups in both Canada and Australia were negatively impacted by colonization and have experienced each level of the colonization process. They have been dispossessed of land and resources resulting in dependence upon the colonizing group. The following focuses on changes in aboriginal policy in Canada and Australia that have helped set the path for more equitable and participatory planning processes and tools, like co-management agreements for land and resources, to be effective.

In Canada, The Royal Commission on Aboriginal Peoples⁴ (RCAP) was created to propose solutions and help restore justice to the relationship between aboriginals and non-aboriginals. Paul Chartrand, one of the seven commissioners with RCAP from 1991 to 1995 stated in an interview with Paul Havemann (1999) that “As a result of their colonisation, indigenous communities have been seriously damaged,” and that “aboriginals continue to be marginalized by not being represented in basic institutions such as the courts, the government and major administrative institutions”.

The objective of the RCAP inquiry was to “investigate the evolution of the relationship among aboriginal peoples (Indian, Inuit and Métis), the Canadian government, and Canadian society as a whole” (op. cit.) and to find solutions to the problems that have continuously confronted aboriginal peoples and have damaged those relationships. Overcoming the negative impacts of colonialism and forging, a new relationship between aboriginal people and the Canadian government are main tenets of RCAP.

We believe firmly that the time has come to resolve a fundamental contradiction at the heart of Canada: that while we assume the role of defender of human rights in the international community, we retain, in our conception of Canada's origins and make-up, the remnants of colonial attitudes of cultural superiority that do violence to the aboriginal peoples to whom they are directed. Restoring aboriginal nations to a place of honour in our shared history, and recognizing

⁴ The Report of the Royal Commission on aboriginal Peoples, was released in 1996 after four years of public hearings to gather the experiences, insights and stories of thousands of intervenors in Canada

their continuing presence as collectives participating in Canadian life, are therefore fundamental to the changes we propose (RCAPb, 1996).

In the past, as traditional aboriginal institutions were eroded resulting in assimilation, economic dependency and lack of control over decisions. At various levels, since the arrival of Europeans to Canada and Australia, all aspects of indigenous life have been re-organized or re-created through enforced government policies and legislation that reflect the perspective of colonizer, and function to its benefit economically, politically, culturally and legally. A crucial aspect, and the focus of this chapter, is the negative impact of dispossession of aboriginal peoples from their land and the extinction of title by the substitution of European legal concepts of land and resource ownership.

A similar pattern of imposed governmental policy is in both Australia and Canada, since European contact and reflects the characteristics of colonization as identified above. Armitage categorizes five different policy periods as:

- Pre -1860: early institutionalized contact
- 1860-1920: Paternalism: protection period
- 1920-1960: Paternalism: assimilation period
- 1960-: Integration period, and
- 1975 -: Pluralist period (Armitage, 1995: 196-197).

Each period signals a change in the “definition” of aboriginal people as identified by the government. Definitions were then modified depending on the policy period, for example, the integration period policy aims at eliminating the use of aboriginal

definitions and the pluralist period policies focuses on self-declarations and strengthening aboriginal identity (Armitage, 1995: 194).

The definition of “aboriginal” continues to be a source of controversy in terms of benefits, rights and access to lands in Canada and Australia. In Canada, the Constitution recognizes three groups of aboriginal people: Indians (now known as First Nations), Métis and Inuit. In Australia, there have been a number of definitions for aboriginal people. In colonial legislation, aboriginal people were grouped by reference to their place of habitation. In the late 1800’s and early 1900’s a fickle and inconsistent type of ‘blood’ quantum classifications was introduced and used to include or exclude (from access, benefits and rights) by reference to degrees of aboriginal blood based solely on lightness of skin colour (Gardiner-Garden, 2000).

The establishment of reserves and the dispossession of aboriginal lands are fundamental examples of the negative impact government policy has had on aboriginal people in Canada and Australia. Reserves, compared to previously occupied traditional areas that supported cultural, social and economic well being typically are land bases that are marginal and limited. In Canada since the *Indian Act* 1876 vested authority to the Superintendent General of Indian Affairs who had explicit responsibility for Indians and lands reserved for the Indians, government policy on aboriginal land ownership has been one of denial of aboriginal collective land tenure rights, disposition and land exclusion. In Australia, first the Crown and subsequently

the states established legislation and policies to control aboriginal access to lands, designated land areas for aboriginals to live and established reformatories and schools.

In Canada, the *Indian Act* established a complete set of rules governing Indian affairs and provided: for the recognition, protection, management, and sale of reserves, the payment of moneys to support and benefit of Indians, the election of councils and chiefs, Indian privileges, and provisions for 'enfranchisement' (Armitage, 1995: 79). A series of amendments over the years to the Indian Act further tightened control over aboriginals and pressed paternalistic policies, such as 1884 legislation to ban traditional customs, like the potlatches in BC, as they were viewed to interfere with assimilation progress (Armitage, 1995: 78). In terms of land rights, a discriminatory federal law passed in 1927 remained part of the *Indian Act* until 1951. Justified as a law to protect Indians from unscrupulous lawyers, it prohibited the raising of funds from Indians, for prosecuting claims against the government (Foster, 1999: 352).

Fortunately, recent Canadian court decisions, such as *Delgamuukw v. BC* (Havemann, 1999: 471) have recognized aboriginal title, and modern day treaties, such as the Nisga'a Treaty; have brought the issue of collective title and property rights of aboriginal people to the forefront. Court decisions on aboriginal title and treaties have established precedents for other aboriginal groups to draw on in their pursuit for land rights and autonomy.

Australian aboriginals were also subjected to the negative impacts of colonization and land disposition. With the establishment of the Australian states, administration of aboriginals was passed to them and was no longer managed by the British Crown; administration continued based on principles established in the 1837 House of Commons Select Committee on Aboriginals, which focused on 'protection' of aboriginal peoples. Protection was interpreted as control over aboriginals in that an appointed paid state official (Protector): designated where aboriginals could go, live, and work, approved marriages, acted as legal guardians over children, including separate them from their parents and managed reserves and aboriginal lands (Armitage, 1995: 35).

In 1905 reserves were established under the *Western Australia Aborigines Act*, as was dependency upon an imposed socio-political system. Reserves were created with the allocation of some Crown lands for aboriginal use in each state. Unlike Canada, no treaties were signed and reserves were state ordered land-use designations, and as such, could be revoked or changed without aboriginal consultation or consent (Armitage, 1995: 35).

Additional policy that negatively effected or discounted Australian aboriginals was implemented through the Aborigines Protection Board established in 1883, with the purpose to train, educate and employ aboriginal children as farm labourers or domestic servants. Other negative policies and legislation included the 1901 the Commonwealth

Constitution which did not recognize or count aboriginals, the *Invalid and Old Age Pension Act* 1908, which provided social security for all Australians except aboriginals, and the establishment of a Maternity Allowance in 1912, that did not include aboriginal people (Australian Museum, 2004).

The Northern Territory Welfare Ordinance passed in 1950 established aboriginal people as wards of the government, effectively making all aboriginal people minors under the law. Small advancements were made with the *Commonwealth Citizenship and Nationality Act* 1948, which did not discriminate against aboriginals and in the Northern Territories, the first formal schooling for aboriginal children was provided in the 1950's.

In Australia, like Canada, challenges to land disposition and extermination of native title have been conducted in the judicial system. In *Mabo v Queensland (No2)* 1992, the High Court of Australia established that Common Law was obliged to recognize and respect that Aborigines had systems of law and property rights (Howitt, 2001: 2). This court decision overturned the idea of *terra nullius* (belonging to no-one) at the time of European arrival and paved the way for aboriginal and Torres Strait Islander people to have their native title recognized under Australian law.

2.1.1 Alternative Perspectives on Aboriginal Self-determination

There are two perspectives, at opposite ends of the spectrum, on aboriginal self-determination as it relates to ownership and rights to aboriginal self-government in both Australia and Canada.

1) The term “aboriginal inherent right” used to define self-government is complex and means many things to many people, and varies from the right of aboriginal people to determine their political future and to pursue their own cultural and economic development to ownership where aboriginal people retain property rights as a result of their original use and occupancy of lands (Weaver, 1985; cited in Frideres and Gadacz 2001: 240). There are several different forms of aboriginal self-government in Canada and they range from band government under the Indian Act of 1876, to community-based government.

Self-determination, as defined under international law, means “the full enjoyment of civil and political rights”...[and] “the right to choose independence...[and] “to exercise permanent sovereignty over natural resources” (Morris, 2003: 121). Improved aboriginal - non-aboriginal relations through co-management of national parks can contribute to aboriginal self-determination. The key to this relationship is the level of participation, the more equitable the partnership, the higher the level of control over access to and use of traditional lands.

2) The opposing view is that the Crown extinguished aboriginal rights, and as such, aboriginal people have no claim to land. It is represented by Melvin Smith's stance on land claims and constitutional reform and litigation:

In the vacuum created by the lack of a substantive presentation of provincial interests before the courts in these matters, the sophistry of the reports of the Royal Commission on Aboriginal Peoples has flooded in. Propositions by a coterie of academics who spend all their time spinning fanciful theories largely out of thin air and with little regard to the state of the law and jurisprudence before 1990 have, alas, been adopted by the bright and "progressively minded" young law clerks in the Supreme Court of Canada and, thence, have entered into that Court's judgments (Smith, 2000: XX)

In Canada not only does RCAP contain valuable information and recommendations but it also provides an alternative vision for the future of aboriginal – non-aboriginal relations in Canada as they apply to land use and resource ownership.

We have therefore concluded that the current land base of aboriginal peoples should be expanded significantly. In addition, there should be a significant improvement in aboriginal access to or control over lands and resources outside the boundaries of this expanded land base. Put another way, aboriginal people must have self-governing powers over their lands, as well as a share in the jurisdiction over some other lands and resources to which they have a right of access. This is both a matter of justice — of redressing past wrongs — and a fundamental principle of the new relationship with aboriginal people that we are proposing throughout this report. (RCAP, 1996c).

In Australia, the Aboriginal and Torres Strait Islander Commission, a national policymaking and service delivery agency for indigenous people, was created by the

Commonwealth government in 1990 and represents a major step in self-determination for indigenous Australians. It is a unique, decentralized and independent statutory authority organization that advocates aboriginal and Torres Strait Islander self-governance both nationally and internationally. It advises the Minister for Aboriginal and Torres Strait Islander Affairs, and delivers programs to aboriginal and Torres Strait Islander people and, like RCAP and some of the comprehensive land claims agreements in Canada, may pave the way for some form of regional self- government.

Positive changes have been seen in government policy towards aboriginal people in both Canada and Australia in the last two decades and as a result, new forms of decision-making and more extensive involvement at the community level have evolved. These positive steps, although by no means erasing a history of paternalism, dispossession and assimilation, have led to some encouraging advancements for aboriginal people including greater decision-making powers, reallocation of governing responsibilities and in several instances self-government. For example, in 1997 the Sechelt Indian Band of British Columbia settled a land claim that resulted in a comprehensive self-government arrangement.

For the majority of aboriginal communities in Canada self-government is not yet a reality and progress in the existing round of negotiations is slow at best. In some instances, arrangements have been established that allow for aboriginal controlled services and program delivery or for equitable arrangements between the federal

(and/or provincial) and aboriginal governments (Pinkerkon, 1989: 5). In Australia, the right of self-determination, as in Canada, can be viewed as a threatening notion to those who value Australia's conservative agenda of 'one land one law'. This agenda opposes not only aboriginal land rights claims but any legislation that accords special privileges and advantages to Aborigines (Tonkinson and Howard, 1990: 70).

Compounding the issue of aboriginal land rights claims and self-government are policy and jurisdictional differences between the Federal Government and State and Territory Governments in Australia and the Federal, Provincial and Territorial Governments in Canada (Tonkinson and Howard, 1990: 72). Some cite the need for uniform national land rights, and housing and educational policies for aboriginal people whereas others identify the heterogeneity of aboriginal groups in Australia and Canada and the need for regional / site specific solutions. (Tonkinson and Howard, 1990: 73).

The debate is complex and the continuing inability of the various levels of government in Australia and Canada to agree to any number of aboriginal issues continues to be a source of frustration to many, and it impacts negatively the relationship between aboriginal groups and governments. In terms of land and resource management, co-management agreements offer, as argued in Chapter 3, an effective solution to identify and implement a plan to jointly manage objectives identified in the agreement such as: operations, research, budgets, permits, conservation, harvesting and communications.

In both Australia and Canada improvements have been made to address aboriginal issues including land claims, land ownership and land and resource management. In terms of self-determination, the question can be posed, what form of local government best allows for aboriginal self-government and how to balance the competing interests of all levels of government?

2.1.2 Perceptions and Cultural Bias

Land and natural resources are central themes for relationships between governments and indigenous peoples around the world. Land claims, natural resource allocation and management (conflicts over water, logging, minerals, hunting and fishing etc.) and environmental regulations recurrently result in contention between them (Wilkins, 2003: 83). There is also the difference of perception that can result in dramatic differences in how indigenous and non-indigenous people think land and resources should be managed (Baker et al., 2001a: xxi). Perceptions can be as wide as the Inuit view of the Arctic region of Canada and Australian Aborigines viewing the Outback as full and vibrant of diversity and westerners' viewing them as empty and desolate. The goal then, in terms of developing viable and effective land and resource management strategies is to first understand the different perceptions and viewpoints of all affected within a collaborative planning process, like co-management agreements.

In the United Nations Draft Declaration on the Rights of Indigenous Peoples, several articles relate directly to land and resources. Part VI – Articles 25-30 outline the use, control, protection, and right to determine future use / development of lands and resources traditionally used as well as identify the right to restitution of lands and resources that have been “confiscated, occupied, used or damaged without their free and informed consent. Where this is not possible, they have the right to just and fair compensation...Indigenous peoples right to own, develop, control and use the land and territories, including the total environment of the lands, air, waters, coastal seas, sea-ice, flora and fauna and other resources which they have traditionally owned or otherwise occupied or used” (Grounds, Tinker and Wilkins, 2003: 330).

The capitalist definition of land is one of a commodity that can be bought, sold, leased, exchanged, and used to produce other goods or commodities. Aboriginal perspectives do not include land ownership rather, they embrace the concept “of the land” (Palmer, 1988: 2). To Australian Aborigines spiritual identity is linked to particular areas of land through the conception of the Dreaming, and this link is regarded as timeless and as such an economic relationship with the land was secondary. As outlined in the second report of the Ranger Uranium Environmental Inquiry by Justice Fox (1977: 33) “...there is a direct personal link between the spirit being, the child and the place from which the spirit came. That place is the source of the person’s life force and he or she is inseparably connected with it. The spirit is part of the land, and therefore the land is very much a part of the aboriginal. This

relationship is not broken, even on death, as the aboriginal's spirit returns to the site from which it first came.”

2.2 Aboriginal Legislation in Canada

Historically, the colonization of Canada and Australia are very similar, but the countries differ in the nature of their responsibilities to native peoples. The Government of Canada historically has a strong fiduciary responsibility to aboriginals as identified in treaties and legislation. The *Constitution Act*, 1867, subsequently the *Constitution Act* 1982 (section 35), recognizes and affirms aboriginal and treaty rights of aboriginal peoples of Canada and provides that provincial and territorial governments respect those rights as well (Treasury Board of Canada, 2004). Note that the Act does not identify or define what aboriginal rights were, or where they existed. Thus in Canada, as in Australia, determinations on aboriginal rights, have predominately been defined through the courts.

The primary legislation through which the Federal Government has authority over aboriginals in Canada is the *Indian Act* enacted in 1876 to attempt to consolidate all existing legislation pertaining to Indians. This Act has jurisdiction over “Indians and lands reserved for Indians” and influences all aspects of aboriginals’ lives and though it has been amended numerous times the basis has been that of assimilation (Soonias, 1978). The Indian Act can be changed without consultation with aboriginals. In 1969, the infamous “White Paper” was the Federal Government’s Statement of Policy

presented to parliament that sought total assimilation in a short period. The objectives included abolishing Indian Affairs, repealing special Indian legislation and the Federal Government relinquishing its responsibility for Indians and transferring it over to the Provinces (Soonias, 1978).

In Canada, as in Australia, judicial court decisions played a significant role in challenging the influence aboriginal peoples have when dealing with their governments. The Calder case in 1973 and Mabo decision in Australia (refer to Section 2.2.2.) clearly established a legal precedent for government change in developing policies to negotiate land claims. In 1971 the Nisga'a Tribal Council brought a suit against the government of British Columbia (Calder et al. v. Attorney General of British Columbia) declaring that their aboriginal rights had not been extinguished.

The Supreme Court of BC as well as the BC Court of Appeals rejected the claim before it went to the Supreme Court of Canada. The Supreme Court handed down its decision in 1973 and was split on whether title had been extinguished, but the majority of judges determined that aboriginal title existed under Canadian law. The Calder case was momentous in that the decision, announced during a minority government, became an important political issue, and the federal government was pressured to recognize its obligation to settle native claims. In August 1973, the then Minister of

Indian Affairs, Jean Chretien, initiated a claims process that continues to this date (Library and Archives Canada, 2005).

The most significant decision on aboriginal title in Canada was *Delgamuukw v British Columbia* 1997. A number of hereditary chiefs from the Gitksan and Wet'suwet'en First Nations claimed ownership to 58,000 square kilometres of land in northern BC. The Supreme Court of Canada overturned a ruling of the British Columbia Supreme Court that had dismissed the claims. It was concluded that the original trial judge erred by not taking into account the oral histories presented by the chiefs to establish their occupation and use of the land. The *Delgamuukw* decision further states that,

- Aboriginal title is a communal right
- Aboriginal title, like other types of aboriginal rights, is protected under s.35 of the Constitution Act, 1982
- Aboriginal title lands can only be surrendered to the federal Crown
- Aboriginal title lands must not be put to a use which is irreconcilable with the nature of the group's attachment to the land and,
- In order for the Crown to justify an infringement of aboriginal title, it must demonstrate a compelling and substantive legislative objective, it must have consulted with the aboriginal group prior to acting and in some cases, compensation may be required (INAC, 2004a).

2.2.1 Land Claim Process in Canada

Canada's land claims policy was established in 1973 following the *Calder* case, which recognized that aboriginal title did exist originating in traditional use and occupancy. One of the tenets of the process is the extinguishment of native rights in return for compensation, thus removing the threat of continued litigation on the underlying

claim; this despite of strong objections by aboriginal peoples and others (Scholtz, 2001: 13). The policy divides claims into two categories.

1) *Comprehensive claims* are based on the assertion of continuing title to land and resources. Under this category, land claims are negotiated in areas where claims to aboriginal title have not been dealt with by treaty or other legal means (University of Melbourne, 2004).⁵ The purpose of comprehensive claims settlements is to clearly define the rights of aboriginal groups with respect to land and resources so as to encourage economic growth and self-sufficiency, and may include self-government. Settlement agreements are typically structured to recognize the interests of aboriginal groups in resource management, development and environmental protection. The Inherent Right Policy was introduced by federal government in 1995 to support the negotiation of self-government arrangements as part of a comprehensive claims agreement.

2) *Specific claims* are filed against Canada's breach or non-fulfilment of lawful obligations found in treaties, agreements or statutes, including the Indian Act. If outstanding legal obligations are determined (under the Specific Claims Policy) a claim is then accepted for negotiation. Negotiations can be between First Nations and federal, provincial and territorial governments. Settlements under the specific claims

⁵ A limited number of claims have been accepted for negotiation as comprehensive claims in areas affected by treaties, largely in areas where treaty provisions have not been implemented.

policy are designed to achieve ‘full and final closure’ to grievances and assist in economic opportunities for First Nation communities (ibid).

As mentioned earlier the key difference in the colonization history of Australia and Canada is the impact of signing treaties between aboriginal peoples and the Crown and most treaties with aboriginal peoples were peace and friendship treaties. Treaties, in addition to the legal context, confirm identity of an aboriginal claimant group with a historically established leadership structure with recognized authority to negotiate on behalf of its people with other governments. This is a key difference in the process between Canada and Australia; in Canada land claims negotiations can include the federal government as a party in the negotiations, unlike in Australia (refer to Section 2.3.2). In the modern context there has been litigation to establish whether treaties extinguished aboriginal interests over land. To further confuse the issue are the areas in Canada, like the majority of British Columbia, and the north where treaties were not signed, which has led to a complex layering of aboriginal rights based on fiduciary responsibility and court decisions (Scholtz, 2001: 4).

The issue of aboriginal land claims in BC where the Gwaii Haanas National Park Reserve and Haida Heritage Site is located is still unsettled. Resolution continues to be negotiated by Canada, BC and First Nation government through negotiated modern day treaties, or to be decided by the courts. Both processes are on a case-by-case basis and can be slow. No court decision yet has clearly defined aboriginal rights. The

federal comprehensive claims process was implemented in British Columbia in 1992. The British Columbia Treaty Commission administers a detailed tri-partite treaty process and its primary role is to oversee the negotiation process to ensure that the parties are being effective and making progress in negotiations (BC Treaty Commission, 2005a). Note that the Treaty Commission does not negotiate treaties, that is done by the Canadian, BC⁶, and First Nation representatives.

The Treaty Negotiations Office has the responsibility of resolving land claim settlements in BC. The objective being to “achieving certainty regarding ownership and use of provincial Crown lands and resources through treaties and other negotiated agreements” (BC Treaty Negotiations Office, 2001). Each treaty negotiation is unique, but commonly addresses: First Nation government structures and related financial arrangements, jurisdiction and ownership of lands, waters and resources, and cash settlements. The BC Treaty Commission utilizes a six-stage treaty process that is time consuming, with a number of claims still being negotiated after a decade.⁷

⁶ Delegates from the BC Treaty Negotiations Office represent the interests of all British Columbians in the negotiations. The Treaty Negotiations Office is under the aboriginal Directorate within the BC Ministry of Community, aboriginal and Women’s Services.

⁷ The 6-step process includes 1 - Statement of Intent to Negotiate. 2 - Readiness to Negotiate. 3 - Negotiation of a Framework Agreement. 4 - Negotiation of an Agreement in Principle. 5 - Negotiation to Finalize a Treaty. 6 - Implementation of the Treaty (BC Treaty Commission, 2005b).

The federal government has established a number of comprehensive self-government arrangements in Quebec⁸, Labrador, the Yukon and Northwest Territories in Canada, which gives aboriginal communities broad legislative powers in public areas like social welfare, education, and environmental protection (Terry, 1995: 153). The Inuvialuit⁹ Final Agreement is such an example. This Agreement, between the Government of Canada and the Committee for Original Peoples' Entitlement, representing the Inuvialuit of the Inuvialuit Settlement Region, was signed in 1984 and provided title to 91,000 square kilometres of land and 13,000 square kilometres of mineral, petroleum and natural gas rights in the western arctic to the Inuvialuit (Beaufort-Delta Self-Government, 2003).

In addition to land and resource rights, the Agreement provides for the formation of the Inuvialuit Regional Corporation to receive and manage the land and funds of the settlement as identified in the Agreement. Further, the Agreement provides for special hunting rights, financial compensation and funding for social and economic development. The Agreement also enabled the establishment of a system of joint

⁸ First land claims settlement in Canada was the *James Bay and Northern Quebec Agreement 1975*, signatories included, the governments of Canada and Quebec, the Grand Council of the Crees (of Quebec), the Northern Quebec Inuit Association, the James Bay Energy Corporation, the James Bay Development Corporation and Hydro-Quebec.

⁹ Inuvialuit translates to 'real human beings' in Inuvialuktun.

management that includes the Inuvialuit, Territorial and Federal governments (Inuvialuit Regional Corporation, 2003).

The most ambitious example is the creation of Nunavut¹⁰ in 1999, which transferred title and delegated legislative powers to approximately 350,000 square kilometres¹¹ of land (of which 35,000 square kilometres includes mineral rights) to the Inuit, the largest aboriginal land claim settlement in Canada. The *Nunavut Land Claims Agreement Act* (respecting the Agreement between the Inuit of the Nunavut Settlement Area and Her Majesty the Queen in right of Canada) and the *Nunavut Act* (creating the new territory) were passed in June 1993, seventeen years after the first Inuit claim proposal was submitted to the federal government (Library and Archives Canada, 2005).

In terms of land rights, the Agreement secures Inuit harvesting of wildlife on land and water rights throughout the settlement area and the creation of three federally funded national parks. The Agreement also secures a share of royalties from oil, gas and mineral development on Crown Lands and it grants Inuit the right to negotiate with industry for economic and social benefits with non-renewable resource development in areas with surface title to land is held. The Agreement guarantees the right of first refusal on sport and commercial development of renewable resources in the settlement

¹⁰ Nunavut is “our land” in the Inuktitut language.

¹¹ The total area of Nunavut is 1.9 million square kilometres.

area. It also provides for equal representation for the new territorial government on wildlife and resource management and environmental boards with the federal government.

2.3 Aboriginal Legislation in Australia

The primary focus of this section is on national Australian legislation and historical judicial decisions that influence aboriginal land rights as well as legislation in the Northern Territory (where Uluru-Kata Tjuta National Park is located). In 1968, the Yirrkala people, the traditional owners of the Gove Peninsula in the Northern Territory, filed claim against the Commonwealth, the Northern Territory, and Nabalco, a mining company, to establish their rightful claim to homelands. The Gove case became the first land rights case in Australia.

In 1971, the “Blackburn Decision” determined that aboriginal interest in land had been wiped out when the British Crown asserted sovereignty and that the Yirrkala people had not proved that they had been in possession of the land in question. Additionally the judge, Blackburn, determined that the “law developed by the courts recognized only individual title to land”, further it did not recognize “communal interests as held by indigenous persons prior to colonization” (Brennan, 1995: 6). The Gove case did, however, establish a base for future land rights cases in that it was the first time an Australian higher court recognized the existence of an aboriginal system of law and the use of oral evidence to establish property rights.

In Australia, the Racial Discrimination Act, 1975, protects native title. Before this Act, aboriginals had no right to compensation for loss of their traditional lands (Brennan, 1995: xi). This Act seeks to ensure that human rights and freedoms are enjoyed in full, and it is unlawful “for a person to do any act involving a distinction, exclusion, restriction or preference based on race, colour, descent or national or ethnic origin” (Racial Discrimination Act, 1975). The *Native Title Act 1993* gives statutory recognition to indigenous common law property rights and defines the individual, communal or group rights and interests of aboriginal peoples or Torres Strait Islanders in relation to land or water in accordance with traditional laws (Brennan, 1995: 83). In Australia, land management is primarily the concern of State and Territorial Governments and as such, they have some flexibility in how they respond to native title, but are restrained by the *Native Title Act 1993*.

It should be noted that there is a clear distinction between native title and land right claims as defined by the National Native Title Tribunal. Although both recognize Australian aboriginals’ traditional rights to land based on traditional ownership of lands and waters they are legally different. Native title is the recognition of Australian aboriginals’ rights and interest in land and water according to their own traditional laws and customs and it is not a grant of or a right created by governments. Native title claims are often made for non-exclusive or shared rights, as native title can exist alongside the ‘rights of others’.

An application may claim the right to access land to practice traditional ceremonies, gather traditional foods and medicines, or to live on the land and share in the resources of the area. The important distinction between the two types of rights is that no land is given under native title, as claims are assertions of rights to the area according to traditional laws, customs and links to the area. Application is made to the court or recognized body to determine if native title still exists. A decision is reached, either by consent determination, after mediation, or by a litigated determination, through the courts (National Native Title Tribunal, 2002). Conversely, a land rights claim seeks a grant of title from the Commonwealth, state or territorial governments. The grant of land may recognize traditional interests and is given to those who have historical ties to the area. Different land rights laws¹² allow for grant of title in different areas and all must meet conditions established under the law in question. If a claim is successful, a title document to the land is issued, typically to a community or organization.¹³

There are a number of parallels between Australia and Canada in establishing legal land rights for aboriginals through litigation. The courts in Canada, New Zealand, the United States and Australia sometimes evaluate land right decisions in the other countries to help form their own decisions. For example in Australia, the plaintiffs in

¹² Depending on the state / territorial / federal legislation involved.

¹³ Title can either be in the form of freehold title or tied into a lease agreement as is the case in Uluru Kata Tjuta National Park.

Mabo looked to Canada in *Guerin v The Queen* 1984¹⁴ to illustrate that the Crown “owed a fiduciary¹⁵ responsibility to all indigenous persons living on their traditional lands or separated from their lands by the Crown” (Brennan, 1995: 116). The argument was that since the colonizers did not allow natives to sell their land directly to settlers and had to deal exclusively with the Crown, whose policy was to create reserves for the benefit, use and protection of the natives and as such, established a fiduciary duty (Brennan, 1995: 116). To date the issue of fiduciary duty in Australia, still has not been resolved but imparts that the Crown must have regard for the continued interests of native titleholders.

The *Mabo* Decision of the High Court in 1992 was a landmark case in that it countered Blackburn’s position and identified that common law was ‘just as capable

¹⁴ Reserve land had been surrendered with certain terms, by vote from band members, to the Crown so that the Crown could then lease the land to a golf club for profit where the proceeds were to be shared by the band. The Crown then entered into a lease on unattractive terms and did not release a copy of the lease to the band for 12 years and then, it did not resemble at all the terms discussed by the band and Crown. The trial judge found that the native band would not have surrendered the land had they known what would have been the finalized terms of the lease. This decision upheld that the Crown “hold the land subject to a fiduciary obligation to protect and preserve the band’s interest from invasion or destruction.”

¹⁵ Duty owed by a stronger party to a weaker party when the parties have developed a special relationship of trust such that the weaker party is entitled to look to the stronger party for protection of their interest.

of recognizing communal interests in land as individual interest. Before the *Mabo* decision, aboriginals were not recognized as having any traditional rights and interests in their lands (Brennan, 1995: xi). The High Court found that “native title, whether individual or communal, would not be automatically wiped out by the mere assertion of sovereignty by the British Crown” (Brennan, 1995: 15). Because of this decision, the *Native Title Act 1993* was enacted giving statutory recognition to Indigenous common law property rights in Australia (ATSIC, 2005).

The Mabo decision was not, however, without its own obstacles for claiming land rights. The decision stipulates that aboriginals would have to show that “government had never taken away or overridden their rights as native title holders” and that they had “maintained their connection with the land in accordance with aboriginal law” (Brennan, 1995: 16). These two obstacles pose problems for aboriginals seeking claims in that they must prove despite a history of dispossession that they have maintained a connection to their country¹⁶ and have met obligations to land and sacred sites according to local aboriginal law (Brennan, 1995: 18).

2.3.1 Northern Territory

The first legislation in Australia that allowed for the transfer of reserve lands to aboriginal people occurred in South Australia with the enactment of the *Aboriginal*

¹⁶ Term used by Australian Aborigines to define their traditional area

Lands Trust Act 1966. In the Northern Territory, where Uluru-Kata Tjuta National Park is located, the *Aboriginal Land Rights (Northern Territory) Act 1976* (ALRA) provides one mechanism under which aboriginal people can acquire land and enables traditional aboriginal owners¹⁷ to claim land rights for Crown lands (Way and Beckett, 1998). Under this legislation, land can be granted to aboriginal people in two ways:

- If the area of land in question is listed in Schedule 1 of the ALRA, which included many former aboriginal reserves, and
- If a claim successfully meets the procedures outlined in it. Note that the ALRA had been amended on numerous occasions to include further land in the Schedule.

If a successful claim is made under the Act, the Governor General grants the land to an Aboriginal Land Trust. The land is restricted as an ‘inalienable freehold title’ and can be leased only by agreement of the Land Council in question and it can not be sold, only surrendered to the Crown (ibid). Aboriginal Land Trusts were established to hold title to land on behalf and for the benefit of the traditional owners of land. Members of Aboriginal Land Trusts are nominated by the relevant Land Councils and then appointed by the Minister for a three-year term. Typically, they are aboriginal elders from the trust area and they must reside where the land held is situated.

¹⁷ Traditional aboriginal owners as defined in Section 3 of the *Aboriginal Land Rights 1976 Act*, is a local descent group of aboriginals who: (a) have common spiritual affiliations to a site of land, being affiliations that place the group under a primary spiritual responsibility for that site and for the land; and (b) are entitled by aboriginal tradition to forage as of right over the land

Aboriginal Land Councils are the administrative structure for the operation of the land rights system established by the ALRA and liaison between Government, traditional owners and the public. Funding for Land Councils is calculated according to the amount generated by royalties received from mining on aboriginal land. Two large Land Councils exist in the Northern Territory, the Northern Land Council representing aboriginals in the northern half of the Territory and the Central Land Council, which represents those in the south. The statutory functions of the Land Councils as outlined in the ALRA are:

To ascertain and express the wishes of aboriginal people living in the Council area in regard to land management and legislative reform; to protect the interests of traditional aboriginal owners and other Aborigines with an interest in aboriginal land; to assist Aborigines to take measures to protect sacred sites in the Council area; to consult the traditional aboriginal owners of aboriginal land in relation to any proposed use of the land; to negotiate with persons wishing to obtain an interest in aboriginal land, including under claim; to obtain and pay for legal advice for aboriginal people claiming under the ALRA; and to supervise and provide administrative assistance to aboriginal Land Trusts. (ALRA, 1976: Part 3 Section 23)

The Central Land Council region covers approximately 771,750 square kilometres and represents roughly 18,000 aboriginal people. The region is divided into nine smaller regions based on language groups. In 1998, a review of the ALRA (the Reeves Report) was tabled in Parliament, and it recommended numerous changes to the Act and other legislation affecting land rights in the Northern Territory. Currently there has been no major transformation of the nature of aboriginal land rights in the Northern Territory (ibid).

2.3.2 Land Rights Process in Australia

There is a variety of ways in which a land rights agreement can come about. Some are influenced by various statutory land rights Acts, like the *Aboriginal Land Rights Act* 1976 and the *Native Title Act* 1993 and have statutory status, while others have been determined by decisions made by the Federal Court of Australia (University of Melbourne, 2004). Unlike in Canada, the negotiating framework set up under the Native Title Act removes the Commonwealth as a direct negotiating partner. Thus, the structure of native title negotiations is one of interest groups, such as miners, loggers and pastoralists, organizations, institutions and agencies.

In addition to formal legislative advances (to varying degrees of effectiveness) a variety of administrative and judicial bodies have been set up to handle land rights demands by Aborigines such as the National Native Title Tribunal (NNTT) and the Aboriginal Land Fund Commission (ALFC). The NNTT is a government agency set up in 1994 under the *Native Title Act* of 1993, to assist in the resolution of native title issues with the vision “*for an Australia where native title is recognised, respected and protected through just and agreed outcomes*” (NNTT, 2004). The Tribunal mediates native title claims under the direction of the Federal court and assists communities and people in negotiations about proposed developments (like mining) and indigenous land use agreements. Indigenous land use agreements are voluntary agreements about the use and management of an area of land or waters, made between one or more

native title groups and others. If they are registered¹⁸ then they are legally binding on all parties to the agreement and all native titleholders of that area (ibid).

An application for legal recognition of the rights of Australians aboriginals over a particular area of land or water, according to traditional laws and customs is typically filed with the Australian Federal Court, who then makes a determination if native title exists. A compensation application can also be filed for aboriginals seeking compensation for loss of native title.

2.4 National Parks Legislation and Policy

Current parks management literature emphasizes the need to involve aboriginal people, not only in protected area planning and in management, but also in decisions about exploitation of resources for subsistence purposes (Berg, Fenge & Dearden, 1993: 226). The national park model, in its purpose to protect unique eco-systems, excludes or restricts human activities and uses, which affects indigenous peoples in their traditional pursuits. Co-management agreements, provides a framework in which aboriginals can regain control and power to make decisions about management of protected areas and natural resources. Cooperative resource management that involves aboriginal is important in that it balances the needs of a local group (social, cultural,

¹⁸ The Native Title Registrar under the Native Title Act maintains the Register of Native Title Claims, the National Native Title Register and the Register of Indigenous Land Use Agreements.

economic, self-government) with the needs of government. Attempts by various governments to implement “southern style approaches to remote and isolated resource areas have not been as successful as in the south (Sadler, 1989: 193).

Government ownership of resources does not always solve the problem of resource management (Berkes, 1998: 1). It cannot predict for every issue or change / depletion of resources, use, or changes in political will. Although the *National Parks Act* is the only Canadian legislation that requires the minister to allow public participation in policy, planning, and management decision-making, it is for the minister to determine what participatory method he or she defines as appropriate. Historically this did not include direct consultation with aboriginal people whose traditional lands were affected by restriction of activities. The operation and management of National Parks in Canada are governed according to the Act, corresponding regulations and Parks Canada’s guiding principles and policies. The fundamental purpose of Parks Canada is to:

Fulfill national and international responsibilities in mandated areas of heritage recognition and conservation; and to commemorate, protect and present, both directly and indirectly, places which are significant examples of Canada's cultural and natural heritage in ways that encourage public understanding, appreciation and enjoyment of this heritage, while ensuring long-term ecological and commemorative integrity (Parks Canada, 2003a).

Since the *National Parks Act* confers final decision-making power to the Minister responsible for Parks, co-management boards are especially important in ensuring

aboriginal have a say on management of traditional lands within National Park boundaries because equal representation between aboriginal and non-aboriginal participants typically make up co-management boards. Moreover, the park management boards must agree on the plan of management to be presented to the Minister, if there is no consensus on the plan then it is stalled.

In Australia the *National Parks and Wildlife Conservation Act 1975*, provides for the “establishment of parks and reserves over areas of land or sea where constitutionally there is a basis for Commonwealth interest”. Under this Act, plans of management for National Parks must be prepared and subjected to public comment and review by both Houses of Parliament. The Australian National Parks and Wildlife Service was established under the Act to assist the Director of National Parks and Wildlife. The *National Parks and Wildlife Conservation Act 1975* was replaced by the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC). The EPBC Act “protects the environment, particularly matters of national environmental significance. It streamlines national environmental assessment and approvals process, protects Australian biodiversity and integrates management of important natural and cultural places” (DEH, 2005a). Several of the objects of the EPBC Act defined in Section 3 relate specifically to indigenous people:

- Promote a cooperative approach to the protection and management of the environment involving governments, the community, landholders and Indigenous peoples;
- Recognize the role of Indigenous peoples in the conservation and ecologically sustainable use of Australia’s biodiversity; and,

- Promote the use of Indigenous peoples' knowledge of biodiversity with the involvement of, and in cooperation with, the owners of that knowledge. (EPBC ACT, 1999).

2.5 Conclusion

It is necessary when examining contemporary aboriginal – non-aboriginal relations, to take into account historical circumstances and perceptions. Understanding the impact on aboriginal culture and ways of life resulting from aboriginal land dispossession and exclusion from areas of traditional use and occupation is valuable to building a new relationship paradigm based on mutual respect and equitable authority. Canada and Australia have similar colonization histories but differ with respect to government responsibilities to indigenous peoples.

The focus of this chapter was to outline the negative impacts on aboriginal social, cultural, and traditional ways of life that have occurred as a result of colonization and subsequent governmental policy. Further, this chapter documented key legislation in Australia and Canada that affects aboriginal rights. Specific attention was paid to legislation, and judicial decisions that have increased aboriginal land rights. This information acts as a backdrop for the reader to situate the value of inclusive / collaborative planning processes, such as co-management agreements that support equitable aboriginal participation in management decisions for protected areas and natural resources.

3 CHAPTER – Co-management

3.1 *Co-management: The Alternative*

The focus of this chapter is on co-management¹⁹ as good planning practice. First, this method is examined as an alternative to traditional planning processes. Co-management agreements refer to some combination of centralized, state-level management, and tradition, local-level resource management systems. (Berkes et al. 1991: 12). Co-management agreements is a catch-all phrase that can be described as the sharing of decision-making between the state and resource users. (Berkes 1994; Pinkerton 1992).

Secondly, this chapter proposes that integrating the characteristics of good governance into the development and implementation of co-management agreements will allow for a more successful outcome. Both co-management and good governance possess similar qualities and both complement one another. The complementary frameworks allow for the characteristics of good governance to be used as benchmarks with which to compare the success of co-management agreements and situate it within the appropriate level of co-management.

Effective co-management agreements should encompass aboriginal laws, aboriginals' relationship with their geographies and place of origin, content, and dialogue that

¹⁹ Also known as joint management in Australia and in Parks Canada terminology.

comes from within local institutions (Robinson, 1998a: 9). Co-management agreements, although not all-encompassing, can be valued as an interim measure that bridges restrictions on and exclusion of aboriginal peoples' use and influence, on one side, and complete control through self-government, on the other. They can also be viewed as equitable participatory planning that incorporates the characteristics of good governance: participation, accountability, transparency, consensus decision-making, inclusiveness and legitimacy.

Both the Canadian and Australian governments in recent years have advanced ideological changes (to varying degrees) towards public policy concerning aboriginal people. These changes include capacity building within communities that provides for the opportunity to develop their own strategies. Thorough consultation with aboriginal peoples further promotes decision-making that strengthens the social cultural and economic aspects of aboriginal life (Frideres and Gadacz, 2001: 378). Advancing that argument, preserving culturally significant elements of traditional ways of life and combining them with modern methods and techniques enhance the ability to maintain and enhance aboriginal identity, and evolve their society and economy (Berkes, 1999: 168).

In Canada, the federal government has conceded that the *Indian Act* does not provide an adequate measure of self-government and that new legislation is required to meet the different needs of Indian people across the country (Moss 1989: 2). In Canada,

Gathering Strength: Canada's Aboriginal Action Plan exemplifies a more inclusive, collaborative process for increased aboriginal participation and decision-making:

The Government of Canada agrees with the Commission's conclusion that aboriginal and non-aboriginal people must work together, using a non-adversarial approach, to shape a new vision of their relationship and to make that vision a reality. In that spirit, Canada is undertaking to build a renewed partnership with Aboriginal people and governments. (Minister of Indian Affairs and Northern Development: 3).

In Australia, co-management emerged as a response to increasing legal recognition of aboriginal rights over traditional lands where national parks and conservation reserves are situated. Co-management agreements try to balance the rights and interests of traditional owners with the rights and interest of government agencies and society. Advancing that, in Australia the most sophisticated co-management arrangements involve the transfer of land title to traditional owners in exchange for continuity of national park status and shared responsibility for managing the park. (Smyth, 2001: 1).

Developing co-management agreements for land and natural resources should not be a process that results in generic document, as each aboriginal group has specific concerns, issues, economic considerations and level of skill with which to implement it. Terms of reference for aboriginal involvement in protected area management can vary but typically target conservation, cultural values, land-use concerns and traditional use and patterns as central interests. These linkages between indigenous peoples perceptions of 'law' and how they manage their resources are intrinsically tied

to their social structures, their economic base and their political institutions and as such need to be considered as a base for considering traditional indigenous rights to resources (Baker et al., 2001b: 53).

Co-management agreements can therefore represent a change in ideology, shifting the primary focus away from government objectives and placing it where it belongs; in the community most affected by resource decisions. Participatory and inclusive planning models are beneficial in that they can affect a variety of economic, social, cultural, political and environmental spheres, but more importantly they are beneficial in terms of responsibility and empowerment for the aboriginal group. In turn, this empowerment increases self-determination and allows for greater control over decisions that affect the preservation of culture, and economic development on native lands (Dickerson 1992: 169).

Aboriginal participation in resource management can vary greatly in scope and participation levels and as Berg, Fenge and Deurden (1993: 247) identify, levels can range from minimal to equitable. The key issue to the success of co-management agreements is the degree to which both sides' agendas are integrated (Notzke, 1995: 188). As co-management agreements become more widely used by aboriginal people and federal, provincial and territorial governments in both Canada and Australia, the need to identify what processes and characteristics are most effective becomes apparent.

3.1.1 Levels of Co-management

Co-management agreements can vary in the level of equity and degree of power sharing from limited participation to full management on the local level with government involvement only when necessary. Berkes (1994: 18) maintains in his article, *Co-management: Bridging the Two Solitudes* that the term co-management can be defined broadly and may be applied to varying degrees of integration of local and state-level systems.

In practice there is a wide variety of partnership arrangements that range from limited involvement at the community level to delegation of full management authority to the local level with only necessary government involvement (Pinkerton 1989: 4). Table 1 illustrates Berkes' levels of co-management (adapted from Arnstein's Ladder of Citizen Participation, 1969) in descending order from 'strongest' to 'weakest'.

7	PARTNERSHIP / COMMUNITY CONTROL	Partnership of equals; joint decision-making institutionalized; power delegated to community where feasible
6	MANAGEMENT BOARDS	Community is given opportunity to participate in developing and implementing management plans
5	ADVISORY COMMITTEES	Partnership in decision-making starts; joint action on common objectives
4	COMMUNICATION	Start of two-way information exchange; local concerns begin to enter management plans
3	COOPERATION	Community starts to have input into management, e.g., use of local knowledge, research assistants

2	CONSULTATION	Start of face-to-face contact; community input heard but not necessarily heeded
1	INFORMING	Community is informed about decisions already made

Source: Berkes, 1994. *Northern Perspectives* 22:2-3 pg. 19.

The role of co-management agreements, as models for equitable partnerships and decision-making for resource management, is an important tool for planners for integrating aboriginal participation throughout the process and to synthesize indigenous conservation systems with government management systems. The two examples undertaken in this practicum, The Gwaii Haanas Agreement and the Agreement for Uluru-Kata Tjuta National Park are examples of Level 6 - Management Board as identified using Berkes' levels of co-management (Berkes, 1994: 19).

Co-management agreements, for land and natural resource management that are at the highest levels are very effective for legitimizing traditional indigenous based systems of knowledge, values and practices within our current political / social climate. The Haida in Canada and the Anangu in Australia and many other aboriginal groups have been actively involved in promoting that their regimes of indigenous law and management are legally sanctioned and publicly endorsed by governments (Robinson, 1998a: 2).

Protected area management provides a unique opportunity as context in which to evaluate participatory processes with aboriginal communities because the protection of

environment and culture are equally important and interconnected in indigenous “world views” (Frideres & Gadacz, 2001: 278). Aboriginal traditional culture is highly dependent on the land not only for survival (hunting, gathering, fishing and harvesting) but social interaction and economic activities (Memmott, 1983: 51). Land is also central to indigenous history, traditional cultural and social patterns and spiritual beliefs. Indigenous people have, throughout history, maintained a strong cultural obligation to manage their lands in a sustainable way.

3.2 Good Governance

The concept of governance has multiple meanings, and can be both descriptive and normative.²⁰ The concept of governance is evolving and as an alternative to ‘top-down’ concentration of power, good governance involves the dispersal of power with the focus on the creation of different types of networks and partnerships (Pierre and Peters, 2000: 3). This network approach concentrates on relations between organisations and less on authoritative decision-making.

Although there is variable criteria defining good governance, depending on the context to which it is applied, one common objective is the degree to which it delivers on the promise of human rights: civil, cultural, economic, political and social rights (UN: Office of the High Commissioner for Human Rights, 2002). Further, the objective of good governance is to insure the views of minorities are taken into account, heard, and

²⁰ How things should or ought to be. “

incorporated in the decision-making process. It also responds to both the present and future needs of society and aims to minimize corruption. Conventional governance is typically top-down, state-centric and is administered strictly by laws, policy frameworks and chains of command. This section focuses on the characteristics of good governance and how they can be tailored to help shape strong and equitable partnerships in the development, implementation and ongoing use of co-management agreements for protected areas.

3.2.1 Characteristics of Good Governance and its Importance to Co-Management Initiatives

The following section builds upon the characteristics of good governance and applies them to the context of co-management agreement initiatives, specifically, that in which governs relations between aboriginal groups and the various levels of government in Canada and Australia who undertake co-management agreements. The following characteristics can be used as a basis on which to build successful co-management agreements for land and natural resources. That is, emphasizing the value of partnership approaches to protected area management and moving away from prescriptive approaches to development assistance, thus allowing sustainable and culturally and socially sensitive alternatives to land resource management. Moreover, good governance involves a search for solutions at the lowest possible level of governance, the objective being, a local solution is the most effective with the minimum of government regulation as necessary (Berkes et al., 1991: 17).

The following chart on the characteristics of good governance was created based on work by the United Nations Economic and Social Commission for Asia and the Pacific and the United Nations Commission on Human Rights. These characteristics can serve as indicators, depending on the degree of use, to illustrate the strengths and weaknesses of specific co-management agreements as an emerging planning model when planning with aboriginal people for land and natural resource management.

GOOD GOVERNANCE

PARTICIPATION	Ensures inclusiveness and allows for those voices not typically heard.
ACCOUNTABILITY	To be responsible for one's actions and take ownership of decisions.
TRANSPARENCY	Promotes open dialogue and access to information.
CONSENSUS DECISION-MAKING	Decisions achieved are generally accepted by all. An "I can live with it" approach
INCLUSIVENESS	Fair and reasonable. A process that incorporates many different types of belief and weighs them equally.
LEGITIMACY	Working with fair and legal frameworks.

PARTICIPATION

Specific to successful outcome of co-management agreements for land and natural resources is the necessity for aboriginal participation within the process. The historical examples of exclusionary policies from Chapter 1 help illustrate the rationale that inclusion and involvement of the aboriginal group in question is a much more effective planning process than 'planning for' aboriginals. Planning processes that are inclusive are effective in that they are specific to the socio-economic, environmental

and geographical needs of the community and allows for capacity building. Berkes contends that cooperative management refers to some combination of centralized, state-level management and traditional local-level resource management (Berkes, 1994: 18). As such, partnerships between government and aboriginal people support the development of a comprehensive management plan for protected areas and allow for localized management systems that are strengthened by traditional ecological knowledge²¹ practices and customary authority.

The challenge lies in developing a partnership of mutual respect and balancing the assets both the state and the local level bring to the table. Legislation and regulation is important when dealing with shared resources (either at the national park level, or in terms of other interested parties) and can provide legal protection and recognition of aboriginal rights. This is particularly significant in terms of land ownership as well as access to lands and water and resource harvesting rights. Local level users provide the necessary knowledge base and the incentive for sustainable use of resources, thus it makes sense to have as much local level control as possible and as little government regulation as necessary (Berkes, 1994: 20).

²¹ Knowledge of the conservation and sustainable use of an environment gained from generations of living and working within that environment. Knowledge may relate, among other things, to the harvest of resources, the planting of agricultural crops or the use of natural herbs and other material for medicinal purposes, as defined in the Canadian Biodiversity Strategy (Environment Canada, 2000).

It has been demonstrated that the potential economic, social and environmental benefits are greater if the community is involved in the development and implementation of resource decisions that affect them. Involvement and commitment is much greater if people feel a sense of ownership as evidenced by incorporating the theory of “social equity” into the decision-making process. Robinson puts forward that the local perspective on “community and co-management not only highlights the complex and multifaceted relationship between indigenous and non-indigenous managers, but also promotes the achievement of co—management partnerships that are framed by the distinctiveness of indigenous law and place – the essence of native title” (Robinson, 1998a: 1).

ACCOUNTABILITY

Accountability is a key requirement of good governance and is required within governmental institutions, aboriginal communities and the private sector. Who is accountable to whom varies depending on whether decisions or actions taken are internal or external to an organization or institution. In general, an organization or an institution is accountable to those who are affected by its decisions or actions (UNESCAP, 2004). Accountability is dependent upon governments taking full recognition and responding to, and being monitored by, organized public opinion (CIDA, 2002).

Accountability is important within the organizational structures, and throughout the decision-making process and the implementation of co-management agreements for land and natural resources. Co-management agreements in turn can be used as a basis for economic development initiatives undertaken by aboriginal groups, which foster self-reliance and self-sufficiency and provides capacity building for community members. Economic development initiatives by aboriginals are predominately collective in their approach and closely tied to each group's traditional lands, its identity as a nation and its desire to be self-governing (Anderson, 1999: reading 9.1) as seen by the economic development initiatives undertaken in Canada and Australia.

TRANSPARENCY

Transparency pertains to decisions taken and their implementation is undertaken in a manner that follows rules and regulations and is open to scrutiny. It also means that information is freely available, provided in a manner that is understandable and directly accessible to those who will be affected by such decisions (UNESCAP, 2004). A major characteristic of transparency is the coordination of roles and responsibilities. This is vital at different levels, inter-governmentally, among the three levels of government, and among aboriginal groups (Clutterbuck and Novick, 2003: 22).

Transparency promotes open discourse between parties and best represents the “how to” through shared decision-making. Transparency is especially important in the context of relationships between governments and aboriginal communities, which in

the past has not been particularly open or collaborative. Historically government initiatives relating to aboriginal peoples typically followed the “welfare framework” as defined by Kenny, that is, a system that operates as paternalistic and authoritarian (Kenny, 2002: reading 10.4). For that reason, to move away from a paternalistic system, it is important to develop new frameworks and opportunities that are collaborative, such as co-management agreements.

Transparency also addresses accessibility to accurate and timely information for all parties. It is especially important through all stages of the decision-making process when developing co-management agreements for land and natural resources that indicators of transparency are established and maintained to ensure that conduct is open and fair (World Bank Group, 2001).

CONSENSUS DECISION-MAKING

There are many viewpoints in a given society and as such, good governance requires mediation of the different interests in society in order to reach consensus on decisions. To achieve a consensus based co-management agreement for protected area management, a broad and long-term perspective that integrates the need for sustainable human development as well as protection of the environment must be developed: which can only result from an understanding of the historical, cultural and social contexts of a given society or community (UNESCAP, 2004).

This is particularly important when planning with aboriginal groups as they have strong cultural/historical contexts that are unique and intrinsic to their distinctiveness. Aboriginals have struggled to maintain their traditional values, languages and knowledge base, as it is the principle source of their identity, self-respect and strength as individuals and nations, in spite of attempts to distinguish it (RCAP, 1996d). The planning process for developing a co-management agreement for land and natural resources can promote consensus through strengthening aboriginal identity and community ties. It is important to note that although, aboriginal groups in Canada and Australia share similar experiences and worldviews, there are many multiple realities that are site/community specific and co-management agreement initiatives can be developed to be specific and unique to reflect that.

INCLUSIVENESS

A society's well being depends on ensuring that all its members feel that they have a stake in it and do not feel excluded from the mainstream of society. This requires all groups, but particularly the most vulnerable, have opportunities to improve or maintain their well being (UNESCAP, 2004).

Recent shifts in public policy regarding aboriginals have increased a need for capacity building and skill transfer within aboriginal communities in order for both parties to be able to 'come to the table' on more equal terms. Co-management agreements for land and natural resources allow for aboriginal communities to integrate their own

strategies that draw on traditional practices, are relevant to peoples' needs, and are initiated by and are staffed by aboriginal community members.

Sustainable use of natural resources and the protection of the environment is a mandate of protected area management and incorporating traditional ecological knowledge (TEK) into co-management agreements for land resources is one way in which indigenous people are can participate in development decisions that effect them and their environment (Grenier, 1998: reading 9.3). Berkes (1999:8) defines TEK as

...a cumulative body of knowledge, practice, and belief, evolving by adaptive processes and handed down through generations by cultural transmission, about the relationships of living beings (including humans) with one another and with their environment (Berkes (1999:8).

The position held by many commentators, for example, Robinson (1998b: 1) and Dearden (1989: 218) indicate that integrating and promoting both indigenous ecological and cultural knowledge into contemporary protected area management practices will result in a more successful outcome.

Inclusive joint management of national parks, that incorporates both cultural and environmental preservation can be achieved by ensuring decisions are made with the traditional owners. Further, with the incorporation of TEK into the decision-making structure, aboriginal participation is ensured, as is the protection of aboriginal values and ways of life into policies for the management of protected areas and natural resources.

Robinson (1998a: 1) argues that a local perspective on community, promotes the achievement of co-management partnerships that are framed by the distinctiveness of indigenous law and place. Furthering that, co-management agreements, that are truly effective, should be grounded in traditional aboriginal regimes of resource management specific to the area and the aboriginal group in question. As such, co-management agreements cannot be ‘blueprints’, nor can government organizations decide how to structure the partnership. Aboriginal communities that have developed their own community management systems bring to the process, legitimacy and authority to the structuring of a co-management agreement. The agreement in turn reflects the authority of traditional practices and provides a legal base in which community-based systems of knowledge, values and practices are utilized in land and natural resource management (Robinson, 1998a: 2).

TEK is important, not only on a scientific and participation level, but it allows for two-way learning and provides outsiders with alternative perceptions to indigenous land management. This is a key concept that is tied into effective co-management agreements for land and resource management. The integration of local knowledge systems depends on the nature and the scope of the co-management agreement and as such is unique to each co-management agreement. Integrating TEK and creating an effective co-management agreement takes time and requires proper listening skills.

Language differences and more importantly, different interpretations can present significant communication barriers (Baker et al., 2001c: 337).

LEGITIMACY

Good governance requires fair legal frameworks that are enforced impartially. It also requires full protection of human rights, particularly those of minorities. Further, good governance requires legitimacy, that is, that the authority of rule-makers is accepted by the users (Jentoft, 1999: 143).

Changes to public policy in Canada and Australia about 'working with aboriginals' and not 'making decisions for' have evolved and co-management agreements for land and natural resources undertaken by aboriginal peoples are being initiated and undertaken at the local level. A successful co-management agreement is one in which informal and formal working partnerships between aboriginal people and various levels of government are inclusive and collaborative. Legitimacy of the Agreement and the process to develop and implement it, is one in which the stakeholders share and recognize and accept the power structure and responsibility.

Additionally, there are a growing number of precedents and legal frameworks in which access to and use of traditional lands is secured. These examples provide legitimacy with which to advance co-management agreements for land and natural

resource as a framework for decision-making that promotes traditional lifestyles or economies. To create a strong co-management agreement for land and natural resource a clear mandate and responsibility structure is necessary. Legitimacy on 'who speaks for who' is necessary to minimize misrepresentation and to establish credibility (Marschall, 2002).

3.3 Conclusion

Co-management agreements represent a shift away from paternalistic government policy towards integrating more inclusive participatory planning decision making frameworks that ensure a voice by traditional owners most impacted by land and natural resource decisions. This responsibility lends itself to empowerment and further self-sufficiency, and in turn promotes self-determination and greater control over incorporating traditional values, cultural perspectives and indigenous knowledge into decision-making. The successful outcome of a co-management agreement is reflected by the degree to which an equitable partnership is established and the level of decision-making authority and power that is in the control of the aboriginal community. The higher up Berkes' levels of co-management, the stronger the management authority is vested in the aboriginal community.

Further, the author suggests that the strength of the co-management agreement is also tied to the degree to which the characteristics of good governance are integrated into the agreement and the continued adherence to core values of those characteristics

within the on-going joint management for protected areas. From the above discussion, it should be clear that good governance is an ideal, which is difficult to achieve in its totality. Good governance draws upon six characteristics: participation, accountability, transparency, consensus decision-making, inclusiveness, and legitimacy. Adhering to and adapting the characteristics of good governance to co-management agreements allows governments and aboriginal groups to create partnerships to ensure that decision-making processes promote preservation of land and natural resources and the cultural, economic, political and social rights of traditional owners.

Utilizing the characteristics of good governance can be useful for aboriginal groups in Canada and Australia when examining their own institutions and partnerships with governments to ensure that their voices are heard, and corruption and confusion are minimized, and that decisions made meet the needs of the aboriginal community in the present and in the future. Good governance is vital to planning, developing and maintaining strong co-management agreements. It provides a solid platform upon which to build trust and partnerships and ensure that both sides are represented fairly and equally at the table. The characteristics of good governance can be used as an objective instrument to determine if the co-management model is continuing to be effective in ensuring joint decision-making for land use and resource partnerships between aboriginal groups and governments.

4 Canada and Australian Co-management for Protected Areas: Examples

The focus of this chapter is to provide summaries of the co-management agreements and plans of management for Uluru – Kata Tjuta National Park and the Gwaii Haanas National Park Reserve and Haida Heritage Site. Background into the agreements, as well as highlighting aboriginal involvement of the plans of management, are presented. Refer to Appendixes A and B for timelines on the histories of the agreements.

Co-management of Uluru – Kata Tjuta National Park was formalized in 1985 with an agreement signed between Anangu (traditional owners) and the Director of National Parks with the granting of title to the Park transferred to the Central Land Council, the representative of the Uluru – Katatjuta Aboriginal Land Trust. The Gwaii Haanas / South Moresby Agreement was signed eight years later in 1993, between the Government of Canada, represented by the Minister of the Environment, and the Council of the Haida Nation, for and on behalf of the Haida Nation and represented by the Vice President of the Haida Nation Council.

4.1 Gwaii Haanas – Canadian Example

4.1.1 Background

The Archipelago of Haida Gwaii²² / Queen Charlotte Islands is located approximately 100 km off the west coast of northern British Columbia, separated by the Hecate Strait and encompasses over 200 islands, covering approximately 9,713 square kilometres. Haida Gwaii is the most isolated landmass in Canada and several species of plants and moss are unique to the islands, as well as some distinct sub-species of animals including the black bear and ermine (Virtual Museum of Canada, 2004a). The Gwaii Haanas²³ National Park Reserve, defined as Crown Land, encompasses the southern part of the Queen Charlotte Islands (Haida Gwaii) including a sizable piece of the south end of Moresby Island. Renowned for its ecological diversity and beauty, it comprises a group of roughly 138 islands, and includes 1,470 square kilometres (147,000 hectares) (Virtual Museum of Canada, 2004b).

Five thousand years ago, the population of Haida Gwaii was sizable and due to reliable food sources (shellfish harvesting, in addition to hunting and fishing) permanent villages were established and allowed for arts and crafts to be refined (Canadian Museum of Civilisation, 2001). Today, the majority of Haida live on Graham Island, but in the past, villages were distributed throughout the islands,

²² Haida Gwaii can be interpreted to mean “Islands of the people”.

²³ Gwaii Haanas can be interpreted to mean “Islands of Beauty”.

typically located in inlets to protect them from winter storms (ibid). Two social groups (Raven and Eagle) make up the Haida people and each group is sub-divided into family lineages.

In 1974, a public proposal to protect the “South Moresby Wilderness Area” from logging initiated a dispute over the future of land resources on South Moresby Island (Parks Canada, 2005c). The Haida Nation designated the area a “Haida Heritage Site” in 1985 in opposition to continued logging in the area, and to ensure their ability to “stay in touch with the land”, and that the area remains a source of “inspiration and sustenance” for generations (AMB, 2002: 18). Confirming the cultural and environmental values, in 1981, UNESCO declared SGang Gwaay (one of the old Haida Villages) a World Heritage Site²⁴.

Logging was suspended in 1987 when Canada and British Columbia signed the South Moresby Memorandum of Understanding to ease the political and legal controversies over rights to the region and establish a protected area. In 1988 the designation of

²⁴ World Heritage List is maintained by the United Nations Educational, Scientific and Cultural Organization’s (UNESCO) *Convention Concerning the Protection of the World Cultural and Natural Heritage* which Canada signed in 1976 and under the Convention is bound to “recognizes that the duty of ensuring the identification, protection, conservation, presentation and transmission to future generations of the cultural and natural heritage”(UNESCO, 2005a).

National Park Reserve was given when the South Moresby Agreement²⁵ was signed to develop the park reserve for both marine and terrestrial areas. (Parks Canada, 2003b). The federal government committed \$106 million for park development, compensation of forest interests and the creation of a Regional Economic Development Initiative. The BC government committed \$20 million towards forestry compensation and the South Moresby Forest Replacement Account and transferred its land and marine interests to the park. (AMB, 2002: 2).

Temporary measures were initiated to facilitate cooperative management between Canada and the Haida Nation while negotiations for a final agreement continued. On January 30, 1993 the Gwaii Haanas Agreement was signed to formalize a mutual commitment to protect Gwaii Haanas and to respect both Canadian and Haida interests and designations²⁶ (Parks Canada, 2005c). Section 3.1 of the Gwaii Haanas Agreement identifies the purpose and objectives of the agreement as follows:

Gwaii Haanas will be maintained and made use of so as to leave it unimpaired for the benefit, education and enjoyment of future

²⁵ An agreement signed between the governments of Canada and British Columbia.

²⁶ In Section 2.2 of the Gwaii Haanas/South Moresby Agreement, the Haida Nation designation for the Archipelago is the “Haida Heritage Site”. This designation is under the authority of the Haida Constitution and direction for management of the area is subject to the Haida Nation’s Gwaii Haanas policies as well as the Gwaii Haanas Agreement. The designation by the Canadian government of “National Park Reserve” warrants that Gwaii Haanas is governed by the National Parks Act and Regulations as well as directions laid out in the Agreement.

generations. More specifically, all actions related to the planning, operation and management of Gwaii Haanas will respect the protection and preservation of the environment, the Haida culture, and the maintenance of a benchmark for science and understanding." (Government of Canada and the Council of the Haida Nation, 1993: Section 3.1).

The agreement is unique in that it is an agreement between two nations and contains parallel statements on sovereignty, and title of the land, yet it affirms both parties' willingness to work together for the protection of the area. A draft strategic management plan was introduced in 1996 and led to the Gwaii Haanas National Park Reserve and Haida Heritage Site's Management Plan for Terrestrial Area (MPTA) produced by the Archipelago Management Board in consultation with the public and signed July 1, 2002. It identifies park objectives and a strategic direction for management and appropriate use and protection of the archipelago terrestrial environment.²⁷

4.1.2 Management Plan for Terrestrial Area – Summary

The Gwaii Haanas is "a celebration of the Haida's more than ten thousand years of connectedness with the land and sea (Parks Canada, 2005a). The MPTA area was developed in consultation with the public and outlined in both the South Moresby and Gwaii Haanas Agreements to provide long-term direction for the protection, management and appropriate use of area (AMB, 2002: 5). The plan recognizes that

²⁷ The terrestrial environment is designated to the top at the high tide line of the islands.

“people and the economy are connected to and dependent on the environment for their survival”. (AMB, 2002: 10). To achieve the goals outlined in the MPTA, a business planning process was to assign priorities for action, funding and responsibilities and the Gwaii Haanas Annual Report will chart the progress (AMB, 2002: 33).

The MPTA identifies it will undertake an ecosystem-based management approach that emphasizes interconnection between humans and the natural world. It identifies that the management of Gwaii Haanas tries to balance safeguarding the ecosystems by minimizing human interference while providing “opportunities for visitor to experience the area’s natural and cultural heritage values” (AMB, 2002: 10). The following summarizes some of the key points within the MPTA that emphasize aboriginal participation and should not be viewed as a full summary of the document.

4.1.2.1 Land Ownership

What makes this co-management agreement for land and natural resources management unique in Canada is that the question of ownership is set aside within the agreement. This is made clear in Section 1.1 ‘Reasons For Agreement’ in the Gwaii Haanas Agreement:

The parties maintain viewpoints regarding the Archipelago that converge with respect to objectives concerning the care, protection and enjoyment of the Archipelago...and diverge with respect to sovereignty, title or ownership. (Government of Canada and the Council of the Haida Nation, 1993: Section 1.1.).

In spite of the ownership debate both signed parties agreed to the establishment and implementation of long-term protective measures that “are essential to safeguard the area as one of world’s greatest natural and cultural treasures” (Government of Canada and the Council of the Haida Nation, 1993: Section 1.2). In addition to protection of the Archipelago for the “benefit, education and enjoyment of future generations”, Section 3.2 of the Agreement identifies that:

...it is an objective to sustain the continuity of Haida culture and the parties agree to contribute to the attainment of this objective in the Archipelago by providing the continuation of cultural activities and traditional renewable resource harvesting activities(Government of Canada and the Council of the Haida Nation, 1993: Section 3.2).

Co-management agreements that reflect the extent of “ownership / stewardship” for aboriginals, are most effective in ensuring equitable partnerships (Robinson, 1998a: 3). Difficulties arise, in that under contemporary native title, claims are being determined on a case-by-case basis and this can be a contentious issue when developing comprehensive land claims, of which co-management agreements, for national park resource co-management agreements can be a part.

The perspective on ownership can affect the relationship between the parties. The Haida Nation is endeavouring to establish ownership of the area through negotiations with the governments of Canada and BC separate from the co-management

agreement.²⁸ The disparate views on ownership, sovereignty and title are also documented in MPTA:

This management plan shall not constitute a land claims agreement or treaty within the meaning of Section 35 of the Constitution Act, 1982, nor shall it or any actions taken pursuant to it be construed as creating, affirming, recognizing or denying any aboriginal or treaty right or as transferring any competence of either party. (AMB, 2002: 6).

4.1.2.2 Board of Management

The Gwaii Haanas Agreement gives rise to the creation of the Archipelago Management Board (AMB), which was established to “examine all initiatives and undertakings relating to the planning, operation and management of the Archipelago” (Government of Canada and the Council of the Haida Nation, 1993: Section 4.1). The AMB has equal representation from both parties and is comprised of two Government of Canada and two Council of the Haida Nation representatives. The intent of the AMB is to reach decisions by consensus on issues pertaining to the Archipelago, based on the mandate defined in the Agreement, and the existing laws and policies of each of the parties (Parks Canada 2005a).

The equal partnership allows for a management plan that respects the Haida Nation’s rights and traditional responsibilities towards the land. If there is disagreement no action, to manage or develop the park reserve can be made, and the decision is delayed

²⁸ Land claims are being negotiated through British Columbia’s six-stage treaty process.

until both the Council of the Haida Nation and the Government of Canada can reach resolution. As part of the agreement, the parties must conduct a joint review two years after the agreement came into effect and then every subsequent five years within a six-month period. Either party, subject to six months' unconditional notice, can terminate the agreement (RCAP, 1996a). Further, the MPTA has a fifteen-year duration and is to be reviewed every five years.

4.1.2.3 Aboriginal Participation

Like the Australian example, this co-management agreement goes beyond the physical management of resources and respects and promotes the cultural significance of the area as well. The Haida's worldview values Gwaii Haanas' natural and cultural elements as inseparable and that, protection of Gwaii Haanas is essential to sustaining Haida culture (AMB, 2002: 3). As such, the plan of management outlines eight goals, identified below, which support the primary mandate of protecting the Gwaii Haanas.

1. Protecting Natural Heritage

This goal will preserve Gwaii Haanas for future generations and provide “a benchmark for scientific and human understanding and a repository of genetic diversity” (AMB, 2002: 11). To this end, a number of research studies and a GIS inventory of the coast and terrestrial areas has been undertaken to catalogue terrain, soil, aquatic, vegetation and wildlife information (AMB, 2002: 12). The objective is to ensure that baseline information is available to make educated land management

decisions to provide a base to identify, monitor or mitigate changes to Gwaii Haanas ecosystems.

The MPTA identifies that protecting natural heritage should be expanded beyond Parks Canada and the AMB. The management plan encourages involvement of community members, visitors, commercial operators and others in the management and protection of natural heritage in several ways including identifying areas of joint concern and ways to minimize ecological / aesthetic impacts, and encouraging integrated resource management approaches with adjacent lands (AMB, 2002: 13).

2. Respecting Cultural Heritage

This goal promotes protecting and understanding Haida cultural heritage and “the evidence of aspects of post-contact heritage in order to understand the human dimensions of Gwaii Haanas” (AMB, 2002: 11). An extensive inventory of archaeological and historical features has been conducted, and is on going, along with Haida oral history, languages, stories and songs (AMB, 2002: 15). Site planning²⁹ and conservation programs are critical components of addressing deterioration³⁰ of significant cultural sites / villages within the national park reserve boundaries.

²⁹ Site plans would address the issues of controlling human activity, waste management, potable water, and facility and trail requirements (AMB, 2002: 16).

³⁰ Deterioration due to natural conditions like erosion and decay and man-made impacts.

One of the mandates of the MPTA is to develop a cultural heritage conservation strategy, based on the evaluation of archaeological and historical sites and cultural landscapes and collection in order to mitigate the impact of threats and encourage the rehabilitation of sites adversely affected by industrial activities (AMB, 2002: 16). Another important aspect of respecting cultural heritage is to increase awareness of it and to increase visitor's appreciation of Haida people's relationship with the natural environment, thereby reducing the need for management control.

3. Sustaining the Continuity of Haida Culture

This goal acknowledges the integral relationship of Haida culture and the land and “provides for continuation of cultural activities and traditional resource harvesting activities through the protection of Gwaii Haanas” (AMB, 2002: 11). Recognizing the integral relationship between Haida and the environment and providing for the continuation of Haida cultural activities and traditional renewable resource harvesting are supported within the National Park Reserve to sustain continuity of Haida culture.

The plan establishes regulations and guidelines for traditional resource harvesting activities. Under the Agreement, Haida cultural activities and sustainable, traditional renewable resource harvesting activities are protected although all other resource extraction activities are prohibited³¹. To support traditional activities several

³¹ Activities include, travelling into and within the Archipelago; gathering of traditional Haida foods; gathering of plants used for medicinal or ceremonial purposes; cutting of selected trees for ceremonial

objectives like conducting Haida ceremonies at appropriate times, encouraging physical expressions of Haida culture and developing a cooperative system with the Council of the Haida Nation to monitor harvesting activities, are identified in the MPTA (AMB, 2002: 19).

One innovative program incorporated into the management of the national park reserve is the Haida Gwaii Watchman Program, which oversees historical / cultural sites and promotes Haida culture to visitors. The Skidgate Band Council and the Haida Nation initiated it in the early 1980's out of concern for vandalism and other damage to old Haida village sites. The program still maintains its original mandate, of safeguarding of Gwaii Haanas.

The physical presence of Haida Gwaii Watchmen at five of the most frequently visited cultural sites in Gwaii Haanas is critical for protecting historical sites. Their responsibility is to educate visitors about the natural and cultural heritage of the area and to ensure that they do not leave any evidence of their visit (Parks Canada, 2005b). Two of the sites, T'aanuu llnagaay and K'uuna llnagaay lie outside of the national

or artistic purposes; hunting of land mammals and trapping of fur-bearing animals; fishing for freshwater and anadromous fish; conducting, teaching or demonstrating ceremonies of traditional, spiritual or religious significance; seeking cultural and spiritual inspiration; and, use of shelter and facilities essential to the pursuit of the above activities (Government of Canada and the Council of the Haida Nation, 1993: Section 6.1).

park boundaries, but are located within the Haida Heritage Site boundaries and are under the program nonetheless.

4. *Presenting Natural and Cultural Heritage*

This goal promotes public awareness of the “natural, cultural and spiritual values of Gwaii Haanas (AMB, 2002: 11). Parks Canada policy for visiting the Gwaii Haanas requires that visitors need to have a reservation, register (to monitor visitor use), and participate in a mandatory orientation session, before visiting the protected area. A trip-planning guide³² was produced to ensure that visitors have a safe, enjoyable visit. The objective of visitor education is to communicate the significance of the Gwaii Haanas in Haida culture and the need to preserve the rich biodiversity of the area.

The MPTA outlines several communication products and strategies planned that will help present natural and cultural heritage. These include developing a Gwaii Haanas guide book, producing an annual report documenting initiatives and activities and a state of the environment report that would record any environmental changes, or area closures, and encourage community participation to expand their understanding of the protected area (AMB, 2002: 21). Initiatives will improve local and national awareness of the Gwaii Haanas, as well as visitor experience and understanding of the importance of minimal impact on the natural and cultural environment.

³² Provides information about access, natural hazards, safety concerns, and weather and marine conditions (AMB, 2002: 20).

5. *Managing Visitor Use*

This goal promotes safe and enjoyable visitor experiences without “compromising the ecological and social carrying capacities of Gwaii Haanas” (AMB, 2002: 11). The number of visitors (day and short-term) continues to increase annually. The majority of visitors tend to visit a small number of popular cultural / historical sites and campsites which has led to trampled vegetation, and incision of trails.

The MPTA outlines several strategies to meet this goal. It identifies the need to develop and implement cost-recoveries for visitor services where practicable and develop guidelines to provide visitors with clear direction on acceptable use and appropriate activities (AMB, 2002: 24). Furthering that, the MPTA encourages controlled access to Gwaii Haanas to ensure protection of the area’s wilderness character by implementing a voluntary code of ethics, encouraging non-motorized travel, requiring no-trace camping, random camping, and hiking to disperse crowds and restricting party sizes and implementing a visitor quota (AMB, 2002: 24). Visitor infrastructure is limited to basic facilities, designed, and sited so as not to harm the natural and cultural heritage.

The MPTA also identifies the need to develop criteria to evaluate new infrastructure proposals and to subject them to environmental assessments. The ultimate responsibility of the MPTA and Parks Canada is to ensure public safety and security.

To that end, the MPTA intends to implement an emergency response plan to deal with possible emergencies.

6. Providing Appropriate Tourism Opportunities

This goal promotes environmentally friendly, low impact, sustainable tourism that “respects the ecological and spiritual values of Gwaii Haanas and benefits the Islands community” (AMB, 2002: 11). The challenge, not unique to this particular protected area, of balancing tourism, protection of the environment and local communities’ needs is not without difficulties. The MPTA identifies several strategies to be implemented that will promote the goal.

A business licensing and control system for tourism activities will be implemented to determine if a license should be issued based on a number of criteria including: consistency with goals of the MPTA, acceptability of potential environmental impacts or their amenability to mitigation, and benefits to local culture (AMB, 2002: 26). The MPTA also provides for commercial use allocation for Haida owned / operated businesses equal to that of existing commercial outfits, resulting in an equal three-way split between independent travellers, commercial operators and Haida entrepreneurs.

7. Demonstrating Environmental Responsibility

This goal is to “reduce or mitigate all aspects of negative human impact on Gwaii Haanas” (AMB, 2002: 11). The MPTA outlines the need to develop an environmental

action plan and to conduct regular environmental audits of management practices. It also ensures that all management decisions will be made in order to avoid, reduce or mitigate negative impacts from human activity. Monitoring activities and determining accountability / liability for contamination³³ clean up and safety concerns, and provincial accountability and liability for exclusion zones will be established.

The MPTA also encourages and uses environmentally friendly products in administrative and operational activities where possible and “seek[s] cost effective way to reduce, reuse and recycle in day to day operations” (AMB, 2002: 30). One environmental concern for the AMB is the large amounts of flotsam deposited on the islands shores every year. The MPTA outlines several strategies to reduce the amount of garbage build-up on shorelines such as determining sources and providing education to decrease accumulation and developing cost-effective collection methods (ibid). The MPTA hopes that it can raise the standards of environmental stewardship on the island through the implementation of environmentally sound strategies.

8. *Managing Information for Integrated Decision-Making*

This goal is to make “reasoned management decisions on projects that may affect the land” using the best information available from a variety of sources (AMB, 2002: 11).

³³ Contaminated sites and old industrial sites located within the boundaries of the Gwaii Haanas may pose a threat to public safety.

The Gwaii Haanas staff has begun to integrate inventory databases³⁴ along with traditional knowledge to create a baseline to improve decision-making. The GIS will allow site-specific information to identify whether there is a potential conflict with particular activities or development. If an activity or development is unsuitable with any one data layer, then the initiative will not proceed until an alternative management strategy, or viable mitigations can be developed (AMB, 2002: 31).

4.1.2.4 Backcountry Management Plan

The Gwaii Haanas Backcountry Management Plan (BMP) identifies actions to be undertaken by the AMB to manage human activities in Gwaii Haanas. The BMP was implemented in 1999, following a consultative process over several years with stakeholders, interested members of the public, staff and researchers (AMB, 1999: 42). It works in conjunction with the MPTA and focuses on visitor impacts in relation to visitor experiences. The evaluation of activities is based on a matrix of requirements³⁵ and is carried out by an advisory group to the AMB, comprised of staff and members of the public/stakeholder groups, chosen by the AMB (AMB, 1999: 3). To minimize

³⁴ Types of data include archaeology, cultural heritage, place names, stream and lake monitoring data, visitor use and impact data, ecological land classification, coastal classification fields and other scientific data (AMB, 2002: 31).

³⁵ Requirements were identified in the draft strategic management plan, 1996.

subjectivity weighted evaluation standards are utilized in every instance of determining the appropriateness of activities.

The BMP focuses on managing appropriate levels of use, infrastructure, accessibility, developing appropriate guide standards, and the allocation of commercial activity, through the issuing of business licensing. As part of the MPTA's determination on the carrying capacity of Gwaii Haanas, the total number of user-days / nights is not to exceed 33,000 annually (AMB, 1999: 33). This is then split between independent (33.3%) and commercial (66.7%) users (ibid).³⁶ Commercial allocation is further divided equally between Haida and non-Haida operators, as per the intent of the Gwaii Haanas Agreement. The Haida Tribal Society holds the Haida allocation communally and interested Haida businesses submit a proposal to them (AMB, 1999: 35). In conjunction with the BMP and the MPTA, the AMB will develop a Guide to Business Licensing, outlining requirements and procedures for those interested in applying.

4.1.2.5 Proposed National Marine Conservation Area Reserve

A proposed National Marine Conservation Area Reserve (NMCAR) is in the process of being established for the waters surrounding Gwaii Haanas. The proposed NMCAR would extend approximately 10 kilometres offshore and include around 3,400 square

³⁶ Visitors who come to Gwaii Haanas on their own and those who utilize commercial tour operators.

kilometres of ocean. The intent to establish the NMCAR is made clear in Section 3.5 of Gwaii Haanas Agreement, 1993:

When the final boundaries of the proposed reserve for a National Marine Park within the Archipelago Marine Area are determined, the parties intend to enter into negotiations towards a new Agreement with respect to the planning, operation and management of the waters so affected (Government of Canada and the Council of the Haida Nation, 1993: Section 3.5).

In 1997, four major oil companies relinquished their petroleum leases within the boundaries of the proposed NMCAR. Protecting the marine environment is important to the Haida, in that there is no boundary between earth and ocean and the “cycle of life in the diverse marine ecosystems of the Gwaii Haanas encircles land and sea” (Parks Canada, 2003c). Negotiations to establish an agreement (similar to the terrestrial area) between the Government of Canada and the Council of the Haida Nation to determine the management of the NMCAR are still unfinished.

4.2 Uluru - Kata Tjuta – Australian Example

4.2.1 Background

Uluru - Kata Tjuta National Park (here to after referred to as the Park) located in the Northern Territory Australia is comprised of aboriginal freehold land held in trust with the Uluru-Katatjuta Aboriginal Land Trust. The Park is approximately 1325 square kilometres. Surrounding the Park is aboriginal freehold land held by the Petermann and Katiiti Land Trusts. National Parks in Australia are managed under the statutory

authority of the Director of National Parks, within the Department of the Environment and Heritage portfolio (formerly known as Australian National Parks and Wildlife Service). The Park is managed as part of a lease - back arrangement with the traditional owners. The park is subject to the provisions outlined in the *Environment Protection and Biodiversity Conservation Act 1999*.³⁷

The Park lies in the central “outback” of Australia and is a very distinctive landscape comprised of deep red soil. Uluru³⁸, a sandstone monolith of red rock, approximately 318 metres high, 8 kilometres around and extending 2.5 kilometres into the ground, is the second-largest monolith in the world (Wikipedia, 2005b). Kata Tjuta³⁹ is a conglomerate of approximately 30 rock formations located approximately 27 kilometres away. The Park lies in the traditional lands of the Anangu (part of the Pitjantjatjara of the Central Australian desert). Anangu, historically, were nomadic hunters and gatherers and have a special relationship with the land.

The Park, previously known as Ayers-Rock – Mt. Olga National Park, became the first area declared under the Commonwealth’s *National Parks and Wildlife Conservation*

³⁷ The lease – back agreement and Park management were originally subject to the *National Parks and Wildlife Conservation Act 1975*.

³⁸ Uluru was formerly known Ayres Rock, after the Premier of South Australia, Henry Ayers.

³⁹ Kata Tjuta, translates to ‘many heads’. It was formerly known as The Olgas, derived from the Queen of Spain (Wikipedia, 2005a: http://en.wikipedia.org/wiki/Kata_Tjuta).

Act, 1975 (UBM and Parks Australia, 2000: 8). In 1979, the Central Land Council, on behalf of the traditional owners, laid claim to the Park and adjoining Crown Land. The claim was denied by the Aboriginal Land Commissioner on the premise that the Park had ceased to be unalienated Crown Land upon its National Park designation. Land to the northeast was claimed and is held in trust by the Kaṯiṯi Aboriginal Land Trust (ibid). In 1985, after continued lobbying by traditional owners, the Federal Government transferred inalienable freehold title back to them.

The objectives of all management policy and programs of the Park are to maintain Anangu⁴⁰ culture and society, keep Tjukurpa⁴¹ strong, and conserve and protect the integrity of the land. Both Uluru and Kata Tjuta have significant spiritual and ceremonial importance to Anangu and the Uluru – Kata Tjuta National Park Plan of

⁴⁰ Anangu meaning ‘people’ in a number of western desert languages including Pitjantjatjara.

⁴¹ Tjukurpa is defined in the Uluru-Kata Tjuta National Park Plan of Management as “the Pitjantjatjara word for Law: history, knowledge, religion and morality that forms the basis of Anangu values and how Anangu conduct their lives and look after their country, plan, story, message. Tjukurpa (also known as Dreamtime) is the basis of spirituality for Australian aborigines. Passed orally from generation to generation, Tjukurpa explains the origins and culture of the land and its people. It is believed that all life is part of a complex network of relationships traced back to spirit ancestors. This world view links everything in the natural world is a result of the actions of spirit beings who created the world, thus spiritual meaning is imbued into particular places, some having more significance than others. The integration of Tjukurpa is at the forefront of both cultural and natural resource management with the Park.

Management outlines identification and protection of sacred sites and Tjukurpa tracks, and provides for Nguraritja⁴² access and “protection from unauthorized or inappropriate use or access” (UBM and Parks Australia, 2000: 62). In 1994, the Park was selected for the World Heritage List maintained by the United Nations Educational, Scientific and Cultural Organization, which recognizes places of both unique cultural and natural heritage.

4.2.2 Uluru Kata – Tjuta Plan of Management – Summary

The current Uluru - Kata Tjuta Plan of Management (UPM) 2000 is the fourth Plan of Management to be implemented. The comprehensive UPM outlines the Board’s responsibilities towards: the joint management arrangement, management implementation for cultural and natural resources, visitors, the Mutitjulu community (located in the Park) and Park administration. The UPM has a seven-year lifespan, and will terminate automatically, as per the *Environment Protection and Biodiversity Conservation Act 1999*, or on a date specified by the Minister (UBM and Parks Australia, 2000: 14).

The UPM outlines the responsibilities of its Board of Management, the Office of the Director of National Parks and all the other people and organizations involved in looking after Uluru – Kata Tjuta National Park, who have “legal and moral obligations

⁴² Traditional owners and relevant aboriginal people as defined in the UPM.

to take account of Anangu Tjukurpa and Piranpa⁴³ law and to recognize other interests within Australia and internationally” (UBM and Parks Australia, 2000: 17). Responsibility to Tjukurpa is central to Park management and extends to infrastructure development, interpretation of the Park’s values and cultural and natural resource management. Tjukurpa also is the foundation for the relationships between those responsible for the maintenance of Tjukurpa and the Park and visitors. As a result, Anangu values, are incorporated into Park management and stress that visitor interactions are sensitive to culture. The following summarizes some of the key areas within the UPM that the author feels are significant to forwarding the intent of co-management and as such are not to be viewed as a comprehensive summary of the entire document.

4.2.2.1 Land Ownership

In 1983, the Australian Prime Minister announced that the Federal Government intended to transfer inalienable freehold title of the Park to the traditional owners. On October 26 1985, the title deeds of the Uluru-Kata Tjuta National Park were handed back to the traditional owners, the Anangu by the Australian Government (UBM and Parks Australia, 2000: 9). In exchange, the Anangu leased back the Park to the

⁴³ Translates to “white” but used to indicate non-aboriginal peoples.

Australian National Parks and Wildlife Service⁴⁴ for a period of 99 years expiring in 2084. The lease - back agreement established the process of Parks Australia and the Anangu working together on managing the Park, “Tjukupa Katutja Ngarantja” (Tjukurpa above all else). In exchange for the land lease the Australian National Parks and Wildlife Service agreed to a joint management regime, which adheres to the following ten points:

- Maintains an Anangu majority on the Board of Management
- Encourages the maintenance of Anangu tradition through protection of sacred sites and other areas of significance
- Maximizes Anangu involvement in Park administration and management, and provides necessary training
- Delivers training programs to Anangu to enable them to take up employment in the Park
- Maximizes Anangu employment in the Park by accommodating Anangu needs and cultural obligations with flexible working conditions
- Uses Anangu traditional skills in Park management
- Actively supports the delivery of cross-cultural training by Anangu to Park staff, local residents and Park visitors
- Consults regularly with Anangu
- Encourages Anangu commercial activities in the Park
- Makes rental payments to the members of the Uluru - Kata Tjuta lands trust;
- Maintains the Park to best practice standards and,
- Involves Anangu in staff selection (DEH, 2005b).

Two important points that the Federal Government went back on as part of the title transfer, were that the original lease period agreed to was 50 years, not 99 years, and that the tourists were not banned from climbing Uluru, counter to Anangu’s expressed wishes.

⁴⁴ Now managed under the statutory authority of the Director of National Parks within the Portfolio of the Australian Government’s Department of Environment and Heritage.

The Land Trust, the Central Land Council⁴⁵ and the Director of National Parks can renegotiate the provisions of the lease - back agreement every five years and its renewal or extension can be negotiated five years before the expiration of the lease (UBM and Parks Australia, 2000: 33). Under the lease - back agreement the Director of National Parks is responsible for paying rent to the Central Land Council, currently at \$150,000 and twenty-five per cent of Park revenue, annually.

4.2.2.2 Board of Management

The Uluru-Kata Tjuta Board of Management (UBM) was established under the *National Parks and Wildlife Conservation Act 1975* and continues, with the same provisions and procedures under the *Environment Protection and Biodiversity Conservation Act (EPBCA) 1999* (UBM and Parks Australia, 2000: 44). The Board has an aboriginal majority and consists of six aboriginal people nominated by traditional owners, the Director of National Parks, a representative of the Minister of Environment, a representative of the Minister of Tourism, a scientist experienced in arid land ecology and management and, more recently in accordance with the EPBCA 1999, a representative of the Northern Territory Government. This placement of a representative of the NT Government on the UBM is controversial and is not supported by the traditional owners.

⁴⁵ The Central Land Council acts as the representative of the Uluru Katatjuta Aboriginal Land Trust and protects the interests of traditional aboriginal owners and other aboriginals.

The UBM's role, with the Director of National Parks, is to monitor the management of the Park, advise the Minister of Environment and Heritage on future development and make management decisions about the Park that are consistent with the Plan of Management (ibid).

4.2.2.3 Aboriginal Participation

The integration of Anangu values is found throughout the UPM, with the following as just a few examples of the incorporation of aboriginal culture and heritage into Park management. The concept of Tjurkurpa, which is central to the management philosophy of the Park, is identified throughout the UPM because for Anangu, land management combines both physical and spiritual management of country (Baker et al.: 2001d, 139).

Natural Resource Management

The UPM acknowledges and utilizes Anangu knowledge for natural resource and land management as well as integrating Tjurkurpa into visitor park programs. The UPM outlines the significance of Tjurkurpa, natural resource management, visitor management, community development, administration, and capital works (Baker, 2003). 'Looking after country' is the expression most commonly used to define Anangu's responsibility for land management. Integration of Tjurkurpa into land management goes beyond simple ecological and environmental practices, and

incorporates recording of activities of ancestral beings and spiritual associations with the land, plants and animals (UBM and Parks Australia, 2000: 21).

Traditional Knowledge

The co-management of the Park endeavours to balance Anangu traditional ecological conservation and management practice with a western scientific approach. Collaborative approaches have resulted in a detailed fauna survey, which documents the knowledge that Anangu have for their country within the context of a scientific survey (UBM and Parks Australia, 2000: 67). This type of collaborative approach is vital to understanding the cultural landscape and the continued management of the Park.

Collaboration in the management of Uluru – Kata Tjuta has allowed research efforts into traditional aboriginal land management to concentrate on issues in which aboriginal people are interested, such as fire management (Liddle, 2001: 147). Aboriginals in Central Australia have used fire, as a land management practice, extensively, for thousands of years to create a variety of ages of vegetation across the landscape (UBM and Parks Australia, 2000: 76). It is the knowledge of how places, country, individuals and communities are connected that informs why decisions are made about where and when bush land is burnt, and as such people need to be ‘out in the country’ to gain that knowledge (Robinson and Munungguritj, 2001: 93).

The displacement of Central Australian aboriginals upon the arrival of Europeans resulted in the loss of traditional burning regimes and consequently, large wildfires, due to increased amount of fuel loads, occurred during periods of low rainfall (UBM and Parks Australia, 2000: 76). Additionally, the loss of habitat diversity created through fire management is believed to have resulted in a reduction in mammal species in the area by approximately forty per cent (ibid). The current fire management regime in the Park integrates traditional Anangu burning practices with a scientific approach and the UPM addresses the need for fire management to be undertaken on a regional context, to avoid wildfires beyond the Park's boundaries from damaging ecosystems within the Park.

Native Fauna

Within Tjukurpa, ancestral animals hold central roles in the evolution of the landscape of Uluru and Kata Tjuta and the preservation of this knowledge and its integration into the programs for the protection of the park is vital (UBM and Parks Australia, 2000: 83). Anangu continue their traditional pursuits of hunting and gathering within and beyond the boundaries of the Park as part of the on-going cultural significance of the area. As noted above, the decrease in the number of native mammal species within the Park has implications for the condition and biodiversity of the landscape. Anangu support, for the most part, reintroduction of locally extinct animals and the UPM identifies the need for special protection for rare, endangered, and vulnerable species

and habitats (UBM and Parks Australia, 2000: 85). Further, it is identified within the document that management of habitats and associated fauna need to be part of a wider management approach that adapts as research and monitoring results (short and long-term) become available.

Cultural Management

Earlier management plans focused on surveying and inventorying natural resources within the park. Over time, there emerged a broader approach recognizing that management of ecosystems goes beyond ecological and environmental aspects and takes into account human patterns and processes (UBM and Parks Australia, 2000: 61). With the 1994 designation of World Heritage cultural landscape, co-management of the park now focuses on: integrating aboriginal ways of life, social patterns⁴⁶, skills and involvement to ensure cultural resources are protected.

Aṅangu Living Culture

Maintaining traditional ceremonial activities is an important component of keeping Tjukurpa strong within the Park. As such, the UPM ensures that significant / sacred sites and material within the boundaries of the Park are managed to allow aboriginal access. Further, such sites are protected from inappropriate use or access, which safeguards the continuation of cultural practices. The Park offers access and

⁴⁶ The UPM identifies that the co-management process be controlled by senior Aṅangu Law men and women, as per tradition (UBM and Parks Australia, 2000: 62).

information to visitors for a number of significant / sacred sites, but restricts them to other sites. The identification of significant / sacred sites for visitor access was negotiated and agreed up by Nguraritja (UBM and Parks Australia, 2000: 63).

Aṅangu Archaeological Material

Aṅangu history is an important component of the cultural significance of the Park and as such, steps are outlined in the UPM to preserve and record it. Archaeological material, rock art and engravings document Aṅangu events and Tjurkurpa in the area for the past 30 000 years (UBM and Parks Australia, 2000: 64). There are numerous ancestral sites around Uluru and those sites, and the links between them, are important to Aṅangu. Park management integrates these landscape ‘maps’ into decision-making about developments, identification of fauna, and visitor interpretation programs. The UPM outlines the issues and aims surrounding the management and protection of places of cultural significance.

Uluru – Kata Tjuṭa Aboriginal Cultural Centre

The Uluru – Kata Tjuṭa Aboriginal Cultural Centre was opened in 1995, as part of the ten-year anniversary celebration of the land transfer to traditional owners (UBM and Parks Australia, 2000: 121). It was designed with extensive consultation with Aṅangu and its intent is to be a meeting place where aboriginals can share their stories, traditional and current way of life and Tjukurpa. The history of the park, information on wildlife, flora, fauna, and park joint management is also available to visitors.

A collaborative design process⁴⁷ resulted in an award winning design of two free-form buildings built of natural forms and materials, resembling two ancestral snakes that surround a courtyard and reflect the distinctive qualities of the landscape and people. In addition to providing visitor information, the Cultural Centre houses several commercial enterprises, including a café, a tour operator, and several arts and crafts shops, all of which are owned and operated by Anangu.

Visitor Management

The Director of National Parks has a legal responsibility to ensure that tourism is managed to conserve the Park's cultural and natural heritage and respect the wishes of Nguraritja (UBM and Parks Australia, 2000: 105). The primary interpretive message of the Park is 'Welcome to Aboriginal Land' and the struggle the UPM deals with on a daily basis is to find balance for the plural role of the Park:

- To protect aboriginal culture and rights to privacy in pursuit of traditional ways of life on the land
- To protect the environment and,
- To support the area as a place of visitor attraction.

⁴⁷ A work studio was established by the architects in the Mutitjulu community and the design of the building developed from sand sketches and paintings and discussions between community members, Parks Australia and the design consultants (DEH, 2005c).

Uluru - Kata Tjuta National Park had approximately 372,000 paying visitors in 1999 and a thirteen per cent growth in visitors is projected over the period of the current plan (UBM and Parks Australia, 2000: 105). The UBM outlines a number of issues that need to be addressed (within a regional context) to support tourism and recreation opportunities. Two of the issues are: the need to develop a clear strategic direction for visitor management that meets the needs of all involved while maintaining park values, and site planning that supports Nguraritja aspirations to receive economic benefit from the Park; to be approached in an environmentally, holistic and integrated fashion (UBM and Parks Australia, 2000: 106). Further, managing and monitoring transportation and access are key to ensure visitor experience and safety, while preserving the natural landscape and protecting privacy of the Mutitjulu Community and Anangu activities and sites.

Mutitjulu Community

The Mutitjulu Community located within the boundaries of the Uluru - Kata Tjuta National Park has a population of approximately three hundred Anangu and one hundred non-Anangu (UBM and Parks Australia, 2000: 145). The Mutitjulu Community Inc. is an incorporated association and its Governing Committee is responsible for a number of concerns such as housing, environmental health, and community administration (ibid). Under the lease - back agreement the Director of National Parks, in addition to lease obligations for the Park, which covers the Mutitjulu Community, is responsible for funding the position of a joint management

coordinator⁴⁸. One of the responsibilities of this position, through the Office for Joint Management⁴⁹, is to stand for the Mutitjulu Community interests when consulting with the UBM.

Issues, identified in the UPM, that challenge the Mutitjulu Community are funding concerns to ensure that the community “is able to perform all of its local government, community management, and joint management functions, in a manner which is consistent with the lease - back agreement, community aspirations and Tjukurpa principles (UBM and Parks Australia, 2000: 147). Previous budgets were prepared and administered by Parks Australia⁵⁰. The current UPM identifies that future Park budgets are to be developed in conjunction with the Director of National Parks and the Office for Joint Management.

The Director of National Parks currently provides essential services to Mutitjulu Community, whereas other aboriginal communities in the Northern Territory are supplied and maintained by such agencies as the Northern Territory Power and Water Authority (UBM and Parks Australia, 2000: 145). The current UPM identifies the

⁴⁸ Under previous plans, the title was Community Liaison Officer.

⁴⁹ Expanded functions of this office, within the current UPM, include providing a Board Secretariat and developing and managing a training and development program for people involved in joint management (UBM and Parks Australia, 2000: 47).

⁵⁰ Currently under the direction of the Director of National Parks

need for the parties⁵¹ to create a ‘community development and management strategy’. This would include among other things: a participatory planning process, including a comprehensive community awareness program, options for environmentally sustainable infrastructure provisions and an adequate funding structure to complete the strategy within one year of the commencement of the current UPM. It would also cover negotiations between the parties (and the Central Land Council) about the provision of essential services and the need to shift financial responsibility to the NT Government, as is normal in other NT communities (UBM and Parks Australia, 2000: 149).

Despite the potential benefits that could have arisen from the community’s unique location within the Park and its partnership with the Director of National Parks for the management of Uluru - Kata Tjuta National Park, the community has remained “marginal to many of the developments taking place on their lands” (University of Melbourne, 2005). A report commissioned by the Aboriginal and Torres Strait Islander Commission was undertaken in 2002 to research with a ‘view’ to developing a Community Participation Agreement, for planned transition to community control within the existing legislative framework. The issues identified as contributing to the current situation of the Mutitjulu Community are: the lack of coordination, planning

⁵¹ Director of National Parks, Mutitjulu Community Inc. and Office for Joint Management.

and service delivery by government, intergenerational welfare dependency and the existence of multiplicity of governance structures (ibid).

Park Staff

The Department of Environment and Heritage is committed to the employment and training of Anangu and is undertaking an organizational review to improve its co-management arrangements. As identified in the UPM, as of January 2000, of the thirty-three Park staff employed, eleven were Anangu. Additionally, aboriginal casual consultants and permanent contract employees⁵² are actively recruited (UBM and Parks Australia, 2000: 155). A target of one-third Anangu staff was met during the previous UPM, many, as per Anangu request, were part-time, allowing for flexibility for cultural obligations (ibid). Employment issues outlined in the UPM recognize the need for: on-going training programs for aboriginals, resolution of the gender imbalance within Park staff, and to increase the number of Anangu working in natural and cultural resource management.

4.3 Conclusion

The focus of this chapter is a comparison of the co-management agreements and plans of management for Uluru – Kata Tjuta National Park and the Gwaii Haanas National

⁵² This type of employment incorporates standard employment conditions over casual employment terms.

Park Reserve and Haida Heritage Site. Background into the agreements, as well as summaries of the plans of management, were presented. Refer to Appendixes A and B for timelines on the histories of the agreements.

Based on a review of the co-management agreements and the respective plans of management for Gwaii Haanas National Park Reserve and Haida Heritage Site and Uluru - Kata Tjuta National Park, the author concludes that integration of aboriginal culture, knowledge and world views is more developed in the Australian example than the Canadian example and is most likely a result of land title and the length of time it has been in place.

Commonalities for the co-management agreements in Canada and Australia are: the identification of the roles of all parties, the creation of boards of management and a clearly defined structure in which to implement joint management and land ownership. Both Parks have plans of management, although the level of detail and scope is greater in the Australian example. Similarities for the plans of management at the two parks address the issues of the need to integrate aboriginal cultural values, heritage and world views into management decisions although the plan of management for Uluru - Kata Tjuta National Park has far more detailed and provides strategies to undertake. The plans of managements also address aboriginal job opportunities and to some extent the need to create potential economic development opportunities, but neither plan documents specifics into creating economic development opportunities beyond

the Canadian example providing a formula for ensuring a percentage of licences goes to aboriginal owned tour operators.

Both plans of management identify the need to manage and monitor visitor use. Although the Australian plan of management is more detailed in identifying, issues, aims and actions, the Canadian example does provide a carrying capacity for the park to ensure protection of the environment. Protection of natural heritage and cultural heritage is also documented in both plans. The level of detail in specific areas and strategies for protection is again more detailed in the Australian example, and documents how traditional ecological knowledge is integrated into management decisions, like controlled burning.

In the Australian example, the current plan of management identifies Tjukurpa as a core value on which management strategies for the Park are based. The Canadian co-management example identifies the need to promote and preserve Haida culture as part of its management mandate, but the degree to which it is incorporated is less. This could be explained by the fact that the Australian co-management example has been around longer and gone through four iterations and as such has reached a stage in which the working partnership between government and traditional owners may be more developed and management policies and practices have evolved. Secondly, and more importantly, the issue of land ownership and the lease - back agreement at Uluru - Kata Tjuta National Park has ensured that aboriginals have a majority on the

management board. This, plus land ownership, ensures that management decisions factor in aboriginal values and cultural traditions and will ultimately be made for the long-term benefits of traditional owners.

5 Analysis: Evaluating the Agreements

Chapter 3 outlined co-management agreements, as a ‘best-practice’ example of collaborative planning with aboriginals for joint decision making for land and natural resources from a theoretical perspective. This chapter seeks to corroborate whether co-management agreements are as successful on the ground in ensuring consensus decision-making, equitable partnerships and aboriginal participation on a day-to-day basis in protected area management.

Further, this chapter assesses whether the good governance characteristics identified were applied to the development and the on-going implementation of both the aboriginal – non-aboriginal partnerships and the co-management agreements and plans of management for Uluru – Kata Tjuta National Park and the Gwaii Haanas National Park Reserve and Haida Heritage Site. This research was undertaken in conjunction with the analysis of the co-management agreements and the plans of management to discover the actual degree of control traditional owners have over protected land and resource use decisions within a national park management structure and to evaluate the success of the agreements to date.⁵³ Three participants, all in management, two from Australia (Respondents A and B) and one from Canada (Respondent C) contributed to the following research.

⁵³ The length of time each co-management agreement has been in place is twenty years for Uluru - Kata Tjuta National Park and twelve years for the Gwaii Haanas National Park Reserve.

While neither The Gwaii Haanas / South Moresby Agreement, nor the co-management agreement for Uluru - Kata Tjuta, (or the respective plans of management) speak directly to the characteristics of good governance, the author proposes that their integration has contributed to the success of co-management at both Uluru – Kata Tjuta National Park and the Gwaii Haanas National Park as demonstrated in the literature. The Gwaii Haanas Management Plan for Terrestrial Area and the Uluru - Kata Tjuta National Park Plan of Management do differ in scope, level of detail and degree of comprehensiveness.

Questions pertaining to aboriginal participation for joint management focused on: conservation, implementation of cultural values, protection of ecologically and culturally significant sites, and traditional use and patterns. The following responses support that the co-management agreements for both parks have been successful in achieving their intended results, that is, compared with the situation that likely would have developed if no such joint decision-making structure had been put in place and a traditional western-style, bureaucratic management system had continued.

5.1 Participation

Participation is central to the development of co-management agreements for land and natural resources. The success of the agreement and ensuing plan of management is contingent on the development of an equitable partnership and the continued strong

relationship between the parties throughout the planning and implementation process. Aboriginal participation is integral to the on-going success of the management of both parks as each has a mandate to support and maintain the cultural as well as natural uniqueness of the protected areas.

The extent of aboriginal participation is documented through the identification of the level of partnership / community control each aboriginal group has within the respective agreements and the development and implementation of plans of management. Participation at the local level increases the support and the level of responsibility aboriginals have in managing traditional (or owned) lands and ensures long-term support. Aboriginal participation in management of protected areas is also fundamental to the assurance that traditional practices and knowledge be included in management plans. Participation can be a gauge of ownership and accountability and can shape the outcome of management decisions.

The co-management agreement between the Government of Canada and the Council of the Haida Nation demonstrates a long-term commitment to work together, for the protection of the Gwaii Haanas. The key difference in the Canadian co-management example, versus the Australian example is land ownership. The Gwaii Haanas National Park Reserve is Crown Land and both parties are equally represented on the Archipelago Board of Management. Decision-making power is vested equally, and is under the ultimate approval of the Minister of Parks Canada. Consequently, as per the

levels of co-management agreements the Canadian co-management example lies predominately in Level 6, that of Management Boards. At this level, the traditional owners are given opportunity to participate in developing and implementing management plans but devolution of power to the community is still not complete. The Gwaii Haanas Agreement is significant in that it is the only nation to nation co-management agreement, with clearly defined and divergent views on sovereignty, and land rights.

Since the co-management agreement has been in place on-going dialogue and the trust between the two parties has increased significantly resulting in more efficient decision-making. Specifically, Respondent C point out that “Initially, the Council of the Haida Nation members on the board wanted to be involved with every detail of operations, down to the location of the toilets”. However, over time, the level of comfort with Parks Canada’s recommendations on operational issues has increased resulting in more time being spent on higher-level management and long-range planning issues. Respondent C also indicates that decision-making at the Gwaii Haanas National Park and Haida Heritage Site in the environmental, social and cultural arenas has become somewhat less complex and there has been little change in decision-making within the economic arena. Additionally, two – way communication between traditional owners and park authorities has increased somewhat in the environmental, social and cultural arenas, but unlike in Uluru – Kata Tjuta National Park, little change has been seen in two-way communication in the economic arena.

The co-management agreement for Uluru – Kata Tjuta National Park has legalized a partnership of equals between traditional owners and the Australian government due to its lease – back agreement. Land ownership is key to a partnership of equals. Joint decision-making within the structure of the Board of Management provides, under the agreement, for an aboriginal majority. Thus allowing decision-making power to ultimately be entrusted to the Anangu. As per the levels of co-management agreements identified in Section 3.1.1. this example represents Level 6 - Management Boards. It could technically be situated at Level 7 - Partnership / Community Control, due to its land tenure, but the author suggests that in light of the true level of aboriginal participation, as identified by the research, community control is not yet fully acquired, and as such is better situated at Level 6.

Participation by traditional owners Uluru – Kata Tjuta National Park and the level of confidence between the partners has increased since the implementation of the co-management agreement. Respondent A attributes this improvement to better training for the UBM to understand corporate governance. Respondent A also indicated that since the co-management agreement has been in place decision-making for environmental issues has become much more complex, and somewhat more complex for social and cultural issues, but that there has been little change decision-making within the economic arena. The author contends that complexity is not necessarily a negative as it increases when decision-making is not unilateral, particularly, with the

integration of different cultural values. Respondent A also responded that two – way communication between traditional owners and park authorities has increased at Uluru – Kata Tjuṯa National Park in the environmental, social, cultural and economic arenas.

Respondent B’s unique position of being management, having a university education, and being Anangu from the area, provides for some unique insight into aboriginal – non-aboriginal dynamics. Respondent B’s perspective on aboriginal participation differs, and suggests that with respect to the day-to-day park operations, aboriginal participation is not occurring to the level indicated in the plan of management. Specifically, the management structure and staff training is such that staff is “not prepared to listen to traditional owners”. Respondent B raises some interesting points on the cross-cultural issues that occur in terms of different perspectives on what joint management means to park management (western viewpoint) and traditional owners. Respondent B refers to the aboriginal perspective on the Park as being “bigger than the L-shape”,⁵⁴ and encompasses much more than resource management. In contrast, the DEH’s perspective is focused on day-to-day operational issues of the park, and is situated in a western-styled management that is not fully accepting of true joint management.

⁵⁴ The boundaries that make up Uluru – Kata Tjuṯa National Park is in the shape of a letter L.

Respondent B suggests that within the existing co-management model work is needed to increase the level of understanding about the cultural differences, and to provide a more equitable structure that better supports aboriginal participation. Specifically, Respondent B puts forward that the western style park management needs to overcome a resistance to integrating aboriginal style management into the process. This needs to be done in conjunction with skill development for traditional owners.

5.2 Accountability

Accountability, for all parties involved, to the on-going process of the co-management agreement is key to its success. Both co-management examples demonstrate a formal continued commitment to the specified objectives identified in the respective agreements. The management boards of both parks are accountable for decisions and actions that may affect the natural environment and traditional owners. Responses to the research questionnaire indicate that the effectiveness of the co-management agreements in ensuring accountability at both parks has been satisfactory, but in terms of decision-making, two out of the three respondents indicate that a moderate change for the better has occurred.

Both co-management agreements and subsequent plans of management identify that there is opportunity for economic development initiatives to be undertaken by aboriginal groups within the protected areas. Note that economic initiatives outside of employment with the parks are typically collective in their approach and closely tied

to each group's traditional area. Further, both agreements and plans of management are committed to providing opportunities for aboriginals to be employed by the respective parks.

Respondent C indicates that the effectiveness of the co-management agreement in ensuring accountability concerning the Gwaii Haanas National Park Reserve has been satisfactory. The Gwaii Haanas Management Plan for Terrestrial Area and Backcountry Management Plan provide several terms for livelihood security through the provision of economic opportunities to Haida as outlined in the agreement. It mandates the allocation of thirty-three per cent of commercial tour operators to be Haida run, as per the intent of the Gwaii Haanas Agreement. Beyond that, there is little mention of specific future economic and employment strategies for Haida people, within the MPTA, and Respondent C indicates that there have been no additional economic benefits for traditional owners beyond those identified in the agreement.

Respondent C does, however, specify that approximately half of the staff at the Gwaii Haanas National Park Reserve is Haida and significant increases in aboriginal job opportunities have occurred in the areas of: park rangers⁵⁵, facilities maintenance, and

⁵⁵ Predominately the Gwaii Haanas Watchmen program.

tour operators; moderate increases have occurred in management⁵⁶, ecological research and consultation and cultural; and little / no change has been seen in retail opportunities. Converse to the benefits that have occurred because of the Haida hiring target Respondent C identifies that the main disadvantage of the co-management agreement, from an operations perspective, is “the fifty percent Haida hiring target has resulted in some staffing difficulties which have, in some cases, dominated management’s time and energy, thus limiting their ability to focus on the job of protecting the area”.

The MPTA does document that between 1987/88 and 1992/93, an estimated \$10 million in labour and services income was generated in the local area (AMB 2002: 35), but no breakdown is given to assess revenues to aboriginal and non-aboriginal communities. In relation to policy, plans and programmes, and budgets and financial instruments, concerning Gwaii Haanas National Park Reserve Respondent C indicates that a moderate change has occurred. With reference to the arenas of decision-making and legislation, a fairly significant change has been documented since the implementation of the co-management agreement.

⁵⁶Park management positions held by Haida include Superintendent, Heritage Presentation Specialist, Cultural Projects Manager, Senior Park Warden, Patrol Officer, Finance Officer, Human Resource Manager, and Media Relations Officer.

Respondent A points out that the co-management agreement has been fairly effective in ensuring accountability with regards to the management of Uluru - Kata Tjuta National Park. The financial arrangement in the Australian co-management example is clearer than the Canadian example. As per the lease – back agreement, annual lease payments of \$150,000 are paid to the Central Land Council, on behalf of the traditional owners. The terms also provide for the land trust to receive twenty-five per cent of entrance fees and twenty-five per cent of charges / fees for commercial activities, in excess of \$30, 000 dollars.

Since the co-management agreement has been in place, Respondent A indicates that there have been moderate increases in job opportunities for aboriginals in the areas of ecological research and consultation, tour operators, and cultural programs. It was identified that there has been little or no change in the number of job opportunities for aboriginals in management, facilities management and retail.

Regarding the scope of the co-management agreement, Respondent A indicates that, as in the Canadian example, the arena of budgets and financial instruments has seen a moderate change. The legislation arena also exhibited moderate change since the implementation of the co-management agreement and policies, plans and programmes, and decision-making arenas have demonstrated a fairly significant change.

As identified in the fourth plan of management the Cultural Centre supports a number of Anangu owned businesses and documents the need to increase aboriginal employment opportunities in tourism, publishing, merchandise and the general service industry (UBM and Parks Australia, 2000: 135). However, Respondent A indicates that there have been no additional economic benefits for traditional owners since the implementation of the co-management agreement beyond those identified in the agreement. This is supported by Respondent B's assertion that the overall management structure is not ready for educated, trained aboriginal managers. Further, there is a need for a shift in ideology to accept professional aboriginals who understand both the bureaucracy and the land. Respondent B asserts that changes are needed on both sides. Park management needs to adapt to a new structure that integrates aboriginal style management, at the same level, and training is needed at the community level to develop the skills and educated so "your [aboriginal] kids can have my job⁵⁷".

5.3 Transparency

The development of new planning frameworks, such as co-management agreements supports transparency. Both the Canadian and Australian co-management agreements examples demonstrate the importance of creating a decision-making framework 'with

⁵⁷ Comment made to community members from an educated trained aboriginal profession, as a role model, in that attaining a management position is achievable.

aboriginals' that is different from paternalistic decision-making models 'for' aboriginals of the past. Both agreements, and their associated plans of management, identify clearly the coordination of roles and responsibilities of those involved and address accessibility to accurate and timely information for all parties.

The Gwaii Haanas Agreement, the Management Plan for Terrestrial Area and the Backcountry Management Plan outline the roles of both the Government of Canada and the Council of the Haida Nation concerning implementation of the agreement. The creation of the AMB further solidifies the responsibilities of the parties and provides for transparency of its decision-making structure. The co-management agreement also clearly defines the direction for the protection, management and appropriate use of the protected area. In addition, it outlines the types of spiritual, cultural, and traditional resource harvesting activities, which Haida can pursue within the boundaries of the protected area. Protection of traditional aboriginal way of life is supported within the agreement and is a tenet of a World Heritage Site designation. Transparency allows for a process that provides openness to the responsibilities of all parties concerning protection of the natural environment and Haida culture and as such, it helps to hold all parties accountable to decisions.

Transparency, beyond clearly defined roles and responsibilities and an open framework on which the co-management agreement is developed, also leads to openness of decision-making and accessibility of information for those impacted by

decisions. Despite the explicit provision for ‘full disclosure’ within the agreement, Respondent C indicates that there has been relatively little change in terms of transparency since the co-management agreement for Gwaii Haanas National Park Reserve has been in place. The author acknowledges that this response may have been influenced by several factors, including ambiguity in the questionnaire item, but she theorizes that it is more likely a result of the lack of a key position for devolution of information to the Haida community. In contrast, the Uluru - Kata Tjuta National Park Plan of Management explicitly documents the role of the Coordinator, Joint Management within the Office for Joint Management with that responsibility.

The co-agreement agreement and the Uluru - Kata Tjuta National Park Plan of Management outline unequivocally the roles and responsibilities of the co-management partners including, the Director of National Parks, Mutitjulu Community Inc., the Office for Joint Management and the Central Land Council representing the Uluru Kataritjuta Aboriginal Land Trust. The role and the responsibilities of the park management board are also clearly defined, as are their obligations of: keeping Tjukurpa strong, supporting a healthy Anangu culture and society, and looking after and protecting the Park’s natural environment.

The Australian co-management example is more detailed in terms of integrating Anangu spiritual, cultural, and traditional values within the management plan. Additionally, traditional resource activities are supported and protected, as are

safeguarding and maintaining the privacy of aboriginal significant sites. Preservation and promotion of aboriginal culture, as in the Canadian example, are supported within the agreement and the plan of management, and in the role of the park as a World Heritage Site. Openness regarding decision-making and accessibility to information by those affected is key to transparency.

Respondent B's concern is with the lack of orientation to the uniqueness of the cultural aspect, for management and operational staff who come to work at the park. Specifically, preparing staff for dealing with situations that may not be resolvable by western style methods. Training management and staff at the onset to cultural differences, as well as the need to recognize and respect that aboriginal management style is "intellectually equal", even though it is completely different from a western based approach, could ameliorate issues concerning conflicts that arise between staff and aboriginals. Respondent A supports that transparency, since the implementation of the agreement, has somewhat increased in Uluru - Kata Tjuta National Park. Further, Respondent A acknowledges the main advantage of the co-management agreement from a management perspective is that the obligations regarding the guidelines, policy and regulations for management of a World Heritage site allow for it to be twice inscribed into the Park management structure.

5.4 Consensus Decision-Making

A co-management agreement is in essence a consensus oriented decision-making framework. Both the Gwaii Haanas Agreement and the co-management agreement for Uluru - Kata Tjuta National Park are exemplary of decision-making frameworks that require consensus. It is required by both boards of management before management decisions can be implemented, and decisions must be consistent with the terms of the agreements and the respective plans of management.

The boards' challenge is trying to reach consensus on decisions that meet the unique and sometimes diverse needs for the protection of the environment and aboriginal interests. Depending on the circumstance, the positions may be at odds. Joint problem solving within a co-management framework is very advantageous when trying to reach consensus between differing viewpoints and values.

Both the Canadian and Australian parks have experienced good results in management decisions being positively viewed by all parties. Within Gwaii Haanas National Park Reserve, Respondent C indicates that the implementation of the co-management agreement has resulted in the establishment of very good two-way communication and has been good in helping to identify current and potential future disagreements for proposed actions. Further, the co-management agreement has been very effective in helping to mitigate current and potential future disagreements for proposed actions and ensuring conflict resolution.

Response to the research questionnaire suggests that the co-management agreement has been less successful concerning the resolution of issues in instances where specific sites may be in conflict because of competing cultural and ecological issues. Respondent C provides the following as an example; “due to the continued commercial harvest (over-harvest) of marine resources in the area around Gwaii Haanas, it has been difficult to encourage Haida people to stop [the] harvest of rare species, such as abalone, despite the fact that the species is on the brink of extinction”.

Respondent A suggests that joint problem solving at Uluru - Kata Tjuta National Park, since the implementation of the co-management agreement, has improved. Specifically, the co-management agreement has been satisfactorily effective: in the establishment of two-way communication, helping to identify current and potential future disagreements for proposed actions, mitigating current and potential future disagreements for proposed action, and ensuring conflict resolution. Unlike at Gwaii Haanas, the co-management agreement has been satisfactory in resolving issues in instances where specific sites may be in conflict because of competing cultural and ecological issues. Respondent A did single out that the main disadvantage of the co-management agreement from a management perspective is that “it is a western based system where Anangu don’t automatically fit into the proscribed nature of western ways of scientific and land management methods”.

Respondent B supports the viewpoint that the co-management agreement does not do enough to allow for full integration of joint decision-making. Respondent B further challenges this by questioning what the definition of co-management is. Does it mean joint decision making at board meetings several times a year, integrating aboriginal perspectives into every operational aspect, or something beyond that? Is it tied to change in perception on the definition of management and does it allow for aboriginal ideas and control over implementation? From an aboriginal perspective Respondent B points out that, in addition to the lack of investment (time, resources, political will) from park management towards more fully integrating aboriginal involvement, there are a myriad of additional layers that can inhibit it. To identify a few: absentee landlords, traditional owners who may not necessarily live full time⁵⁸ within the Mutitjulu Community and may not be available for consultation, working out the genealogy and recognizing who is a true traditional owner (which can take staff months) and the diffusion of attention related to rapid turn over of staff and management and consequent training needs.

Respondent B also points out that there is an unwillingness by park management and staff to do things not in typical job descriptions, like teaching aboriginals to “use fax machines, computers, help develop presentation skill” and on a greater level “get firewood for community members, demonstrate how to use the bank machines and in

⁵⁸ The could be living elsewhere, or out on the land.

hotel room phone directories”. These types of demands are outside of traditional park ranger duties, but are nonetheless part of the greater construct of the dynamics between aboriginals and non-aboriginals of the park and as such, help ensure co-management.

5.5 *Inclusiveness*

A society’s well being depends on ensuring that all its members feel that they have a stake in decision-making about decisions that impact them. Capacity building and skill transfer within aboriginal communities are important components of co-management agreement frameworks. Both plans of management for the Gwaii Haanas Nation Park Reserve, and Uluru - Kata Tjuta National Park integrate strategies that draw on aboriginal traditional practices, customs and ways of life into park management and operations.

Sustainable use of natural resources and the protection of the environment is a directive of protected area management and the incorporation of Indigenous Knowledge (IK) into co-management agreement frameworks and plans of management ensures aboriginal participation. Further, incorporating IK, into co-management agreements and plans of the management for protected areas and natural resources protects aboriginal values and ways of life.

Respondent C acknowledges that the co-management agreement has been satisfactorily effective in ensuring that decisions are equitable and inclusive. Further, since the implementation of the co-management agreement for Gwaii Haanas National Park Reserve, capacity building, including skill transfer and the development of community's ability to solve its own problems, has somewhat increased. This is reflected in the target of fifty per cent Haida employment within the park being met "allowing more Haida people to become directly involved in day to day decision-making and major management decision-making".

The co-management agreement was instrumental for the Council of the Haida Nation to enter into and continue an equitable decision-making partnership with the Government of Canada, despite contention over land ownership. Respondent C articulates that the main issue that the co-management does address is "ensuring that the area remains protected until the issue of land ownership is resolved". Further, one of the main advantages of the co-management agreement from an operational perspective is that "through participation of the Haida, establishment of a high level of protection [of Gwaii Haanas] has been politically possible". Thus, aboriginal involvement contributes to the overall success of the Gwaii Haanas National Park Reserve.

In terms of its limitation, the Gwaii Haanas Agreement and the park's plan of management lack a level of detail for specifics. Respondent C identified the main

problem that the co-management agreement model does not address is “clearly articulating a significant role for Haida tourism”. This could be ameliorated in future plans of management as issues not yet addressed are identified and details of implementation processes are developed over time.

With respect to Uluru – Kata Tjuta National Park, Respondent A points out that the co-management agreement, like with Gwaii Haanas Agreement, has been satisfactorily effective in ensuring that decisions are equitable and inclusive. It is further acknowledged that capacity building, including skill transfer and the development of community’s ability to solve its own problems has not changed significantly since the implementation of the co-management agreement. This result was unexpected but the author surmises this has less to do with skill transfer specifically regarding aboriginal Park employees, than it does with the uniqueness of the particular needs of the Mutitjulu community located within the boundary of the Park. Respondent A also identifies that the main disadvantage of the co-management agreement from an operational perspective is “the plan of management isn’t specific enough about the outcomes and key benchmark indicators”.

Respondent B identifies that a more inclusive process needs to be initiated into day-to-day operations of the park. Currently there is resistance to move outside of a western style management / operations system and to embrace aboriginal landscape management that includes spirituality and traditional knowledge. This would require

management and staff to “re-learn new skills”. Further, the main problem that the co-management agreement does not address is “the maturity of the park...the willingness is not there nor is the park ready for qualified aboriginal people”.

5.6 Legitimacy

Good governance requires fair legal frameworks that are enforced impartially. The Gwaii Haanas Agreement and the agreement for Uluru – Kata Tjuta National Park formalize the management of the Parks. In the Canadian example, the Council of the Haida Nation and Government of Canada have an equal number of representatives on the Board of Management. In Australia, the Park’s Board of Management has an aboriginal majority.

Legitimacy of process is not limited to legalities. It can also reflect the willingness of parties to respect and adhere to management decisions. Legitimacy is also tied to the strength of the partnership and the respect that the parties have for one another. Regarding legitimacy surrounding title for the co-management agreement for Gwaii Haanas, Respondent C acknowledges that the main disadvantage of the co-management agreement from a management perspective is that “complications related to land title has limited the federal government’s ability to move forward quickly on [the] establishment of the marine component of Gwaii Haanas”.

However, Respondent C concludes that the co-management agreement has been instrumental in the management of the Gwaii Haanas National Park Reserve in that if the co-management agreement were not in place, “it [the park] wouldn’t have been managed. Logging would have continued and the area would be in the same condition as the rest of the Islands - depleted of old growth forests”.

The parties involved support the legitimacy of the co-management agreement at Uluru – Kata Tjuta National Park. Respondent A points out the main advantage of the co-management from an operational perspective is that it provides visitor safety, infrastructure management and patrols within a low-resourced remote park. Further, if no co-management agreement were in place, the Park would be “managed poorly and only to a western system standard”.

5.7 Conclusion

The objective of a co-management agreement for protected areas is to provide a framework for equitable decision-making between government and traditional owners. Different levels of co-management exist, from limited involvement to delegation of full management authority at the community level. The higher the level of joint decision making, the greater the need is for strong equitable relationships between government and aboriginal group. Co-management agreements vary in success and are as only successful as the will on both sides to ensure their achievement.

Although neither example speaks directly to the characteristics of good governance, the author concludes that aspects of good governance have contributed to the success of co-management at both Uluru – Kata Tjuta National Park and the Gwaii Haanas National Park Reserve as demonstrated by the literature review, analysis of the agreements and the corresponding plans of management and the research. Both the Australian and Canadian examples of co-management agreements and their respective plans of management have benefited from the implementation of co-management agreements. The respondents conclude that the degree of involvement of aboriginal participation is still wanting, but is higher than it would be if no such framework had been applied. Further, both co-management examples and the respective plans of management do employ to some extent the good governance characteristics of participation, accountability transparency, consensus decision-making, inclusiveness, and legitimacy into the process, albeit implicitly.

Equitable participation is necessary for joint management for protected areas to be effective. Respondents indicate that aboriginal participation has increased somewhat both in the management of the parks and in aboriginal employment within the parks. Analysis of the agreements and plans of management and responses to the questionnaire demonstrate that in addition the co-management agreements have increased two-way communication, and that the levels of trust in the partnerships have also increased. Responses suggest that the levels of joint decision-making and aboriginal involvement are less than one would expect from review of the agreements

and plans of management, and the length of time they have been in place. However, decision-making is more equitable and inclusive than it would be without a co-management agreement, and aboriginal participation has ensured to some extent, the integration of aboriginal culture, traditions, and knowledge into management decisions. Notwithstanding, efforts should be made to further incorporate aboriginal participation, particularly within the day-to-day operations.

Accountability to the process is necessary for a joint management structure to be successful. Review of the documents and questionnaire responses from both parks indicate that the co-management agreement has been effective in ensuring accountability. There is a disparity between the goals outlined in both plans of management in terms of aboriginal economic opportunities and actual outcomes. Respondents indicated that beyond aboriginal employment within the park, few additional economic development opportunities have arisen since implementation of the agreements. Both parks have seen small advances, like the aboriginal tour operator targets for the Gwaii Haanas National Park Reserve, and the Anangu Cultural Centre at Uluru - Kata Tjuta National Park, but further work is needed to meet the desired aboriginal economic opportunities that will increase community self-sufficiency.

Transparency leads to the creation of equitable, inclusive and consensus decision-making frameworks. It also helps ensure that roles and responsibilities of all parties are clearly defined, and information about decisions is accessible and available to

those affected. Transparency is built into the structure of both co-management agreements and their respective plans of management. Responsibilities of all parties are identified in the agreements and both plans of management have clearly defined mandates, objectives and implementation strategies (albeit to differing levels of detail) that include protection of the environment as well as protection of aboriginal cultures and ways of life. Further, the agreements and plans of management clearly outline the types of traditional and cultural activities that can be pursued within the boundaries of the protected areas. Regarding Gwaii Haanas National Park Reserve, there is a need for a clearly defined role for devolution of information between the board of management and the Haida, beyond board members, as is the case in the Australian example.

Consensus decision-making is the foundation for co-management for protected areas. Both the Gwaii Haanas National Park Reserve and Uluru - Kata Tjuta National Park have integrated joint decision-making into the on-going management of the parks. There were positive responses at both parks to the effectiveness of the co-management agreements in ensuring consensus decision-making at the parks. Respondents indicated that in addition to achieving consensus the co-management agreements were of use in helping to identify current and potential future disagreements for proposed actions and ensuring conflict resolution. In Gwaii Haanas National Park Reserve, the co-management agreement was not effective in helping resolve issues in the instances where specific sites may be in conflict because of competing cultural and ecological

issues. However, this could potentially be mitigated as future iterations of the plan of management for the protected area evolve and become more detailed.

In spite of the different degrees to which aboriginal culture, knowledge and worldviews have been integrated into park management decisions, review of the agreements and plans of management and responses from both parks identify that inclusiveness is a component on the ground as well in theory. The co-management agreements have been effective in ensuring that management decisions are equitable. The concern that was raised from respondents at both parks is the need for more detail into the 'how'. Both co-management agreements and plans of management are clear in management objectives but the specifics and level of detail in how to achieve them are not always clear enough. This to may be something that can be resolved over time if the level of commitment to the joint management of the parks is sustained, and efforts are made to achieve greater aboriginal participation.

Legitimacy to the co-management process is exhibited at both parks as all parties continue to adhere to the joint decision making framework established and continue to develop strong working relationships. Legitimacy is tied strongly to the level of trust and respect that parties have for each other; all respondents indicated that management of the parks have benefited under a co-management structure. Nonetheless, the on the ground reality of maintaining divergent viewpoints with respect to sovereignty title or ownership the Gwaii Haanas while engaging in joint management, is less simple than

might appear. This study presumes that the issue of land ownership does complicate the dynamics of consensus decision-making concerning protected area management.

The implementation of joint management at Gwaii Haanas National Park Reserve and Uluru - Kata Tjuta National Park has contributed significantly to the management of the parks and has ensured protection of the environment and protection of aboriginal culture, heritage, and ways of life, more so than if no such frameworks had been implemented. That said, improvements can be made to the management of the parks to increase the value placed on aboriginal perspectives on park management and the level of aboriginal participation. Further, the research also supports earlier analysis based on the literature and review of the co-management agreements and the Gwaii Haanas Management Plan for Terrestrial Area and the Uluru - Kata Tjuta National Park Plan of Management, that the Australian co-management example's strength stems from aboriginal land title resulting from the lease - back agreement at Uluru - Kata Tjuta National Park. This has ensured that aboriginals do ultimately have a stronger say in how the park is managed, over no such agreement. As a result efforts have been made to integrate Tjukurpa throughout the planning and management of the park.

6 Conclusions and Recommendations

A review of the impacts from colonization and attempted assimilation, on aboriginals in Canada and Australia, concludes that traditional ways of life, culture and social structures have been severely disrupted. Because of colonization, aboriginals were dislocated and excluded from traditional areas. Further, they have been barred from decision-making processes about land and natural resource development on traditionally owned lands. Disputes over rights to land and natural resources have occurred in Australia and Canada and are challenging legal interpretations of land ownership and necessitating the need for new relationships between aboriginals and governments.

Legislative and policy advances like the *Aboriginal Land Rights (NT) Act*, in Australia and RCAP in Canada and court decisions, like *Delgamuukw* (Canada) and *Mabo* (Australia) that upheld traditional rights, have contributed to advances in aboriginal rights (Refer to Chapter 2). However, there is a need to develop more collaborative planning approaches, like co-management agreements as joint decision-making frameworks for land and natural resources. As modern day treaty negotiations in Canada and land rights negotiations in Australia become more common, the necessity of equitable partnerships between aboriginal groups and governments becomes apparent.

Placing non-aboriginal – aboriginal relationships in context with historical events and perceptions allows the reader to recognize the advances that have occurred in terms of equitable and participatory planning with aboriginals. Restoration of aboriginal culture, traditions and heritage and recognizing aboriginal contributions to land and natural resource management through traditional customs and TEK is one benefit of co-management agreements. Co-management agreements are one collaborative planning approach that can: bridge the disparity of the past, allow for equal partnerships between aboriginals and government and provide a framework for joint decision-making about protected areas.

Planning processes can acknowledge and accommodate, to varying degrees, involvement by aboriginal people. Since planning is normative and is situated socially, it needs not only to reflect the history, politics and ideology of a region but also to support positive change for constituents (Knudson, 1997: 3). Planning effectively with aboriginal people calls for an inclusive participatory process, which is specific to the cultural, social, environmental and economic conditions in a community and actively involves community members.

Advances in more equitable aboriginal government policies do not erase history, but do allow for new types of decision-making frameworks and relationships between aboriginals and governments to develop. Co-management agreements for protected areas are one such joint decision-making framework that can advance self-

determination, the right to define one's own political, cultural and economic future. Aboriginal self-government is advanced in that co-management agreements provide: opportunity for capacity building, skills transfer and reallocation of power to aboriginal communities.

Aboriginal involvement in protected area management is becoming increasingly accepted as conservation efforts have evolved to include human needs in addition to environmental and wildlife protection. Examples have been given in this document that illustrate how management of protected areas can be improved through aboriginal participation throughout the development and implementation of co-management agreements for land and natural resources. Involvement is key at the local level in that it increases support and the level of responsibility aboriginals have for managing traditional (or owned) lands, and it ensures long-term support. It also allows for traditional practices and knowledge to be integrated into management plans, which are site specific and can help ensure that knowledge, customarily passed orally, is preserved.

Co-management agreements, although not all-encompassing, can be valued as an interim model that bridges restrictions and exclusion of aboriginal peoples' use and influence and complete control through self-government. Aboriginal participation in protected area management can range from minimal involvement up to full decision-making power. Involvement can vary according to a number of factors including:

aboriginal organizational structures and capacity⁵⁹, the policies and structures of national and local governments, relationships between aboriginal groups and governments and land ownership / land access concerns. It is also situational and every co-management agreement needs to be developed with specific regard for the uniqueness of each aboriginal group involved in the process. That said, co-management agreements provide for commonalities in their effort to balance conservation with integration of traditional aboriginal ways of life.

True joint decision-making for protected area management, requires an equitable partnership between aboriginals and government. To create a strong and equitable partnership, it is necessary to concentrate on the construct of the partnership and the process at which decisions are made. Good governance provides a framework within which to review the strength of the co-management agreement and endeavour to strengthen, the interactions of all involved. The characteristics of good governance: participation, accountability, transparency, consensus decision-making, inclusiveness, and legitimacy are used as benchmarks by the author to determine the ongoing effectiveness of the co-management agreements for the joint management for Uluru – Kata Tjuta National Park and the Gwaii Haanas National Park Reserve and Haida Heritage Site.

⁵⁹ Capacities to organize, initiate, and implement the agreement negotiation process. Many things such as socio—economic impediments and breakdown of traditional governance, can hinder capacity.

The relevant literature, analysis of the agreements and the plans of management, and research supports that the implementation of joint management, at Gwaii Haanas National Park Reserve and Uluru - Kata Tjuta National Park, has been effective in providing a framework for consensus decision-making and aboriginal inclusiveness; more so than if no such framework had been implemented. Further, the agreements have contributed to the management of the parks and have ensured protection of the environment and protection of aboriginal culture, heritage, and ways of life. Nonetheless, the author concludes that improvements could be made to the management of the parks to increase the value placed on aboriginal perspective on park management and the level of aboriginal participation.

Aboriginal involvement was evaluated based on evaluation of the co-management agreements and plans of management and the research responses concerning the extent to which aboriginal perspectives on land, environment, and economic development were incorporated into the management of the two parks. The degree to which the characteristics of good governance were incorporated into the agreements and plans of management, provided a reference point with which to judge effectiveness of the co-management models. Additionally, the current management of the parks was compared to the original intent of the co-management agreements to see if the on-going implementation reflected the original intent.

Self-determination is obviously strengthened by the level of authority and decision-making power aboriginals have over land and natural resources, services, program delivery and finances. Thus, land rights and sovereignty strengthen one's position to make decisions about protected areas. Land ownership is one specific demonstrable difference between the co-management agreements in Canada and Australia and is one element that makes Uluru - Kata Tjuta National Park unique. The land lease – back arrangement in the Northern Territory, Australia is important in that it provides clear title for land and resources to traditional owners, providing aboriginal majority on the park's management board thus ensuring decision-making power. Aboriginal title is vital to the co-management agreement and plan of management of Uluru - Kata Tjuta National Park. Gwaii Haanas National Park Reserve and Haida Heritage Site's co-management agreement's strength stems from the uniqueness of its nation to nation signatories and their willingness to work together for the protection of the area, in spite of diverging points of view regarding sovereignty and land title.

The levels to which co-management agreements are situated correlate to the degree of distribution of resource management authority to aboriginal groups. To achieve the full benefits of equality in power distribution, co-management at the highest level should be negotiated either within or as part of land claims agreement⁶⁰ or as part of a

⁶⁰ Negotiated as part of land claim settlement, as in the instance of the 1984 Inuvialuit Final Agreement, or negotiated after a land claim settlement, according to the process set forth within the settlement itself, as with the Nunavut Final Agreement.

land title transfer to traditional owners, as is the case with Uluru - Kata Tjuta⁶¹. The Gwaii Haanas Agreement, although not part of a land claim negotiation, may be viewed as an interim measure in aboriginal decision-making about land and natural resources before a land claim resolution⁶². The Gwaii Haanas Agreement is significant in that it provides the Haida with joint decision-making for land and natural resource management. Nonetheless the government-aboriginal partnership can be complicated with the question of sovereignty and depending on the circumstance, it may take precedent over concern for the management of land and resources.

Furthering that argument, the ability for participants to bargain in any negotiating situation is dependent upon the use of power within that relationship. To have equal power, both sides must have the authority to walk away (unconditionally terminate the process) (Fisher and Ury, 1991: 106). In the circumstance of co-management of protected areas the greater the transfer of control over land and resources and /or the established rights to land and resources to traditional owners, the stronger the partnership.

⁶¹ Other examples of land title of national parks held by traditional owners include Booderee National Park and Botanic Gardens and Kakadu National Park in Australia.

⁶² Council of the Haida Nation is currently in Stage 2 of the 6-stage treaty process to negotiate a treaty with Canada and British Columbia (BC Treaty Commission, 2005b).

Works Cited

- Aboriginal and Torres Strait Islander Commission. *Land: Native Title*. Retrieved May 29, 2005 from the ATSIIC website: http://www.atsic.gov.au/issues/land/native_title/Default.asp.
- Aboriginal Land Rights (Northern Territory) Act 1976*. Retrieved April 21, 2005 from the Australasian Legal Information Institute website: http://www.austlii.edu.au/au/legis/cth/consol_act/alrta1976444/.
- Anderson, R.B. 1999. "Aboriginal Economic Development". In *Concepts, Techniques and Principles for CED Practice: Community Economic Development 401-4 Course Reader*. Comp. Markey, Sean. Vancouver: Simon Fraser University.
- Archipelago Management Board. 1999. *Gwaii Haanas Backcountry Management Plan*. Canada: Parks Canada.
- Archipelago Management Board. 2002. *Gwaii Haanas National Park Reserve and Haida Heritage Site Management Plan for the Terrestrial Area*. Canada: Parks Canada.
- Armitage, A. 1995. *Comparing the Policy of Aboriginal Assimilation: Australia, Canada, New Zealand*. Vancouver: University of British Columbia Press.
- Arnstein, Sheri. 1969. "A Ladder of Citizen Participation". *Journal of the American Institute of Planners* 35(4): 216-224.
- Australian Museum. 2004. *Indigenous Australia: Timeline – Contact 1901 –1969*. Retrieved May 12, 2005, from the Australian Museum website: <http://www.dreamtime.net.au/indigenous/timeline3.cfm>.
- Baker, Richard. 2003. Untitled document. The Australian National University: School of Resources, Environment and Society: Retrieved January 31, 2002, from the ANU website: http://sres-resources.anu.edu.au/open/GEOG3028/2003%20lectures/indigenous_files/v3_document.htm.
- Baker, R.M., Davies J. and Young, E. 2001a. "Managing Country: An Overview of the Prime Issues" In *Working on Country: Contemporary Indigenous Management of Australia's Lands and Coastal Regions*. eds. Baker, R.M., Davies J. and Young, E. Melbourne: Oxford University Press.

- Baker, R.M., Davies J. and Young, E. 2001b. "Introduction to Part II: Approaches to Managing Country" In *Working on Country: Contemporary Indigenous Management of Australia's Lands and Coastal Regions*. eds. Baker, R.M., Davies J. and Young, E. Melbourne: Oxford University Press.
- Baker, R.M., Davies J. and Young, E. 2001c. "Working on Country: Listening, Sharing, and Providing Practical Support" In *Working on Country: Contemporary Indigenous Management of Australia's Lands and Coastal Regions*. eds. Baker, R.M., Davies J. and Young, E. Melbourne: Oxford University Press.
- Baker, R.M., Davies J. and Young, E. 2001d. "Introduction to Part III: Sharing Knowledge" In *Working on Country: Contemporary Indigenous Management of Australia's Lands and Coastal Regions*. eds. Baker, R.M., Davies J. and Young, E. Melbourne: Oxford University Press.
- Beaufort-Delta Self-Government. 2003. *Who are the Inuvialuit?*. Retrieved May 12, 2005, from the Beaufort-Delta Self-Government website: <http://www.beaudselfgov.org/inuvialuit.html>.
- Berg, L., Fenge, T. and P. Dearden. 1993. "The Role of Aboriginal Peoples in National Park Designation, Planning, and Management in Canada." In *Parks and Protected Areas in Canada*. eds. Phillip Dearden and Rick Rollins. Toronto: Oxford University Press.
- Berkes, F. 1994. "Co-management: Bridging the Two Solitudes". *Northern Perspectives* 22 (2-3 Summer/Fall 1994): 18-20.
- Berkes, F. 1998. IASCP Presidential address. "Dialogues of the commons: Emerging directions for jointly used natural resources". *Common Property Resource Digest* 46: 17-20.
- Berkes, F. 1999. *Sacred Ecology: Traditional Ecological Knowledge and Resource Management*. Philadelphia, USA. Taylor and Frances.
- Berkes, Fikret, Peter George and Richard J. Preston. 1991. "Co-management: the evolution in Theory and Practice of the Joint Administration of Living Resources." *Alternatives* 18 (2 September/October 1991): 12-18.
- Blauner, Robert, "Internal colonization and Ghetto Revolt," *Social Problem*, Spring, 1969: 393-408.
- Brennan, Frank. 1995. *one land, one nation: Mabo – towards 2001*. St. Lucia: University of Queensland Press.

- British Columbia Treaty Commission. 2005a. *About Us*. Retrieved June 9, 2005, from the BC Treaty Commission website: http://www.bctreaty.net/files_3/aboutus.html.
- British Columbia Treaty Commission. 2005b. *Six-Stage Treaty Process*. Retrieved June 9, 2005, from the BC Treaty Commission website: http://www.bctreaty.net/files_3/sixstages-intro.html.
- British Columbia Treaty Negotiations Office. 2001: Retrieved March 18, 2005, from the BC Treaty Negotiations Office website <http://www.prov.gov.bc.ca/tno/>.
- Canada National Parks Act 2000 c.32 (CA)*. Retrieved March 20 2003, from the Department of Justice Canada website: <http://laws.justice.gc.ca/en/n-14.01/18650.html>.
- Canadian International Development Agency. 2002. *Good Governance*. Retrieved May 12, 2003, from the CIDA website: http://www.acdi-cida.gc.ca/cida_ind.nsf/0/120E9700965D51CE85256919006BF1E5?OpenDocument.
- Canadian Museum of Civilisation. 2001. *Prehistory of Haida Gwaii*. Retrieved December 12, 2003, from the Civilization.ca website: <http://www.civilization.ca/aborig/haida/happr01e.html>.
- Central Land Council Northern Territory. 2003a. *Our History*. Retrieved April 29, 2005, from the CLC website: <http://www.clc.org.au/aboutus/ourhistory.asp>.
- Central Land Council Northern Territory. 2003b. *The Land Is Always Alive: The Story of the Central Land Council*. Retrieved April 29, 2005, from the CLC website: <http://www.clc.org.au/media/landalive.asp>.
- Clutterbuck, P and Marvyn Novick. 2003. *Building Inclusive Communities: Cross-Canada Perspectives and Strategies*. Retrieved November 11, 2004, from the Federation of Canadian Municipalities website: <http://www.fcm.ca/newfcm/Java/inclusive.pdf>.
- Commonwealth of Australia. 2005. *Native Title Application NT Search Results*. Retrieved May 01, 2005, from the National Native Title Tribunal website: <http://www.nntt.gov.au/cgi-bin/search/search.pl>.
- Dearden, Philip, 1989. "Wilderness and Our Common Future" *Natural Resources Journal* 29 (Winter 1989): 205-221.

- Department of Environment and Heritage Australia. 2005a. *Environment Protection and Biodiversity Conservation Act*. Retrieved June 21, 2005, from the DEH website: <http://www.deh.gov.au/epbc/index.html>.
- Department of Environment and Heritage Australia. 2005b. *Joint Management*. Retrieved June 30, 2005, from the DEH website: <http://www.deh.gov.au/parks/uluru/management.html>.
- Department of Environment and Heritage Australia. 2005c. *Uluru – Kata Tjuta Cultural Centre*. Retrieved June 29, 2005, from the DEH website: <http://www.deh.gov.au/parks/uluru/vis-info/cultural-centre.html>.
- Dickerson, Mark, 1992. *Whose North? Political Change, Political Development, and Self-Government in the Northwest Territories*. Vancouver: UBC Press and the Arctic Institute of North America.
- Eagles, Paul F.J.. 1993. "Parks Legislation in Canada". In *Parks and Protected Areas in Canada*. eds. Phillip Dearden and Rick Rollins. Toronto: Oxford University Press.
- Environment Canada, 2000. *Canadian Biodiversity Strategy*. Retrieved May 20 2005, from Environment Canada's Ecological Monitoring and Assessment Network website: http://www.eman-rese.ca/eman/reports/publications/rt_biostrat/cbs28.htm.
- Environment Protection and Biodiversity Conservation Act 1976*. Retrieved June 21, 2005 from the Australian Government Attorney-General's Department - Australian Law Online website: <http://scaleplus.law.gov.au/html/pasteact/3/3295/0/PA000090.htm>
- Fisher, R and W. Ury. 1991. *Getting to Yes: Negotiating Agreement Without Giving In*. New York: Penguin Books
- Frideres J. and R. Gadacz. 2001. *Aboriginal Peoples in Canada: Contemporary Conflicts*. Toronto: Prentice Hall.
- Folke, Carl. 2004. "Traditional knowledge in social-ecological systems". *Ecology and Society* 9 (3) Article 7. Retrieved May 20 2005, from the Ecology and Society website: <http://www.ecologyandsociety.org/vol9/iss3/art7/>.
- Foster, Hamar.1999. "Canada 'Indian Administration' from the Royal Proclamation of 1763 to Constitutionally Entrenched Aboriginal Rights" in *Indigenous Peoples'*

- Rights in Australia, Canada and New Zealand*. ed. Paul Havemann. Auckland: Oxford University Press.
- Fox, Justice R. W. 1997. *Ranger Uranium Environmental Inquiry: Second Report*. Canberra: Ranger Inquiry, Government of Australia.
- Gardiner-Garden, John. 2000. *The Definition of Aboriginality*. Retrieved May 15, 2003, from the Parliament of Australia Parliamentary Library website: <http://www.aph.gov.au/library/pubs/rn/2000-01/01RN18.htm>.
- Government of Canada and the Council of the Haida Nation. 1993. *Gwaii Haanas Agreement*. Retrieved March 10, 2003, from the Parks Canada website: http://parksCanada.pch.gc.ca/pn-np/bc/gwaiihaanas/plan/plan2a_E.asp.
- Grenier, L. 1998. "Aboriginal Economic Development". In *Concepts, Techniques and Principles for CED Practice: Community Economic Development 401-4 Course Reader*. comp. Markey, Sean. Vancouver: Simon Fraser University.
- Grounds, Richard, George Tinker, and David Wilkins. 2003. *Native Voices: American Indian Identity and Resistance*. Lawrence: University Press of Kansas.
- Havemann, Paul. 1999. "Indigenous Peoples, the state and the Challenge of Differentiated Citizenship: A Formative Conclusion" in *Indigenous Peoples' Rights in Australia, Canada and New Zealand*. ed. Paul Havemann. Auckland: Oxford University Press.
- Hobson, George. 1992. "Traditional Knowledge is Science" In *Northern Perspectives* 20:1 (summer 1992). Retrieved March 10, 2003, from the Canadian Artic Resources Committee website: <http://www.carc.org/pubs/v20no1/science.htm>.
- Howitt, Richard. 2001. *Aboriginal Social Impact Issues in the Kakadu Region*. (prepared for the Kakadu Region Social Impact Study & Northern Land Council) Sydney: Human Geography School of Earth Sciences, Macquarie University.
- Indian and Northern Affairs Canada. 2004. *Aboriginal Rights are Based in History*. Retrieved May 12, 2005, from the AINC-INAC website: http://www.ainc-inac.gc.ca/pr/info/abr_e.html.
- Inuvialuit Regional Corporation. 2003. *Inuvialuit Final Agreement*. Retrieved March 20, 2005, from the IRC website: <http://www.irc.inuvialuit.com/inuvialuit/irc-website.nsf/AllDoc/DB8A2D453631CC4E87256DEC0074E630?OpenDocument>

- Jentoft, S. 1999. "Legitimacy and Disappointment in Fisheries Management". *Marine Policy* 24: 141-148.
- Kenny, S. 2002. "Tensions and Dilemmas in Community Development: New Discourses, New Trojans". In *Concepts, Techniques and Principles for CED Practice: Community Economic Development 401-4 Course Reader*. comp. Markey, Sean. Vancouver: Simon Fraser University.
- Knudson, Daniel. 1997. "Response: what works best? Reflections on the role of theory in planning" *Economic Development Quarterly*. 11 (3): 208-212.
- Library and Archives Canada. 2005. *Canadian Confederation: Nunavut*. Retrieved May 16, 2005, from the Library and Archives Canada website: <http://www.collectionscanada.ca/confederation/023001-2275-e.html#c>.
- Liddle, Lynette. 2001. "Bridging the Communication Gap: Transferring Information between Scientists and Aboriginal Land Managers". In *Working on Country: Contemporary Indigenous Management of Australia's Lands and Coastal Regions*. eds. Baker, R.M., Davies J. and Young, E. Melbourne: Oxford University Press.
- Lowry, K., Peter Adler, and Neal Milner. "Participating the Public: Group Process, Politics and Planning". *Journal of Planning Education and Research*. 16: 177-187.
- Marschall, Miklos. 2002. *Legitimacy and Effectiveness: Civil Society Organizations' Role in Good Governance*. Retrieved June 2, 2005, from the Global Policy Forum website <http://www.globalpolicy.org/ngos/credib/2003/0529legit.htm>.
- Memmott, Paul. 1983. "Social Structure and Use of Space Amongst the Lardil". In *Aborigines, Land and Land Rights*. eds. Nicolas Peterson and Marcia Langton. Canberra: Australian Institute of Aboriginal Studies.
- Minister of Indian Affairs and Northern Development. 1997. *Gathering Strength-Canada's Aboriginal Action Plan*. Ottawa: Minister of Public Works and Government Services Canada.
- Monture-Angus, P. 2000. "Lessons in Decolonization: Aboriginal Overrepresentation in Canadian Criminal Justice". In *Visions of the Heart: Canadian Aboriginal Issues*, eds. David Long and Olive Dickason. Toronto: Harcourt Canada.
- Morris, Glenn. 2003. "Vine Deloria, Jr., and the Development of a Decolonizing Critique of Indigenous Peoples and International Relations". In *Native Voices*

- American Indian Identity and Resistance*. eds. Richard Grounds, George Tinker, and David Wilkins. Lawrence. Kansas City: University Press of Kansas.
- Moss, Wendy. 1989. *Indian Self-government*. Ottawa: Library of Parliament Research Branch.
- National Native Title Tribunal. 2002. *What's the Difference Between Native Title and Land Rights?* Retrieved March 10, 2005, from the NNTT website: http://www.nntt.gov.au/publications/1021616069_19692.html.
- National Native Title Tribunal. 2004. *What does the National Native Title Tribunal Do?* Retrieved March 10, 2005, from the NNTT website: http://www.nntt.gov.au/publications/1021885116_19522.html.
- Notzke, C. 1995. A New Perspective in Aboriginal Natural Resource Management: Co-management. *Geoforum* 26(2): 187 - 209.
- Palmer, Ian. 1988. *Buying Back the Land: Organisational Struggle and the Aboriginal Land Fund Commission*. Canberra: Aboriginal Studies Press.
- Parks Canada. 2003a: *Parks Canada Guiding Principles and Operational Policies*. Retrieved January 04, 2004, from the Parks Canada website: http://www.pc.gc.ca/docs/pc/poli/princip/part1/part1c_E.asp.
- Parks Canada. 2003b. *Park Management: Agreements*. Retrieved July 20, 2003, from the Parks Canada website: http://www.pc.gc.ca/pn-np/bc/gwaiihaanas/plan/plan2_E.asp.
- Parks Canada. 2003c. *Proposed Gwaii Haanas National Marine Conservation Area Reserve*. Retrieved June 10, 2005, from the Parks Canada website: http://www.pc.gc.ca/pn-np/bc/gwaiihaanas/natcul/natcul4_E.asp.
- Parks Canada. 2004. *Parks Canada Agency Annual Report 2003 – 2004*. Retrieved June 10, 2005, from the Parks Canada website: <http://www.austlii.edu.au/au/other/IndigLRes/1998/3/4.html>.
- Parks Canada. 2005a. *Gwaii Haanas National Park Reserve and Haida Heritage Site*. Retrieved May 15, 2005, from the Parks Canada website: http://www.pc.gc.ca/pn-np/bc/gwaiihaanas/index_e.asp.
- Parks Canada. 2005b. *Learning Experiences: Haida Gwaii Watchmen*. Retrieved May 10, 2005, from the Parks Canada website: http://www.pc.gc.ca/pn-np/bc/gwaiihaanas/edu/index_e.asp.

- Parks Canada. 2005c. *Natural Wonders & Cultural Treasures: History of Gwaii Haanas*. Retrieved January 20, 2005, from the Parks Canada website: http://www.pc.gc.ca/pn-np/bc/gwaiihaanas/natcul/natcul1_E.asp.
- Pierre, J.B. and G. Peters. 2000. In *Governance, politics and the State*. eds. Pierre, J.B. and G. Peters. Basingstoke: Macmillan.
- Pinkerton, Evelyn. 1989. *Co-operative Management of Local Fisheries: New Directions for Improved Management and Community Development*. Vancouver: UBC Press.
- Pinkerton, Evelyn. 1992. "Overcoming Barriers to the Exercise of Co-management Rights". In *Growing Demands on a Shrinking Heritage: Managing Resource-Use Conflicts*. eds. Monique Ross and Owen Saunders. Calgary: Canadian Institute of Resources Law.
- Pitjantjatjara Land Rights Act 1981*. South Australian Consolidated Acts. Retrieved April 12, 2005 from the Australasian Legal Information Institute website: http://www.austlii.edu.au/au/legis/sa/consol_act/plra1981260/.
- Racial Discrimination Act 1975*. Retrieved April 21, 2005 from the Australian Government: Attorney-General's Department website: <http://scaleplus.law.gov.au/html/pasteact/0/47/0/PA000170.htm>.
- Robinson, Cathy. 1998a. *Local Indigenous Perspectives of Community and Co-Management Arrangements*. 7th Conference of the International Association for the Study of Common Property. Vancouver, Canada, June 1998.
- Robinson, Cathy. 1998b. "Marine Co-management Arrangements with Indigenous Peoples: Issues and Options". *Proceedings of the 2nd Joint Conference of the Institute of Australian Geographers and New Zealand Geographical Society*. Conference Series 19: 81-84.
- Robinson, Cathy and Nanikiya Munungguritj. 2001. "Sustainable Balance: A Yolngu Framework for Cross-cultural Collaborative Management" In *Working on Country: Contemporary Indigenous Management of Australia's Lands and Coastal Regions*. eds. Baker, R.M., Davies J. and Young, E. Melbourne: Oxford University Press.
- Rocha, Elizabeth. 1997. "A Ladder of Empowerment". *Journal of Planning Education and Research*. 17: 31-44.
- Royal Commission on Aboriginal Peoples. 1996a. *Report of the Royal Commission on Aboriginal Peoples – Appendix 4B Co-Management Agreements*. Ottawa: Canada

- Communication Group. Retrieved June 10, 2005, from the INAC website: http://www.ainc-inac.gc.ca/ch/rcap/sg/cha4b_e.pdf.
- Royal Commission on Aboriginal Peoples. 1996b. *Report of the Royal Commission on Aboriginal Peoples – Volume 1 Looking Forward Looking Back*. Ottawa: Canada Communication Group. Retrieved February 12, 2005 from the INAC website: http://www.ainc-inac.gc.ca/ch/rcap/sg/cg1_e.pdf.
- Royal Commission on Aboriginal Peoples. 1996c. *Report of the Royal Commission on Aboriginal Peoples – Volume 2: Part 2: Section 4 – Land and Resources*. Ottawa: Canada Communication Group. Retrieved June 10, 2005, from the INAC website: http://www.ainc-inac.gc.ca/ch/rcap/sg/shm4_e.html.
- Royal Commission on Aboriginal Peoples. 1996d. *Highlights from the report of the Royal Commission on Aboriginal Peoples: Looking Forward Looking Back*. Ottawa: Canada Communication Group. Retrieved November 4 2004, from the INAC website: http://www.ainc-inac.gc.ca/ch/rcap/rpt/index_e.html.
- Sadler, Barry. 1989. “National Parks, Wilderness Preservation, and native peoples in Northern Canada”. In *Wilderness: Past, Present, and Future* vol 29 (1 Winter 1989): 185-204.
- Scholtz, Christa. 2001. *Draft - Negotiating Claims: Comparing State Responses to Indigenous Land Claims in Australia, Canada, and New Zealand*. Retrieved May 28, 2005, from the Australian National University website: <http://eprints.anu.edu.au/archive/00001406/01/scholtzpaper.pdf>.
- Smith, Melvin. 2000. *Some Perspectives on the Origin and Meaning of Section 35 of the Constitution Act, 1982*. Vancouver: The Fraser Institute.
- Smyth: Dermot. 2001. *Joint management of National Parks in Australia*. Retrieved November 28, 2002, from the School of Resources, Environment and Society: The Australian National website: http://sres-resources.anu.edu.au/open/GEOG3028/2001%20lectures/joint_managment.htm.
- Soonias, Rodney. 1978 “History of the Indian Act: Part One” In *Saskatchewan Indian* 8 (3): 4. Retrieved from the Saskatchewan Indian website: <http://www.sicc.sk.ca/saskindian/a78mar04.htm>.
- Terry, John. 1995. *Aboriginal Self-Government in Canada: some recent developments in case law and policy*. Aborigines and the Law Session, Australasian Law Teachers Association, 50th Anniversary Conference Melbourne, Australia 1995: pp 147-158.

- Tonkinson, Robert and Howard, M. 1990. "Aboriginal Autonomy in Policy and Practice: an introduction". In *Going it Alone?: Prospects for Aboriginal Autonomy*. eds. Robert Tonkinson, and Michael Howard. Canberra: Aboriginal Studies Press.
- Treasury Board of Canada Secretariat. 2004. *Canada's Performance 2004: Section IV Aboriginal Peoples*. Retrieved May 9, 2005, from the TBS website: http://www.tbs-sct.gc.ca/report/govrev/04/cp-rc5_e.asp).
- Uluru- Kata Tjuta Board of Management and Parks Australia. 2000. *Uluru- Kata Tjuta National Park Plan of Management*. Australia: Commonwealth of Australia.
- Union of BC Indian Chiefs. 2005. *Historical Timeline: From 1700s to the Present*. Retrieved July 1, 2005, from the UBCIC website: <http://www.ubcic.bc.ca/Resources/timeline.htm>.
- United Nations Economic and Social Commission for Asia and the Pacific, 2004. *Human Settlements: What is Good Governance*. Retrieved November 28, 2004, from the UN ESCAP website: <http://www.unescap.org/huset/gg/governance.htm>.
- United Nations Educational Scientific and Cultural Organization. 2005a. *World Heritage*. Retrieved June 20, 2005, from the UNESCO website: <http://whc.unesco.org/en/about/>.
- United Nations Educational, Scientific and Cultural Organization. 2005b. *Biosphere Reserve Information: Australia, Uluru (Ayers Rock Mount Olga)*. Retrieved April 27, 2005, from the UNESCO website: <http://www2.unesco.org/mab/br/brdir/directory/biores.asp?code=AUL+06&mode=all>
- United Nations, Office of the High Commissioner for Human Rights. 2002. *Human Rights in Development: Good Governance*. Retrieved November 04, 2004, from the UN OHCHR website: <http://www.unhchr.ch/development/governance-01.html>.
- University of Melbourne, Indigenous Studies Program. 2004. *Agreement Making with Indigenous Peoples: Background Material*. Retrieved January 15, 2005, from the University of Melbourne's ATNS website: <http://www.atns.net.au/background.php>.
- University of Melbourne, Indigenous Studies Program, 2005. *The Mutitjulu Community Participation and Partnership Agreement*. Retrieved July 4, 2005 from the Agreements, Treaties and Negotiated Settlements Database website: <http://www.atns.net.au/biogs/A000435b.htm>.

- Virtual Museum of Canada. 2004a. *Haida Gwaii Sustaining the Links...* Retrieved April 13, 2005, from the Virtual Museum of Canada website: http://www.virtualmuseum.ca/Exhibitions/Inuit_Haida/haida/english/homeland/w2.html.
- Virtual Museum of Canada. 2004b. *Park Structures*. Retrieved April 13, 2005, from the Virtual Museum of Canada website: <http://www.virtualmuseum.ca/Exhibitions/Haida/java/english/gh/gh1.html>.
- Way, Frith and Simeon Beckett. 1998. *Governance Structures for Indigenous Australians on and off Native Titles Lands: Discussion Paper 4 – Land – Holding and Governance Structures under Australian Land Rights Legislation*: University of New South Wales Murdoch University. Retrieved April 8, 2005, from the Australasian Legal Information Institute website: <http://www.austlii.edu.au/au/other/IndigLRes/1998/3/4.html#Heading16>.
- Weaver, S. 1985. "Political Representivity and Indigenous Minorities in Canada And Australia" in *Indigenous Peoples and the Nation State: 'Fourth World' Politics in Canada, Australia and Norway*. ed. N. Dyck. St.John's: Memorial University of Newfoundland.
- Wikipedia. 2005a. *Kata Tjuta*. Retrieved June 30, 2005, from the Wikipedia website: http://en.wikipedia.org/wiki/Kata_Tjuta.
- Wikipedia. 2005b. *Uluru*. Retrieved June 30, 2005, from the Wikipedia website: <http://en.wikipedia.org/wiki/Uluru>.
- Wilkins, D. 2003. "From Time Immemorial: The Origin and Import of the Reserved Rights Doctrine" in *Native Voices American Indian Identity & Resistance*. eds. Richard Grounds, George Tinker, and David Wilkins. Kansas City: University Press of Kansas.
- The World Bank Group. 2001. *Indicators of Good Governance and Institutional Quality*. Retrieved September 14, 2004, from the World Bank website: <http://www1.worldbank.org/publicsector/indicators.htm>.

Appendix A – Timeline: Canada

Date	What	Purpose
1774	First Europeans to the Queen Charlotte Islands / Haida Gwaii	Encounter more than 30 Aboriginal tribal groups and hundreds of communities (INAC, 2004).
October 7, 1763	Royal Proclamation of King George III	Crown ‘reserved the lands west of the Appalachian height of land, as Indian Hunting Lands. Indian Nations governed the Proclamations Territory under their own laws. The Proclamation is the historical root of the treaty process in Canada and its designations of reserve land still take place, pursuant to the Indian Act.
1787	Queen Charlotte Islands named	By Captain George Dixon (Union of BC Indian Chiefs, 2005).
1774	First Europeans to the Queen Charlotte Islands / Haida Gwaii	Encounter more than 30 Aboriginal tribal groups and hundreds of communities (INAC, 2004)
1849	Vancouver Island made a colony	Hudson’s Bay Company in charge of land and settlement (INAC, 2004).
1850-1854	Douglas Treaties signed	First signed treaties with First Nations in British Columbia. Between fourteen First Nations on Vancouver Island and the Governor of the Colony.
1867	<i>Constitution Act</i>	Canada responsible for Indians and lands reserved for Indians.
1870	<i>British North America Act</i>	Province has control of lands (Union of BC Indian Chiefs, 2005).
1876	<i>Indian Act</i> enacted	Consolidation of legislation pertaining to aboriginals in Canada. Jurisdiction of all aspects of aboriginal lives.
1960’s	Canada’s assimilation policy	“White Paper” asserts aboriginal title does not exist. Federal government policy to seek total assimilation of aboriginals in Canada.
1973	Calder case	Recognizes land rights based on aboriginal title.
1974	Native Claims Office	INAC set up process to deal with

	established	aboriginal land claim submissions.
1974	“South Moresby Wilderness Area” proposal	Public proposal to protect the area from logging
1970-80’s	Haida Nation and Environmentalist lobbied for permanent protection of the area	Protect wilderness from commercial logging. (INAC, 2004).
1980	Haida Nation comprehensive claim	Land claim under the Canada’s Comprehensive claims process submitted by traditional Haida owners.
1981	Haida Nation established Haida Gwaii Watchmen program for the protection of significant sites	Due to increased demands on the area (tourists and logging) Management of own program as a means to protect significant cultural sites such as Ninstints village. (AMB, 2002: 2).
1981	SGang Gwaay designated a World Heritage Site	Located within Gwaii Haanas boundaries. The World Heritage List – recognizes that some places (natural or cultural) are of sufficient importance to be the responsibility of the international community as a whole (Parks Canada, 2004).
1982	<i>Canada’s Constitution Act</i>	Recognizes existing aboriginal and treaty rights.
1983	Haida Nation submitted a formal land claim to government of Canada	Claim based on unextinguished Aboriginal title to traditional lands (RCAP, 1996a).
1985	Haida designated Gwaii Haanas a Haida Heritage Site	Designation in response to protect ‘claimed’ area against continued logging. (Parks Canada, 2004).
1987	Memorandum of understanding signed between the federal and provincial governments	To turn the area into a national park reserve. Haida Nation was not party to the agreement as they were unwilling to participate in park management in an advisory capacity (ibid).
1988	Gwaii Haanas National Park Reserve of Canada established	South Moresby Agreement signed between the governments of Canada and British Columbia for the development of a park reserve for both marine and terrestrial areas (Parks Canada 2003b).
1991	Royal Commission on	Four years of research to examine the

	Aboriginal People established	relationship between Canada and aboriginals. Report released in 1996.
1992	BC Treaty Process Implemented	Tri-partite 6- step treaty process (BC Treaty Commission, 2005b).
January 30, 1993	Gwaii Haanas Agreement signed	Formalized a mutual commitment to protect Gwaii Haanas and to respect both Canadian and Haida interests and designations (National Park Reserve / Haida Heritage Village).
February 1996	Draft strategic management plan introduced	Document to provide a broad framework for evaluating acceptable activities in Gwaii Haanas that do not interfere with its “wilderness state” (AMB, 1999: 2).
1997	Delgamuukw case	Aboriginal title upheld. Outlines the Crown's responsibility to demonstrate a compelling reason to infringe upon aboriginal title, and must consult with aboriginal group prior to acting, and in some cases provide compensation (INAC, 2004).
1999	Nunavut Land Claim	Largest aboriginal land claim settlement in Canada.
2000	<i>Canada's National Park Act</i>	National parks of Canada are dedicated to the people of Canada for their benefit, education and enjoyment, subject to the Act and regulations. (Canada National Park Act, 2000).
July 1, 2002	Gwaii Haanas National Park Reserve Management Plan for Terrestrial Area	Current plan of management implemented. Its duration is 15 years and under Canada's National Parks Act 2000, is to be reviewed every 5 years AMB, 2002: 33).

Appendix B - Timeline: Australia

Date	What	Purpose
1870's	First Europeans to the area now known as Uluru Kata Tjuta National Park	Explorers Ernest Giles and William Gosse visited the area and named 'Ayers Rock' and the Olgas' after political figures of the time (UBM, 2000: 5).
1920's	Great Central Reserves, declared as a sanctuary for nomadic people	Declaration by Commonwealth, South Australia and Western Australia governments. Notwithstanding the declaration, small numbers of mining prospectors continued visiting. (UBM, 2000: 7).
1936	First tourists to area	
1948	First vehicular track to Uluru constructed	In response to increased tourist demand. Throughout the 50's, a tour bus service started up and several hotels and an airstrip were constructed.
1958	Ayers Rock – Mt. Olga National Park Created	The Park was created in response to pressures to support increased tourism and tourism enterprises. Land was excised from the Petermann Aboriginal Reserve to create the Park, and the Northern Territory Reserves Board managed it.
1960's	Assimilation policy	Government assimilation policies encourage nomadic people to move to specific Aboriginal settlements established by welfare authorities and Anangu discouraged from visiting the Park. (UBM, 2000: 7).
1967	National Referendum	91% of Australians voted "Yes" to amend the constitution to giving the Federal Government the power to make special laws on Aboriginal affairs, which could supersede any state legislation (Central Land Council, 2003a).
1972	Ininti Store established in the Park	Welfare policies changed in early 1970's to encourage Aboriginal economic self-sufficiency. The Ininti Store, on lease within the Park, offered supplies and services to tourists and was the origin of a permanent Anangu community in the

		Park.
1973	Federal Government established Aboriginal Land Rights Commission	Commonwealth government decided to set a precedent in the Commonwealth controlled Northern Territory, prior to pursuing a national land rights law. The Commission, headed by Commissioner Woodward, was established to identify how Aboriginal land rights could be achieved in NT (Way & Beckett, 1998: Heading 16) two regional Aboriginal land councils (a Central and a Northern Land Council) be established to for ascertain an Aboriginal peoples' perspective.
June 1974	First meeting of the Central Land Council (CLC)	The CLC is an elected Aboriginal body representing all Aboriginal people in the southern part of the NT. The CLC area is roughly 776, 000 sq km, of which approximately half is Aboriginal Land. The CLC is comprised of 9 regions that are based on language and cultural boundaries (Central Land Council, 2003a).
1975	Yulara created	Due to the makeshift tourist infrastructure built at the base of Uluru, since the 1950's, it was decided to remove all tourist facilities and relocate them outside of the park. Yulara town site was developed as a tourist facility (hotels, restaurants, shops and airport). The reservation is 104 square kilometres of land just outside the northern park boundary (UBM, 2000: 7).
1975	The Aboriginal Land (Northern Territory) Bill 1975 introduced	Proposed commonwealth legislation to give Aboriginal land ownership rights (rights - as per parliamentary law) (Way & Beckett, 1998: Heading 16). Change of government in 1975 brought in a new conservative government and similar legislation under the new leadership was introduced in 1976
1975	Creation of the National Parks and Wildlife Conservation Act 1975	Provisions under the Act apply to, the now co-managed, Uluru Kata - Tjuta National Park (Way & Beckett, 1998: Heading 22).

January 26, 1977	Aboriginal Land Rights (Northern Territory) Act 1976 became law	Commonwealth legislation that gave title of a majority of the Aboriginal reserve lands in the NT to Aboriginal people. It provides a mechanism that allows Aboriginal People in the Northern Territory to claim additional land not already owned, leased or being used by someone else (Central Land Council, 2003b). The mechanism is in addition to rights Aboriginal people may have as native titleholders under the Native Title Act 1993. (Way & Beckett, 1998).
May 24, 1977	Uluru (Ayers Rock-Mount Olga) National Park	It was the first Park area declared under the National Parks and Wildlife Conservation Act 1975. Park area is approximately 132, 500 hectares and includes subsoil to 1, 000 metres depth. The declaration transferred ownership of the Uluru (Ayers Rock-Mount Olga) National Park to the Director of the National Parks and Wildlife Service and thus, ceased being crown land. Consequently, preventing traditional owners from claiming land under the Aboriginal Land Rights (Northern Territory) Act 1976 (Central Land Council, 2003b).
1977	The Park recognized as a Biosphere Reserve	Reserve designation as part of UNESCO's Man and the Biosphere Program and covers 132, 550 hectares. Biosphere Reserves are intended to fulfil a conservation function (conservation of landscapes, ecosystems, species and genetic variation); a development function (support economic and human development that is socio-culturally and ecologically sustainable); and a logistic function (support research, education and information exchange). (UNESCO, 2005b).
July 1978	Northern Territory is granted self-	

	government	
February 1979	Claim lodged under the Aboriginal Land Rights (NT) Act 1976 for area that included the park	Initiated by the Central Land Council on behalf of the traditional owners ⁶³ . The judge concluded that there were traditional owners for the Park but that they could not claim the land as it had ceased to be unalienated Crown land upon the Park designation in 1977 under the National Parks and Wildlife Conservation Act (UBM, 2000: 8).
September 1979	Aboriginal Sacred Sites Act 1979 (NT) passed into law	This Act established the Aboriginal Sacred Sites Protection Authority and places protection of sacred sites under Commonwealth control.
1979-1983	Negotiations about the Park continued between Anangu and Commonwealth Government	After the Park was established as a National Park, tensions between the Commonwealth government and Anangu continued. Anangu advocated for joint management and were in disagreement with the Commonwealth government proposal to establish an advisory committee for Anangu to make recommendations on park management (UBM, 2000: 9).
1979-1983	Negotiations about the Park continued between Anangu and Northern Territory Government	The NT Government wanted title transferred from the Commonwealth to the NT Government which would give some reduced form of title to the traditional owners with Aboriginal people involved in the management of the park, but not in control (Central Land Council, 2003b). The Northern Territory Government also proposed amendments to the Aboriginal Land Rights (NT) Act 1976 that argued against the basic

⁶³ Legislation defined traditional owner as “an Aboriginal person who has, in accordance with Aboriginal tradition, social, economic and spiritual affiliations with, and responsibilities for, the lands or any part of them”.

		principles of the Act, by restricting claims (i.e. – dismissing traditional owner claims for lands within national parks) and the ability for Aboriginals to apply for living areas on pastoral leases. The Commonwealth did not accept the proposed amendments. (Central Land Council, 2003b).
1981	Creation of the Pitjantjatjara Land Rights Act 1981 (SA)	Legislation influencing Aboriginal Land Claims elsewhere in Australia, note that SA is very close to Uluru – Kata Tjuta National Park and before European established boundary Pitjantjatjara (language group) people made use of the land. First negotiated land rights settlement in Australia. Land rights given to some of the Pitjantjatjara peoples, although legislation does not cover the majority of peoples. The Act vested ownership into a corporate body, the Anangu Pitjantjatjara. It is comprised of all traditional owners in the area with the daily administration of the lands under an Executive Board of the corporate body (Way & Beckett, 1998: Heading36).
November 1983	Commonwealth Government announced it would amend the Aboriginal Land Rights (Northern Territory) Act 1976	The amendment to the Act to return title of Uluru – Kata Tjuta National Park back to traditional owners. This announcement was after several years of negotiation between traditional owners (through the CLC) and the Commonwealth and NT Governments. Traditional owners
June 1984	The Aboriginal and Torres Strait Islander Heritage (Interim Protection) Act 1984 passed into law	Commonwealth legislation to protect sites and objects of traditional significance. Its primary role was to intervene when state and territorial legislation falls short. It was to be a stopgap until a comprehensive land rights and heritage protection legislation could replace it (Central Land Council, 2003b).
1984	Yulara Resort opened	Motels and campground at the base of Uluru closed coinciding with the opening of Yulara resort.

October 21, 1985	Additional 16 hectares added to Park area	
October, 26, 1985	Uluru-Kata Tjuta National Park title granted to the Uluru-Katatjuta Aboriginal Land Trust	In exchange, the Anangu (traditional owners) immediately leased the lands back to the Director of National Parks and Wildlife Service on a 99-year term lease managed by an Anangu majority Board of Management. (UBM, 2000: 9).
December 10, 1985	First Joint Management Board Established	Under the current plan of management (2000) the Board is comprised of six Aboriginal persons (nominated by traditional owners), the Director of National Parks and Wildlife, a representative of the Minister for Environment, a representative of the minister of Tourism and a scientist experienced in arid land ecology and management (UBM, 2000: xxii).
June 1986	The <i>Aboriginal and Torres Strait Islander Heritage Act 1984</i> is amended	The term Interim Protection” removed from the title and the 2 – year ‘sunset clause’ removed and the national Act remains in place. The CLC and other Aboriginal organizations are disappointed that the Act still leaves the protection of sacred sites up to ministerial discretion rather than mandatory. (Central Land Council, 2003b). In the NT a committee is established to make recommendations regarding NT legislation to protect Aboriginal sacred / significant areas. Note, no Aboriginal people are on the committee.
1986	Day to day management of the Park changed over to staff of the Australian National Parks and Wildlife Service	The change over resulted from ongoing opposition by the NT government to the new management arrangements established for the park. So day-to-day operations changed from the Conservative Commission Northern Territory to the Commonwealth government. (UBM, 2000: 9).
June 1987	The <i>Aboriginal Land Rights (NT) Amendment Act 1987</i>	Changes include a deadline for land claims to be lodged prior to June 1997 and a one year negotiation limit for

	passed into law	applications. (Central Land Council, 2003b).
November 1989	The <i>Aboriginal and Torres Strait Islanders Commission (ATSIC) Act</i> is passed into law	Establishes a national elected representative structure for Commonwealth Aboriginal Affairs and was passed in spite of the NT Government objections. (Central Land Council, 2003b).
1992	The <i>Pastoral Land Act 1992</i> (NT) passed into law	Allows for Aboriginal people in the Northern Territory to acquire land as an excision from a pastoral lease.
1993	The Park's official name changed to Uluru – Kata Tjuta National Park	On bequest of Anangu and the Board of Management (UBM, 2000: 9).
December 1993	The <i>Native Title Act 1993</i> passed into legislation	Legislation recognizes the existence of Aboriginal's common law right to ownership of their traditional country. One of the key elements is it gives Native title the same protection against seizure without compensation that freehold title has (Central Land Council, 2003b). Complex legislation establishes tribunals to: resolve which land is subject to native title according to non-Indigenous law, protects native title and regulates land use agreements and access to native title lands (including resource development). (Way & Beckett, 1998: Heading 36).
1994	The National Native Title Tribunal (NNTT) established	As a result of the <i>Native Title Act 1993</i> the NNTT was set up to mediate native claims under the direction of the Federal Court of Australia (Commonwealth of Australia, 2005).
1994	The Park became a World Heritage Site	On the United Nations World Heritage List for both its natural and cultural heritage (UBM, 2000: 9).
December 6, 1997	Native title claim initiated by traditional owners for Yulara town site with the National Native Title Tribunal.	Traditional owners, in response to their continued dissatisfaction with their level of participation and influence over the tourist industry, instructed the Central Land Council (see 1974) to make a claim, on their behalf, for the Yulara town site

		with the NNTT (see 1994). Note to date no decision as been decided, compensation claim is still active (Commonwealth of Australia 2005).
1998	<i>Review of the Aboriginal Land Rights Act</i>	Numerous and significant changes to the existing Native Title Act are recommended in the Reeves Report. Critics of the changes have raised concern about reduction in autonomy and disruption to traditional Aboriginal authority systems. (Way & Beckett, 1998: Heading 20). Note no action has been taken to date.
July 2000	<i>Environment Protection and Biodiversity Conservation Act 1999</i> (EPBC)	Replaced the <i>National Parks and Wildlife Conservation Act 1975</i> and the <i>Environment Protection (Impact of Proposals) Act 1974</i> , <i>Endangered Species Protection Act 1992</i> , and the <i>World Heritage Properties Conservation Act 1983</i> all which are relevant to the Park and the Plan. This Act is now the legal basis for the joint management of the Park. The EPBC Act is the primary Commonwealth legislation for managing protected areas. A section in the Act allows for a representative of the NT Government to sit on the Park Board of Management in consultation with traditional landowners and this has been controversial.
2000	Uluru – Kaṯa Tjuta National Park Plan of Management	Fourth Plan of Management to be prepared by the Uluru – Kaṯa Tjuta Board of Management and the Director of National Parks, in accordance with the provisions of the National Parks and Wildlife Conservation Act 1975 under which the Park was created. Existing provisions for the management of the Park will continue under the EPBC Act 1999. As well, some additional requirements and variations as per requirements of the Act have been incorporated into the fourth Plan of Management. Parks Australia is a

		division of the Department of the Environment and Heritage (formerly known as Australian National Parks and Wildlife Service).
--	--	--

Appendix C -Questionnaire

Survey of Co-management Practice in National Parks

Researcher: Karen Lesley Sadler

Partnership Development

1. In the last 10 years since the co-management agreement of this park has been in place, how has decision-making, in relation to the following arenas, changed?

	Much more complex	Somewhat more complex	Little/no change	Somewhat less complex	Much less complex
Environmental	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Social	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Cultural	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Economic	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

2. In the last 10 years since the co-management agreement of this park has been in place, how has two-way communication between traditional owners and the park authorities, in the following arenas, changed?

	Dramatically increased communication	Increased communication	Little/no change	Decreased communication	Dramatically decreased communication
Environmental	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Social impacts	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Cultural	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Economic	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Aboriginal Community

3. a) In the 10 years since the co-management agreement of this park has been in place has capacity building (knowledge and skill transfer, development of community's ability to solve own problems) changed? (Choose one.)

- Greatly increased
 Somewhat increased
 Relatively little/no change

- Somewhat decreased
- Greatly decreased

b) If you answered Greatly increased or Somewhat increased please provide one example.

4. a) Does the co-management agreement of this park provide economic benefits for traditional owners beyond those identified in the co-management agreement?

- Yes No Do not know

b) If you answered Yes please provide one example.

5. a) In the 10 years since the co-management agreement of this park has been in place have job opportunities for traditional owners within the park changed?

	Significant increase in job opportunities	Increase in job opportunities	Little/no change	Decrease in job opportunities	Decreased job opportunities
Management	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Park Rangers	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Facilities maintenance	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Scientific/Traditional					
Ecological research / consultation	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Tour operators	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Cultural	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Retail	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

b) If management opportunities have increased, please list positions held by traditional owners.

6. a) In the 10 years since the co-management agreement of this park has been in place has participation in operational decisions by traditional owners changed? (Chose one.)

- Greatly increased
- Somewhat increased
- Relatively little/no change
- Somewhat decreased

- Greatly decreased

b) Please provide one example of how participation has changed, be it increased or decreased.

7. In the 10 years since the co-management agreement of this park has been in place has transparency (decisions are open and information is accessible to those impacted) changed? (Chose one.)

- Greatly increased
- Somewhat increased
- Relatively little/no change
- Somewhat decreased
- Greatly decreased

Joint problem- solving

8. How effective has the co-management agreement been in establishing two-way communication? (Choose one.)

- Very good
- Good
- Satisfactory
- Poor
- Very poor

9. How effective has the co-management agreement been in helping to identify current and potential future disagreements for proposed actions? (Choose one.)

- Very good
- Good
- Satisfactory
- Poor
- Very poor

10. How effective has the co-management agreement been in helping to mitigate current and potential future disagreements for proposed actions? (Choose one.)

- Very good
- Good
- Satisfactory
- Poor
- Very poor

11. How effective has the co-management agreement been in ensuring conflict resolution? (Choose one.)

- Very good
- Good
- Satisfactory
- Poor
- Very poor

12. a) In instances where specific sites may be in conflict because of competing cultural and ecological issues, how effective has the co-management agreement been in helping to resolve these issues? (Choose one.)

- Very good
- Good
- Satisfactory
- Poor
- Very poor
- Not applicable

b) Please provide one example.

13. How effective has the co-management agreement been in ensuring accountability? (Choose one.)

- Very good
- Good
- Satisfactory
- Poor
- Very poor

14. How effective has the co-management agreement been in helping to ensure that decisions are equitable and inclusive? (Choose one.)

- Very good
- Good
- Satisfactory
- Poor
- Very poor

15. Please finish the following sentences.

The main advantage of the co-management agreement from a management perspective is.....

The main advantage of the co-management agreement from an operational perspective is.....

The main disadvantage of the co-management agreement from a management perspective is.....

The main disadvantage of the co-management agreement from an operational perspective is.....

The main problem that the co-management model does address is.....

The main problem that the co-management model does not address is.....

If the co-management model were not in place this park would be managed.....

Scope of Application and Areas of Emphasis

In the last 10 years has the scope of the co-management varied in the following arenas? Please check a corresponding level of change where 1 represents little change and 5 represents significant change.

	1	2	3	4	5
Policy	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Plans and programmes	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Legislation	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Budgets and financial instruments	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Decision making	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Other (please identify)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Thank you for completing the survey.
Your response is greatly appreciated