

Identity and Culture

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2.1 Rethinking the Chinese Diasporic Identity: Citizenship, Cultural Identity, and the Chinese in Australia.

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Introduction

In this age of globalisation many countries, including Australia, are engaged in redefining national identity and citizenship, and are subjecting multiculturalism to intense scrutiny and criticism. At the same time diasporic Chinese appear to developing ideas of global cosmopolitan transnationality and flexible citizenship. This paper will explore the issues of citizenship and cultural identity in relationship to the Chinese in Australia, and raise the possible dangers in the apparent exclusivity of the notions of Australian and Chinese identity being developed, and is intended to encourage discussion and research on how Chinese in Australia and New Zealand view the issues of citizenship and identity.

Professor Wang Ling-chi, the Chinese-American scholar and activist in overseas Chinese affairs, attended the second ASCDAPI Melbourne conference (in 1996) in the series of which this is the third. Professor Wang noted in his summing up, his disappointment that the conference had not addressed the theoretical issues of Chinese identity.¹ That remark stimulated my own reflections, a preliminary version of which I presented last year at a conference of the Australian Historical Association.² Secondly, while in London in 1996 and again in July this year I came across the work of a Chinese-Englishman, David Parker, on the cultural identities of young people in Britain,³ and I encountered the explorations of their cultural identities by young Chinese living in London through their writing collected together in *Another Province. New Chinese Writing from London* published by the Lambeth Chinese Community Association.⁴ This suggested to me the need for such research on the younger generation of Chinese in Australia and New Zealand. Thirdly, citizenship and citizenship education have become hot topics of public and scholarly discussion in Australia over the past decade. In putting together a bibliography for research I have found enough recent monographs to fill two books shelves!⁵ So it is time we start to sort out where we Chinese in Australia and New Zealand stand on the issue of citizenship, its rights and obligations, and to differentiate the issue of being citizens from that of our identity as Chinese. Further, we may need to put forward to our non-Chinese opinion makers the case for a less exclusive definition of what it means to be an Australian or New Zealander. Just how has citizenship been viewed by Chinese in the past? How do we Chinese view citizenship now? How is citizenship different from identity?

Finally, the exclusivity of the Chinese diasporic identity has been critically commented upon by the international cultural theorist Ien Ang (a Peranakan Chinese) now at the University of Western Sydney. She complains that the Chinese diasporic identity excludes intellectuals of Chinese descent who like her do not speak, read or write Chinese. There are thousands of so-called "fake Chinese" like her who are excluded from the Chinese identity by other diasporic Chinese, and she argues that this exclusion is politically based and linked to the rising dominance of China and east Asia. She argues that the meanings of "Chineseness" should be "Constantly renegotiated and rearticulated in different sections of the Chinese diaspora. …what it means to be Chinese varies from place to place, moulded by the local circumstances in which peoples of local Chinese ancestry have settled and constructed new ways of living."⁶ I, too, have found my identity as a Chinese less challenged by my encounters in Chinese academic situations in China, but much more often by other diasporic Chinese in Australia. In fact many Chinese in Australia, especially the recent arrivals, seek security in trying to be more Chinese than Chinese in China. My Chinese colleagues in China are much more supportive of cultural hybrids than many overseas Chinese. I have found my Chinese identity questioned by other Chinese in Australia because of my preference, in Australia, to speak English. Language is the basis of our cultural identity. Chinese language maintenance is important. But Australia and New Zealand are English-speaking societies in which the language of power and influence is English: one's identity as a Chinese should not depend upon one's language preference. Ien Ang makes "a plea for those people of Chinese ancestry who do not speak Chinese (of whom I am one, but there are million like me all over the world) not to be called ‘fake’, but as people who can and do appropriate the label of ‘Chineseness’ in their own right, for their own purposes, suitable to and within their own conditions of living."⁷ But, what does it mean to be Chinese?

What does it mean to be Chinese in Australia?

The nature of "Chineseness" is problematic in China itself. Several international conferences so far have been held to

define what it means to be Chinese and to define Chinese identity.⁸ At the last ASCDAPI conference on the Chinese in Australia held in 1996 in Melbourne there was a rather heated debate on the Chinese term for Chinese. Zhongguoren was being used by many conference participants as the Chinese generic term for Chinese. Zhongguo minzu can mean either a Chinese race, people, or the Chinese nation. Zhongguoren on the other hand means citizens of the Chinese state. Two other terms, Hanren or Huaren refers to ethnic Chinese that make up to ninety-five percent of Zhongguoren, among the other five percent of Zhongguoren are the Tibetans, involuntarily one of the other forty-nine nationalities. Han refers to the first great dynasty and empire, the Han (206BC to 220BC), while Hua connotes Chinese culture and civilisation. This geo-political and cultural emphasis of this definition of Chinese identity should be noted: to be Chinese is to share a Chinese cultural consciousness, orthopraxy at least, though not necessarily orthodoxy. An important distinction is made in the People's Republic of China today between those who are citizens of the PRC (Zhongguoren) and those around the world, outside of China, who claim a common ancestry with the Hanren or Huaren but who are not citizens of the People's Republic of China. They, as Hanren or Huaren, are members of the Chinese diaspora or are descendants of members of earlier China diasporas.

Professor Wang Gungwu has described two patterns of community development among hanren/huaren, overseas Chinese, and of the Chinese diasporic identity.⁹ Huaqiao, where there are sufficient numbers to sustain a Chinese community with strong ties with the zuguo, the ancestral country, through cultural maintenance, and educational and sometimes political activity related to China. Secondly, huayi are communities of people of Chinese ancestry where the ties to the zuguo are at best mythic; huayi may prefer to adopt identity with the host community but are unable to wash away the "corporeal malediction" of their imposed identity as Chinese. They are Chinese by descent but only sometimes Chinese by consent. Huaqiao are those diasporic Chinese who maintain at best a flexible, pragmatic, overseas citizenship in order to pursue wealth accumulation or, in the case of many post-Tiananmen Chinese migrants, to more safely pursue their political agendas and visions for the People's Republic of China. Huayi, on the other hand, are like Professor Ian Ang, those who do not speak, read, or write Chinese, but construct "Chineseness" for their own purposes and according to their local circumstances.

The conversations that Dianna Giese had with Chinese Australians, that makes up her recent book, *Astronauts, Lost Souls and Dragons*,¹⁰ includes a chapter of conversations on "Identities". Reading that chapter suggests to me that the majority of Dianna's Chinese Australians are happier in consenting to be Australians than to be Chinese, an imposed identity inscribed upon their bodies; for some, even a form of "corporeal malediction" to use Fanon's term. Most return to China like tourists and their reactions to the "China experience" instead of reinforcing their "Chineseness", confirms their "Australianness". Both "Chineseness" and "Australianness" are, as Shirley Fitzgerald has reminded us, very fuzzy terms the meanings of which are continually evolving and changing. At various moments in Australian history "Chineseness" and "Australianness" will be defined to suit the political-economy of the moment or perceived political needs of the time. She warns of the dangers of defining it in an essentialist manner so the "Chineseness" contributes to notions of cultural exclusivity on the part of both the host Anglo society and the diasporic Chinese.¹¹

As Shirley Fitzgerald's history of the Chinese in Sydney and other studies of the Chinese in Australia, the diasporic Chinese in Australia have managed to construct senses of belonging, community and identity as Australians of Chinese descent without adoption of a political identity of Australia citizen or British subject, an identity that was long denied them.

Citizenship and the Chinese in Australia.

Until the 1984 Nationality and Citizenship Act, it was difficult for Chinese to acquire Australia citizenship (or status as a British subject) by naturalization, and this was probably the same situation as in New Zealand. The denial of naturalization to Chinese was part of the discriminatory regime of the White Australia Policy. Its major effect on the Chinese was the denial of the right of re-entry: that is the denial of naturalization was a means of restricting the movement of Chinese in and out of Australia. It did not seem to deny Chinese civil rights nor social rights such as education, health and employment, nor career opportunities. Though this has still to be properly researched, Chinese certainly had the right to petition parliament which they did on several occasions. We do know several Chinese, such as William Ah Ket in Melbourne, who entered the Australian legal profession in the nineteenth-century. One Chinese, Charles Lee joined the Australian diplomatic service in the early 1930s. He became First Secretary in the Australian mission in Chungking during the war, and in the Australian High Commission in Wellington in the 1950s. His last posting was as Australian ambassador to Spain and Portugal. His career has yet to be researched and publicised. One of my friends in the New Zealand diplomatic corp, who knew Charles Lee well, regards him as one of the brightest minds in the Australian service until he retired late in the sixties. Chinese in the public service is a topic yet to be researched. The war service of Chinese during the first and second world wars has been researched.¹² It has been noted that the Australian defense acts always ruled that the Australian state has the right to call-up all adult residents in Australia, including aliens,

presumably as long as they are not the enemy aliens. Further, as far as we know, in the Australian past, all legal residents in Australia, including Chinese, but excluding Aboriginals for a long time, had civil, legal, political, and social rights. They were disadvantaged not by the lack of legal civic status, as citizens, but by casual ethnocentrism and the racist restrictive immigration legislation, the White Australia Policy.

From the little research evidence we have at present, it appears that before 1948 and certainly until the 1970s the Chinese were on the whole "non-citizenship seekers" who did not appear very concerned about being denied citizenship. They were successful in weaving senses of belonging, community, and identity that did not involve citizenship: but what does citizenship have to do with "belonging, community, and identity" when you believe yourself to be Chinese and your primary commitment is to your family, your ancestral-locality, and the Chinese state, and the Australian state will not allow you to become a British subject in any case? Did it actually matter to the Australian Chinese before 1949, or more accurately before 1965? Even more important would be to analyse the response of the Chinese in Australia to being offered the right of naturalisation, to become an Australian citizen under the 1948, 1969 and the post-1973 legislative regimes. Were these legislative changes the Australian State's response to the Chinese "citizenship" seekers's demands for Australian citizenship? What were the Chinese responses? What proportion of Chinese residing in Australia and eligible actually applied for or were granted citizenship during these years? If the proportion is not great, how is this to be explained? Did the Chinese organisations encourage or discourage Chinese to seek Australian citizenship? What do the Chinese sources, text and oral, tell us about Chinese attitudes to the change in the Australian government's changes in citizenship policy? Were they welcomed? Were Chinese being encouraged by Chinese community leaders to apply for citizenship? Why or why not? As a

child growing up in a New Zealand Chinese community I still remember the very negative Chinese response to the availability of naturalisation in the late forties and early fifties and the very imaginative campaign by the Chinese organisations and media to discourage Chinese taking up "foreign" citizenship. I was very relieved, when I finally attended first a New Zealand and then an Australian naturalisation ceremony, that I was not required to lower the Chinese flag, spit on it, and then to stand on the Chinese flag whilst raising the New Zealand (or Australian) Flag! Such was a ridiculous scare story in a campaign against adopting local citizenship in an overseas Chinese community in the late forties and early fifties! At least the New Zealand scare story tells us that the New Zealand Chinese were aware that acquiring New Zealand citizenship involved a transfer of commitments and loyalties from the Chinese to the New Zealand state, though not necessarily a loss of one's ethnic or cultural identity as a Chinese.

Citizenship and the Diasporic Chinese Identity.

Citizenship should be distinguished from ethnic and cultural identity and its device of passports are regulatory instruments of governmentality, of governmental bio-politics. It would appear from the literature on Chinese transnationalism that diasporic Chinese have developed notions of flexible citizenships as bio-politics and have a very pragmatic understanding of citizenship as "an entitlement to make a living with the minimum of control, taxes, or political responsibility, and the chance to complete for success in life."¹³ It would seem, then, that having an assumed stable cultural identity as Chinese, diasporic Chinese manage to negotiate various forms of belonging as cosmopolitan citizens or transnational subjects, without accepting or requiring ties to a single nation state or even to a single imagined community. It is well known that many Chinese or their families hold dual or multiple citizenships and acquire several passports. To a great extent diasporic Chinese have commodified citizenship in the pursuit of wealth as Chinese transnational capitalists. As a Chinese businessman in San Francisco put it succinctly: "I can live anywhere in the world, but it must be near an airport". To such a wealthy diasporic Chinese "citizenship in the profound sense of duty toward or identification with a particular nation-state is minimal."¹⁴ They make good globalised citizens. However, their concepts of flexible cosmopolitan citizenship and transnational subjects, do not fit well with the emergence of new nationalism in response to globalisation. Pauline Hanson and the current attack on multiculturalism are only local Australian variants of a global theme.¹⁵ Chinese cosmopolitan citizens in Indonesia have already felt the intense heat of a resurgent and virulent ethnocentric tribalism responding to globalisation.

On the other hand, Chinese transnationalism, almost a form of new, Chinese, capitalist and cultural imperialism, has created the current generation of diasporic Chinese transnational subjects who link their cosmopolitan citizenship with a rather exclusive Chinese culture identity based upon mastery of the Chinese language and rejecting cultural hybridity. It will be the younger diasporic Chinese, such as those educated and bred, if not born, in Australia and New Zealand who will be caught in the vice of exclusive Chinese cultural identity and an emergent equally exclusive definition and sense of belonging to a national community called the Australian or New Zealand state. Multiculturalism is becoming increasingly problematic as communities around the world respond to globalisation.¹⁶ The education of young diasporic Chinese in Australia will carry heavy doses of citizenship training with a stress on the obligations and duties, moral, political, social, and economic, of membership of the national community. Further, they have an identity imposed on them since their Chineseness is inscribed upon their bodies, or as one of my Chinese colleagues kindly said to me: "You can never be

any thing but Chinese, Chineseness is in your genes!" We need, then, to distinguish not only political identity, citizenship, from cultural identity but perhaps also cultural identity from ethnic identity.

Diasporic Chinese, such as those in Australia and New Zealand, have multiple identities. They may, indeed should, adopt a political identity, a civic citizenship, as Australians or New Zealanders. We cannot escape our ethnic identity as Chinese, since it is an imposed identity inscribed on our bodies. But what about our cultural identity? Here, we diasporic Chinese in Australia and New Zealand have an opportunity to be truly cultural hybrids who will maintain our inherited Chinese culture, and use it to contribute to the construction of new Australian and New Zealand cultures for the twenty-first century. Such cultures will be neither Anglo-American mono-cultural, or simply Maori-Pakeha bi-cultural, or even multicultural, but new Australian or New Zealand inclusive cultures. We should avoid notions of cultural exclusivity or superiority promoted by the Anglo societies, by the new indigenous people's movements in Australia and New Zealand, and by transnational diasporic Chinese. Cultures are not ossified, steady-state versions of white men, Aboriginal, Maori, or Chinese dreamtime. They are living, and therefore continually changing, evolving, creations constructed by civic citizens.

Conclusion.

Let me conclude by stressing the need for research into citizenship and cultural identity among the Chinese in Australia and New Zealand, and that research need to be both historical and sociological. Historical in that we need to find out just how the denial of naturalization actually affected Chinese in Australasia and how they, with their commitment almost firmly to an entity called China, responded to that denial in the past. We also need to know how Chinese after 1948, responded to the offer of citizenship, not as British subjects, but as Australian or New Zealand citizens, and exactly what citizenship meant to those Chinese who took it up. Sociologically we need to deconstruct and critique diasporic Chinese notions of flexible citizenship, Chinese transnationalism, cosmopolitan subject-hood, and even multiculturalism.

(I prefer to be a cultural hybrid, and to champion cultural hybridity rather than multiculturalism). Most urgently, we need to research how the younger generation of diasporic Chinese, who have become such not by their own choice, cope with tensions of their identity as Chinese and Australians or New Zealanders.¹⁷ Let me end on a personal note: I am proud to be Chinese, and proud of my Chinese cultural heritage into which I was born and bred, and a culture whose history I have taught to generations of New Zealand and Australian students over the past thirty-five years. But I am equally proud of the English and European heritage I have been given by my education in New Zealand schools and universities. I am also profoundly proud and thankful to be a New Zealand and Australian citizen. That is what diasporic Chinese in Australia and New Zealand should be, and if our children are equally proud of their cultural hybridity and national citizenship, then they will be well prepared for the twenty-first century that lies before us and them, and will contribute to the evolving Australian and New Zealand cultures.

Endnotes.

- For an example of Professor Wang's own theorising see L. Ling-chi Wang, "Roots and the Changing Identity of the Chinese in the United States." In Tu We-ming (ed.), *The Living Tree: the changing meaning of being Chinese today*. Stanford: Stanford University Press, 1991. Pp 185-212.

- Henry Chan, "The Chinese Diasporic Identity in Australian History: to be or not to be Chinese." Paper presented at The River Regional Conference of the Australian Historical Association, Newcastle, 28-30 September 1997. The present paper draws on parts of this 1997 conference paper.

- David Parker, *Through Different Eyes: The Cultural Identities of Young Chinese people in Britain*. Aldershot: Avebury, 1995.

- Jessie Lim & Li Yan (eds.), *Another Province, new Chinese writing from London*. London: Lambeth Chinese Community Association, 1994.

- The most useful for the Australian situation would be the following: Alastair Davidson, *From subject to citizen: Australian citizenship in the twentieth century*. Cambridge: Cambridge University Press, 1997; S. Rufus Davis, (edit.), *Citizenship in Australia. Democracy, Law & Society*. Melbourne: Constitutional Centenary Foundation, 1996. For a bilingual and bi-nation situation as is developing in New Zealand the work of Will Kymlicka might be useful, see particular: *Multicultural Citizenship: a liberal theory of minority rights*. Oxford: Clarendon Press, 1995, and the briefer *States, Nations and Cultures*. Assen: Van Gorcum, 1997. A very useful comparison of Australian and Asian conceptions of citizenship is provided by Working Paper Number 1 of the Australian-Asian Perceptions Project:

Anthony Milner (ed.), *Perceiving "Citizenship"*. Sydney, Academy of the Social Sciences in Australia and the Asia-Australia Institute, the University of New South Wales, 1993.

- Ien Ang, "The Differential Politics of Chineseness." *Southeast Asian Journal of Social Science* 22(1994): 73. See also Ien Ang, "To Be or Not to Be Chinese: Diaspora, Culture, and Postmodern Ethnicity." *South Asian Journal of Social Science* 21(1993): 1-17.

- Ibid, 74.

- See for instance Tu Wei-ming (ed.) *The living tree: the changing meaning of being Chinese today*. Stanford: Stanford University Press, 1994.

- See Wang Gungwu, "Among Non-Chinese." In *The living tree*. Pp127-146.

- Dianna Giese, *Astronauts, lost souls and dragons: conversations with Chinese Australians*. St Lucia: University of Queensland Press, 1997. See in particular chapter 4.

- Shirely Fitzgerald, *Red Tape, Gold Scissors – the story of Sydney's Chinese*. Sydney: State Library of New South Wales Press, 1996. See in particular pp2-9.

- Morag Loh, *Dinky-Di: The contributions of Chinese immigrants and Australians of Chinese descent to Australia's defense and war efforts 1899-1988*. Canberra, Australian Government Publishing Service, 1989. Morag Loh, "Fighting Uphill: Australians of Chinese descent and the defense forces, 1899-1951." In Jan Ryan (ed.), *Chinese in Australia and New Zealand. A Multidisciplinary Approach*. New Delhi: Wiley Western, 1995, pp 59-66. Wendy Rankine, "Australia's Chinese Army Corps" Ibid, pp 67-74.

- Aihwa Ong, "On the Edge of Empires: Flexible Citizenship among Chinese in Diaspora". *Positions* 1:3 (Winter 1993): 755. See also Aihwa Ong and Donald Nonini (eds.), *Underground Empires: The cultural politics of modern Chinese transnationalism*. New York and London: Routledge, 1997; and Aihwa Ong, *Flexible Citizenship the Cultural Logics of Transnationality*. Durham, NC: Duke University Press, 1998 (forthcoming).

- Ong, "Edge of Empires", 771.

- See for instance the intellectual Hansonism of Paul Sheehan, *Among the barbarians: The Dividing of Australia*. Sydney: Random House Australia, 1998.

- Consider the recent critique of "white" Australian multiculturalism in Ghassan Hage, *White Nation Fantasies of White supremacy in a multicultural society*. Annandale, NSW: Pluto Press, 1998.

- Some of these and other issues raised in this paper will be explored in two forthcoming conferences in Australia: "Alter/Asians: Exploring Asian/Australian identities, cultures and politics in an age of crisis" to be held in Sydney, 18-20 February 1999, and organised by the Research Centre in Intercommunal Studies of the University of Western Sydney, Nepean; and "Asian-Australian Identities: The Asian Diaspora in Australia. A conference focusing on theatre, film and literature by Asian-Australians" to be held at the Australian National University, 27-29 September 1999, and organised by the Centre for the Study of the Chinese Southern Diaspora, Australian National University, and the Department of English, University of Queensland.

2.2 Social Differences between Kiwi-Chinese and Chinese Newcomers.

Author: Dr James Ng

Today the Chinese population in New Zealand can be subdivided into several groups, as follows:

- The long-established families who are linked by chain migration to the goldseekers and other nineteenth century Chinese immigrants. I call this group the Kiwi-Chinese, and in 1986, their full-blood members totalled around 12,500.

- The mixed-blood Chinese-Europeans and Chinese-Maoris arising mainly from relationships undertaken by the long-established families. They totalled some 4,500 in 1986.

- The mixed-blood Chinese-Polynesian immigrants, about half of Chinese-Samoan descent. They totalled some 1800 in 1986.

- The Indo-Chinese refugees who came from 1975. Some 7,500 arrived between 1975 and 1987, and most (perhaps some 80%) were Chinese.
- The Chinese newcomers from East Asia, including South East Asia, Hong Kong, Taiwan and mainland China. Some came in the 1970s but their influx has mainly occurred after 1986. Very largely because of them, the total Chinese population rose from some 26,000 in 1986 to 81,000 in 1996, or an increase of 55,000.
- And finally there are the overseas Chinese students who come on temporary residency permits. They are a big proportion of some 7,500 foreign students studying in New Zealand this year.

Of these six groups, the two chief ones both in numbers and in influence, are the Kiwi-Chinese and newcomers from East Asia.

The newcomers now greatly outnumber the Kiwi-Chinese, a situation which has occurred in a decade. However, the newcomers are concentrated in the Auckland region and to a much lesser extent, Christchurch, whereas Kiwi-Chinese are distributed throughout urban New Zealand. In particular in Wellington and Dunedin, the Kiwi-Chinese appear to have the greater numbers.

The Kiwi-Chinese look with astonishment on the influxes, remembering the hardly given permission given to their past immigration. Some think that the new Chinese immigrant wave have been allowed to come in such numbers because of the earned good reputation of the Kiwi-Chinese. While this may have been partly true for the Indo-Chinese newcomers, it does not apply to the bulk of the East Asian newcomers. They have been able to come because New Zealand has followed a relaxation of immigration restrictions on Asians in Australia, Canada, the USA and elsewhere.

There are differences in migration patterns between the Kiwi-Chinese and East Asian newcomers, and the salient difference is that the former adheres to chain migration. The continuation of chain migration throughout Kiwi-Chinese history has preserved their original characteristics. Thus the Kiwi-Chinese originate in a few Cantonese counties and they come from rural families with generally limited education and work skills. They are grateful to get to New Zealand because this country represents increased opportunities for betterment, if not for themselves, then for their children. They are willing to take on traditional Kiwi-Chinese work, which in the past were in market garden, fruitshop and laundry and today are in market garden, takeaway and restaurant. But within several years, they often buy their own small business and their children go to university, and this progression takes place in spite of the fact that the parents may still be unable to speak much English.

From the moment of their arrival in New Zealand the Kiwi-Chinese migrants are encompassed within extended family; in other words, through chain migration, they are able to obtain family help, family loans and family guidance in orientation and new skills. They have come into a circle of safety and evidence of this lies in their scant need for community organisations and religion. Nor are they particularly politically minded; they have emigrated for economic betterment, not for political reasons.

On the other hand, a notable characteristic of the East Asian Chinese newcomers is their diversity of origins. Whereas the Kiwi-Chinese come from different Cantonese counties, the East Asian newcomers come from different countries, and from widely separated places in those countries. Moreover, the newcomers are mostly urban folk.

While the newcomers usually come as nuclear families, yet they commonly lack the extended family networks and support which the Kiwi-Chinese have. Each newcomer family tends to be on its own. Therefore they have established a plethora of social associations and societies which are defined by their country or region of origin or special interests; even so these lack the kith and kin type of cohesiveness within the fewer older societies of the Kiwi-Chinese. The latter were more like friendly societies with strong charitable functions provided by members from the same locality or clans.

With less support for the newcomers, loneliness must be a major factor to contend with. Most of them however, appear to cope, although there is a minority who have turned to religion or use a Lifeline or similar service.

How do they cope? Key positive factors are the generally good education and urban sophistication of the newcomers

and many have good financial resources. These three factors enable the newcomers to easier adapt and mix in the wider New Zealand society. The newcomers are also adept in using communication aids ranging from media to computers, these linking them with news and family in their previous homelands. Many also travel freely to and fro New Zealand and their country of origin. Thus they are by no means severely isolated in New Zealand.

How do they get on with the Kiwi-Chinese? Not closely as yet. Newcomers have a natural tendency to gather among their own kind and besides, the majority of the East Asian Chinese speak Mandarin, not Cantonese. English has become the common language between the Kiwi-Chinese and newcomers and slowly they are getting together, as in the Auckland Cultural Centre and in some New Zealand Chinese Associations (as in Christchurch).

Work is a problem for many newcomers because of the different qualifications recognised here, a lack of fluency in English and New Zealand's different business environment. They do not readily take on lowly work because unlike Kiwi-Chinese, these newcomers generally have been selected for their education and/or good financial levels. Some mainland Chinese, however, are quite poor, and seek jobs like waitressing in Chinese restaurants.

The newcomers seem to be more politically aware and active than Kiwi-Chinese. A lot of them had left their previous homeland partly for political reasons and politics remain an interest in New Zealand. In contrast, the Kiwi-Chinese have almost always maintained a low political profile because of their humble backgrounds, but the newcomers are often persons of substance and more intolerant of racial prejudice directed against them.

This said, it is noteworthy that the social vanguard half of the Kiwi-Chinese people are comparable in education and professional standing with many of the newcomers. In addition, many Kiwi-Chinese have the advantage of long-established roots and extensive social networks within the wider New Zealand society. Hence as groupings, the Kiwi-Chinese and newcomers cannot look down on each other – a most fortunate circumstance.

Further, both Kiwi-Chinese and East Asian Chinese newcomers share a basic Chineseness – the same pride of race, shared values like a high regard for the elderly and education and similar problems of assimilation in a dominant European culture.

Hence it is conceivable that in the future a pan-New Zealand Chinese Association will arise, encompassing all Chinese in this country.

2.3 The Changing Face of Chineseness.

Author: Wong Liu Shueng,

There is a certain joy in being Chinese here in New Zealand at this time. No longer does the place of identity feel like it is a world away. No longer does that sense of a storybook reality exist. Today, as I look at fellow Chinese in the streets, sharing the same lecture rooms with them, shop with them at certain supermarkets, flocking to New Year celebrations, go to restaurants, I see that Chinese identity is being firmly and visibly validated here in New Zealand. And all of this has been founded on the efforts of immigrants like my grandfather who came here for better times. Those people had a vision, a dream, which their grandchildren enact in their lives. Our courageous ancestors paved the way towards a life of opportunity and choice. I thank my grandparents many times a year for their courage to hang-in there under not so elegant times.

I often think about what might have been in the minds of those early immigrants and how they thought of themselves. Certainly they thought of themselves as Chinese since the non-Chinese, both friendly and unfriendly would have reinforced that message, I should imagine, daily. Chineseness would be their identity, their psychological hidey hole from hardship and racism from the rest of their world. The village back home was clearly part of their lives, and this was one of the reasons why the remarkable Reverend Don as postman became so paramount in their lives. Rev Don was the bridgewalker between their worlds, between the past and the present, between the ancestors and the living, between their wives and families and the lonely solo existence of separated men, here in the goldfields.

These people have left a legacy for us all who were born here, stories and mythologies which have been handed down as our own elders recalled stories of the past. Stories of caution, of racism, of survival mixed with stories of ancestral

villages, of poverty, hunger, poor living standards, limited opportunities. Most important, we have been handed down an identity package about being Chinese, what it means, what rituals need to be performed, how to boil up Chinese medicine, how to cook delicious and tantalising food, and most important but not nearly so obvious, what is behind Chinese ways of thinking. Chineseness is a view of the world.

All of us here, Chinese and non-Chinese, carry an identity backpack which throughout life we examine. Sometimes we are just happy to carry it with us like security blanket, sometimes we might rummage around in it looking for something we thought was there, sometimes we will take things out piece by piece and pack it back with care and respect, and sometimes we will put it in a safe place for another day.

Chineseness is a definer, something which allows us membership into a sense of belonging, something we can claim, something that makes us different from others, something exotic. Conversely, there are individuals who see Chineseness as being outdated, old fashioned, for the wrinkles of their families, something they may even be embarrassed about, or something which is incomprehensible, or something others are making a big deal about. Can these different perspectives sit comfortably with each other? I say yes.

I looked up the NZ census recently. In 1926, I found a line which told me that 8 Chinese lived in Carterton. At a guess, I could name them. I looked up Hamilton in 1926 and noted 4 Chinese women living there at that time, my grandmother, my mother and 2 others. There is something to be said for knowing nearly everyone. While being spread over New Zealand, the Chinese were but a village even if the members were not living around a village pond where the water buffalo wallowed. In 1996 there are 81,000 specifically Chinese people in New Zealand, not including international students, tourists and visiting family. What does this mean?

Chineseness means different things to different people. Those from Taiwan, PR China, Malaysia, Vietnam, do think differently, just as Aucklanders are reported to be different from mainlanders. Those from Hongkong share the same dialect with many of us, but in other ways are different from NZ-born Chinese. The political and social climate, the environment, the education and legal systems all influence on our lives and the way we see the world, the way we develop assumptions which becomes the surrounding sound of our lives. Culture and identity is making sense out of that chaos. It is the process that we enter at birth, and as socialised beings we learn to understand others as well as making ourselves comprehensible.

The comprehensible factor as a child is limited by our understanding of the world, but now, we as an ethnic group and individuals, are entering a time of maturity. I believe that the Chinese community is at that crossroads along with other minority groups in New Zealand.

Minority groups now demand to have their private ethnic selves be enacted in their public lives. I can now go to Auckland War Memorial Museum and realise the contribution of the Chinese pilots of WW2. I can go to Te Papa and see a depiction of Chinese earlier times, or earlier still, in the Otago museum, or in Arrowtown where I sense the huts were actually built in proportion of people of my height. I can go and see theatre about being Chinese, or laugh and thoroughly identify and enjoy Raybon Kan's humour about our own stereotypes. I can read James Ng's historical tomes, or Manying Ip's research. I can see Chinese movies at a film festival, or rent Chinese videos, tell our own stories through all forms of media, because there are stories waiting to be told. Our ancestors are waiting for us to sing their song and to sing our own songs as well.

Does this have an impact on me as a Chinese person? I say yes. Because what is happening to Chinese community is happening for other ethnic groups, Maori, Pacific Island peoples, Indians, Pakeha. It is not just a New Zealand trend, it is a world wide trend of celebration of coming out… not from the closet, but from the closed private doors of our homes when cultural practices were hidden from view.

If our ethnic identity is out in our everyday lived lives, then like everything else in our lives, it becomes part of the smorgasbord from which we choose, moment by moment according to the appropriateness of event. I, for example, cannot see myself wearing a cheongsam onto a marae knowing I will be sitting on a mattress all day. I, for example, do not eat Chinese food at each meal, even though if there is one food my stomach prefers, it is rice. I for example, often wear jeans and a T shirt especially if I want to be casual and blend in. It would be unrealistic for me to suggest that living in New Zealand we Chinese do not include ourselves in the New Zealandness of our lives. New immigrants and old, all find a place of this balance, because it is life as we live it.

In this day and age, the census asks each one of us every four years to state our ethnicity. Ethnicity used to be about blood, now it is about choice, personal choice. That means I can choose to be Chinese or a New Zealander, and over a life time that is likely to change. And it means that those individuals that have some Chinese connection through their grandparents may choose to join us on our identity path. Like Maori who are seeking their past through family, I have had many conversations, increasingly so, of people who wish to know about a particular ancestor. This is good healthy curiosity.

The boundaries into groups and between groups are becoming thin and transparent so there is a sort of social ethnic osmosis happening. This is because Chineseness is not our only identity. Included on the smorgasbord identity table is our gender, our educational experiences, our spiritual or religious belief systems, our professional or paid employment groups, our socio- economic group, our neighbourhood where we live, our family and friends, our life experiences, which include the television programmes we watch, the newspapers we read, the books and magazines from which we absorb information and knowledge. They all influencing us because they form the fabric of our lives, just as the social and political systems of other countries effects others.

I think children are great at getting to core understandings. My son asked me when he was 5 years old, "Mum, am I half Chinese?" to which I replied "Yes". I think someone at school had told him. He then asked, "Well Mum, which half?" For him, half equated to an apple, you know, that "I cut, you choose" mentality. Given this simplistic choice, it is like having to chose one or the other. People do not have to do that with their sense of culture. No matter how much blood connection we have to Chineseness, each one of us also has a mix of New Zealandness in us as well. So it is unrealistic just as it is also unrealistic to say that NZ-born Chinese spend 50% of their time thinking with their Chinese perspective, seeing the world with Chinese contact lenses and eating Chinese food and magically at 12.00 midnight they change and become New Zealanders, whatever that means to them. Human beings do not respond to the world that way.

In this debate I want to offer two distinct perspectives.

The first is the big view. The more the world intermingles and demystifies what Chineseness is, there is a sense that groups begin to merge with other groups and then there is a sense that the world will all end up being the same. This is on the premise that ethnicity is finite, that there is only a certain quantity in it and therefore it is something that can be watered down, like a chemical, or a pure essence. The fear is something that one day we will wake up to zip, nothing, gone! If you think like this, let me give you some faith for the future. We do not become globalised just because we eat a Big Mac or wear jeans, the global uniform. There is a difference between the things that look alike and people who look alike, because people under the skin are not alike.

The reaction to this merging is the second perspective, that is to find, search, celebrate and honour our own historical roots. But by searching through that knapsack, we sense that everyone has the same knapsack. With this assumption, we are all capable of looking around the room, in looking at others who also see themselves as Chinese and fall into what I call the Judgement trap.

I call it a trap, because unwittingly I believe each of us, including myself can fall into judgements, and like a trap, the door closes after the event.

Chineseness has less to do with blood even though you may consider that is the defining characteristic that gains you membership. To me, Chineseness is not about being more Chinese or less Chinese. These measurements are what researchers call quantitative, bits that you can chart, measure, put on a scales, select by quantity.

To me, Chineseness is about how one person feels about themselves and how that identity plays a part. It is about the quality of Chineseness in our lives. But if quality is the criteria, then we need to become expanding and accepting as to the way we think of our Chineseness, not just to include our own reality, or the reality of our family, but to include may different realities, difference perspectives, different and less clearly defined membership. It needs to include people from different countries that have a Chinese basis. It needs to include all those so called self defining Chinese who do not speak Chinese but feel Chinese. To include all those Chinese who have never stepped on the land of our ancestors, and to those who did so and came back to say that all it did was tell them how Kiwi they are. It needs to include all the Eurasians who are hardly to be blamed for their parents liaison but often are faced with an identity dilemma and choose to deny the Chineseness of themselves in fear of rejection from our community. It needs to include all those Chinese who have married out of their ethnic group and then in order to cope, succeed in making themselves invisible. Pressure to

assimilate is a force that few can withstand. Inclusiveness needs to include those of a generation who have strong traditional focus, and those who say "Chineseness, nah don't ever think about it really? not a problem…"

Chineseness is a quality within a person, shared at some level for some reason with others. It may be historical, but not solely historical. It may be behavioural but not include all behaviour, it may be philosophical but not include all philosophical thought.

I guess I'd like to finish by telling you an anecdotal story which started this thinking for me.

About 12 years ago when the first flush of new immigrants come to New Zealand, I was one of the decision makers about the future of an interest group. The meeting was difficult, as the decisions tended to bring up issues of responsibility, money, future etc… As I stood to go, a woman said to me in frustration, "You know Liu Shueng, the trouble with you is that you are not Chinese!" I was shocked into silence as I thought of all those times I had clung onto my Chinese identity in order to survive, and how my family had nurtured what Chinese was, and how I had developed a hidden Chineseness in dark days of NZ assimilation. But when I got over that reaction I thought about it.

Here was an immigrant who had come from Hongkong, and who was desperate to find someone more like her rather than the whole world which was less like her. She was looking for a link from her past into her present. That is understandable, for no new immigrant can possibly know and think what life will be like in its reality in such a monocultural/monolingual society as New Zealand. Understandably, she saw me as a NZ-born Chinese and my behaviour looked to her as being overwhelmingly New Zealand. Even though many of my New Zealand friends see me as very Chinese. She was looking for sameness, and she was only seeing difference.

Many years later, I saw this same person, whose child born in Hongkong came out here when she was 3 years old and was now at school. In general conversation, she told me "Oh and my daughter, she is just like you!" Her perception had changed, it had expanded. She has done what we all need to do. She has become more inclusive in her Chineseness. And for her and all of us, this is an on-going process. The boundaries in today's social climate may be different in the future. Change happens because as we live our lives we are confronted by other kinds of Chineseness, so we keep redefining ourselves. The confrontation is about our culturally learnt assumptions, what we think is right and wrong, what it is supposed to be like rather than the reality. In the redefinition, I hope that each of us do not fall unwittingly into the judgement trap and throw the baby out with the bathwater. For our definitions need to expand rather than contract.

I would hope in the future, that the many faces of Chineseness will become more visible. That we show the same sort of tolerance for ourselves that we wish to see and experience from others. Chinese from an inside point of view is about how each one of us feels, Chinese from the outside is steeped in the history of this land and the echo of the past is still heard today.

In this land of increased diversity, what it is to be Chinese is through the recognition of the nuggets of gold which we carry in the knapsack that we associate with our identity.

The gold has gone from the goldfields. Our ancestors gave it to us, to all those Chinese born here and all those Chinese who have since arrived. It is a very good reason to celebrate.

2.4 The Chinese in a Bicultural New Zealand: The way forward

Author: Steven Young

HISTORICAL PERSPECTIVE

Following World War II and the establishment of the United Nations, many countries began (or continued) a process of de-colonisation. In countries with a predominately indigenous population, independence devolved to governments comprising indigenous people and the colonists withdrew. Even where independence devolved to dominant colonists, there was increasing recognition of the rights of indigenous people who, in general, at that time were badly treated.

In New Zealand, an increasing recognition of the rights of the Maori people culminated in the passing of the Treaty of Waitangi Act in 1975. This Act provides for the observance and confirmation of the principles of the Treaty of Waitangi by establishing a Tribunal to make recommendations on claims relating to the practical application of the Treaty and to determine whether certain matters are inconsistent with the principles of the Treaty.

We shall discuss the Treaty principles later; however, suffice to say that over the past 20 years or so since the passing of the Act, as these Treaty principles have become incorporated in the laws and constitution, New Zealand has become "bicultural". (Note: this DOES NOT mean that the Government of New Zealand officially supports and promotes only European and Maori culture and cultural activities. See Appendices.)

The Chinese originally came to New Zealand in the 1860s at the invitation of the Otago Provincial Government to re-work the gold fields, but subsequently in many ways their fortunes paralleled those of others who participated in the Chinese Diaspora during the 1800s.

Following their success (or lack of success) in the gold fields, they stayed on, becoming mainly labourers, shopkeepers or market gardeners, all the while being privately and personally discriminated against by the European population and officially by the Government. It was only during World War II that the Chinese in New Zealand were recognised as allies supporting the war effort by contributing money to the war against the Japanese and growing food to feed the troops. It was only after that the Chinese were accorded the full rights of citizens.

The post-war generation, by dint of effort, managed to raise themselves into the professions. In the period up to 1987 immigration was only commonly possible through marriage and chain migration. Through cultural isolation this group has become politically and socially passive. At the same time these people became very thoroughly westernised, developing a fine appreciation of the rule of law and the concepts of social responsibility and human rights.

Since 1987, there has been a dramatic increase of Chinese migration to New Zealand, from Taiwan, China, Hong Kong and Malaysia, made possible by a change in Government policy and driven in source countries by political, social and environmental considerations. There has been an unprecedented influx of Chinese – not only professionals, but also business tycoons, entrepreneurs, share market and property investors and artists, academics and intellectuals. These new immigrants grew up in an environment in which their culture was dominant and accordingly in New Zealand they have been much more willing to participate in the political process. Many also profess a love of freedom and the rule of law.

The presence of these "new immigrants" has leavened the political, social and cultural mix of the Chinese population of New Zealand.

UNDERSTANDING THE CONFLICTS WITHIN A BICULTURAL NEW ZEALAND.

The Chinese population in New Zealand, comprising these two main groups, both fired up by (until recently) burgeoning Asian economics, and a resurgent China, seek to build a "multicultural" society in order to be able to assert their cultural identity to an extent consistent with their numbers, resources, energy etc. Within a democratic society they expect equality before the law and at least decreasing racial discrimination.

Lacking a proper understanding of "bicultural" principles, they observe with interest the apparently endless Treaty claims for vast tracts of "government" lands, rivers and fisheries.

They are more uneasy when it appears that Maori groups can make claims on, or object to the use of sites for passive recreation or sporting and cultural facilities proposed by municipal authorities. They are also uneasy when they see national resources being allocated to Maori language maintenance, Maori radio and television and Maori educational support.

They are positively alarmed when the Minister of Justice (naively) explains that there is one law for everyone, but the Maoris have additional rights under the Treaty of Waitangi.

Worst is the notion (implied by Europeans and voiced by Maori radicals) that the Chinese in New Zealand, as tau iwi (foreigners) have no standing to participate in the constitutional debate regarding the Treaty. This, despite the fact that many Chinese are fourth generation New Zealanders, whose forebears helped to build the country, some even dying in its defense.

The "old" Chinese are as confused as other New Zealanders about the changes being wrought in society by the application of the Treaty principles to their everyday life. It seems that the Treaty of Waitangi is being used like soy sauce: we add a little to everything to improve its flavour.

In fact, the changes being wrought on New Zealand society by the Treaty are, for the most part, firmly founded on the principles of the rules of law. Once it is accepted that the British Crown and the Maori Chiefs of New Zealand entered into an agreement documented in the Treaty, then other rights and obligations flow in both directions.

However, the development of law is not only a legal process, it is also a dynamic political process: laws often move in the direction in which they are driven by people. At the present time, the laws may be moving in a certain direction because of the activism of Maori people and others sympathetic to their cause. Perhaps things have gone far enough or even too far. The way to change that it is political activism by other groups.

If Chinese New Zealanders are troubled by the apparent limitations on their political and social freedoms, they have essentially three choices:

They can pretend that it is not happening, ignore the Maori people and their legitimate aspirations as indigenous people, ignore the need to work towards an integrated society in New Zealand. Their minds will then be free to get better academic grades and earn more money.

They can run, but other destinations are not without their social and political problems, and many lack the social and environmental advantages of New Zealand.

They can fight, which means continuing political activism, because continuing participation in the political process is the price of recognition.

THE WAY FORWARD

If Chinese New Zealanders are to have a meaningful political existence and not be politically marginalised they must fully understand and embrace the "bicultural" status quo, then bend it to their liking through the legitimate democratic political process.

(As a starting point in understanding what is meant by a Bicultural New Zealand, a few notes on the Constitution of New Zealand, Customary Maori Rights, the Treaty of Waitangi, Treaty Principles, the enforceability of the Treaty of Waitangi and the Maori and the Resource Management Act are included in the Appendix.)

The first requirement in trying to participate in the political process is to get a voice that can be heard. The most powerful voice today is that of New Zealand's first Chinese Member of Parliament. Pansy Wong has been able to make the voice of Chinese heard in Parliament and other places where it has never been before. She has been instrumental in making ministers sit through meetings with community groups to hear their concerns. She has heightened the awareness of other MPs to the concerns of the Chinese community. However, the community must remember she is a list MP. She is in Parliament because the National Party placed her high enough up on their list that she gained a seat under MMP (Mixed Member Proportional representation). MMP may not survive unchanged in the next Parliament; Pansy Wong or another Chinese person may not be high enough up the National Party list to keep her list (because she is moved down by the party or the party does not gain enough votes in the next election to include her in the group of list members.) Traditionally the Chinese have done nothing about these sorts of possibilities: they have not lobbied individually or as a group for someone such as Pansy Wong to be moved up the list, nor have they helped to increase the party vote under

MMP. However, inaction of this sort can be fatal to their aspiration for a continued voice in Parliament.

It is not sufficient to look after ones own interests, rather it is necessary to seek active engagement with other New Zealanders. To a greater or lesser extent the Chinese New Zealanders do interact with other New Zealanders, participating in the workplace and the activities of churches, schools, sports clubs, and other community groups. Nevertheless, they do not have much to do with the Maori population, perhaps because they feel them to be one removed from the dominant (European) culture. This is rather strange when in many ways the Chinese and the Maoris have much in common: community and family values, a reverence for ancestors, a history of oppression by colonial powers and so on. If the DNA evidence is to be believed, they even share a common ancestry. The Maoris have a great love of the land and the environment – something the Chinese could learn from; the Chinese are wise in the ways of the commercial world and have an almost single-minded obsession with academic attainment and these skills could help the Maori people. Also Maori people in general would appreciate the efforts of the Chinese community in learning about the Treaty and its implications. Clearly, it is necessary to find the right forum for this interaction since a touch-feel approach would soon wear thin and soon be abandoned. However, given the will, a solution would soon be found.

Finally the way forward must include retaining and enhancing Chinese culture. It is beyond the scope of this paper to discuss the ways and means of doing this and there are people far better qualified to implement it. However, it is pertinent to point out that the way forward in a Bicultural New Zealand is not to be assimilated into the dominant European/American/ersatz Maori culture but to take the best of the Chinese culture and to adapt it to local conditions.

ACKNOWLEDGEMENT

I am indebted to Nicola Young BA, LLB (1999) for her research into the legal definition of "a bicultural New Zealand": and particularly in unearthing the legal meaning of "Treaty Principles". However, I am solely responsible for the statements contained in this paper.

APPENDICES

In order to understand what is meant by "a Bicultural New Zealand" it is necessary to have a basic understanding of:

The Constitution of New Zealand

Customary Maori Rights

The Treaty of Waitangi

The Treaty Principles

The enforceability of the Treaty of Waitangi

Maori and the Resource Management Act

APPENDIX 1

THE CONSTITUTION

Although New Zealand has the Constitution Act 1986, a great deal of our constitutional arrangements are found in other non-statutory materials and doctrines.

New Zealand does not have a constitution in the sense that here is one set out in higher law to which all other law is subject, but does have a number of statutes and other laws with constitutional significance.

One of the basic doctrines which drives the Constitution is "The rule of law".

The development of the rule of law has been of fundamental importance in limiting the power of government over the citizen and requiring certain procedures to be followed.

Another aspect of New Zealand's constitutional arrangements is the Treaty of Waitangi. The functioning of the Waitangi Tribunal and the place of the Treaty in New Zealand judicial decisions have played an increasingly important role in the last 20 years.

Constitution Act 1986

This Act brings together certain provisions of constitutional significance. Among other matters it defines:
The Sovereign

The Sovereign in right of New Zealand is the Head of State in New Zealand.
The Executive

Ministers of the Crown are to be members of Parliament.
The Legislature

There shall continue to be a House of Representatives for New Zealand.

There shall be a Parliament of New Zealand, which shall consist of the Sovereign in right of New Zealand and the House of Representatives. Parliament shall have full power to make laws.

The Judiciary

There is protection of judges against removal from office. (Independence of the judiciary)

APPENDIX 2

CUSTOMARY MAORI RIGHTS

Customary rights are rights of use and occupancy in lands and waters which continue as a recognised legal interest after conquest, discovery, or cession until they are extinguished by the colonizing power.

As customary rights are a rule of common law, they can be enforced in the courts without the need for statutory recognition.

Customary rights have been repeatedly recognised in United States law and are also a feature of Canadian and Australian law.

Not all customary rights have been extinguished in New Zealand.

APPENDIX 3

THE TREATY OF WAITANGI

There are three versions:

English version

Maori version

Translation of Maori version

The Treaty of Waitangi Act 1975

This Act provides for the observance and confirmation, of the principles of the Treaty of Waitangi by establishing a Tribunal to make recommendations on claims relating to the practical application of the Treaty and to determine whether certain matters are inconsistent with the principles of the Treaty.

Major Waitangi Tribunal Claims

Sealord/fisheries (September 1992)

First and only pan-tribal settlement, assets still undistributed to date due to arguments over allocation method. Value \$170 million.

Waikato-Tainui (May 1995)

Precedent settlement for confiscation of 1.2 million acres of land after New Zealand Wars, included apology signed by The Queen. Value \$170 million.

Ngai Tahu

Government's failure to set aside land for Ngai Tahu in eight deals between 1844 and 1864 involving almost the whole South Island – precedents established for conservation land management, access to traditional food sources and pounamu, Mt Cook returned and re-gifted to nation as Aoraki-Mt Cook. Value \$170 million.

APPENDIX 4 TREATY PRINCIPLES

The term "Treaty Principles" originates from s. 6 of the Treaty of Waitangi Act 1975.

The Treaty Principles are not static but are dynamic and should evolve with the time.

The Waitangi Tribunal, the Courts and the Crown, have considered and substantially defined the principles of the Treaty.

The main principles are drawn from the decisions of the Waitangi Tribunal and the courts:

NB. The Court of Appeal is not bound by Waitangi Tribunal reports, but various judges have stated that such reports should be given considerable weight.

Sovereignty and Kawanatanga

Article I conferred on the Crown the exclusive right to make laws for the good governance of the country.

Principle One: The Essential Bargain

Court of Appeal: The cession by Maori of sovereignty to the Crown was in exchange by the Crown of Maori rangitiratanga.

Waitangi Tribunal: The right of the Crown to make laws was exchanged for the obligation to protect Maori interests.

Exclusive Possession and Rangitiratanga

Article II guaranteed the continued right of hapu to manage and control their resources in accordance with their customs and having regard to their cultural preferences.

Principle Two: Tribal Self-Regulation

Court of Appeal: Maori were to retain chieftainship rangitiratanga over their resources and taonga and to have all the rights and privileges of citizenship.

Waitangi Tribunal: The Crown has an obligation to legally recognize tribal rangitiratanga.

Partnership

Principle Three: The Treaty Relationship

Court of Appeal: The Treaty requires a partnership and the duty to act reasonably and in good faith. The responsibilities of the parties are analogous to fiduciary duties. The Treaty does not authorize unreasonable restrictions on the Crown's right to govern.

Waitangi Tribunal: The Treaty implies a partnership, exercised with utmost good faith. The Treaty is an agreement that can be adapted to meet new circumstances. The courtesy of early consultation is a partnership responsibility. The needs of both Maori and the wider community must be met, which will require compromises on both sides.

The concept of partnership is fundamental to compact or accord embodied in the Treaty of Waitangi. Inherent in it is the notion of reciprocity – the exchange of the right to govern for the right of Maori to retain their full tribal authority and control over their lands and all other valued possessions.

Active Protection

Principle Four: Active Protection

Court of Appeal: The duty is not merely passive, but extends to active protection of Maori people in the use of their resources and other guaranteed taonga to the fullest extent possible. The obligation to grant at least some form of redress for grievances where these are established.

Waitangi Tribunal: The Maori interest should be actively protected by the Crown. The Crown right of pre-emption imposed reciprocal duties to ensure that the tangata whenua retained sufficient for their needs. The Crown cannot evade its Treaty obligations by conferring an inconsistent jurisdiction on others.

The duty of active protection extends to those interests which are guaranteed to Maori by the Treaty, primarily the continued authority to exercise rangitiratanga over natural and cultural resources.

APPENDIX 5 ENFORCEABILITY OF THE TREATY OF WAITANGI IN THE COURTS

The treatment of the Treaty of Waitangi in the courts has waxed and waned over time.

The greatest difficulty in enforcing the Treaty of Waitangi, however, remain the rule of statutory incorporation established by the Privy Council in *Hoani Te Heu Heu*. That rule, established in 1941, states that The Treaty is only enforceable to the extent that it is incorporated into statute.

Within the confines of this rule, the courts can still decide whether or not to take a generous interpretation of statutory incorporation of the Treaty of Waitangi, and it is arguable that the broad approach of the Court of Appeal in *New Zealand Maori Council* in 1987 has been significantly narrowed in the case concerning broadcasting assets in 1992.

Statutory incorporations of the Waitangti and of Maori concerns

The following Acts, enacted sine 1975, make particular reference to the treaty of Waitangi, to the Maori perspective or to Maori interests.

Resolution of claims under the Treaty of Waitangi

Treaty of Waitangi Act 1975

Treaty of Waitangi (State Enterprises) Act 1991

Crown Forest Assets Act 1989

Legislation to secure rights protected by the Treaty of Waitangi

Fisheries Act 1993

Maori Language Act 1987

Maori Fisheries Act 1989

Provisions requiring that regard be had to the principles of the Treaty of Waitangi

State-Owned Enterprises Act 1986

Conservation Act 1987

Resource Management Act 1991

APPENDIX 6 MAORI AND THE RESOURCE MANAGEMENT ACT ("Learning from the Maoris")

Maori have a special relationship with the land and its natural resources, through whakapapa.

This special relationship Maori have with the environment places strong obligation on them to protect the land and its natural resources.

Maori were extensively consulted during the resource management law reform process.

Many of the issues and concerns raised by Maori in consultation were incorporated into the RMA.

Other reforms happening at the same time as the resource management law reform were slow to develop or failed to eventuate. As a result the RMA's effectiveness for Maori was impeded by its inability to link to complementary legislative provisions.

What was achieved however, was an environmental regime that provided for Maori participation in resource management to a greater extent than ever before.

The RMA recognizes that Maori are not just another interest group but have special status as the tangata whenua of this country.

APPENDIX 7

THE TREATY OF WAITANGI 1840 {English text of the Treaty}

Her Majesty Victoria Queen of the United Kingdom of Great Britain and Ireland regarding with her Royal Favour for Native Chiefs and Tribes of New Zealand and anxious to protect their just Rights and Property to secure to them the enjoyment of Peace and Good Order has deemed it necessary in consequence of the great number of Her Majesty's Subjects who have already settled in New Zealand and the rapid extension of Emigration from both Europe and Australia which is still in progress to constitute and appoint a functionary properly authorized to treat with the Aborigines of New Zealand for the recognition of Her Majesty's Sovereign authority over the whole or any part of those islands.

Her Majesty therefore being desirous to establish a settled form of Civil Government with a view to avert the evil consequences which must result from the absence of the necessary Laws and Institutions alike to the native population and to Her subjects has been graciously pleased to empower and to authorize "me William Hobson a Captain" in Her Majesty's Royal Navy Consul and Lieutenant Governor of such parts of New Zealand as may be or hereafter shall be ceded to Her Majesty to invite the confederated and independent Chiefs of New Zealand to concur in the following Articles and Conditions.

ARTICLE THE FIRST

The Chiefs of the Confederation of the United Tribes of New Zealand and the separate and independent Chiefs who have not become members of the Confederation cede to Her Majesty the Queen of England absolutely and without reservation all the rights and powers of Sovereignty which the said Confederation or Individual Chiefs respectively exercise or possess, or may be supposed to exercise or to possess, over their respective Territories as the sole Sovereign thereof.

ARTICLE THE SECOND

Her Majesty the Queen of England confirms and guarantees to the Chiefs and Tribes of New Zealand and to the respective families and individuals thereof the full exclusive and undistributed possession of their Lands and Estates Forests Fisheries and other properties which they may collectively or individually possess so long as it is their wish and desire to retain the same in their possession; but Chiefs of the United Tribes of the individual Chiefs yield to Her Majesty the exclusive right of Preemption over such lands as the proprietors thereof may be disposed to alienate at such prices as may be agreed upon between the respective Proprietors and persons appointed by Her Majesty to treat with them in that behalf.

THIRD ARTICLE

In consideration thereof Her Majesty the Queen extends to Natives of New Zealand Her royal protection and imparts to them all the Rights and Privileges of British Subjects.

[Signed] W Hobson Lieutenant Governor

Now therefore We the Chiefs of the Confederation of the United Tribes of New Zealand being assembled in Congress at Victoria in Waitangi and We the Separate and Independent Chiefs of New Zealand claiming authority over the Tribes and Territories which are specified after our respective names, having been made fully to understand to Provisions of the foregoing Treaty, accept and enter into the same in the full spirit and meaning thereof in witness of which we have attached our signatures or marks at the places and the dates respectively specified.

Done at Waitangi this Sixth day of February in the year of Our Lord one thousand eight hundred and forty.

2.5 The Implication of multicultural citizenship for New Zealand Chinese

Author: Sylvia Yang Yuan

Multicultural citizenship

Unlike the early Chinese, who had to wait for over forty years (1908 to 1951) to be naturalized, it only took me three years to submit my application of citizenship. However, I still ask questions that the first Chinese citizen (Mabel Sang, see Ip, 1995: 183) probably asked herself 46 years ago: what does New Zealand citizenship mean to me? Am I still a Chinese migrant after becoming a NZ citizen? How can I incorporate my communal belonging into my forthcoming political membership, or as Habermas (cited in Donald, 1996:173) puts it "give the legal status of citizenship a cultural identity (*italics original*)"? Is it reasonable to assume universal aspects of citizenship as well as some particular consideration of my Chinese ethnicity? These questions are not only significant to me but also to other members of my community as well as to members of other ethnic minorities, whether their citizenship is given (NZ-borns) or earned (migrants). The citizenship debate in this country can be summed in a single question: Does the traditional conception of citizenship still suit the contemporary New Zealand context, given the increasing cultural diversity over the last few decades? In searching for a critical understanding of this issue, which takes both historical roots and recent trends into account, my journey of exploration departs from the most traditional concept of the notion "citizenship".

The French revolution originated a republican model of the nation-state and that of citizenship. The ideology of citizenship sets the criteria of membership that defines "the people"; and determines the nature of the dialogue between the individual and the state, that is, the rights and obligations of the citizen, the access the citizen has to the state, and the demands the state makes upon the citizen (Brubaker, cited in Jacobson, 1996:7).

This embryonic form of modern citizenship has been amplified by Marshall, "the father of sociology of citizenship". Based on the British institutional arrangements, Marshall formulated a triad model of citizenship, including civil rights, political rights and social rights. If the French republican invention of the notion citizenship was a revolt against the tyranny of feudal aristocrats, Marshall's later elaboration was based on recognition of the persistence of inequality inherent in capitalism. According to Marshallians, only with the realization of universal rights, would citizenship become the principal means for resolving the tensions between legal status and economic class in "a hyphenated society" (Turner, 1992). Apparently, this universalistic notion of citizenship is dealing with class issue rather than ethnic issue. Historically,

the cost of universal citizenship has been inevitably cultural assimilation (Donald, 1996:173) in many countries adopting Marshallian's foundation. New Zealand is not an exception.

Between now and Marshall's time, the world has moved from a modern era into a post-modern era. Over the last three decades, not only has the contradiction between franchise equality and actual inequalities become even more profound than in Marshall's time, but a variety of other factors have added into the "problematique of citizenship" (Oommen, 1997:229).

The most significant change is the paradoxical consequences of globalization (Castles, 1997:6; Khan, 1995:126, Turner, 1992:58). On the one hand, a universalizing process transforms different parts of the world to become more or less alike; on the other hand; a reverse process occurs to particularize the existing differences. From this simultaneous development of globalism and localism arises two implications on citizenship: a disintegration of the autonomy and homogeneity of an individual state. Political and economic interdependence, is now more of a reality for a state than that of independence, an assumption held by Marshallians. National homogeneity, another assumption held by Marshallians, disappears as the boundary between territories gets blurred. The language of 'immigration' is no longer sufficient to capture the rapidity and intensity of transnational mobility; instead, Solomos (1996:23) uses the idea of 'diaspora' to describe an unending, multiple, circular and returning sojourn across different lands. The Chinese transnational community is one of the most frequently quoted examples. Given the increasing presence of transnational mobility, cultural diversity is no longer out there, but within each country. The two fundamental assumptions of the traditional conception of citizenship, (state autonomy and national homogeneity), which level out and depoliticize cultural differences, become less and less relevant in today's world.

The impact of globalization is as evident in NZ as elsewhere, and is even greater in terms of overseas ownership of the country's capital. A new sense of New Zealandness combines both increased international connections and heightened regional affiliation. Asianisation, a process in which NZ identifies itself as part of Asia (Fleras & Spoonley, forthcoming), represents a unique aspect of the NZ experience of globalization. The increasing visibility of Asian and Pasifika migrants, who have more than one political membership, erodes the link between nationality and citizenship, which in turn challenges the state's ability to define citizenship: who are "the People", and in what way do they belong?

If homogenization and heterogenization are the two contradictory consequences of globalization, individualization and collectivization are the two paradoxical processes occurring in NZ, represented by devolution and reparation respectively. Both Labour and National Governments have reached a consensus to decentralize. Based on a liberal model of economic rationalism, the nature of the dialogue between citizens and the state has been fundamentally altered since the post-1984 reform. A new form of contractualism, based on court confrontation of individual representatives, signals the state's reluctance to mediate disputes between conflictual groups. New Rights' emphasis on self-development and independence from the state serves as an ideological justification of the withdrawal of state intervention (Spoonley, 1997). The social responsibility code offers a NZ version of a "new social contract", which emphasizes obligations of citizenship rather than its rights. Alongside a devolution, however, is an opposite process of reparation, by which the state handles over compensation packages to different iwis. One of the major implications brought by the regained constitutional status of the Treaty is the recognition of Maori's communal rights, especially of their traditional ownership or particular resources. In addition to political and economic self-determination, Maori, as a group, strive for control over cultural reproduction.

The second significant change is the new politics of identity. Cultural diversity per se is not new, but to use one's ethnic identity as a basis to claim communal rights is very much a feature of the post-colonial movements. In Marshall's time, the focus of analysis was about the gap between official entitlement of citizenship and de-facto exclusion of minority groups. In the 1990s, although these problems still persist, the rationale of liberation is no longer "being identical and equitable"; but "being different and equitable". The traditional focus of individual rights fails to alleviate the systematic pattern of group disadvantages. Given that the institutional arrangement of the state itself is ethnocentric and operates against ethnic minorities, it is no longer a question of how can the state treat each citizen identically because identical hinders equity. If the rise of localism is a resistance to global assimilation, the rise of identity politics can be seen as a resistance to national assimilation. Ethnic minorities, whether they become a minority group by virtue of colonialization (e.g. indigenous people), involuntary emigration (e.g. slavery, refugee, exile), or voluntary migration, increasingly want to be recognized and treated as culturally distinctive collectives. A separation between the nation and the state catalyzes a shift from modern liberalism (the liberation of the individual) to postmodern liberalism (the liberation of cultural people) (Jeche, 1993, cited in Khan 1995:105).

Ethnic relations in New Zealand forms the same triad as other "New World" countries. As the colonizer, Pakeha, the

majority group has sought civic nationalism through assimilating minority groups until the 1980s, when Maori, the Tangata Whenua, began to challenge the sovereignty with indigenous nationalism. According to the Treaty of Waitangi, Maori are entitled to a status of dual citizens, as individuals and as members of iwi/hapu. The claim of Tino Rangatiratanga is one of the most significant challenges to the traditional notion of citizenship (Spoonley, 1997). The third component of NZ population is formed by a variety of migrants, including Tangata Pasefika of the 1970s, and East Asians and South Africans of the 1990s. The Chinese community is apparently one of the most significant ethnic groups. There are diverse voices for greater recognition of their cultural identities as these migrant communities mature. NZ government faces a major policy dilemma in handling the competing politics of identity.

There have always been some fundamental ambiguities inherited in the notion of citizenship (Castles, 1997), but its limitations become most evident in the 1990s in that globalization makes the notion redundant while the politics of identity makes the notion inadequate. The institution of citizenship needs to be reconceptualized to adapt to the two major challenges. Kymlicka's (1995) liberal model of multicultural citizenship is one of the alternatives suggested. By making a distinction between indigenous people and immigrants, he spells out a feasible reconciliation of different value claims, in opposition to the extreme form of pluralism, that is, all identity politics are equally valid.

Kymlicka's version of multicultural citizenship weighs universal individual rights and differentiated groups rights with equal importance. He further divides group-differentiated rights into three levels. Self-government rights refer to the delegation of powers to national minorities, including political autonomy and territorial jurisdiction. Polyethnic rights refer to financial support and legal protection for certain cultural practices. Special representation rights refer to guaranteed seats for ethnic or national groups within the central institutions of the large state. Kymlicka further proposes that different ethnic minorities are entitled to different combinations of these arrangements. He believes that a shared patriotism can only be built on sufficient recognition of differences. The state although losing its sovereign control, is still the primary custodian of the majority culture and the mediator of various identity claims. His modification initiates a thoughtful attempt in exploring the potential of citizenship to "reconcile the two identities of nationality and ethnicity and the competing demands of equality and identity" (Oommen, 1997:243).

A country can be both multinational and polyethnic. USA, Canada, Australia, and New Zealand are countries that have this dual character. Kymlicka's framework of multiculturalism can be amplified in NZ as a policy of supporting polyethnicity within the national institutions of Pakeha and Maori cultures. In the case of Maori, who have lost their autonomy by virtue of colonization, their status of "first nation" serves as a basis for claiming self-government rights. Reparative justice should be given according to some historical agreements (i.e. the Treaty of Waitangi). In a multinational state, Maori exists as a distinct society, a "nation within". Nonetheless, the experiences of Chinese immigrants are fundamentally different, so should our rights be addressed differently? Although some migrant labourers are subject to "internal colonization", usually we made a choice to come to a certain country and many make a choice not to go back home. Our cultural identities do not promise any entitlement to self-governance, but we can exist as voluntary associations, and be recognized by both the national institutions and the state, enjoying polyethnic rights or even special representation rights. NZ is in a stage where the issues of indigenous rights and cultural diversity of migrants have been recognized by the state, but still lacks specific agreement on how these issues might be accommodated in the institution of citizenship. Some conceptual disputes need to be examined in order to generate culturally sensitive and feasible politics.

The first question asks about the willingness of the state to adapt a critical version of multicultural citizenship. The notion of multiculturalism has been utilized to signify different meanings. Countries like USA, Canada, and Australia, which have chosen to represent themselves as multicultural societies, often tolerate only a softened version of multiculturalism. Preservations of cultural heritage are confined to the private domain, with moments of social entertaining in the public domain. Multiculturalism is interpreted in a purely cultural term. That is, the presence of multiple cultures provides "a shopping mall boutique summa of the world's cultures" (Stam, 1995:200). Multiculturalism may also be reduced to community relations and education or cultural awareness training programs, as is the case in Australia (Pettman, 1995:82-83). Various forms of symbolic multiculturalism, too, prevail in NZ, as in the case of Pasefika music and Chinese food. Moreover, based on the perception that minority groups are internally homogeneous, political representation rights are usually given to male, intellectual and conservative leadership of the community. Therefore, the state reinforces the dominant values (whether it is Australian, or NZ values) by empowering some but not all the other members of the ethnic communities, implying its preference for "the authentic other" (Sahgal & Yuval-Davis, 1992, cited in Stasiulis, Yuval-Davis, 1995:27). It is often unclear that whether the representatives really represent their community and whether other members of the community identify with the leadership.

The second question casts doubts on the state's capacity to transform differences as a resource rather than a threat. Given that the sovereign control of the NZ government leaks outwards to off-shore investors and downwards to national institutions (Spoonley, May 26, 1998), will the state still have the appropriate personnel and sufficient financial

resources to mediate cultural differences? The advent of a MMP Parliament may open the possibility of granting special representation rights to ethnic minorities. However, a more direct access to parliament does not imply a greater impact on the decision making process because competing voices of minority representatives can be diffused in the fragmented system. Moreover, the available language and procedure often hinder, rather than facilitate minorities to express their concerns to the state. Another pack of vocabulary is needed for cross-cultural communication.

The third conceptual issue relates to the tension between biculturalism and multiculturalism. Biculturalism became a central concept policy since the mid-1980s, requiring systematical recognition of government agencies on Maori clients' needs in accordance to the Treaty. A decade later, an alternative policy orientation, multiculturalism, is articulated forcibly, largely as a reaction to the increasingly visibility of other ethnic groups. Multiculturalism is often interpreted as "diametrically opposed" to biculturalism in that Maori are seen not as the national people but as merely one of many ethnic minorities (Spoonley, 1997). Thus the state's commitment to biculturalism as compromised by the competing pressures of multiculturalism and becomes yet another excuse for reluctance in reparation. In Fleras and Spoonley's framework, the notion of "binationalism" modifies Kymlicka's conspiracy theory on group-differentiated rights to fits the New Zealand context. This notion clarifies the ambiguities inherited in the notion of biculturalism by confirming Maori's unique status as Tangata Whenua (first nation) thus differentiating Maori from other ethnic groups. In other words, in addition to cultural identity, Maori also have a national identity. Thus, Maori and Pakeha are the only two parties which should be included in binational partnership, operating as two parallel societies; while all ethnic groups can be included in multicultural policies, entitled to claim polyethnic rights and even special representation rights, but not self-governance rights. Binationalism serves a win-win solution to the conceptual erosion previously existing between biculturalism and multiculturalism, and makes the two complementary and compatible. It ought to be mentioned that the majority group, Pakeha, is often left out in the cultural debates. The absence of Pakeha identity make the dominant culture seem even more normal, necessary and inevitable. It is hoped that Pakeha identity politics can gradually keep pace with that of minority identities.

The final implication of Kymlicka's theory questions the balance between the rights and obligations of citizenship. Collective rights imply both internal and external restrictions. Kymlicka believes that certain limits should be set on the two dimensions. We ought to realize that the recognition of ethnic rights does not extend to the right of the groups to restrict the basic civil and political liberties of its members, nor does it allow us to exploit or oppress other groups. Kymlicka (1995:5) also asks "what are the responsibilities of minorities to integrate. What degree of cultural integration can be required of immigrants and refugees before they acquire citizenship?" In the case of NZ, a more specific question arises: how can the state help new immigrants appreciate the significance of the Treaty? The blurred distinction between permanent residents and citizens further complicates the picture. If application to permanent residency is based on instrumental principles, exchanging capital or qualification with a "clean, green" asylum; should application to citizenship be based on the same principle, rather than that of "commitment" or "achievement". One argument will suggest the "toughening up" of rules if NZ citizenship only serves as a stepping-stone for migrants to migrate elsewhere. A possible counter-argument will question that if NZ-born citizens migrate overseas after having utilized welfare resources (e.g. child health care, education) in their unproductive years, why should the state demands greater commitment from migrants. There may also be a blase attitude: if the globalization and "diasporation" have made the notion of citizenship itself so obsolete, why should we worry about the restriction or the access to it?

Although Kymlicka's theory of citizenship has great conceptual and practical values in restructuring citizenship in a post-colonial country like NZ, one also needs to be aware of the assumptions he makes. Kymlicka's notion of multiculturalism tends to see culture as essentially inherited and permanently endures. John Rex (1986:134) would ask "whether there will ever be a society which becomes and remains multi-cultural?" Just as globalization has led to the contradictory consequences of monoculturalism and multiculturalism, an alternative outcome of encountering different cultures can be a disappearing of culture distinctiveness. Ethnicity does evolve. After coming to NZ, the Chinese community has formed a "new ethnicity", a hybrid of our heritage and the NZ culture. Moreover, non-iwi Maori, NZ-born Tangata Pasefika or NZ-born Chinese, grow up with a very different view on their culture from that of their parents' generation, or even see no significance of their cultural heritage. "The end of innocence" (Hall, 1989:443) is the beginning of instrumentalism. That is, when one's Chinese identity has no cultural meaning to the self, it still can be used as an instrument for resource claiming. The fluidity of identity is a crucial conceptual challenge to Kymlicka's advocacy on group-differentiated rights. Who constitutes the group? Who represents it? What is the authenticity for a member and for a leader? Should a third generation Chinese be classified in the same groups of newcomer Chinese. Concerns over Maori leadership ask, "who represents a certain iwi" and even more controversially "who represents urban/non-iwi Maori". Questions remain.

In answering the questions I posed at the beginning of the paper, the tradition notion of citizenship does not give me the wrong answer but gives me no answer at all. Kymlicka provides an alternative model to the exclusive focus on individual and universality, which accommodates cultural differences in the institution of citizenship. His conceptual differentiation of the indigenous people and immigrants help orients policies in a multination-polyethnic country like New Zealand.

Therefore, I can anticipate the enjoyment of both universal human rights as an individual and differentiated group rights as a member of the Chinese community recognized by both Maori and Pakeha national institutions. This notwithstanding, there are still conceptual and practical questions which remain to be fully explored. At the same time, a New Zealander has to be aware the impact of globalization on the domestic policy making.

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