

Aboriginal corporations as a response to poverty and land claim settlements

Richard Grover, UK



**The Base, Hamilton
North Island, New
Zealand**



Yet another out-of-town retail complex – built on a redundant military base – 81,000 square metres retail space + cinemas



But things are not entirely
as they seem



Owned by Tainui Group Holdings Ltd,
itself owned by Waikato-Tainui Te
Kauhananui Incorporated, a body set up
under Waikato Raupatu Claims Settlement
Act 1995 to administer the settlement with
the New Zealand government

Paper looks at the development of aboriginal corporations.

These have come about through land restitution processes as settlement
of aboriginal land claims

Lands lost through war, expropriation, one-sided sales agreements,
treaties not being honoured, and corruption

Uses examples from Alaska (USA), Canada and New Zealand.

Some of the corporations are big businesses focussed on real estate and
natural resource development. Some would qualify for inclusion in FTSE
250 index is quoted on the London Stock Exchange

Diversification into other areas

Owned collectively by aboriginal groups.

Alaska land settlements

- US purchase of Alaska from Russia in 1867
- US took possession of state lands but not privately owned ones, which were protected
- Issue of whether the Russian America Company Charter of 1844 gave protection to any indigenous land rights - recognition of “dependent” or “settled” tribes and “independent” tribes
- Individual indigenous persons could own land but not collectively under 1906 and 1926 legislation
- Alaska Native Brotherhood in 1912 and movement to reclaim lands
- Prudhoe Bay oilfield in 1968 and need for pipeline to transport oil of Valdez

Alaska Native Claims Settlement Act, 1971

- Extinguished all native land claims
- US government allocated 44 million acres (17.8 million hectares) of land to native corporations and paid them \$962.5 million
- Native corporations are for-profit corporations owned by their members – cannot sell shares
- 13 regional native corporations (RNC) – own surface and sub-surface rights of lands they selected
- 229 village native corporations – own surface land rights on areas allocated to them by RNC
- Lands owned in fee simple – not reserves – native corporations can go bankrupt
- 70% of income from timber, oil and minerals shared with other RNCs

Regional native corporations are big businesses



Arctic Slope Regional Corporation. Revenues of \$1,945 million in 2009 and generated \$163.5 million for its shareholders. Employs over 10,000 people. Engaged in construction, energy services, government contracting, financial services, hotels, and petroleum refining. Owned by 11,000 Iñupiat Eskimo shareholders



Sealaska in south-east Alaska. 21,000 members. It had an income in 2010 of \$224 million and a net profit of \$15 million. 50% of revenue from services, 24% from manufacturing (mainly packaging), and 18% from natural resources.



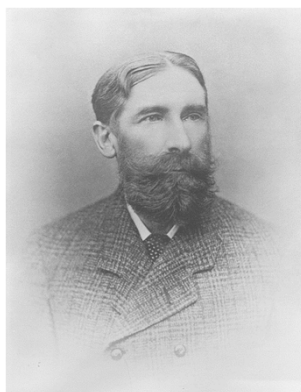
Cook Inlet Region, Inc. has 8,100 shareholders. Multi-ethnic because of location in Anchorage. In 2012 it had total assets of \$934 million, producing a net profit of \$16 million. Businesses in construction, energy (including wind turbines and coal gasification, as well as oil and gas leasing), and tourism. Developing retail properties in Anchorage.

Canada and its indigenous population

- Canada has a history of relocating aboriginal populations from areas needed for development to less favourable locations with minimal compensation eg Victoria (B.C.), North Sydney (N.S.), Grand Rapids hydro-electricity (Manitoba)
- Weakens ability to construct livelihoods and deprives groups of share in development of their land.
- Result has often been poverty, deprivation, crime, alcohol and substance abuse, and despair – threat to culture as well as economic problems.
- Treaties often not fully honoured

Change of direction in policy

- *Calder v the Attorney General of British Columbia* (1973) ruled that Indian title was a legal right independent of any form of enactment
- 1982 Constitution Act recognised and affirmed the existing aboriginal and treaty rights of the indigenous peoples
- *Delgamuukw v British Columbia* (1997) set out the protection given to Aboriginal title under the Constitution Act 1982 and how title can be proved in the absence of documentary evidence
- Berger Report (1977), *Northern Frontier Northern Homeland: The Report of the Mackenzie Valley Pipeline Inquiry*
- Comprehensive land settlements being negotiated – surrender of rights over claimed land and renewal of rights over settlement land



John Carmichael
Haynes 1831 - 1888



Osoyoos First Nation, British Columbia

Proximity to US border means ability to exploit fusion between wine, aboriginal and eco tourism



Main activities:

- Renting out land
- Renting out business space
- Resorts and campsites
- Construction
- Diversification through investment in winter sports

Bonds secured on businesses as reserve land cannot be mortgaged.
Revenue \$26 million pa



1876 Cree sign Treaty 6 with Canadian government.
Promise of reserves and payments not fully honoured.

Muskeg Lake Cree reserve north of Saskatoon, Saskatchewan.
1,846 band members but only 367 live on reserve – migration to urban areas and abandonment of subsistence economy in favour of mainstream economy.
Claim process resulted in 1992 Treaty Land Entitlement Framework – compensation plus ability to pre-emptively purchase – surplus state property at market value.
Band used this to buy 35 acres in Saskatoon and establish the McKnight Business Centre
Generates income to support band



McKnight Business Centre

35,000 square feet lettable space plus 55,000 square feet managed for Saskatoon Tribal Council Fully let.

Tenants mainly aboriginal institutional occupiers eg Federation of Saskatchewan Indian Nations, the Saskatchewan Indian Gaming Authority, the Saskatoon Tribal Council, and Saskatchewan Indian Institute of Technologies

Also dental practice, law firms, medical practices, and an aboriginal artist studio and shop.

Businesses employ 300 people

Pioneering urban reserve:

- No federal payroll taxes for businesses
- No General Sales Tax on purchases by customers

ie an enterprise zone

Muskeg Lake Cree have also invested in camping and recreational facilities and joint ventures in casinos and golf courses.



Development likely to destroy traditional livelihoods – environmental consequences of major developments

Potential for equity investments in the developments causing the destruction eg Mackenzie Valley pipeline with 33.3% stake owned by Mackenzie Valley Aboriginal Pipeline Corporation; new generating capacity in Grand Rapids with 25% and 33% aboriginal ownership of Manitoba Hydro's new generating capacity

Traditional livelihoods lost – land can never again support them

But income generated that can be used to educate the young, provide employment, provide welfare support, and to support cultural activities eg teaching aboriginal language. Culture can survive even if traditional livelihoods cannot.

New Zealand

- 1830s concerns about unregulated land sales and settlements
- 1840 Treaty of Waitangi guarantees Maori lands
- Treaty not respected – flawed sales, confiscations when iwi took up arms against Crown to defend their land
- Case brought before courts failed as Treaty not seen as part of New Zealand domestic law
- 1960s protest movements
- 1975 Waitangi Tribunal to investigate claims (jurisdiction extended to 1840 in 1985)
- Settlements have resulted in Crown land being transferred to Maori with rights of pre-emptive purchase, compensation and apologies

Contrasting approaches

Ngāi Tahu

- Use of litigation to combat flawed sales and failure to provide reserves and payments – largely unsuccessful
- Claim agreed 1996 and act 1998
- Ngāi Tahu Holdings Corporation Limited manages property
- 2011/12 assets \$809m, surplus \$55m
- Rental property, housing development, seafood, tourism
- Return of symbolic rural properties
- Access gifted to the nation

Waikato-Tainui

- Creation of the Kiingitanga in 1858
- Resistance to Crown and confiscation of land 1865
- Settlement and act 1995 but some outstanding claims
- Tainui Group Holdings Ltd manages property and also Waikato-Tainui Fisheries Ltd
- 2013 assets worth \$728m
- Rental property, housing development, seafood, hotels
- Ruakura planned development – transport interchange, knowledge centre, housing



**Ngāi Tahu
Retailing:
Tower
Junction,
Christchurch**



**Business premises in
Christchurch on surplus railway
land**



**Suburban
Housing,
Tumara Park,
Burwood,
Christchurch**



**Kaikourra
Whale
Watching**



Conclusions

- Restitution has transferred significant assets to aboriginal communities in group settlements of claims – managed by wholly owned corporations under control of aboriginal groups
- Opportunity to improve living standards, employment, welfare and to support culture
- Provides greater autonomy from government support
- Requires entrepreneurial approach – should managers be hired in from outside the community?
- Desire to follow aboriginal principles in management
- Sometimes governance issues encountered
- Approach does little for those who have contact with their historic ancestry