

## Taiwan Public Policies for Indigenous People

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One of the outstanding achievements of globalization is the importance of democratization, and as a consequence, of human rights and all issues connected with that subject. Among topics included in Human Rights discrimination and the right of minorities can be considered as two of the most important ones, that in turn are closely interconnected; and both of them have broader implications and connotations with life, social relations, political activities. Many important declarations regarding such topics have been made all over the world during last decades, but it does not mean that all the countries are willing to accomplish what they have previously sign; on the contrary, though each society has to take care of all its inhabitants, not all of them are willing to put into effect such principles. There are many countries in which certain minorities suffer discrimination, such as immigrants, Aborigines. Concerned about such issues different Far Eastern organizations proclaimed the Asian Human Rights Charter,<sup>1</sup> and its article 6, parts 1 and 2, settled The Right to Cultural Identity and the Freedom of Conscience, establishing that : 1.- "The right to life involves not only material but also the moral conditions which permit a person to lead a meaningful existence. This meaning is not only individually determined but is also based on shared living with other human beings. The Asian traditions stress the importance of common cultural identities. Cultural identities help individuals and communities to cope with the pressures of economic and social change; they give meaning to life in a period of rapid transformation. They are the source of pride and security. There are many vulnerable communities in Asia as elsewhere whose cultures are threatened or derided. Asian peoples and governments must respect the cultures and traditions of its diverse communities;" and "2, the plurality of cultural identities in Asia is not contrary to the universality of human rights but rather as so many cultural manifestations of human dignity enriching universal norms. At the same time we Asian peoples must eliminate those features in our cultures which are contrary to the universal principles of human rights. We must transcend the traditional concept of the family based on patriarchal traditions so as to retrieve in each of our cultural traditions, the diversity of family norms which guarantee women's human rights.

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<sup>1</sup> Subtitled "Our Common Humanity," the Charter was proclaimed on May 18, 1998, in Kwangju, Korea, on the anniversary of the Kwangju Uprising, in 1980, by regional NGOs, including TAHR, Taiwan Association for Human Rights, <http://www.tahr.org.tw/data/ahrc/culture.html>

We must be bold in reinterpreting our religious beliefs which support gender inequality. We must also eliminate discriminations based on caste, ethnic origins, occupation, place of origin, others, while enhancing in our respective cultures all values related to mutual tolerance and mutual support. We must stop practices which sacrifice the individual to the collectivity or to the powerful, and thus renew our communal and national solidarity.” All these topics and items are connected with Human Rights in both broad and specific sense, and at the same time with democratization for it cannot be considered that any society achieved such aim unless it improves all its people living standard, without leaving aside minorities. All previous elements are interconnected up to the extent that the failing to achieve a single one of them will be enough to consider that democracy has not been properly settled there. The development of the democracy is not only the result of internal decisions but also of external pressure, or in the case of Taiwan both internal and external trends that made authorities to choose such system of living that includes social, economic and politics accomplishments.<sup>2</sup> On the other hand, international challenge and pressures over democratic societies should not be tolerated by the international community or single States because to place such societies at a cross road due to unfair reasons will turn to be a failure for the whole ones because of globalization all societies, sooner or later, will share the consequences of those attitudes.

So, the object of this article is to analyze some highlights of Public Policies for Aborigines in Taiwan. To achieve such aim some particular issues will be considered such as some of their characteristics and historical background, during past domination periods, as well as past and present norms and public policies, from different point of views, mainly since 1987, including constitutional and legal principles, and the question of autonomy. To make the present analysis easier different periods will have been settled according to governments’ general tendency regarding indigenous people public policies, mainly in connection with their general orientation and particular way of making them effective.

#### 1.- Aboriginal Groups in Taiwan:

Most people who lived on Taiwan traced back as far as 5.000 years

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<sup>2</sup> Martin L. Lasater, 1991, Taiwan's International Environment, in Thomas W. Robinson (ed.), Democracy and Development in East Asia 96-97(Washington, D.C.: Publisher for the American Enterprise Institute, AEI Press).

ago, during the Neolithic Age and Alluvial Epoch, and were Proto-Malays who belonged to Southern Paleo-Mongoloid racial group. Linguistically, they were Indonesian, belonging to the Malayo-Polynesian group, and their culture was characteristically Indonesian. But, there are other indigenous groups whose origin are not known, so such issue remains an open question till present days, even though some considered that there is influence from Indonesia, Mongolia and the Pacific island, but none of these places could be considered having the same origin for all groups. In fact, some of them, like the Ami, who lived on the East cost of the island, have some characteristics similar to Polynesian style of life, where community life is centered on a "common assembly," being the males classified in so-called "age-classes."

At present there are, approximately, 393.516 indigenous people in Taiwan,<sup>3</sup> divided in nine clans: Ami, Atayal, Beinan, Bunun, Painan,<sup>4</sup> Rukai, Saisit, Tsou, and Yami, accounting for almost 1,8 % of the total inhabitants; and their thirty reservations occupy 250.000 hectares, that's to say, more or less, 5,9% of the total area of Taiwan. Nearly all of these clans reside in the mountains or the coast East region, with the exception of the Yami Clan which is in the island of Lanyu, Southeast of Taiwan.

Up to certain extent, because of local rivalries, indigenous people past has been quietly and peaceful till foreigners arrived to their land. During the period of occupation by Netherlands, Spain and Cheng Dynasty, Koxingo, different public policies have been enacted. In the case of the Dutch, they have been considered as an association with certain rights, so their lands have been acquired through contracts. But later on, the Dutch forced them to sell their lands to Netherlands, which in turn allowed the East Indies Company to be engaged in business there, and extent their rule over that people. Years later, Cheng Cheng-kung, Koxingo, occupied the territory and imposed a system that divided the land in: official fields, private fields, and cultivated fields; thus the fields of the aborigine had been unlawfully occupied by the Dynasty.

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<sup>3</sup> Taiwan Aborigine Population Statistics, 中華民國臺灣地區原住民人內政部戶政司; 90.03.08; Source: Ministry of Interior, Cense Department, 區域別 : ( districts)中華民國 90 年 2 月原住民人口數 (Indigenous Population, February 2001) 平地原住民 (Plane), 山地原住民 (Mountain), 合計 (total) 臺灣地區, districto de Taiwan y Min Nan, 192,226 217,359 409,585, 臺灣地區; Taiwán District: 192,149 217,298 409,447 ; 臺灣省 Taiwán Province: 181,686 211,830 393,516. At the end of 1998 there were 390.24, .Indigenous Peoples, May 2000, Social Welfare Chapter, Republic of China Yearbook 2000, [http://www.gio.gov.tw/taiwan-website/5-gp/rights/society\\_03](http://www.gio.gov.tw/taiwan-website/5-gp/rights/society_03) . Mostly of them are Christian, while dominant Han Chinese are largely Buddhist or Taoist

<sup>4</sup> Painan or Paiwan, who inhabited in, approximately, 13 villages in Southern Taiwan.

When the Ching Dynasty ruled over Taiwan different policies have been put into effect; for example, in 1788,<sup>5</sup> Huang Chia-chun allowed the Han Clan to buy land to all those groups who lived in the borders and had already been assimilated. The result was that gradually, the aborigines were losing their lands;<sup>6</sup> something similar happened during the Japanese occupation period.

Traditions and cultural life of indigenous people are very rich, though at present they lacked the strength of the past, they remain as they used to be. Just three tribes out of all are being considered as the most active regarding cultural activity: the Ami, the Paiwan and the Saisiat. For example, the Paiwan who, as well as others, has festival connected with agricultural activities, sowing and harvests, celebrated a major festival, named Malevok, each five years.<sup>7</sup> This festival is connected with past traditions and customs, sorcerers, prayers and the spectre of headhunting is revived symbolically, as well as ancestral spirits of these people are summoned from Mount Tawu to the place where the ceremony took place. Saisiat's festival<sup>8</sup> is quite different from the previous one; they ask for forgiveness for what had happened almost 500 years ago, to, at present non-existence, clan of pygmies double-crossed by them, even though those people were like their benefactors.

## 2. - Indigenous people needs and claims:

The intercourse of different culture and traditions always present certain problems regarding their everyday living and needs, not only from the material point of view, but also considering the spiritual one, as each part usually just adapts itself up to certain extent to others points of view, but most of the time such effort is not enough. Besides, as Peter R. Moody pointed out "treatment of the aboriginal population has long been an scandal on Taiwan."<sup>9</sup> So each one try to preserve and

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<sup>5</sup> That is Chien Lung fifty three years.

<sup>6</sup> There was also "warfare of a particular gruesome kind against the aborigines", Peter R. Moody. 1992. Political Change on Taiwan 38 (New York: Praeger).

<sup>7</sup> The most important presentations take place November and December, that is to say during tenth lunar moon, in the villages of Taima or King Fong Township, Taitung County (台東縣太麻里和金峰鄉) and Mutan (Peony) Township in Pingtung County (屏東縣牡丹鄉)

<sup>8</sup> The Saisiat are not much more than 3.000 people, and this festival is being held each two years the 15th. Day of the 10th. Moon.

<sup>9</sup> Peter R. Moody, ob.cit.112.

impose its own cultural background as the leading one, thus it is important to know both points of view to have an accurate vision of how things are developing, and improving, or not. First, it will be considered the point of view of aboriginal groups through a report that have been presented to the United Nations Working Group on Indigenous Populations, in 1993, and was prepared by the Alliance of Taiwan Aborigines, some of it important points are: <sup>10</sup>

1. Restriction upon aboriginal people mountains areas': impose by National Security Law. "All the laws of Taiwan are legislated according to the values of the Han people. The common laws of the Indigenous Peoples are neither incorporated into nor acknowledged by the laws of this land."<sup>11</sup>

2. Appropriation of land by the National Government, for defense (National Security), tourism (mainly national parks), economic development. Without people's consent. Besides, Cultural Gardens of the Indigenous Peoples administrated by the government and turned into a museum, has been bought at unreasonable lower price to local indigenous people.

3.- Relocation of villages: "to build national parks, industrial zones, and reservoirs, the government forcibly relocated Aborigine tribes such as Fu-Shih village of Shou-Lin County, Hualien, in the case of the Taroko National Park; Mei-Shan Village of Taoyuan County, Kaohsiung, in the case of the Yu-Shan National Park; the ancestral graves of the Bunun tribe in Tong-Pu Village, Shin-Yi County, Nantou; the village within the Ho-Ping cement industrial district in Shou-Lin county, Hualien; and the Hao-Cha village in Wu-Tai county, Pin- Tung, in the case of Wu-Tai Reservoir; to name only a few. After government policy is formulated, the Indigenous People involvement has absolutely no channel through which to express their opinion, indeed lacking the very right to do so. In a word, virtually all land with development value has been occupied and exploited. "<sup>12</sup>

4. Indigenous people legally sentenced, usually up to 2-3 year of prison, to act unlawfully; but they were not properly informed about the existing law or rules, so they were not able to obey them.

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<sup>10</sup> Report of the Alliance of Taiwan Aborigines to the United Nations Working Group on Indigenous Populations, August 1993; <http://www.taiwandocuments.org/ata.htm>

<sup>11</sup> *Ib.*

<sup>12</sup> *Ib.*

5. Lack of adequate training for non-agricultural jobs,<sup>13</sup> besides they have neither insurance nor pension, and are under paid, "and ... constantly threatened with unemployment."

6. Problems with their real names: their original indigenous ancestral and traditional names cannot be legally used, so they were not allowed to register their citizen identification with them. Thus traditional family organization disappeared.

7. Language prohibition: they own language could not be part of their school education. "Only 0.3% of the Indigenous Peoples had received a college education in 1989, while 5.8% of the Han population already had college degrees in 1978. All in all, the educational system systematically discriminates against the children of the Indigenous People." <sup>14</sup>

8. Pollution problems: with three nuclear plants and a fourth under discussion, a nuclear waste dump in the island of Lan-yu, which directly affects Yami people.

9. Child prostitution: by 1993, they account, almost, 20% of child and adolescent prostitutes in Taiwan,

#### THE ACTIVITIES OF TAIWAN ABORIGINAL MOVEMENT

"From 1984, there are a series of campaigns raised by Alliance of Taiwan Aborigines (ATA) on the following issues:

- 1) Name Correction Movement (December 1984 and May 1992) ...
- 2) Save the Young Aboriginal Women in Prostitution (January 1988)...
- 3) Recover Our Aboriginal Name System (January 1987)<sup>15</sup>
- 4) Get Nuclear Waste out of Lan-yu (February/April 1988 and May 1993)...
- 5) Return My Lands (August 1988 and September 1989)
- 6) Anti-Wu Feng Myth (August 1985 and September - December 1987)<sup>16</sup>

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<sup>13</sup> According to 1989 official statistics 48,8% of them are agricultural workers.

<sup>14</sup> *Ib.*

<sup>15</sup> "The name system of Taiwan Aborigines and Han people are very different, though that, the government forced us to change our traditional one and accept the latter 40 years ago. Because the confusion of the name system, it causes that there are different last names in the same brotherhood. So we push our government to return our Aboriginal name to be used in the national affairs and in the society," *ib.*

7) Movement Against Establishment of State Parks in Aboriginal Lands (May 1993)

8) To raise the issue of self-determination and to propose the participation of Indigenous Peoples in the drafting of a new constitution (December 1992-present)"

### 3.- Main Public Policies since 1949, different periods:

In order to analyze public policies regarding indigenous people in Taiwan different periods will be established considering government's main achievements and turn out:

1.- From 1949 to 1986: Low profile period as public policies were focuses on infrastructure and "the reason of the State"<sup>17</sup> rather than minorities needs. So institutional organization was deeming as an important topic regarding public policies, thus during that period most public policies were connected with indigenous people representation in public organizations, and institutions such as the National Assembly,<sup>18</sup> Legislative Yuan<sup>19</sup> or the town councils. There was also an important administrative reorganization, for example, in 1951 was suppressed the Department of Mountain Area Affairs and branch police stations, and reduced the Mountain Area Administrative Guidance Office of the Department of Civil Affairs, while in 1962 something similar happened to several mountain area sections<sup>20</sup> that

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<sup>16</sup> "Wu Feng is a mythical hero invented by the Han People to distort the humanity of the Indigenous People. To eliminate the discrimination and the racism, we request the Dept. of Education delete the Wu Feng Myth from the elementary school textbooks." Ib.

<sup>17</sup> According to authors like Clifford Geertz and Francoise Mengin the Koumintang tried to build a national identity and promoted "Chinese " rather than "Taiwanese," culture; Francoise Meigen, 1999, State and identity 118, in Steve Tsang and Hung-mao Tien (eds.), Democratization in Taiwan 116-129 (Hong Kong University Press), and note 12, page 128, where she cited Clifford Geertz 1963, The Integrative Revolution: Primordial Sentiments and Civil politics in the New States 108, in Clifford Geertz (ed.) Old Societies and New States: The Quest of Modernity in Asia and Africa (New York: Free Press)

<sup>18</sup> For example, in 1951 were elected two aboriginal even though there were three seats reserved to them, in 1968, there were four representatives for the fourth provincial assembly (two from lowlands and two from mountain), something similar happened in 1981, in the seventh provincial assembly. Similar election was undertaken in 1986.

<sup>19</sup> In 1983 one from lowlands and one from mountain have been elected for the Legislative Yuan. Similar election was undertaken in 1986.

<sup>20</sup> That is the offices of Taipei, Ilan, Taoyuan, Hsinchu, Miaoli, Taichung, Nantou, Chiayi, and Kaohsiung, while the mountain townships in Pingtung, Taitung, and Hualien counties remain

were placed under civil affairs bureau. There also was relocation of villages,<sup>21</sup> projects for development,<sup>22</sup> as well as legal actions against indigenous people for "illegal fishing"<sup>23</sup> And, by 1982, began taxation of aborigines mountain-dwelling.

2.- From 1987<sup>24</sup> to 1995: Medium profile period in which public policies considered more indigenous peoples living needs but without strongly considering their opinions, even though it was gradually changing.

Projects for aboriginal clans increased after 1987, when martial law was lifted and the whole society began democratization process, but National Security Law was sanctioned, whose article 5 settled: "To insure coastal defense and the security of military installations, and to maintain public order in mountain areas, the Ministry of National Defense may, in conjunction with the Ministry of the Interior, designate coastal or mountain areas, or the areas in which important military installations." So it could be considered that up to certain extent it was a limitation to indigenous people's rights due to security reasons.

From 1987 to 1995, some of the most important public policies were:

1987: Extension of Taiwan Department of Civil Affairs' six-year plan for improving the lives of people living in remote and mountainous areas, with NT\$558 million to carry 13 main tasks, such as: the project "providing incentives to the aborigines for planting and tending forests on 6,772 hectares of land, replanting forests on 867 hectares, providing guidance on the cultivation of mushrooms."

Mountain Area Administrative Division within the Civil Affairs Department has been

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without change.

Unlike lowland township offices, mountain township offices are allowed to establish cultural sections.

<sup>21</sup> For example, in 1968, Chiayang village, Hoping township, Taichung county

<sup>22</sup> For example, in 1969, farming model agricultural villages has been settled in 29 townships, offered 488 agricultural research classes, by the Department of Agriculture and Forestry; in 1981, it was accorded a three years plan to develop Lanyu; in 1984, Taiwan provincial government gave business start-up loans to more than 6,000 aboriginal households.

<sup>23</sup> In, 1980, members of the Ami tribe were prosecuted for "illegal fishing" and "destruction of the environment," near Hualien and Taitung, ib. Report.

<sup>24</sup> Peter Moody, Jr., considered that before 1988 the Kuomintang regime "was a personalistic system," and later on "Chiang Ching-kuo's system was perhaps a little more staid," Peter Moody, Jr., 1992, Political Change on Taiwan 25-26 (New York: Praeger)

established by the Ministry of the Interior.

Employment counseling measures for aborigines. Promotion of forest recreation putting aside entry controls in 21 mountain areas, by Taiwan Provincial Government.

Different public offices<sup>25</sup> have been analyzed for a 1988 trial program to reduce prices for everyday mountain areas needs.

Measures: to promote local autonomy, local economy and local self-sufficiency; to strengthen churches' activities in mountain areas<sup>26</sup> are located, as controlled areas, and publicly announce these areas."

1988: Decision to go on with nine major grass-roots development projects in 1989, and provide NT\$11.6 billion in funding (Taiwan provincial government). The fourth one, "Mountain Area Development Project, included (1) increased public construction in mountain areas, (2) counseling concerning the development of mountain industries, and (3) strengthened counseling activities aimed at aborigines."

"Plan to Improve the Living Conditions of Aborigines Living in Urban Areas" (Taiwan Department of Civil Affairs):

Four-Year First Stage Plan for the Social Development of Aborigines in Taiwan" (the Taiwan Provincial Council): to improve quality of life and living of high mountain aborigines.<sup>27</sup>

Taiwan Department of Civil Affairs announced that 7,869 aborigines have received business start-up loans totaling NT\$502,270,000 since the program began in 1976. There are currently more than 1,100 households with outstanding loans totaling NT\$109,980,000.

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<sup>25</sup> In Fuhsing township (Taoyuan county), Hoping township (Taichung county), Jenai township (Nantou county), Hsinyi township (Nantou county), and Wufeng township (Chiayi county), ib.

<sup>26</sup> "There are a total of 940 churches and 146,340 believers in the 30 mountain townships in Taiwan province and the 25 townships/towns/cities in which aborigines live."

<sup>27</sup> It included, among another topics: included education on managing a household, the establishment of lifestyle counseling resources, home buying counseling for aborigines, occupational training and employment counseling.

Taiwan Department of Education decided to accept applications for cultural events related aboriginal traditions and folk, and all types of traditional arts, and provide funds.

1989: 12 year "Plan for the Social Development of Aborigines in Taiwan" and its "Four-Year First-Stage Implementation Plan Outline" (Taiwan province): to protect aboriginal culture, encourage participation in government, improve education, foster the development of talented individuals, improve living conditions, make rational use of resources, carry out grass-roots public construction, improve health care and sanitation, strengthen police capability, and expand sources of funding.

Taiwan Department of Civil Affairs: construction of mountain roads and drainage systems.

Executive Yuan Council of Agriculture: approved listing of Chimei village in Juisui Township, Hualien County, as an already-developed aboriginal community.

Adjustment of legislative electoral system by the Kuomintang Central Committee: Aborigines are divided among northern and southern electoral districts, and professional associations constitute one electoral district.

Taiwan Department of Civil Affairs: plan for the aborigines to provide lodging to tourists, and increase their income.

1991: Relocation of 9 aboriginal villages (Taiwan provincial government) including Sankuang village in Fuhsing Township.

Taiwan Department of Education: gave money to help low-income children to attend kindergarten.<sup>28</sup>

"Revised Regulations Governing Forestation Loans in Aboriginal Reservations."  
(Taiwan Provincial Council)

"Program for Improving the Lives of People Living in Remote Areas." (Taiwan Department of Civil Affairs).

"Major Tasks of the Plan for the Social Development of Aborigines in Taiwan," proposed by the Aboriginal Administration Bureau of the Taiwan Department of Civil Affairs.<sup>29</sup>

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<sup>28</sup> Approximately, they gave NT\$9,650,000 from the Taiwan Educational Asset Fund.

<sup>29</sup> It has been included in the Six-Year National Development Plan, and had been implemented

1992: "Four-Year First Stage Plan for the Social Development of Aborigines in Taiwan" (Taiwan Department of Civil Affairs)

"Plan for Improving the Major Road System in Mountain Townships" ( draft by the provincial government)

1993: "Taiwan Province Harmonious Society Implementation Plan for Improving Aboriginal Welfare:" it had been completed by the provincial government.

1994: Chairman James Sung of the provincial government gives a speech at the "1994 Taiwan Province Aboriginal Affairs Conference" declaring the aborigines should be allowed to participate more fully in administrative affairs in order that their talents can be better utilized and developed.

1995: "Regulations Governing Loans Assisting Aborigines to Build or Repair Homes" (Taiwan Department of Civil Affairs)

Taiwan Aboriginal Administration Review Conference.

3: From 1996 to present days: High profile period as public policies upgraded all issues connected with indigenous people not only from the institutional point of view but also considering the humanitarian one, appointing native people for important offices connected with their matters. Legal, institutional and factual achievements tend to be effectively harmonized, even though new challenges required deeply analyzes and involvement.

Before 1996, the Civil Affairs Department of the Ministry of Interior had a section for indigenous people, but in December 10, 1996, the Council of Aboriginal Affairs has been established within the Executive Yuan, after an Organic Law of the Council for Aboriginal Affairs has been enacted. In such a way, the importance of that part of the population has been upgraded to the extent that it has a specific agency with a ministerial level. There is also different Aborigine Affairs committee in Taipei City<sup>30</sup> and Kaoshiung City,<sup>31</sup> as well as in civil affairs departments of county

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by 1992.

<sup>30</sup> The Commission for Native Taiwanese Affairs, March 16, 1996

<sup>31</sup> The Commission for Native Taiwanese Affairs, July 17, 1997

and city governments, and Aborigine affairs sections or civil affairs sections within rural and urban townships. All these improvements are closely connected with the fact that, at present, aboriginal policies are in the hands of that same people whom once were deprived of such possibility.

By March, 2001, the Ministry of Justice concluded the draft of the Human Rights law, and was send to the Executive Yuan, and later on to the Legislative Yuan to fulfill legal proceedings before enacting it. It has 76 articles connected with human rights guarantees and included indigenous people's rights "to study, preserve, transmit and encourage traditional languages, religions and cultures."<sup>32</sup>

The 1946 Constitution of the Republic of China in Taiwan has been amended several times, the last one on April 2000,<sup>33</sup> and, since then it included an article directly connected with aboriginal people. That's article 10, paragraph 11 and 12, recognizes of indigenous people's rights:<sup>34</sup>

*11. The State affirms cultural pluralism and shall actively preserve and foster the development of aboriginal languages and cultures.*

*12. the State shall, in accordance with the will of the ethnic groups, safeguard the status and political participation of the aborigines. The State shall also guarantee and provide assistance and encouragement for aboriginal education, culture, transportation, water conservation, health and medical care, economic activity, land, and social welfare, measures for which shall be established by law. The same protection and assistance shall be given to the people of the Penghu, Kinmen, and Matsu areas.*

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<sup>32</sup> Human Rights law draft near completion, March 7, 2001, United Daily News, in Taiwan Headlines, <http://taiwanheadli.../20011030/s2.htm>

<sup>33</sup> Adopted by the fifth session of the Third National Assembly on 24 April 2000 in a Sixth Revision of the Constitution, promulgated on 25 April 2000, and they replaced the articles adopted in the 1997 Fourth Revision.

<sup>34</sup> There are also another connected just as article 10, paragraphs 6 and 10, which establish: "6. The State shall protect the dignity of women, safeguard their personal safety, eliminate sexual discrimination, and further substantive gender equality;" "10. Priority shall be given to funding for education, science, and culture, and in particular funding for compulsory education, the restrictions in article 164 of the Constitution notwithstanding."

Considering Constitutional principles, the Executive Yuan concluded by October, 2000, the Aboriginal Development Bill<sup>35</sup> draft, that included indigenous people right to autonomous rule as well as another items connected with "reservation land for the preservation of Aboriginal traditions and continued use of public land by Aboriginal peoples,"<sup>36</sup> being one of the priorities the Orchid Island<sup>37</sup> (Lanyu), and it also considered "aborigines" all those groups who consider themselves "indigenous habitants," even though they have also to be recognized with such status by the Executive Yuan. At present the government is considering an Autonomous Bill draft, <sup>36a</sup> closely linked to the Constitution, and some of its characteristics are:

1.- Object: to allow indigenous people to defend their culture, language, traditions and way of living; thus they could live according to their traditional structures, determine special educational plans appropriate to their culture and settle a political regime adequate to their needs.

2.- Main points or items: the settlement of an autonomous system, the limits of the territory, the creation of an autonomous preparatory commission, to determine the national tendency regarding the autonomy, and an autonomous referendum. A special method is being settled for all these groups with few members or who do not live in the same place; in such cases the Executive Yuan will be in charge of analyzing each case to find an adequate solution, so many of the common proceeding will not be applied to these cases.

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<sup>35</sup> Originated in the Basic Law for the Protection of the Taiwanese Indigenous People, drafted by Legislator Tsai Chon-han, and at "present under scrutiny by the Council of Aboriginal Affairs," in Cheng-Feng Shih, *Legal Status of the Indigenous People in Taiwan* 204, Hsu Chieh-lin. 1999. The Rights of the Indigenous People Conference 193-206, International Conference (Taipei, Taiwan, College of National Taiwan University).

<sup>36</sup> Aboriginal Development Bill approved by Cabinet, Thursday, October 26, 2000 Source: Liberty Times; <http://www.taiwanheadlines.gov.tw/20001026/20001026p5.html>

<sup>36a</sup> Autonomous indigenous people bill draft 原住民族自治法草案 原住民族自助法草案總說明

<sup>37</sup> Indigenous people, who belong to the Yami group living there suffered a lot because of so-called, modernization policies undertaken by national authorities since 1947, and they lost part of their lands as they were being given to retired members of the government. By, 1967 the aborigines turned to be treated like subject of study as the island were open to tourism.

3.- Regarding indigenous autonomous organization: an autonomous government, with a president, and an assembly will be the main powers, whose rights and duties will also have to be considered and established in the correspondent bill. This bill will include, among other subjects, all those connected with land, finance, education, methods to solve conflicts among central government and the autonomous one. Autonomous territory will have precise limits and its inhabitants could be members (art. 3.3)

4.- Consulting system: Previous consult turned to be a rule for central government, any time that a decision has to be taken (art. 4); even judges are entitled to do it in order to respect traditions and customs; and a special court would be settled whenever it could be considered necessary (art.5)

Lifting indigenous people ban to hunt in national parks have been an important achievement closely connected with their right to preserve their culture and traditions. Last year the Ministry of Interior's Construction and Planning Administration, CPA, review indigenous people proposal for legalizing hunting in Mount Tahsueh and Tapachien, in Shei-Pa National Park located in Northern Taiwan, where originally reside the Atayal and the Saisiyat. As Lin Young-fa, superintendent of the Park pointed out "Environmental conservation should be done through the approach of exchanging culture between aborigines and the Han people" (The China Post, Nov. 13, 2000, page 19).

Another important feature of public policies regarding indigenous people is connected with low interest loans, special stipends and their special status whenever they try to enter an educational institution. For example: they "can borrow up to US\$55,556 at an annual interest of 4.5 percent, repayable over a 20-year period. Aborigines are accorded special status when taking entrance exams for the high-school level and above. An extra 35 percent is added to the exam score of aborigines participating in the senior high school and senior vocational high school entrance examinations. Any aborigine who passes these tests and enters school is also entitled to receive the same government subsidies as students in the ROC's normal universities. Aboriginal students who participate in the college and university entrance examinations receive an additional 25 percent on their final test scores. There are also scholarships for aborigines from low-income families, and tuition is waived for aborigines who take part in government-sponsored vocational training programs. They also receive a monthly US\$73 food stipend and a US\$222

living-expense stipend from the Council of Aboriginal Affairs. The Council also provides an additional US\$148 monthly stipend to those who receive training for three months or more. A special civil-service examination for aborigines is administered biennially. By the end of 1999, the exam had been held a total of 19 times, with 1,740 aborigines passing.<sup>38</sup> But it does not mean that conflicts ended because more than once they consider that compensations are not enough, and more than once they are part of another type of problems. The case of Ilan can be considered a recent example as that took place on April, 2001, as aborigines were upset with authorities decision regarding "forcibly removal and destruction of the shanty huts and temporary houses, located at Ilan's Paotail Shan (Suao Township) and Hungtsai Forest (Sanshiu Township)," consequently "sparked vigorous resistance and physical confrontations from the Amis squatters who tried in vain to stop the wrecking crew's advance"<sup>39</sup>

In order to have more accurate information concerning the fulfillment of such policies it is important to considered certain documents, even though they refer to different periods of time, for example:

1.- According to International Human Rights reports, there still are many problems connected with indigenous people in Taiwan. For example, Taiwan Country Report on Human Rights Practices for 1998:<sup>40</sup>

"Although no reliable statistics are available, child prostitution is a serious problem, particularly among Aborigine children. Most child prostitutes range from 12 through 17 years of age. The juvenile welfare law enables juvenile welfare bodies, prosecutors, and victims to apply to courts for termination of guardianship of parents and the appointment of qualified guardians if parents have forced their children into prostitution. If children are engaged in prostitution of their own free will, and the parents are incapable of providing safe custody, the courts may order competent authorities to provide counseling for not less than 6 months and not more than 2 years. However, legal loopholes and cultural barriers remain obstacles

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<sup>38</sup> Indigenous people, artic. cit. up supra.

<sup>39</sup> Jason Pan, Aboriginal squatters evicted from land earmarked for park, Taiwan News, April, 21, 2001, page 2.

<sup>40</sup> Taiwan Country Report on Human Rights Practices for 1998 , Released by the Bureau of Democracy, Human Rights, and Labor, U.S. Department of State, 4 February 26, 1999. [http://www.state.gov/www/global/human\\_rights/1998\\_hrp\\_report/taiwan.html](http://www.state.gov/www/global/human_rights/1998_hrp_report/taiwan.html)

to enforcement. For example, if both parents have sold a child into prostitution, a problem associated mostly with Aborigine families, the law requires the child to lodge a complaint before prosecution is undertaken. In many cases, the child is reluctant or afraid to do so. "<sup>41</sup>

Indigenous People: .."The civil and political rights of Aborigines are fully protected under law. The National Assembly amended the Constitution in 1992 and again in 1997 to upgrade the status of Aboriginal people, protect their right of political participation, and ensure cultural, educational, and business development. In addition, the authorities have instituted social programs to help Aborigines assimilate into the dominant Chinese society. A new cabinet-level agency, the Aboriginal Affairs Commission, was created, although critics noted that its budget was quite small. As part of its efforts to preserve ethnic identities, the Ministry of Education now includes some Aboriginal-language classes in primary schools. Under legislation passed by the LY<sup>42</sup> in May, the Ministry of Education is to subsidize university education for Aborigines and make efforts to preserve Aboriginal culture, history, and language through the establishment of Aboriginal studies centers."

"Although they face no official discrimination, Aborigines have had little impact, over the years, on major decisions affecting their lands, culture, traditions, and the allocation of their natural resources. In addition, they complain that they are prevented from owning ancestral lands in mountain areas under the authorities' control, some of which have been designated as national parks or conservation areas. Land rights remain a crucial issue for Aborigines, along with social discrimination, educational underachievement, low economic status, and high rates of alcoholism. Some Aboriginal leaders have come to believe that only some form of autonomy can preserve their land rights, which are constantly threatened by Han developers who use connections and corruption to gain title to Aboriginal land. According to MOI<sup>43</sup> statistics, only about 50 percent of Aborigine children complete elementary school. In the past, Aborigines were not allowed to use a non-Chinese

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<sup>41</sup> "According to some reports, brothel owners, to prevent child prostitutes from escaping, use violence, drug addiction, and other forms of coercion. In 1995 the LY passed legislation providing for as much as 2 years' incarceration for customers of prostitutes under the age of 18. The legislation also requires the publication of the names of violators in newspapers. Over 900 persons have been arrested under this law, of whom 260 have been indicted and 147 convicted," ib.

<sup>42</sup> Hereinafter Yuan Legislative.

<sup>43</sup> Ministry of Interior

personal name on legal documents, but this was changed by legislation in 1996”.

“The sale of Aboriginal girls into prostitution by their parents is a serious social problem. However, recent reports have indicated that in the period from June 1994 to July 1995, the percentage of all arrested child prostitutes who were of Aboriginal origin dropped from 15 percent to 5 percent. This reduction may have come about due to intensive efforts on the part of social workers and nongovernmental organizations to combat the practice of selling female children into prostitution.”

2.- Ian Neary, University of Essex, Children's Rights in Taiwan, November 24, 1999:<sup>44</sup> “Child prostitution was a new social problem discovered in the late 1980s and 1990s. Moreover as it often involved the sale into prostitution of girls from Taiwan's indigenous groups there was an added 'rights' dimension to the issue. The urgency of this issue seems to have declined following the enactment of the 1995 Law to Suppress Sexual Transaction Involving Children and Juveniles. (Shee 1998) The main issue now is, rather similar to Japan, that society is becoming concerned about school girls becoming involved in sex with older men.” “Amendments were made to the Juvenile Crime Settlement Act in October 1997 to change the emphasis of law from punishing young offenders towards their education and training. Any juvenile delinquent aged between 12-18 who is sentenced to less than 10 years in prison may be exempt from serving time in prison and instead receive up to three years of 'protective measures'. These may be enforced either by the child's parents or in special 'juvenile guardianship institutions'. The law also provides for the parents of the juvenile delinquent to attend between 8 and 50 hours of parental counseling or instruction backed up by heavy fines if they fail to attend. In the past lawyers were permitted only limited access to an accused juvenile after the court had completed its investigation but now it is possible for a lawyer to advise and accompany the child at any stage of a police investigation. (China News 4 Oct. 1997, Interview Wellington Koo 10 Oct. 1997).”

Recently other important measures have been put into effect, i.e., some private universities enact special rules to allow aborigines to study whatever they wanted, there are also new important competitions connected with their culture and

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<sup>44</sup> Ian Neary, Children's Rights in Taiwan, Nov. 24, 1999;  
<http://privatewww.essex.ac.uk/~ianj/HR/children/general.html>

language in primary and media schools. There are also special programs to teach them how to use computers, such programs include not only child but the whole family.

#### Conclusion:

Indigenous people situation has not been an important issue for Taiwan public policies for a long period of time, mainly before Martial Law has been lifted. The particular policies of the government, that's to say the Kuomintang or its leadership decisions, regarded Chinese culture, traditions and customs as the most important ones, and closely connected with their so-called "nationalistic principle." Furthermore, their desire to improve and develop society from an economic point of view set, even more aside, indigenous people needs and culture. The question of land turned to be an important issue of conflict that up to now could not be properly solved, and it's getting even worse in certain parts of the territory; at the same time more than once it overruns the possibility to reach peaceful agreements; besides the increasing of population made people unwilling to decide anything in favor of aboriginal groups.

During that first period, and even in part of the second one, the central government just considered certain policies to help indigenous people as "Illustrated Despotic European Monarchs" for they made things for the people without considering people's opinion or special point of view; and that was a great mistake that whitewashed most of the authorities' good intentions as they were considered an abusive intromission in their life styles.

Things improve during the second period, 1986-1995, as the need for democracy turned to be an important governmental aim. To allow indigenous people to get better living conditions was an important object, even though social and cultural deterioration was important, for example in connection with indigenous girls prostitution; besides some authorities like Chairman James Sung, in 1994, considered that aborigines should be allowed to participate more fully in administrative affairs in order that their talents can be better utilized and developed.

Finally, since the last period that began in 1996, things changed even more for indigenous people as there was an important upgrade in all policies connected with their needs and requirements. For example, at present, there is a specific

agency with a ministerial level where aborigines have been appointed in order to analyze and be in charge of drafting their own policies. Besides government authorities decision to settled autonomous territories for them can be considered one of the most important present-day achievement. Even though, new challenges come out as indigenous people try to improve their living conditions and, at the same time, preserve their traditions and way of living. But, the first important step has already been taken with the Constitutional Amendment that recognized that *"The State affirms cultural pluralism and shall actively preserve and foster the development of aboriginal languages and cultures."* In such a way Constitutional principles are turning to be true and did not remain as just written norms.

The problem of prostitution remains a conflict issue that recognizes different origins, not only poverty or the lack of adequate income, but also the consequences of gender inequality due to cultural traditions. That's why the Asian Human Rights Charter emphasizes that "Asian peoples must eliminate those features in our cultures which are contrary to the universal principles of human rights. We must transcend the traditional concept of the family based on patriarchal traditions so as to retrieve in each of our cultural traditions, the diversity of family norms which guarantee women's human rights. We must be bold in reinterpreting our religious beliefs which support gender inequality." (article 6, part 2). But to reinterpret all those principles and norms they need certain previous conditions. To upgrade their living standards not only from an economic and political point of view but also an from an educational one to acknowledge that changing something that makes people suffer does not mean to loose their whole culture and or their traditional way of living but to enrich traditional spirits through its own renewal, bringing happiness to all members of the group. As educational institutions are allowing aborigines to study within special programs their way to improve their own living conditions turns to be a reality.