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# INDIGENOUS AFFAIRS

IWGIA 40 YEARS ON



IWGIA

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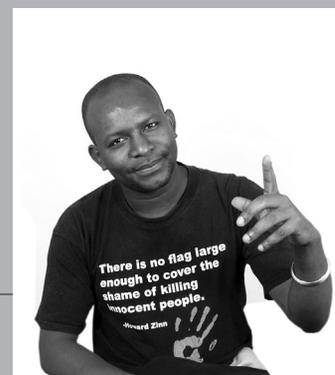
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## IWGIA 40 YEARS ON

At the 38<sup>th</sup> International Congress of Americanists, held in Stuttgart, Germany in 1968, a number of anthropologists presented alarming reports of atrocities being carried out against indigenous peoples in Venezuela, Colombia, Peru and Brazil. In a post-conference meeting just outside Copenhagen, in the home of Helge Kleivan, a Danish anthropologist, fellow anthropologists Milton R. Freeman, Lars Persson and Georg Henriksen met to discuss the obligation anthropologists were under to respond to such human rights abuses. On August 22, 1968 they decided to set up the International Work Group for Indigenous Affairs with the explicit purpose of informing the international community on the plight of indigenous peoples.

Soon, the newly-formed Work Group began what is still a core element of IWGIA's activity today: documenting cases and situations relating to indigenous peoples and disseminating information to the wider world as to what is going on. Years of hard work, frustrations and limited funding and human resources were to follow, while a few dedicated volunteers, students and others joined this important effort. Looking back, it is impressive to note how a small group of people not only demonstrated extreme dedication to an ongoing struggle but also managed to develop and professionalize IWGIA's documentation and communication work. From day one, IWGIA was - and made great efforts



Some of IWGIA's founding members - Photo: IWGIA archive

to be - a network organisation. During the organisation's early years, we were also encouraged by the fact that we were increasingly able to establish cooperation with a number of other NGOs working on the same issues and, gradually, we were able to attract the attention of the media, governments and international agencies.

In the first few years, IWGIA concentrated on documenting and disseminating information about atrocities, outright discrimination and injustice, and the lack of respect for indigenous peoples and their rights. IWGIA was, in the beginning, largely working *on behalf of* the many victims, and mainly focussing on a number of countries in South America.

As indigenous communities slowly started to organize themselves, from the local and regional right up to the international level, IWGIA was able to begin *to work together with* indigenous representatives and to build relationships that were to grow into long-term partnerships. Even in the modern world, the fate of indigenous peoples has been shockingly grim and depressing. It was thus a true inspiration and encouragement to see indigenous organisations blossoming worldwide while recognition of the seriousness of the issue began to emerge

within international human rights processes. From the 1980s on, a number of instruments and mechanisms were introduced specifically targeting indigenous peoples, such as the creation of the UN Working Group on Indigenous Populations (1982), the

adoption of Convention No. 169 of the International Labour Organisation (1989) and, later, the process of drafting the Declaration on the Rights of Indigenous Peoples (1995 – 2007), the establishment of the Permanent Forum on Indigenous Issues (2000) and the mechanism of the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous peoples (2001).

For many years, the basic tools of IWGIA's secretariat were little more than a few desks, telephones, a stencil machine and heaps of paper and documents. From the very start, and for several decades, the University of Copenhagen generously provided a small office and logistical support, although the whole set-up remained very basic. Communication was, to a large extent, carried out by post, reports from IWGIA's network and an occasional field trip or small meeting. Volunteers came and went, a few people remained long-term and, little by little, IWGIA was able to hire staff to work for the organisation on a full-time basis. Helge Kleivan and others were finally able to persuade influential individuals in governments, the foreign service and donor agencies about the urgency of funding both IWGIA and many of its indigenous partner organisations. We

have received substantial funding from Denmark, Finland, Greenland, Norway, Sweden and the European Union for some decades now. This has given us the possibility of steadily increasing the number of professional staff in the secretariat, and fourteen people are now employed in Copenhagen, supporting a range of activities all over the indigenous world. In 2000, IWGIA became a membership organisation with an elected International Board which today is made up of members from Venezuela, Denmark, Norway, the USA and Canada, plus a staff representative. Stencilling is long gone, although printing and copying have stayed with us and we have also expanded into new media. Today you can find IWGIA-related materials on Facebook, Flickr and YouTube; we have our own dynamic website and we work with indigenous communicators to include video, podcasts and radio as a means of communication.

As the years passed, IWGIA decided to expand its activities from the original documentation and dissemination work to also include concerted efforts and engagement with international human rights work and advocacy. We also developed new methods and approaches by which to support our project

*IWGIA's board in 2008 - Photo: IWGIA archive*



work with and through indigenous organisations and communities. While other NGOs and development agencies may have concentrated on projects within education, health or agriculture, IWGIA and its partner organisations developed projects aimed at a rights-based approach, projects bringing indigenous leaders and communities together over borders and across continents, plus activities that have enabled indigenous representation in the international human rights arena.

Looking back over these past 40 years, we feel we have many reasons to be proud of what we, as an organisation and as individuals, have contributed to advancing the rights of indigenous peoples and improving their situation. Yet we are constantly reminded that IWGIA can only do so much and that, together with other NGOs, agencies, governments and indigenous organisations, we still face a massive uphill struggle. An impressive number of positive developments have occurred over the last 40 years but, regrettably, we have had to continue our reporting and documentation of mass killings, atrocities and gross abuses of human rights across the world, and we are still witnessing indigenous representatives and advocates of indigenous rights being murdered, intimidated, threatened, or disappearing without a trace.

In our own small world, tragedy struck when we lost IWGIA members on mission. Director Andrew Gray died in a plane crash off Vanuatu while networking and expanding our contacts in the Pacific, and Alexander (Sasja) Pika from IWGIA Moscow drowned off Kamchatka while conducting a research project with US colleagues into the health situation of Inuit communities on both sides of the Bering Strait. Two of IWGIA's founders and dedicated Board members for decades, Helge Kleivan and Georg Henriksen, departed this world all too early. We overcame the grief of such losses by focusing on the legacy these individuals left behind them, both within IWGIA and amongst the indigenous peoples.

IWGIA has been blessed with an incredibly professional and dedicated staff, both today and over the years. The organisation has also managed to remain a network organisation. Many people have given their time and effort to local groups in Denmark, Norway, Russia, Sweden, Switzerland, Spain and France, while others have either contributed as writers or as members of our Advisory Board. Although funding has provided crucial means and opportunities, IWGIA's work would not have been possible without the commitment of many individu-

als – and their families – both within academia, among activists and in the indigenous world. As we turn 40, we extend our heartfelt thanks to all those who have supported the decisive work we have been, are, and will continue to be, engaged in.

This is why, as IWGIA's 40th anniversary approaches, we decided not to focus solely on our organisation's past or our own achievements but to look also at the interesting, fascinating and important developments that have taken place in the indigenous world in general, and IWGIA in particular, since 1968. A book on the history of IWGIA and its work for and with indigenous peoples is therefore in the process of being written by former IWGIA director, Jens Dahl and will be published shortly by IWGIA. But we also thought it fitting to highlight a number of current and future issues and challenges facing the indigenous world. One first initiative connected with our anniversary came about in early 2008 when we organised a successful international conference on indigenous peoples and climate change (see <http://www.iwgia.org/sw29085.asp>) as a starting point for incorporating indigenous concerns and demands into the process leading up to the World Conference on Climate change (COP 15), due to take place in Copenhagen in December 2009. In October, coinciding with the celebrations for our 40th anniversary, IWGIA convened a seminar entitled "Being Indigenous in Today's World". We invited a number of our indigenous partners to present their views and tell us about different aspects of the indigenous political movement, as well as their experiences of indigenous politics in both the national and international fields.

This 40th anniversary issue of *Indigenous Affairs* also focuses on some selected developments and issues that IWGIA and its partners are working on in different parts of the world.

We start with the keynote speech given by Johnson Malih Ole Kaunga from Kenya at our 40th anniversary celebrations in Copenhagen. His speech reflects on what it implies for him to be indigenous in today's world. Even though his perspective is African, we believe that his reflections represent a reality for indigenous peoples around the globe and point to the essence of their struggles for self-determination.

The following article is also from Kenya and gives an overview of the indigenous pastoralist movement by one of its prominent leaders, Joseph Ole Simel. Being a rather young movement, spanning no more than 20 years, these organisations are struggling to deal with a range of challenges including, on the one hand, the government's efforts to keep them in check

and, on the other, weak and inexperienced organisations that have sometimes raised suspicion and criticism on the part of their own constituency. Indigenous organisations in Kenya have, nevertheless, grown stronger and can report on important milestones achieved. Many challenges lie ahead for the indigenous peoples of Kenya but there are reasons to hope and believe that their organisations and their movement are now strong enough to face those challenges.

In Asia, we focus on discussing the concept of indigenous peoples. In March 2006, together with its partners in Asia, IWGIA organised a conference on this theme, which concluded with a declaration of experiences and issues common to indigenous peoples in Asia. This declaration is meant to provide guidelines for identifying indigenous peoples in the region. While the article by Bengt Karlson looks at the situation in India, we have also included the said declaration. Interested readers can, furthermore, refer to a book on "The Concept of Indigenous Peoples in Asia", published by IWGIA in 2008.

Indigenous peoples in Latin America have a long history of organising and of political involvement. The article by Alberto Chirif and Pedro Garcia takes a close look at the history of the indigenous movement in Peru, including its challenges, its achievements and its future.

The issue of natural resource development is common to all indigenous peoples in the world, as it

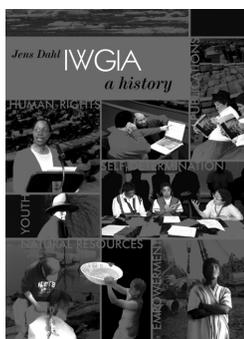
relates to the very essence of indigenous life, to their relationship with their land and territories and to their vulnerability in relation to multinational and national companies and state interests. Olga Murchko's article on Russia looks at the general and legal situation of the indigenous peoples in that country and uses specific case studies to describe their relationship to industrial development.

The issue concludes with an article dealing with a very recent development in Greenland. On November 25, 2008, 75.5% of the electorate of the world's largest island voted in favour of greater autonomy. In his article, Mark Nuttall looks at the consequences of this vote, including the economic and environmental challenges and the solutions sought by Greenland. He concludes that taking into consideration the challenges and clear decisions Greenlanders are taking to deal with them reminds us that self-determination is also about the right to development and, based on the rights of people to govern themselves, it is about the right to make decisions and choices that determine the path development should take.

Finally, and in order to give the reader a better impression of our work in the past and, particularly, the present, we have also included short sections on IWGIA's work in the regions, and the references to recently published and forthcoming books will guide the way to more information on the issues discussed in this issue of *Indigenous Affairs*. □

## IWGIA - A HISTORY

By Jens Dahl



IWGIA was one of the very first organisations to be established in support of indigenous peoples. It was founded in 1968 by anthropologists concerned at the atrocities being committed against Indians in South America.

This book is written by Jens Dahl, a Danish anthropologist and former director and Board member of IWGIA. Jens has been closely connected with the organisation for the last 40 years and this book thus offers an insider's view of its development.

*(Forthcoming book)*

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# BEING INDIGENOUS IN TODAY'S WORLD

**Key note speech by Johnson Malih Ole Kaunga at IWGIA's 40th anniversary celebration**

When I was asked to give a key-note address on this auspicious moment of IWGIA's 40th anniversary, I found it a challenge for a number of reasons. First, I had only known IWGIA for about 10 years. Second, I am five years younger than IWGIA and, looking round the audience, I may well be the one with the least experience of the key issues in front of us for discussion. Nevertheless, I find this a grand opportunity and a great honour for me to express my thoughts and share my experiences of the last 12 years on the frontline of the Kenyan pastoralists' struggle for recognition, rights, representation and territorial and cultural/heritage resources. I don't claim to have universal suffrage to represent the pastoralist indigenous groups in Kenya; however, I understand the critical issues that are affecting and undermining their efforts and rights to have secure livelihoods like other Kenyans. What's more, I am a pastoralist myself and I have these issues passionately in my heart.

I am not a scholar and I do think that, even if I was, I would change my position on the issues. In my view, being indigenous to me means:

1. Being indigenous means being a victim of:

- displacement from ancestral land in the name of development, national security/militarization, wildlife conservation and environmental protection;
- dispossession of territorial resources, heritage and cultural resources and indigenous technical knowledge;
- domination by mainstream thinking, formal education and administrative systems, at the expense of indigenous learning and mechanisms for collective decision-making. The media promotes a certain mindset as being superior to indigenous peoples' lifestyles;
- oppression and subjugation – by the mainstream communities;



- social exclusion, which is institutionalized in decision-making processes. Our traditional means of livelihood and occupations are treated as inferior and primitive, our culture is criminalized.
2. Being indigenous means fighting endless battles with rigid state governments, multinationals and, at times, development thinking and processes that tend to further marginalize our voices and rights. These battles include:
    - fighting battles for our representation at all levels of decision-making;
    - fighting for recognition as peoples with rights and responsibilities, to ensure a just society for all;
    - fighting for legal and human rights as enshrined in national legislations and international human rights instruments;
    - fighting for control of our resources and the opportunities they create or present within the national boundaries and beyond.
  3. Being indigenous in today's world also means being in complex conflicts on different levels, such as:
    - with state governments over the above mentioned issues;
    - with the private sector and multinationals over our natural resources, our heritage, our lands;
    - with national and international legislation, which treats us as minors as compared to the dominant and mainstream communities;
    - due to changing land ownership structures that have ended up diminishing our natural resources and ancestral lands, we are in constant conflict with our neighbouring indigenous sisters and brothers. In Kenya, for instance, there are serious natural resource-based conflicts between different indigenous communities, such as between the Pokot and the Samburu/Laikipia Maasai, the Murule and Garre clans in Mandera, Borana and Samburu. The traditional lands have diminished due to dispossession caused by militarization and conservation;
    - there are also serious conflicts between modern ideas and practices of wildlife conservation and pastoral livelihoods.
  4. Being indigenous in today's world means being tolerant, innovative and creative so as to address

the above issues and also accept being a "student" forever on the ever emerging new laws and new processes, such as

- being creative in applying both modern and indigenous skills as the different situations demand;
  - modern and formal administrative decision-making systems, and also keeping the traditional institutions of decision-making;
  - due to rational livelihoods being threatened, we have to learn and adapt to new skills and ways of survival.
5. Being indigenous in today's world, in the eyes of local and international companies, means being a "trademark". A couple of examples come to mind:
    - Land Rover Freelander – Maasai: using the Maasai resilience to the savannah to market the Freelander Land Rover;
    - Maasai Barefoot technology (Maasai shoe company), using Maasai long distance walking on the rangelands to market shoe brands;
    - Volkswagen Touareg – using the Touareg survival and resilience to market the Volkswagen;
  6. Being indigenous in today's world also means:
    - being a hero or heroine engaging in powerful processes at different levels so as to reclaim our lost heritage, lost land and, much more, fighting for a our space in a dominant world;
    - being patient lobbyists and activists, prepared to go a long way to ensure that indigenous peoples' voices and concerns come to the public domain and also to raise the profile of the issues I have noted above to a level that actors can no longer ignore them;
    - learning to network at the local and international level so as to ensure that our cumulative voices and gains are translated into success stories that we can all celebrate.

*Johnson Malih Ole Kaunga, is a Laikipia Maasai and Director of IMPACT- Kenya (Indigenous Movement for Peace Advancement and Conflict Transformation). He can be contacted through: [olekaunga@yahoo.com](mailto:olekaunga@yahoo.com) or [impactken2002@yahoo.com](mailto:impactken2002@yahoo.com)*

# THE INDIGENOUS PEOPLES' MOVEMENT IN KENYA



*Joseph Ole Simel and Philip Purkei from MPIDO  
Photo: Jenneke Arens*

Joseph Ole Simel

## Introduction

Indigenous communities in Kenya are mostly dependent upon land given that the majority of them are pastoralists, with a small percentage being hunters and gatherers. The plight of these communities has been a sorry one as their way of life has not been considered a part of the mainstream economy by the government. These communities have hence been neglected, with poor infrastructural developments in their regions and a lack of favorable policies to safeguard their interests and protect their rights. The challenges facing these communities are twofold: those in the north are often faced with insecurity as a result of the proliferation of small arms from neighboring warring countries and the scramble for limited resources, while those in the south face a lack of secure land tenure due to the government's failure to recognise their form of land ownership. These, and



*A procession of peaceful demonstrators from the Maasai community, proceeding to present their memorandum to the British High Commissioner in Kenya, before they were dispersed by police. Photo: MPIDO*

many more challenges, have been the driving forces behind indigenous peoples' organizations in Kenya.

Indigenous peoples' organizations in Kenya have a short history spanning only twenty years or so, and this period has seen success stories as well as many challenges. Many organizations have been in existence for less than ten years.

The indigenous movement in Kenya gained momentum in 1993 during the preparations for the Vienna Conference on Human Rights and during the period immediately after. Many indigenous individuals began participating in the UN processes, and their meetings and exchanges with more experienced indigenous peoples from other regions became the driving force behind the current level of organization. The democratic space in Kenya in the 1990s contributed as well, as people were experiencing more freedom than before. The UN Conference was an eye opener for indigenous peoples.

In the 1990s, with the support of development partners, the pastoralists started one of the first umbrella organizations, the Kenyan Pastoralist Forum. Their agenda was strong but their institutional structure weak and so the forum was not able to withstand pressure from the politicians and government officials who started attacking them, claiming that they were a threat to national security.

It was clear that the government feared solidarity among the pastoralist communities, especially at a time when momentum for political multi-party democracy was beginning to gather pace. The government was worried that such solidarity might expose the neglect and marginalisation that the pastoralists had suffered for years.

The leadership of Kenya's indigenous peoples' organizations has been accused by both government officials and politicians of being incapable of running their institutions properly. However, despite some initial struggles, the indigenous leadership today is strong and has been able to support the indigenous communi-

ties in their struggle for their rights. The organizations are still few and far between, however, dealing with many difficulties and challenges, and with very limited resources to carry out and implement their pro-peoples programs and activities.

The aim of the indigenous peoples' movement is to reverse the critical and worsening economic, social and political conditions that were created for indigenous peoples during the colonial period and during the early years of development in postcolonial Kenya.

Since the beginning, indigenous peoples' organizations have been working with indigenous communities on issues

of social justice, human rights, poverty alleviation and institutionalizing popular indigenous peoples' participation in good governance issues at all levels: community, national and regional, e.g. the African Commission process and the United Nations mechanisms.

The influence of these indigenous organizations and movements has increased commensurately as they have developed new national, regional and global networks, engaged in advocacy for human rights, environmental rehabilitation and become vital participants in decision-making processes around policy and legal reforms in Kenya.



The networking relationship with non-indigenous organizations is encouraging the emergence and continuation of indigenous organizations and the move towards a more promising trend in terms of institutionalized participation.

The establishment of indigenous organizations is currently laying the foundations for the institution building that is necessary to create the socio-economic, environmental and political structures that are urgently needed to address the root causes of inequalities, human rights violations and social injustices. Many of these indigenous organizations have had demonstrable impact and results, both at local and national level here in Kenya.

## The development of an indigenous movement

Over the past 15 – 20 years, indigenous peoples' organizations in Kenya have played a major role at local, national and international levels:

- 1) Local level, or community level, where a great deal of empowerment has taken place through training and awareness creation. A small number of development projects for water supply and poverty eradication, land security, education etc. have been initiated and implemented at this level.
- 2) National level: serious engagement with national processes e.g. in the development of the Poverty Reduction Strategy Paper, with the final country paper capturing pastoralist issues, concerns and key recommendations. Other processes include: the constitutional review process (2003-2005), development of the National Land Policy (2003-2007) and engagement with political parties. During the 2007 general elections, intensive lobbying resulted in key issues concerning pastoralists being included on some political parties' agendas, especially that of the Orange Democratic Movement. This was later considered to have been the basis for the creation of a new Ministry for the Development of Northern Kenya and Other Arid Lands.
- 3) International level: at regional level a sound engagement with the African Commission on Humans and Peoples' Rights has taken place. Indigenous peoples from Kenya have also been involved in various UN processes, especially regarding the UN Declaration on the Rights of Indigenous Peoples, during the official visit of the UN Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people to Kenya, as well as active participation in the programmes of the UN Permanent Forum on Indigenous Issues and the UN Working Group on Indigenous Populations.



*Young girls and boys perform in a cultural festival organised by SIMOO – Photo: SIMOO*

The many years of misrule, first by the British and then continued by the African independent government, have succeeded in destroying the political and civil rights and liberties of indigenous peoples in many parts of East Africa. To correct this wrong, i.e. to restore these rights and liberties, has been a key agenda issue and objective of indigenous peoples' organizations in East Africa, particularly in Kenya. Although the last four years have witnessed key socio-economic and human rights milestones in the country, the vision for which indigenous peoples have struggled, been arrested, tortured and died, is still a mirage.

On 13- 14 August 2004, hundreds of people turned out in Nairobi and, on a smaller scale, in towns inhabited by the Maasai community, to mark the 100 years since the signing of the 1904 and 1911 treaties with the British. The Maasai stood up to demand their land back, irrespective of the current occupier, by holding peaceful demonstrations.

The Kenyan government made efforts to stop the unrest but was faced with an undeterrable community that was tired of the never-ending years of high-handedness on the part of government officials who fraudulently allocated themselves and their ilk the land and natural resources of the Maasai. As a result of the police's brutal response to the demonstrations, over 10 people were killed, hundred more injured and 278 arrested. The brutal crackdown and arrest of civil society leaders, accused of incitement, failed however to put an end to the demands of the Maasai people: the return of their land and natural resources. Instead, they rallied forces against both the current and the previous regimes (NARC and KANU respectively).

As stated above, progress has been made. But this has occurred without achieving a paradigm shift in the management of public affairs, particularly indigenous peoples' territorial and land rights, largely due to the fact that, in some cases, indigenous peoples' organizations have remained divided, and easily outmanoeuvred by both government and senior politicians. Our socio-economic and legal/political policies are rife with countless responsibilities that confer excessive administrative powers on government officials and these are being used to abuse and violate the rights of indigenous peoples. Government officials are never accountable to the people and often act according to the needs and interests of those who appoint them. It is these same people, along with their political friends, who are extremely influential and commit innumerable crimes that cause a great deal of frustration and suffering among indigenous peoples. This becomes even more visible in the corridors of justice, where a hugely expensive criminal justice system hurts the poor and the marginalized the

hardest, and denies them an opportunity of accessing justice. This has continued to allow a culture of impunity, which has continued to threaten the land and natural resource rights of indigenous peoples.

Most indigenous peoples' organizations in Kenya have in many ways succeeded in addressing issues critical to the survival of indigenous peoples and their communities. These issues include, but are not limited to: development programs and paradigms that address the lack of sound policies recognizing and supporting their livelihoods; high poverty levels; human rights violations and abuses; security of land and natural resource tenure.

Indigenous peoples' organizations have played a critical role in delivering information to the grassroots, some of which has led to the rejection of a number of "development" projects, policies and decisions that had been made without indigenous participation or consultation. Such decisions, programs and policies have continued to have a very serious negative impact on the livelihoods of indigenous peoples, their land and environment, and the organization and institutions of indigenous peoples in other regions.

Indigenous peoples' organizations have used different approaches and strategies to push their concerns. These include capacity building through awareness raising, campaigns, lobbying, information sharing, networking and partnerships. Some have borrowed experiences, ideas and skills from organizations and institutions in Asia, North America, the Pacific, Europe and Latin America.

Most commonly, the indigenous organizations at community level first build consensus and collaboration among themselves and identify key critical issues, prioritizing them accordingly. Such processes have built the capacity of local communities and other key stakeholders, including key traditional governance institutions, and have made dialogue between non-indigenous and indigenous people or their organizations more fruitful. Lobbying, advocacy work and campaigning have been used successfully in some areas to advocate indigenous peoples' viewpoints on issues relating to the national agenda, specifically legal and policy reforms. Information and experience sharing has been a very critical aspect for some indigenous civil society organizations in terms of moving forward their issues. These organizations include the Kenya Pastoralist Forum, Kenya Pastoralist Development Network (KPDNK), Ogiek Welfare Council, Pastoralist Hunter-Gatherers, Ethnic Minority Network and others.



*African Commission on Human and Peoples Rights, Accra. Representatives of indigenous organisations in Kenya with the Kenyan Minister for Justice and Constitutional Affairs. Photo: MPIDO*

### **The emergence of umbrella organizations and their initial problems**

The Kenya Pastoralists Forum (KPF) was described by the Kenyan Government in the 1990s as the Kenya Peoples Front. The implication of this description meant that the peoples and their indigenous community support were scared of the organization and its activities, as it was seen as an anti-government organization, planning to topple the regime of the day. Some politicians from the pastoralist communities sang from the same hymn sheet as the government, and that was the beginning of the organization's problems. Issues related to good governance, particularly accountability and transparency, although these are common problems in young pastoralists' organizations, caused by low or non-existent capacity among the IP organizations.

There have been a large number of initiatives, including the formation of national umbrella organizations, e.g. the Ereto Women Association, Maa Pastoralist Council, Pastoralist, Hunters and Gatherers and Ethnic Minority Network (PHGEMN), Maa Civil Society Forum, Kenya Pastoralist Development and Network (KPDN). Some of these organizations have been formed as a coalition of like-minded individuals and organizations with a specific objective. As an example, PHGEMN was formed specifically to engage in the constitutional reform process. PHGEMN had a great deal of success during that process but became less active after the Constitutional Referendum of 2005, mainly due to its inability to mobilize resources for activities.

Many of these national organizations have had difficulties in remaining visible after a period of time. In

fact, the local organizations have been seen to be more effective and efficient in project implementation and responding to issues of concern to the IPs. Some of the reasons that have been seen to deter the progress of national/umbrella indigenous organisations are:

- The problems faced by indigenous peoples in northern Kenya have more to do with conflicts between different pastoralist communities as a result of poverty and institutional neglect, while in the southern part of the country, land dispossession by the government is the most pressing concern<sup>1</sup>.
- Most organizations had no clear structures or strategies and were not able to develop into sustainable institutions. When they failed to perform, most of the members left to form new organizations that competed with the old ones. This has undermined the solidarity and partnership among indigenous peoples. As a consequence, their ability to influence policy making has been limited.
- Lack of access to financial resources is another reason for the state of affairs among pastoralists' organizations. Most development organizations, except for a small number of European organizations, are not interested in pastoralists' issues and allocate little resources to them.
- Lack of capacity is one of the main challenges for umbrella organizations and is directly related to all of the above points. Lack of capacity is also under-



The SIMOO drama group performs a play on the dangers of land selling in Maasai Land – Photo: Marianne Jensen

mining the credibility of umbrella organizations and people are starting to lose faith in them.

- Networks of several indigenous organizations sometimes compete with their member organizations, which has further undermined the spirit of working together.

### **Milestones achieved by the indigenous communities in Kenya**

Despite the above mentioned problems, success stories do exist around specific issues, and these have been achieved due to the existence of the national organizations.

The indigenous peoples' movement has been very successful in raising issues of human rights abuses that are affecting indigenous peoples' communities. This relates to the social, economic, environmental and political rights that were being violated without anybody raising a finger until the indigenous organizations took up the matter:

Key achievements include:

- Influencing national policy formulation processes. In order to strongly influence these processes, the indigenous peoples' organizations have come together to seek recognition of indigenous peoples and their way of life with the support of like-minded individuals and lawyers. This began during the constitutional review process when a taskforce was formed to offer technical support to the delegates of the National Constitutional Conference to devise lobbying strategies, draft and present motions and lobby for support among the delegates. This was a key achievement as the draft that emanated from this forum, *the Bomas Draft* of the proposed constitution, gave special recognition to the identity and rights of indigenous peoples and their rights to collective ownership of natural resources.
- The findings and recommendations of two land commission<sup>2</sup> reports were full of recommendations made by pastoralist hunter-gatherers and ethnic minority communities. These recommendations were a result of increased awareness among community members, through indigenous peoples' organizations. One example is the case of the Mosiro



Staff members of MPIDO – Photo: Marianne Jensen

and Loodariak land adjudication sections, which were cited as major cases of land grabbing.

- Through the support of the indigenous peoples' movement, the Ilchamus community was able to win a landmark case through the Constitutional Court. The court ordered the Electoral Commission of Kenya to grant the community a constituency of its own so that they could field their own political candidates.

Through intense lobbying and advocacy work, the Endorois community was able to present their case to the African Commission on Human and Peoples Rights, and successfully obtained a hearing that resulted in the Kenyan Government being ordered to take measures to stop further mining activity on the Endorois' land.

These are just some of the cases/rulings that would never have been achieved without the strategic thinking and direction of indigenous peoples' organizations.

- The group of parliamentarians from pastoralist regions has come together to jointly advocate for the enactment of policies that are favorable to pastoral-

ists and other minority groups. The presence and work of this group has made many government institutions sensitive to the issues affecting the pastoralists' indigenous communities. This may be one of the reasons why the new coalition government created the Ministry of State for the Development of Northern Kenya and other Arid Lands.

- The indigenous peoples' organizations have succeeded in restoring the dignity and human rights that were lost during the colonial period.
- The indigenous peoples' organizations have succeeded in building solidarity, partnership and in networking with indigenous peoples in other parts of the world.
- The indigenous peoples' organizations have played a critical role in gaining media attention for issues affecting pastoralists (indigenous peoples), thereby bringing these issues to the attention of government institutions, UN agencies and other interested parties.
- The contributions of pastoralist indigenous organizations were visible both in the African Commission

Resolution on the Rights of Indigenous Populations/Communities in Africa and also during the recent adoption of the UN Declaration on the Rights of Indigenous Peoples. The organizations played a critical role in lobbying, campaigning and seeking to build solidarity among themselves and other like-minded organizations and governments on the same issue.

- It has been possible to mobilize resources to enable indigenous peoples' participation in key processes, especially with regard to policy and legal reforms. These have included but have not been limited to the Constitution of Kenya Review process, presentation of views to the Presidential Land Commission, National Land Policy Formulation Process and the Poverty Reduction Strategy Paper. Currently, the organizations are actively involved in the Commission of Inquiry into the 2007 Post-Election Violence and the Commission on Historical Injustices.
- Many indigenous peoples' organizations have been identified by the government as key players in enhancing democracy in the country and have been called upon to mobilize the communities in their endeavors, e.g. during the 2007 gathering of views for the development of a Human Rights Policy by the Ministry of Justice and Constitutional Affairs.
- Indigenous peoples' organizations have also become key players at the United Nations Permanent Forum on Indigenous Issues (UNPFII) and a particular achievement was MPIDO's (Mainyoito Pastoralist Integrated Development Organisation) side event during the 2006 meeting, where they presented a paper on the UN Millennium Development Goals (MDGs) and raised issues of indicators. This led to IFAD's (International Fund for Agricultural Development) response in committing resources for the development of such indicators. The Arid Lands' Institute, based in Nairobi, carried out the process of developing these indicators.

These are some of the key areas in which indigenous peoples' organizations have managed to influence policy making and development process affecting them.

The role of indigenous organizations has made it possible to reach a large number of people and local communities. Many people have thus benefited from different programs, projects, initiative and activities, with local communities placing their trust in indigenous peoples' organizations.

The success of these organizations is related to the direct community involvement and free participation

in human rights, poverty alleviation and environmental protection programs, among others. Civil society has created room for indigenous people to participate on issues of governance that have been ignored for a very long time.

These organizations have had the privilege of being able to work with international organizations, regional bodies and United Nations agencies, and have obtained a great deal of support for capacity building in areas of information sharing, ideas, strategies, dialogue and negotiations with government.

Indigenous organizations have succeeded in transforming the issues, framing indigenous peoples within an integrated approach that focuses special attention on the most vulnerable members of their communities. Indigenous peoples' organizations have developed the necessary expertise and capacity and are now reliable and trustworthy partners for key stakeholders, especially in service provision and the implementation of specific activities.

Most of these organizations have managed to mobilize the indigenous peoples to struggle for freedom from all forms of injustice, poverty and discrimination and to show them the mechanism of justice and solidarity that is needed for their own survival.

### **Challenges faced by the IP organizations in Kenya**

- Issues of accountability have been raised and directed at those indigenous peoples' organizations that were unable to continue running. While some of the concerns are true, many of the development partners involved failed to assess the institutional capacity<sup>3</sup> of the organizations before allocating large sums of money to them. A number of indigenous peoples' organizations lack capacity in the field of reporting and the issue of accountability is really related to this low capacity, and an inability to attract and hire good, qualified and skilled staff.

This is due to the fact that these organizations may not be able to employ highly skilled human resources. Because of this they are unable to compete with national NGOs in the country. Most donors demand highly technical and complicated proposals and requirements, which many pastoralists' indigenous organizations cannot provide.

- Competition between indigenous organizations for resources is a major challenge, hence undermining collaboration and networking between the same organizations. Issues of learning and sharing lessons

have been a challenge and this can easily be seen during regional and international fora, where conflicts and mistrust often arise.

- Many organizations are not able to develop institutional structures and remain dependent on individuals, hence they are not able to become institutionally sustainable.
- Despite the need for these organizations to address issues of advocacy so that they can influence policies, most target communities have first-hand and more basic problems that they may consider a greater priority, e.g. water, health and sanitation, HIV/AIDS and/or education.
- Conflict among different pastoralists' communities has impacted negatively on the indigenous organizations' ability to have a common strategy and common preferences. These conflicts are due more to years of neglect and marginalization, and bad policies that have reduced the resources available for indigenous peoples' livelihoods.

## The future

Indigenous organizations have many more opportunities than before to assist in addressing the critical challenges and needs facing indigenous peoples' communities in Kenya. The environment in which these organizations operate is improving due to an enhanced democratic space that has enabled IP organizations to operate within a less intimidating and threatening environment. A level of awareness is starting to take root among a few development partners, who are starting to understand and appreciate the critical role of indigenous peoples' organizations and the challenges facing them in terms of resource mobilization, and the sustainability of the projects and programmes they have initiated and implemented. Some of the impending key issues that these organizations can assist their communities or Nations to focus on are:

1. The challenges, threats and opportunities, if any, resulting from climate change.<sup>4</sup>
2. The reforms in Kenya, both legal and policy, and how they can contribute constructively to peace and conflict resolution as a result of the post-election violence, which not only led to the destruction of lives and property but also created one of the

worst situations of internally displaced peoples in this country's history.

The adoption and implementation of the National Land Policy is a strategic agenda that indigenous peoples' organizations must engage in and push for full implementation of. The progressive human rights developments and human rights international law will remain a priority for indigenous peoples, especially full implementation of the United Nation Declaration on the Rights of Indigenous Peoples.

3. The African Court of Human Rights will be a key focus of indigenous peoples not only in Kenya but also in the region. Capacity building, networking and collaboration within and outside the country will be a strategic option for indigenous peoples and their organizations. Indigenous peoples' organizations will try to create and lobby for more dialogue with government officials and key government institutions and, at the same time, lobby the UN agencies on the more visible issues and programs that will improve the livelihoods of indigenous peoples' communities. □

## Notes

- 1 The northern part of Kenya is remote, with little infrastructure and a very dry climate. The Kenyan government provides little financial resources to the region and basically leaves the people to fend for themselves. The difficult situation in the region, as well as historical roots, have led to conflicts between indigenous groups. In the southern part of Kenya, the pastoralists, living much closer to Nairobi, are affected by the spread of agricultural lands, resulting in dispossession from their traditional lands.
- 2 Presidential Commission of inquiry on land laws and system in Kenya chaired by the former Attorney General of Kenya, Mr. Charles Njonjo and often referred to as the *Njonjo Commission*, and the Presidential Commission of Inquiry On the Irregular and Fraudulent Acquisition of Title Deeds and/or Land in Kenya, commonly referred to as the *Ndung'u Commission*.
- 3 The capacity assessment would include an analysis of an organization's structures in terms of governance, representation, staffing and staff capabilities, structural facilities and commitment to the organization's objectives.
- 4 See also: **Joseph Ole Simel, 2008:** The Threat Posed by Climate Change to Pastoralists in Africa. *Indigenous Affairs*, 1-2. IWGIA, Copenhagen.

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# IWGIA'S WORK IN AFRICA AND, PARTICULARLY, IN KENYA



*IWGIA board visit to Kenya – Photo: Jenneke Arens*



IWGIA's board meets with partner organisations in Kenya, March 2005 – Photo: Jenneke Arens

### General background to IWGIA's work in Africa

IWGIA's Africa program strategy was adopted in April 2004. Its thematic priorities are human rights, land rights, indigenous women's rights, self-organization and empowerment. Geographically, IWGIA focuses on East Africa (mainly Kenya, Tanzania), Central Africa (mainly Rwanda, Burundi, Republic of Congo), and southern Africa (e.g. Botswana). Its key project partners are the Mainyoto Pastoralist Integrated Development Organization (MPIDO, Kenya), the Indigenous Movement for Peace Advancement and Conflict Transformation (IMPACT, Kenya), Community Research and Development Services (CORDS, Tanzania), *Unissons-Nous pour la Promotion des Batwa* (UNIPROBA, Burundi) and the *Communauté des Potiers du Rwanda* (COPORWA, Rwanda). IWGIA also works with non-indigenous support NGOs such as the Centre for Minority Rights Development (CEMIRIDE, Kenya) and the *Association pour les Droits de l'Homme et l'Univers Carcéral* (ADHUC, Republic of Congo).

In addition to providing financial support for partner organizations' project activities, IWGIA also supports its African partners to participate in and undertake advocacy work at international level within the UN and at continental level within the African Commission on Human and Peoples' Rights (ACHPR). With IWGIA's support, African indigenous participation at the UN, such as at the Permanent Forum on Indigenous Issues and, previously, the Working Group on Indigenous Populations, has grown strong and visible. IWGIA recently supported African human rights experts and indigenous organizations to effectively establish a dialogue with African governments on the adoption of the UN Declaration on the Rights of Indigenous Peoples. Activities supported included meetings with African government representatives in Kenya, Burundi, Cameroon, the Republic of Congo and the Central African Republic, meetings and workshops with African Permanent Missions in New York and the production and wide dissemination of a document responding to the African governments' concerns. These activities contributed positively to the final adoption of the Declaration and to the fact that most African states voted in favour of the Declaration.

Over the past seven years, IWGIA has worked intensively to assist the African Commission on Human and Peoples' Rights (ACHPR) to integrate the promotion and protection of the rights of indigenous peoples into its work and mandate. When IWGIA first became involved, the ACHPR was not working

on this issue at all. Over the past seven years, however, the ACHPR has established a Working Group on Indigenous Populations/Communities, passed a number of important resolutions on indigenous peoples' rights, published a key document establishing the framework for the ACHPR's work and conceptualization of indigenous peoples' rights, carried out seminars and country visits, published a number of reports and elaborated a legal opinion on the UN Declaration on the Rights of Indigenous Peoples. IWGIA has consistently supported the ACHPR in this work. Since the beginning of the process IWGIA has, furthermore, supported representatives from African indigenous organizations to attend the sessions of the ACHPR, make presentations/statements, write and present shadow reports when government reports are being examined and conduct follow-up activities at national level on their return.

The situation of indigenous peoples in Africa remains very precarious and their livelihoods, culture and future existence are threatened all over the continent. Constitutional and legal frameworks protecting the rights of indigenous peoples continue to be very weak, and almost non-existent. One of the main threats to African indigenous peoples continues to be land dispossession caused by logging, conservation initiatives, encroachment of agriculture, individualization of tenure and state policies unfavourable to nomadic pastoralism. IWGIA supports indigenous and non-indigenous partner organizations to advocate the cause and basic rights of indigenous peoples and to address the issue of land dispossession in particular. IWGIA's project support focuses on Kenya, although projects are also supported in Tanzania, Rwanda, Burundi, the Republic of Congo and Botswana.

## **IWGIA's work in Kenya**

IWGIA's commitment to Kenya began around ten years ago. In 1999, IWGIA carried out a networking trip to the country, mapping out key issues of importance for indigenous peoples and identifying a number of different NGOs and CBOs working to improve the situation of pastoralists and hunter-gatherers. Following on from this networking trip, IWGIA began to establish partnerships with a few, mainly Maasai, organizations. Over the past ten years, these partnerships have grown in number and IWGIA now works with seven organizations in Kenya.

Land dispossession continues to be a major threat to the livelihoods and survival of indigenous peoples in Kenya. From the very beginning of its engagement

in Kenya, land rights advocacy was IWGIA's major focus. Today, IWGIA's main partner organization on land rights issues is the Mainyoto Pastoralist Integrated Development Organization (MPIDO). Starting as a small community-based organization, MPIDO has today developed into one of the main Maasai advocacy organizations in Kenya. MPIDO works in four different districts of Kenya, seeking to improve the land rights situation of the Maasai people through community capacity building, litigation of court cases, lobbying activities at district and national level and international human rights advocacy work within the UN and the ACHPR. IWGIA also supports other organizations that are seeking to make pastoralist communities aware of the mechanisms behind land dispossession and to build community capacity to advocate for their rights. Such partners include the Simba Maasai Outreach Organization (SIMOO).

In Kenya, IWGIA seeks to support organizations that can link up with and influence national policy processes, such as for instance the Constitutional Reform Process; the Land Policy Process; the process relating to the National Policy and Action Plan on Human Rights; the stance of the Kenya government on international instruments and mechanisms such as the UN Declaration on the Rights of Indigenous Peoples and a visit by the UN Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people; potential follow-up processes to the adoption of the UN Declaration on the Rights of Indigenous Peoples and the visit of the UN Special Rapporteur. Within this area, IWGIA collaborates with partners such as MPIDO, the Center for Minority Rights Development (CEMIRIDE), the Arid Lands Institute and the Indigenous Information Network (IIN) and supports activities such as: research; workshops; strategic meetings with decision makers; elaboration of memoranda; policy briefs; booklets and other information materials; media work through newspapers, radio and television, etc.

Despite Kenya being a hard-line country and initially opposing the adoption of the UN Declaration on the Rights of Indigenous Peoples, some positive developments can be noted. These include a new draft land policy, initiatives to include indigenous rights issues in the National Policy and Action Plan on Human Rights, and the development of an Indigenous Peoples Planning Framework for indigenous peoples in western Kenya. Furthermore, the Kenya government did not vote against the UN Declaration on the Rights of Indigenous Peoples and allowed the UN Special Rapporteur to visit Kenya.

Women in indigenous communities in Kenya suffer from a range of serious abuses. These include violence, forced marriages, economic deprivation, lack of participation in decision-making, lack of access to education, lack of influence on land matters etc. IWGIA therefore attempts to focus particularly on empowering indigenous women. The situation is particularly serious in northern Kenya where IWGIA supports a women's rights project being implemented by the Indigenous Movement for Peace Advancement and Conflict Transformation (IMPACT). This project is aimed at raising awareness and addressing cases of rights violations against women in the districts of Laikipia, Isiolo, Samburu and Marsabit. Empowerment of pastoralist women is also part of the general land rights project being implemented by MPIDO and SIMOO, and some improvements are now beginning to be seen.

IWGIA has, for many years, supported the participation of Kenyan indigenous representatives in relevant UN fora. Priority has been given to IWGIA's key project partners but support is also given to IWGIA's wider network of indigenous organizations in Kenya.

IWGIA has also given priority to supporting its Kenyan project partners to participate in the sessions of the ACHPR. Partners such as MPIDO, IMPACT, CEMIRIDE, the Arid Lands Institute and the Ogiek Welfare Council (OWC – a former project partner of IWGIA) have, over the past six years, regularly been supported to participate in sessions of the ACHPR, and most of them have obtained observer status with that body. Through their participation, statements, shadow reports etc., they have effectively made the ACHPR aware of the situation of indigenous peoples in Kenya and, through informal meetings with Kenya government delegations, they have strengthened the policy dialogue and networks. IWGIA has further supported Kenyan indigenous representatives to undertake follow-up activities in Kenya on their return. These include wide distribution of the ACHPR expert report on indigenous populations to local and national authorities and others stakeholders, along with seminars and media work to make the general public in Kenya aware of the difficult situation of indigenous peoples and of the work of the ACHPR in this respect. □

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Africa Programme Coordinator

## LAND RIGHTS OF INDIGENOUS PEOPLES IN AFRICA

By Albert Kwokwo Barume

This book focuses on the situation in Kenya and Tanzania, where indigenous peoples have tried to address the issue of land dispossession and have taken their governments and other stakeholders to court. What was the outcome of these court cases? Were indigenous lands returned to their owners? Why did some cases fail and how can indigenous land rights be better protected? These are just some of the questions this publication addresses.

(Forthcoming book)

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Kenya, 2005 – Photo: Jenneke Arens

Bengt G. Karlsson

## ASIAN INDIGENOUSNESS: THE CASE OF INDIA

India voted in favour of the United Nations' Declaration on Rights of Indigenous Peoples in September 2007. So did the majority of the other Asian countries, with a few exceptions such as Bangladesh and Bhutan who abstained. How then should we understand this over-all support for the Declaration by Asian states? Is it to be regarded as a critical event that signals a new readiness for serious engagement with indigenous peoples' issues in this part of the world? Several Asian states have previously been reluctant to do so. Alternatively, should we see this move as the easy option, thus avoiding sticking one's neck out and inviting further debate and contention? A Declaration is, after all, a non-binding international instrument and states risk little by approving them. Significantly, only four states (Canada, the United States, Australia, and New Zealand) voted against the Declaration, with eleven abstaining. In this article, I will look at the situation in India, discussing above all the position of the Indian government vis-à-vis indigenous peoples' rights.

In India, 461 ethnic groups are recognized as Scheduled Tribes, and these are considered to be India's indigenous peoples. In mainland India, the Scheduled Tribes are usually referred to as Adivasis, which literally means indigenous peoples. With an estimated population of 84.3 million, they comprise 8.2% of the total population. There are, however, many more ethnic groups that would qualify for Scheduled Tribe status but which are not officially recognized. Estimates of the total number of tribal groups are as high as 635. The largest concentrations of indigenous peoples are found in the seven states of north-east India, and the so-called "central tribal belt" stretching from Rajasthan to West Bengal. India has several laws and constitutional provisions, such as the Fifth Schedule for mainland India and the Sixth Schedule for certain areas of north-east India, which recognize indigenous peoples'



West Khasi Hills. Photo: Bengt G. Karlsson

Professor Ram Dayal Munda. Photo: Bengt G. Karlsson





The British mining company Vedanta plans to build a massive bauxite mine, on top of the Dongria Kondh's most sacred mountain, Niyamgiri, which will destroy the forests on which the Dongria Kondh depend. The company has already built an aluminium refinery at the foot of the mountain. Photo: © Survival



rights to land and self-governance. Indigenous peoples continue to face civil and political rights violations, land alienation, displacement and false prosecution for accessing minor forest produce. As India's booming economy requires more resources, indigenous peoples' land and resources have been grabbed, resulting in a strong sense of alienation among the indigenous peoples and further exacerbating conflicts. The laws aimed at protecting indigenous peoples have numerous shortcomings and their implementation is far from satisfactory. India has a long history of indigenous peoples' movements aimed at asserting their rights.<sup>1</sup>

## The official position

A striking feature in India is the silence on the part of the government regarding indigenous peoples. It is hard to find any official statement that could be identified as the formal position of the Indian government. This would perhaps surprise many, especially as India is commonly listed as a country with one of the largest populations of indigenous peoples in the world. When the Declaration was adopted at the sixty-first UN General Assembly, the Indian representative Mr. Ajai Malhotra, stated that India "had consistently favoured the promotion and protection of indigenous peoples' rights". In the case of the right to self-determination, however, he noted that this would only apply to people under "foreign domination" and not those living in sovereign independent states.<sup>2</sup> In other words, the indigenous peoples' right to self-determination would not apply to India. This naturally raises the question as to whether the Indian government views any of the Declaration's other provisions as applicable to India and in addition whether the Indian government at all recognises the existence of indigenous peoples on its soil.

This last question is relevant in view of earlier statements by Indian representatives, in various international contexts, pertaining to the argument that neither the formally recognised so-called "Scheduled Tribes" nor any other category of people can be designated as indigenous peoples. What is usually claimed is that there are either no indigenous peoples in India or conversely that all Indians are indigenous. International law scholar Benedict Kingsbury noted a decade ago that several other Asian countries, for example China and Laos, maintained a position similar to that of India.<sup>3</sup> The Indian organisations that took part in the UN Working Group on Indigenous Populations in Geneva during the 1990s pushed for the recognition of the tribal groups or *adivasi* (original dwellers) as indigenous peoples.<sup>4</sup> Such a demand, however, has made little headway within government circles.

In the absence of formal documents we have to try to re-construct the Indian position. Let me follow a slightly odd lead. The then Chief Justice of India, Mr. Y. K. Sabharwal, speaking on indigenous peoples' rights at an international conference in Toronto in June 2006, argued that the term "indigenous peoples" was still being debated in India.<sup>5</sup> He pointed out several problems with identifying some groups as indigenous, noting especially the critique by the well-known Indian sociologist André Béteille. It did not occur to Chief Justice Sabharwal to address the other side in the debate, i.e. arguments in favour of the concept of indigenous peoples. Instead he suggested a general "Indian perception" according to which the term indigenous peoples is considered a misnomer in the context of India. The reasons for his dismissal are the usual ones, which, as I have suggested earlier, can be grouped under two main types of arguments, "substantivist" and "political".<sup>6</sup> The first type of opposition relates to a larger debate about the impossibility of establishing universally acceptable criteria or a definition of the term indigenous peoples, as the history and present-day situation in different parts of the world vary so greatly. This then can be used to further the claim that it is a futile exercise to try to establish who is indigenous and who is not. The second type of opposition, the "political" argument often goes hand in hand with the "substantivist" one. The main issue here is that a political mobilisation based on indigenousness is likely to prove disastrous, or to have undesirable consequences in a country like India. Firstly there is a risk that it will undermine national sovereignty and territorial integrity, due to the stated right of indigenous peoples to self-determination. Mr. Malhotra raised this point at the UN General Assembly; this is also a concern for a number of other states. Secondly, assertions of indigenousness are considered to enhance ethnic divisions and pit marginalized groups against each other. This would then hamper a broader, class-based political mobilisation of oppressed groups in society.<sup>7</sup> Objections of this latter type are usually emphasised by scholars and intellectuals in India with a leftist leaning.

More could be said about this, but for my purpose here I believe it is fair to say that what the Chief Justice identifies as the "Indian perception" could indeed be regarded as approximating to the official government position. Here then can be seen a generally substantivist concern regarding the definition and a political one regarding national sovereignty but again, we cannot be sure; this would appear to be how the government prefers to have it. Instead of talking about indigenous peoples the Indian government sticks to its own category, i.e. tribal peoples or more precisely the Scheduled Tribes. In short, the Scheduled Tribes are peoples or



*Munda women – Photos: Christian Erni*



communities that have been listed as such by the government and who enjoy certain constitutional provisions such as quotas for educational institutions, state employment and political representation. About eight percent of the Indian population belongs to the Scheduled Tribes category corresponding to roughly some eighty-four million people from some 460 groups recognized as tribes. These include small groups of hunter-gatherers and pastoralists in addition to several million people engaged in agriculture.

Chief Justice Sabharwal also used the major part of his presentation to outline the advances India had made through the affirmative action schemes relating to tribal people, described with a quote from Bêteille,<sup>8</sup> as one of the “oldest and most extensive” in the world. He ended by suggesting other countries could learn from the Indian experience in tribal welfare, which, as he put it, “can be tried in other parts of the world to protect the rights of indigenous peoples”.<sup>9</sup>

Let me pause here and sum up what is going on. India’s Chief Justice is invited to deliver a keynote speech on indigenous peoples’ rights for international colleagues and he begins by declaring that the term “indigenous peoples” is not applicable in India. He then moves on to talk about the extensive affirmative action programmes for tribal peoples, which he concludes by suggesting as a general model for protection of indigenous peoples’ rights elsewhere in the world. This appears paradoxical to say the least. Some may choose to brush this aside as just erratic remarks by a single official and hence not the position of the government. But considering that the person speaking was at the time the highest judge in the Supreme Court of India, his views do carry some weight. And if we return again to the statement by India’s representative at the UN General Assembly, Mr. Malhotra, we can note the same paradox in claiming to be a champion of indigenous rights yet denying that such rights apply to India.

## The other side

The official rejection has, however, not prevented people in India identifying themselves as indigenous peoples and aligning with the global indigenous movement. Being indigenous obviously resonates with the experiences, sensibilities and political aspirations of tribal peoples in various parts of India. Several tribal organisations in India base their struggle on the claim of being indigenous peoples and participate in national, regional and international networks that seek to strengthen indigenous rights. Various transnational actors such as multilateral institutions, donor agencies,

environmental and social campaign networks also apply the term “indigenous peoples” to refer to tribal communities in the country. In general it can be said that indigenous, tribal and adivasi are used as synonymous terms.<sup>10</sup> International legislation and policies pertaining to indigenous peoples can therefore be considered to apply to India as well. A recent example of this is the ongoing campaign against the British mining corporation Vedanta which seeks to mine tribal lands belonging to the Dongria Kondh. The issue has been re-directed to the Supreme Court.<sup>11</sup> Survival International along with a number of other organisations is trying to put pressure on the Indian government to stop the project. In a campaign letter to Prime Minister Manmohan Singh, it said:

*Mining Niyamgiri without the Dongria Kondh’s free, prior and informed consent would violate the principles of the UN Declaration on Indigenous Peoples, for which India voted in September 2007.*<sup>12</sup>

It is worth noting here that Survival International takes for granted that tribal peoples like the Dongria Kondh come under the provision of the UN Declaration.<sup>13</sup>

In cases such as the one above, the usefulness of the indigenous peoples’ framework becomes obvious. Indigenous peoples have certain universal rights, above all, the right over their land, livelihoods and culture. If such rights are threatened by outside actors, it is relatively easy to communicate such violations to an outside audience and mobilise support networks around the world. Transnational corporations like Vedanta are not immune to such pressure and even if the company gets approval to go ahead with the mining from the necessary Indian authorities, they still have to consider the wider implications of pursuing the project. In the past few years the global mining industry has been trying hard to improve its tarnished reputation by projecting itself as socially and environmentally responsible. Such a venture is not helped by demonstrators, rallying outside the company’s headquarters in London, saying that Vedanta’s mining will destroy a valuable forest area, a sacred site as well as the livelihoods of a small indigenous people.

But looking more generally, what difference does it make for tribal communities like the Dongria Kondh to be recognised as indigenous peoples? After all, they already enjoy special status as scheduled tribes? To begin with I would like to stress the different nature of the scheduled tribes and indigenous peoples frameworks. The scheduled tribes framework is a state welfare project that seeks to uplift weaker sections of society.



Forty Dongria Kondh from several villages blockaded the road to the proposed mine site. Dongria activists swore not to leave Niyamgiri and stated, 'Niyamgiri is Dongria land. Vedanta cannot come here without our permission. We say no.' Photo: © Survival

Agency in this case can be said to reside with the state and its institutions. The state defines those who are eligible for assistance, i.e. it decides who the scheduled tribes are. Furthermore the state allots funds, designs schemes and executes these. In general it can be said that the scheduled tribes themselves have little influence over these activities. The indigenous peoples framework, on the other hand, has its base and rationale outside the state sphere. It could be argued that the international indigenous peoples' movement has emerged as a reaction to the failure of states to protect the interests of people who now assert themselves as indigenous. Rather than asking for welfare measures, indigenous peoples seek recognition as peoples with the right to govern themselves. This includes the right to their traditional territories and the natural resources therein. Agency thus remains with the peoples concerned as it is they who may decide if, for example, mining and other outside activities would be allowed on their lands. Another element that is important here is the right to self-identification, i.e. that indigenous peoples themselves should decide who should be regarded as indigenous. Self-identification is obviously a tricky issue, especially in view of the present demand by several communities in

India to be recognised as scheduled tribes.<sup>14</sup> Here, as with other aspects of the indigenous peoples framework, it is a matter of finding a new set of decision making mechanisms and institutions to take over responsibilities that now rest with the state.

In a conference in Guwahati, in 2005, organised by the Indian Confederation of Indigenous and Tribal Peoples (ICITP), the well-known tribal leader professor Ram Dayal Munda argued that the scheduled tribe schemes have mainly led to the advancement of single individuals who have managed to get education and employment through the quota system, but that it has done little to improve the situation of tribal peoples in general. "The community is the missing link here", he said. Further, and more importantly, the tribal welfare programmes have done little to stop the ongoing displacement of tribal peoples. "Displacement", professor Munda argued, "is our destruction". He continued by saying, "since the state, who is supposed to take care of us, couldn't do it, now we have to do it ourselves".<sup>15</sup> Munda and his organisation ICITP propagate a milder version of indigenous self-determination in that it precludes the right to secede.<sup>16</sup> This is one of the most contentious issues within the indigenous movement globally. In India it has become a trial for the indigenous

peoples' organisations as to how they should relate to the Naga quest for independence.<sup>17</sup> Supporting the Naga quest would confirm the government's fears that recognising indigenous rights would ultimately undermine territorial sovereignty. But to rule out completely the possibility that there are circumstances under which an indigenous people might have to resort to secession, and hence that the right to self-determination should include such a provision, would be to go against what indigenous representatives in various international forums have insisted on.

## Conclusion

As I have argued in this article, the notion of indigenous peoples has had a mixed reception in India. On one hand, it has become a crucial identity and political articulation for marginalized tribal peoples. As such the notion of indigenous peoples is a social reality today. But on the other hand, the Indian government and the state more generally continue to avoid engaging with it, sticking to the view that the international framework for indigenous peoples rights are not applicable to the situation in India. In this respect, the official Indian view seems to remain unchanged. This, however, is not to say that everything remains the same. The newly passed Forest Rights Bill, that recognise land rights in forest areas for scheduled tribes and other forest dwellers, is an important move forward in respect of indigenous rights. It still remains to be seen how the Bill will be implemented. Several organisations have expressed concerns over delays and compromises but the Bill shows at least a willingness on part of the government to redress historical injustices against India's tribal, adivasi or indigenous peoples. □

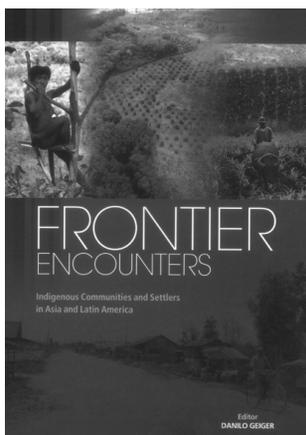
## Notes

- 1 **Paritosh Chakma, 2008.** India. In: Kathrin Wessendorf (ed.). *The Indigenous World 2008*. IWGIA, Copenhagen.
- 2 See "General Assembly Adopts Declaration on Rights of Indigenous peoples", (GA/10612), 13 September, 2007, Department of Public Information, New York.
- 3 See the important article by **Benedict Kingsbury, 1998:** Indigenous Peoples in International Law: A Constructivist Approach to the Asian Controversy, *The American Journal of International Law*, 29(3).
- 4 I discuss this in an earlier article, **B.G. Karlsson, 2003:** Anthropology and the 'Indigenous Slot': Claims to and Debates about Indigenous peoples Status in India, in *Critique of Anthropology*, 23(4). This article is also reproduced in the edited volume **B.G. Karlsson and T.B. Subba (eds.), 2006.** *Indigeneity in India*. London: Kegan Paul Ltd.
- 5 See "Plenary Session: Rights of Indigenous Peoples", speech by Chief Justice Mr. Y. K. Sabharwal at the 72<sup>nd</sup> Conference of the

International Law Association, Toronto, 4-8 June, 2006 ([http://www.supremecourtofindia.nic.in/new\\_links/ILA-TORONTO.pdf](http://www.supremecourtofindia.nic.in/new_links/ILA-TORONTO.pdf)).

- 6 Karlsson, 2003.
- 7 For a recent example, see **Alpha Shah, 2007:** The Dark Side of Indigeneity? Indigenous People, Rights and Development in India. *History Compass*, 5(6)
- 8 Quoted from the much discussed article by **André Béteille, 1998:** The Idea of Indigenous Peoples, *Current Anthropology*, 39(2).
- 9 Page 11
- 10 See Karlsson & Subba 2006, "Introduction".
- 11 As this article is being revised, the Indian Supreme Court has ruled in the favour of Vedanta, who then will be permitted to mine the said areas.
- 12 Survival International campaign letter to Prime Minister Manmohan Singh, available at <http://www.survival-international.org/tribes/dongria>. More information can be found on Survival International's website: [www.survival-international.org](http://www.survival-international.org).
- 13 The Friends of the Earth has also joined this campaign and urge people to send similar appeal letters, see for example the statement by the president of Friends of the Earth Finland, 21 January, 2008 (<http://www.wrm.org.uy/countries/India/Appeal/Nyamgiri.pdf>).
- 14 The Gujar community in Rajasthan is an example of such an agitation for ST status. Their demand has so far been rejected, a decision that most tribal organisations have welcomed, see for example the report *The State of India's Indigenous and Tribal Peoples, 2008*, by Asian Indigenous and Tribal Peoples' Network (<http://www.aitpn.org>).
- 15 Professor Ram Dayal Munda speaking at an international consultation on "education and empowerment for self-rule" in preparation for the 4<sup>th</sup> session of the UN Permanent Forum on Indigenous Issues, Guwahati, 27 Feb., 2005.
- 16 I base this on the several discussions I have had with professor Munda.
- 17 The Nagas have been striving for independence from India for more than half a century. This struggle has caused tremendous suffering with tens of thousands dead. During the last years there is a peace agreement in place and negotiations are going on between the main rebel groups and the Indian state. For more details on the background, see **A. Gray (ed.), 1986:** *The Naga Nation and Its Struggle Against Genocide*, Copenhagen: IWGIA. and updates in IWGIA's annual yearbook *The Indigenous World*.

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## FRONTIER ENCOUNTERS. INDIGENOUS COMMUNITIES AND SETTLERS IN ASIA AND LATIN AMERICA

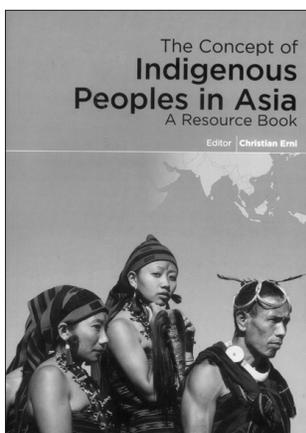
Edited by Danilo Geiger

Poverty and the maldistribution of land in core areas of developing countries, together with state schemes for the colonization of unruly frontiers, have forced indigenous peoples and settlers into uneasy co-existence. Presenting material from various Asian and Latin American countries, *Frontier Encounters* examines factors that make for conflict and accommodation, studies the role of policy frames, and looks at promising mitigation strategies.

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## THE CONCEPT OF INDIGENOUS PEOPLES IN ASIA – A RESOURCE BOOK

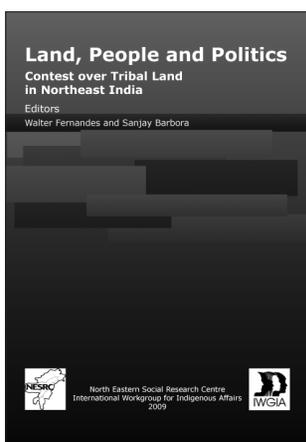
Edited by Christian Erni

This resource book compiles a number of previously published and unpublished articles that help the reader develop a deeper understanding of the Asian controversy on the concept of indigenous peoples. These are complemented with the key results of a workshop organized by Asian indigenous organizations in Thailand in March 2006, including experiences and issues identified as being common to indigenous peoples in South, Southeast and East Asia, and country profiles identifying indigenous peoples based on these commonalities, providing an overview on prevalent terminologies applied, and most relevant legislations pertaining to indigenous peoples in the various countries of the region.

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## LAND, PEOPLE AND POLITICS – CONTEST OVER TRIBAL LAND IN NORTHEAST INDIA

Land is the centre of most conflicts in Northeast India because of its importance in the life of the people of the region, particularly its tribal communities. It is also the resource most under attack, in the tribal areas in particular. This book is an attempt to understand the processes that result in tribal land alienation and the consequent conflicts in the region. The essays in this book attempt to disaggregate the received knowledge on land use systems in Northeast India, by using a mixture of ethnography and archival data.

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ISBN 9788791563409 – ISSN 0105-4503

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# IWGIA'S WORK ON THE CONCEPT OF INDIGENOUS PEOPLES IN ASIA





*Indigenous peoples' self-organising and empowerment through the regional Indigenous Community Organizers and Leaders Training (ICOLT) Programme is an important part of IWGIA's work in Asia. Photo: Christian Erni*



*Photo: Christian Erni*

IWGIA's programme strategy for Asia identifies the following as thematic priorities: 1. self-organising and empowerment; 2. self-determination and constructive agreements with the state; 3. land and resource rights; and 4. policy advocacy and public awareness raising. IWGIA currently supports projects in Bangladesh, Cambodia, India, Indonesia, Laos, Malaysia, the Philippines and Thailand.

When choosing partners in Asia, and in its advocacy work for indigenous peoples' rights in Asia, IWGIA has from the start been confronted with the question of how indigenous peoples in this part of the world are to be identified. With the adoption of the UN Declaration on the Rights of Indigenous Peoples, the issue of identification of indigenous peoples in Asia has become even more urgent since, in order to promote the implementation of the Declaration, indigenous organizations and their supporters (such as IWGIA) have to be able to convince the generally rather reluctant - if not defiant - Asian governments that the concept of indigenous peoples is also applicable to their countries. In order to help indigenous organizations and leaders develop their arguments further, IWGIA and the Asia Indigenous Peoples Pact (AIPP) jointly organized a regional workshop on "The Concept of Indigenous Peoples in Asia", which took place from March 1 to 3, 2006, in Chiang Mai, Thailand. The participants concluded the workshop with a declaration on experiences and issues that are common to indigenous peoples in Asia and which can therefore be used as guidelines for identifying indigenous peoples in this region.

Later this year, IWGIA will also publish a resource book entitled "The Concept of Indigenous Peoples in Asia". This is a compilation of a number of previously published and unpublished articles that will help the reader to develop a deeper understanding of the Asian controversy around the concept of indigenous peoples. The articles are complemented with the key results of the workshop organized by Asian indigenous organizations in Thailand in March 2006, including experiences and issues identified as being common to indigenous peoples in south, southeast and east Asia, and country profiles identifying indigenous peoples based on these commonalities. □

**Christian Erni**  
Asia Programme Coordinator

# INDIGENOUS PEOPLES IN ASIA

## Common Experiences and Issues

identified by the participants at the Workshop on the Concept of Indigenous Peoples in Asia  
Chiang Mai, Thailand, March 1-3, 2006

We are the indigenous peoples of Asia. We have lived in our territories alongside other peoples who in the course of history have come to dominate us. Our history has been questioned and our identity as indigenous peoples has been denied. As a result, our land, territories and resources have also been appropriated or made vulnerable.

We, the indigenous peoples of Asia, draw our unity and solidarity from experiences and issues that we have in common. We have jointly identified these as follows:

### History and Identity

- We identify ourselves as indigenous peoples and see ourselves as being different from others.
- We have our distinct lifestyles, languages, cultures, customs and community-centric, non-centralized social and political institutions, which we inherited from our ancestors, and which we want to transmit to our future generations.
- We have a strong collective identity which is rooted in our history and territories, which are the foundation of our self-respect, dignity, and freedom, and which emphasizes collective rights over those of the individual.
- We are referred to by governments and outsiders by various terms like tribals, hill tribes, highland people, ethnic minorities, indigenous ethnic minorities, aboriginal people etc.
- We are today colonized and dominated by others. We have been politically, culturally, and economically marginalized and pushed into a subordinate position, especially in the wake of the formation of nation states and globalization.
- We have experienced a history of injustice, with our individual human and collective rights and fundamental freedoms being denied, and our people and resources continually exploited.
- We are looked down upon by the dominant population, who misrepresents and distorts our way of life, and insists that we assimilate into their culture. As a result, some of our cultures

and languages have disappeared and many have become endangered. Many of us are made to feel ashamed of our indigenous identity and try to assimilate to avoid stigma.

- Likewise, our political and justice systems have not been recognized and alien systems have been imposed on us that destroy our decision-making institutions and holistic indigenous systems and at the same time exclude us from the dominant political system.
- Most importantly, our right to self-determination has been denied. Yet we are conscious of our resilience and our dynamic adaptability that have allowed our societies to persist and we are determined to maintain our identity and regain control over our lives, land and destiny.

#### **Land, Territories and Resources**

- We have a unique historical collective connection with, and ownership of, a territory over which we maintain complex and diverse customary systems of land and resource use
- We have lived in our territories prior to the arrival of other, now dominant people, and before the formation of modern nation states. Some of us however may reside in new lands as a result of forced displacement or other circumstances.
- Our livelihoods strongly depend on natural resources and as such we have a close spiritual relationship with, and rich traditional knowledge of, our environment
- Our indigenous systems and practices are not static but flexible and dynamic; and our land and resource use systems show a high degree of adaptivity.
- We are experiencing continuing non-recognition of our rights over territory and of our customary land ownership and use systems leading to dispossession and exploitation of our land and resources.
- The imposition of land and forest laws leads to loss of our traditional lands to state forests, protected areas, commercial plantations and other uses outside our control.
- As a result, we are experiencing increasing economic marginalization and poverty.

These common experiences we share not only among ourselves but with all indigenous peoples elsewhere in the world. And as for all indigenous peoples, our situations and our problems will not be solved unless we are first recognized as indigenous peoples and thus able to regain control over our lives, land and destiny.

# PERUVIAN AMAZON

## INDIGENOUS ORGANISATIONS: CHALLENGES AND ACHIEVEMENTS

Alberto Chirif and Pedro García Hierro



## The local organisations

Organisation is a *sine qua non* for the existence of any society and, over the course of history, highly organised movements have emerged in the Peruvian Amazon to face up to invaders.<sup>1</sup> Indigenous peoples' organisations as we know them today, however, i.e., permanent structures with the overall aim of defending the rights of the people they represent, are a relatively recent phenomenon.

In the case of Peru, the oldest references to an organisational structure that could be termed modern, in the sense that it was more or less based on structures that are not typical of indigenous societies, is offered by Casanto, an Ashaninka from Perené who published an article on the subject (Casanto 1986). He notes that in Tsoanni (Perené River), in 1959, around 120 indigenous delegates met to discuss the issue of their lands, then occupied by the Peruvian Corporation (a British company that had received 500,000 hectares from the State at the end of the 19th century) and by Andean settlers, impromptu immigrants that had settled there in large numbers, largely from the start of the 20th century onwards. Thus was born the *Asociación de Nativos Campas del Perené*, an association that managed to reach an agreement with the settlers' committee in order to form a strategic alliance in opposition to the greater enemy: the Peruvian Corporation. The outcome of these initiatives is unknown, and there is no information as to how far their aims were achieved. But the seeds had been sown, seeds that were to shoot at the end of the 1970s, as we shall see further on.

Many years then passed before the birth of organisations as we know them today. As a result of work conducted by a US anthropologist among Yanesha (then known as Amuesha) communities during the latter part of the 1960s, the *Congreso Amuesha* was established in 1969. This was to become the *Federación de Comunidades Nativas Yanesha* (FECONAYA) in 1981, an organisation that is still in operation to this day.

The 1970s saw the arrival of many indigenous organisations which, *grosso modo*, all followed a similar pattern: a grassroots support base organised around native communities (*comunidades nativas* in Spanish, a concept introduced by law in 1974 and recognising their official status) with their representatives constituting a general assembly as the highest authority. This assembly would establish the organisation's statutes and elect a governing body for periods of between two and four years. The governing body would be headed by a president, sometimes given the name of a traditional authority (*cornesha*, among the Yanesha, *pinkatsari* among the Ashaninka and *apu* among Quechua-speaking and other peoples), and would include a variable number of officers with responsibility for specific issues (land, education, health, economy, women etc.).

The founding of the *Congreso Amuesha* not only coincided with but was also related to two important events. The first



Awajún communities' march during the August 2008 indigenous uprising – Photo: AIDSEP & IWGIA archives

was the beginnings of anthropological interest in the Amazonian indigenous peoples, inaugurated by the anthropologist Stefano Varese with his works on the "Campas" (the name by which the Asheninka were then known) of Gran Pajonal. In fact, his book *La Sal de los Cerros*, published for the first time in 1968, opened up a new field not only of anthropological study but also of commitment to the indigenous peoples, whose rights and human dignity were being violated.

The second event was the arrival of General Juan Velasco Alvarado to power who, following a *coup d'état*, established a regime that sought to bring about substantial changes to overcome the divisions existing in Peruvian society, characterised by a small minority holding all the power and an immense majority, many of them indigenous, at the far end of the scale: poor, humiliated and overwhelmed by injustice. It was in this context that the indigenous peoples of the Amazon first emerged as a concern of the State and as the subjects of rights that needed to be defined and enforced. It was Varese himself who began to work on these issues within the government, and who set out the first legislative proposal for them, which was finally approved in June 1974 as the "Law of Native Communities and Agricultural and Livestock Promotion in the Rainforest and Cloud Forest Regions".

The drafting and consultation process for this law created opportunities for reflection with organisations - where they existed - or with community delegates, via workshops and other events. A number of indigenous federations were thus encouraged by SINAMOS (National System for Support to Social Mobilisation), an institution created by the government to support popular organisations through direct contact with them, to get some training. Most attempts in this regard failed, however, imposed as they were by outsiders rather than coming at the organisations' own initiative. Even so, a breeding ground had been promoted by the government that was favourable to the emergence of indigenous organisations.

Various organisational efforts were to follow the *Congreso Amuesha*. During the mid-1970s, the *Organización Kichwaruna Wangurina* (ORKIWAN) was formed in the Napo River area in the north of the Peruvian Amazon, initially comprising 26 local grassroots communities. This number has now increased to more than 40. In this case, the organisational support provided by a Franciscan missionary from Canada was significant. This experience served as a model for the emergence of other organisations in this part of the country.

In the Upper Marañón area, inhabited by Awajun (Aguaruna) and Wampis (Huambisa) peoples, a pro-

gramme of military settlements had penned in a large part of the indigenous population who, as a consequence of this process and the construction of schools, were gradually being settled into permanent locations that were to later become known as "*comunidades nativas*", a large part of them located along the banks of navigable rivers.

A cooperative organised and run by Jesuit missionaries to try and create commercial links between communities and markets aroused criticism on the part of the indigenous population who, in 1972, chose to set up their own organisation, the *Central del Cenepa*, which was the embryo from which emerged, in 1977, the *Consejo Aguaruna Huambisa* (CAH). The support of a multi-disciplinary group of young Spanish professionals working primarily with the Cenepa River communities was important in this process. In its day, the CAH was one of the strongest organisations, both in terms of number of communities (some 80), sphere of influence - covering five river basins in the area (Marañón, Santiago, Nieva, Cenepa and Chiriyacu) - and in terms of demanding the rights of its communities and promoting actions that had a great impact on the world's media, such as the expulsion of the German filmmaker Werner Herzog from its territory.

As previously noted, in the Selva Central (the Central forest region), and particularly in the Perené River valley, attempts had been made to organise since the 1950s, attempts that were always focused on the issue of land, something that is undoubtedly key to all indigenous organisations. In the case of the Perené, they also focused on agricultural production, given that the indigenous settlements in that area were by then already immersed in a market economy. As a result of these processes, the *Federación de Comunidades Nativas del Perené* (FECONAPE) emerged in 1976, changing its name a year later to the *Central de Comunidades Nativas de Producción y Comercialización Agropecuaria del Perené* (CCNAPCAPE).

A number of organisational efforts were also promoted by the governmental institution SINAMOS in this area of the Amazon, such as the *Congreso Campa* and others, although none of these came to fruition. Nevertheless, drawing on their own experience of 30 years earlier, along with the process by which the 1974 law was established, the *Central de Comunidades Nativas de la Selva Central* (CECONSEC) was founded in 1978, initially covering the area of Satipo and the Perené and Pichis basins until this latter subsequently broke away to form its own organisation.

The organisation described itself as a "*central*" (union) because of the strong influence of commercial cropping and the market economy in the area, which

had been receiving settlers since the latter half of the 19th century. This had had two consequences: indigenous peoples' territorial spaces had been drastically reduced, restricting the communities to "islands" (local settlements), and the natural resources on which the indigenous economy depended - fish, wildlife and forest - had declined.

The 1974 law had also been designed primarily with this situation in mind since those involved in its drafting were, at that time, not aware of the situation of indigenous peoples in more remote areas, such as the lowland forests, where there were no settlers and the environment was still unspoiled.

At the same time, another two pioneering organisations emerged. One was the *Federación de Comunidades Nativas del Ucayali* (FECONAU), which was born out of various previous attempts (FECONASH, ORDESH). Its grassroots support base initially lay in around 120 Shipibo, Cacataibo and Cocama communities. The other was *Chapi Shiwag*, which grouped together communities from the Awajun, Shapra and Chayahuita peoples in what is now Datem del Marañón province. The two latter peoples did, however, eventually leave to form their own organisations.

In the ensuing decades, further organisations appeared, until they reached today's total of around 60. It is not the purpose of this work to recount the history of each one of them but rather to explain how the first of them came into existence and how they gave rise to more complex levels of organisation.

### **Towards the creation of the national coordinating body AIDSESEP**

As we have seen, there were already in the latter half of the 1970s a number of indigenous associations organised along the lines of river basins. In addition to forming relations with emerging State bodies such as SINAMOS, these organisations also made contact with a number of national and international players. One such player was a group of independent individuals, of different professions, who were working with indigenous peoples in the region. Another group was made up of anthropology students from two universities (Católica and San Marcos) who had stated an interest in working with indigenous peoples and conducting field work in different areas. A third was made up of foreign donor agencies who were beginning to provide one-off funding to the activities of these emerging organisations.

From 1975 on, the State began to roll back the reforms that had been so favourable to the popular

movement and, in 1978, the "Law of Native Communities" from 1974 was amended to allow large capital investors access to national forests, and to encourage a concentration of lands so that they could be turned over to agro-industry.

Against this overall backdrop, a coordination group constituted itself in 1976, initially bringing together professionals (both independent and State employees), students and coordinators from donor agencies. Representatives from the recently created indigenous organisations gradually began to be included in the coordination group's meetings and, as they began to realise they had many problems in common, these organisations gradually began to forge closer bonds. They agreed to jointly arrange regular meetings in Lima, which they all had to visit every so often for administrative and lobbying purpose, given the centralist nature of the country's structures.

In 1978, shortly after these joint meetings had become more formalised, the indigenous representatives expressed a desire to continue them without the presence of the professionals, students and agency representatives. This was clearly an effort to demarcate boundaries and affirm their autonomy. It was in this context that the *Coordinadora de Comunidades Nativas de la Selva Peruana* (COCONASEP) was founded. A few years later it changed its name to the *Asociación Interétnica de Desarrollo de la Selva Peruana* (AIDSESEP). It gained legal status in 1985, as a civil non-profit making association because, to this day, there is no legal status in Peruvian legislation by which to recognise indigenous organisations.

From 1989 onwards, AIDSESEP decentralised, establishing regional offices in San Lorenzo, Iquitos, Pucallpa and Satipo which, along with another two offices later created in Madre de Dios and Bagua (northeast), each gained its own official status and a greater degree of autonomy from the central office.

In the ensuing years, AIDSESEP has maintained a presence throughout the whole Amazon region and has gained the recognition of the communities and the rest of the popular organisational movement in general. The favourable environment of the 500 Years of Resistance campaign in 1992, which encouraged a highly auspicious meeting between Amazonian and Andean indigenous organisations in other countries, did not result in a coming together of worldviews in Peru because of the armed conflict being conducted by the MRTA (Tupac Amaru Revolutionary Movement) and Shining Path. This conflict affected the indigenous population of the Amazon very severely, and resulted in the loss

of many lives whilst defending their territories, their freedom and their independence.

## Achievements of AIDSESEP

It is difficult to encapsulate almost 30 years of AIDSESEP's institutional life, its successes and challenges, in such a short piece as this. The organisation's first success was to establish, from its own autonomous perspective, a fully developed platform from which to express the main indigenous demands. During the earlier decades of the 20th century, indigenous issues had been handled by indigenist institutes with Andean links but never directly by the indigenous peoples themselves. Following enactment of the Agrarian Reform law during General Velasco Alvarado's government that was in power from 1968 to 1975, the terms "indigenous" and "Indian" were banned from official language, being considered racist and discriminatory when, in reality, the negativity was in the way they were used rather than in the terms themselves.

The global indigenous movement, to which AIDSESEP was linked from the very start as one of the organisations most active in its expansion, has clearly contributed to recovering the term "indigenous" as a sign of identity, and to constructing a platform with its own demands. The creation of the *Coordinadora de Organizaciones Indígenas de la Cuenca Amazónica* (COICA) was also one of AIDSESEP's achievements, as they were involved in establishing this regional organisation along with the other national organisations in the countries involved.

In the same way, AIDSESEP's existence has also had reverberations among Peru's Andean indigenous peoples who, having been concealed for decades behind the label of "peasant farmers" have taken up their identity as indigenous peoples once more, finding the energy to gel together in the face of new problems, in particular the devastation caused to their lands and economy by mining activities, and the legal and political measures that are now attempting to wipe out their communities.

In terms of affirming indigenous rights, the most well-known process undertaken by AIDSESEP has undoubtedly been that of territorial consolidation. Via agreements with the Ministry of Agriculture, the organisation has managed to legalise indigenous lands in various parts of the Amazon, primarily as communal lands (collectively owned by a *comunidad*) but also as communal reserves (protected areas owned and managed by a *comunidad*) and territorial reserves, these latter to the benefit of the indigenous peoples

living in isolation. For many years, and over the course of different Peruvian governments, AIDSESEP – with the financial support of a number of indigenous rights organisations throughout the world, particularly IWGIA – has managed to coordinate with the Peruvian state to achieve the titling of large territories for indigenous communities, in a process that has not yet been exhausted.

It was in fact IWGIA, with resources obtained from the Danish government (DANIDA), that supported one of AIDSESEP's proudest achievements. Given the magnitude of the problem, the size of the population and the number of communities involved, and given its significance beyond mere titling, it is important to mention the work undertaken by the organisation, between 1989 and 1993, to rescue hundreds of indigenous people enslaved by logging barons and cattle ranchers in the area known as the Upper Ucayali, which covers the upper course of this river and the lower reaches of its tributaries (the Tambo and the Urubamba).

This work brought to light the way in which these people were forcing indigenous families to work for no money, subjecting them to humiliations of all kinds. In fact, not only were the people not paid for their labour, they also lived in insalubrious huts and suffered physical punishment if they failed to comply with orders or attempted to run away. Such punishment frequently caused the serious injury or death of a person. (See AIDSESEP 1991a, 1991b y 1991c, and García et al. 1998.). The results of this work were notable in that whole families were set free, communities were titled and organised into a regional association which, just a few years later, won the mayorship of Atalaya (provincial capital) town council in the local elections.

In terms of bilingual intercultural education, and in agreement with the Ministry of Education, AIDSESEP has for the past 20 years been implementing a training programme for bilingual teachers, working with various of the region's indigenous peoples. Its most important centre continues to be in Iquitos but, in recent years, it has decentralised in order to serve indigenous peoples in the Upper Marañón and central forest regions.

In the health sector, AIDSESEP is also involved (along with the General Epidemiological Office of the Ministry of Health) in producing an Analysis of the Integrated Health of Indigenous Peoples which is establishing or (should establish) guidelines for cooperation between the State and the indigenous organisations when designing health programmes in different regions.

Along with other independent but friendly organisations (such as that of the Achuar people of Loreto), AIDSESEP is closely monitoring processes related to the massive impact of the extractive (primarily oil and mining) industries on indigenous lands and is also monitoring regulations aimed at encouraging the commercial exploitation of collective territories. These regulations are a consequence of trade agreements that are seeking to free up large areas of land so that they can be handed over to agro-industrial investors.

It is important to note that, in recent years, organisations in areas of former oil exploitation have been able to force the companies involved to establish mechanisms by which to address environmental and human health issues, something the State had ignored for decades.

### Crisis and problems

Like any longstanding organisation, AIDSESEP has had its difficulties over time. Born of pressing forces, and with a rhetoric demonstrating great understanding of the needs of those it represents, it now finds itself having to respond to national issues and external interlocutors that mean it has to develop a language and deal with issues that are far removed from the day-to-day needs of its grassroots support base.

In fact, the significant progress made in theoretical discourse at the highest level in international fora does not always correspond to the real conditions in which community problems are discussed, and where people have to face up to daily problems with different economic players and their "development" rhetoric. It may be loggers winning over the support of part of the population by means of payments and small handouts; it may be State officials offering small sums of money for welfarist programmes, such as "Juntos" or "Crecer" (national support programmes), provided they agree, for example, to partition their collective lands; or it may be the oil companies' PR people seeking to destroy community unity by means of bribes.

The quick pace of the organisation's growth has meant that it has taken on new spheres and new responsibilities without having properly laid its own foundations. This means that the progress of work does not rest on solid bases, and discrepancies are often perceived between the demands of the central, regional and, above all, local levels. Weak relationships between the leaders of the different organisational levels, and between these latter and their grassroots, is one of the greatest challenges today facing

the Peruvian indigenous movement. An event such as the recent national uprising against the FTA implementing measures<sup>2</sup> announced by Alan García's government demonstrates, however, that unity, mobilisation and organisational discipline do still exist, and resurface when a situation is perceived as being seriously detrimental.

Because of the growing distance between the different organisational levels, the organisation's institutional vision has, in many cases, become bureaucratized. The past energy and responsiveness demonstrated by leaders and support teams in times of great tension and dramatic challenge have often given way to weak and slow approaches that make problem-solving dependent upon the existence of a project to finance the necessary activities. This is not the organisation's fault alone; some of the international agencies must also take the blame because, with little knowledge of the organisation's actual conditions or of the viability or usefulness of their proposals, they fund projects that seem more intended to fulfil their own targets for annual fund investment than to support processes of organisational consolidation.

As part of their integration into the national system, indigenous peoples have not only adopted market economy strategies that frequently distort their own social and trading structures but have also taken on the behavioural norms of *criollo*<sup>3</sup> society. One such norm is *caudillismo*<sup>4</sup>, and this has created clashes between current leaders or between new leaders and outgoing ones, with the consequent tensions and expenditure of energy that lead to delays in formulating the movement's long-term political proposals.

Like *caudillismo*, another activity originating in the *criollo* world is that of corruption, and this has already led to some serious crises as a result of the improper use of institutional resources at different levels of the organisation. The specific nature of a multi-ethnic organisation means that control mechanisms for such behaviour have to be highly circumspect, as accusations can often be taken as insults to the ethnic group to which the person in question belongs. Whether this is the reason or not, there are still no adequate procedures to put a stop to such irregularities or punish those responsible. The lack of a supervisory body to apply the statutes also means that people involved in such acts can apply for and occupy leadership positions.

A more recent organisational weakness, and which has unexpectedly surfaced with the latest uprising against the legislative decrees announced by President Alan García, has been the lack of an appropriate response that is in line with the severity of the current



Meeting of Aidesep's then President, Miqueas Mishari Mofat, with an Asháninka leader in 1992 – Photo: AIDSESP & IWGIA archives





(left-right) Two of Aidesep's many meetings, at the end of the 1980s - Photos: AIDSESP & IWGIA archives

Awajún communities' march during the == 2008 indigenous uprising – Photo: AIDSESP & IWGIA archives



problems. Over the last 15 years or so, attacks on indigenous peoples have grown both in number and intensity. Policies aimed at opening up the Amazon's resources to transnational capital have multiplied, as have regulations aimed at limiting the rights of indigenous peoples. Such tendencies were initially observed in the early years of President Alberto Fujimori's government but have been unleashed with unusual fury over the last year by the current government. President Alan García has summarised his policy with regard to the country's natural resources, development and the rights of indigenous peoples in three articles published in national daily newspapers, under titles all being variations on the proverbial theme of a *dog in a manger, who neither wants to eat nor allow others to eat*.

In his opinion, the lands and resources that are in the hands of the country's indigenous and peasant farmer communities, and also the plots being farmed by Andean settlers over vast areas to the east of the Andes, are being misused or under-exploited through a lack of technology, a lack of desire for improvement and a lack of any business vision on the part of these people. They are not using the resources but nor are they willing to let others use them. The government's solution is to clear these areas and put them back in the hands of businessmen with capital and technology, so that they can produce and create employment and wealth. In this way, the argument goes, their previous owners - the indigenous and peasant farmer communities - will benefit, transformed into labourers on what were their own lands. The sale of their lands would, moreover, supposedly provide them with capital with which to set up small businesses.

Never before has there been such unbridled aggression against indigenous peoples, peasant farmers and settlers nationally, and never before has it taken place in such an artful way. Laws that only a short while ago were being rejected by regional governments, grassroots organisations and, in some cases, by the legislative committees of Congress itself, have now been approved, their content split between innumerable legislative decrees approved by the Executive<sup>5</sup>, taking advantage of the special powers granted it by Parliament to pass regulations aimed at facilitating the Free Trade Agreement between Peru and the United States. Under this umbrella, the government has approved everything: laws that disallow consultation processes for communities where mining contracts have been awarded, a new forestry law that permits forest privatisation, regulations restricting the requirements for dividing up indigenous commu-

nities and selling their lands to third parties, to name but a few out of a total of 99 laws.

Faced with the seriousness of these and other events that are severely affecting indigenous peoples, AIDSESEP's response in recent years had been slow, until 9 August 2008 in fact, when it headed a dynamic national-level indigenous protest that has created large-scale political upheaval.

It is clear that the perpetual criminalisation of indigenous rights (despite the fact that Peru has transposed ILO Convention 169 into its legislation and signed the UN Declaration) makes it very difficult to introduce any alternative thinking with regard to the indigenous population when national society is impoverished but bombarded by free market rhetoric. The weak (and often xenophobic) reception given to indigenous discourse by the country's urban middle classes may, to some extent, explain AIDSESEP's slowness of reactions.

And herein lies another of the great difficulties facing Peru's Amazonian indigenous organisation: its isolation and lack of ability to forge alliances with the rest of the popular movement. The remarkable explosion of solidarity amongst worker and peasant organisations during the last uprising spearheaded by AIDSESEP shows, however, that the door is open to creating effective alliances that would enable the organisation to speed up and strengthen its capacity to respond to national events, closing ranks with the rest of the popular movement, who are also under attack from government policies.

## **CONAP and other organisations**

It is not possible to discuss the Amazonian indigenous movement in Peru without referring to some of the other organisations that exist, even though - by their own admission - their aims are very different from those of AIDSESEP.

The *Confederación de Nacionalidades de la Amazonía Peruana* (CONAP) was founded in 1987, that is, only a few years after AIDSESEP, the first group to break away from the national organisation. The *Congreso Amuesha* was one of the federations that had promoted the national structure and been involved from the start. The politicisation of the indigenous debate that was taking place within it on the part of some external players was even expressed in criticisms of a linguistic nature, such as that a "congress" was not an organisation but a transitory "meeting" of people. The leaders of the then *Congreso Amuesha* came under attack and the organisation ended up being dissolved

and replaced, in 1981, by the *Federación de Comunidades Nativas Yanasha* (FECONAYA). The next steps were for the federation to affiliate to the CGTP (Peru Workers' Union), distance itself from AIDSESEP and affirm itself in class-based language. Indigenous people and settlers, said the new leaders, were part of the exploited class and, as such, had to seek joint solutions. Both needed land and there was no room for disputes between them. In an area that was heavily colonized during the second half of the 19th century, particularly by immigrants from indigenous Andean communities and where, as a consequence of this process, the Amazonian indigenous peoples had been left with only small areas of land, it was predictable that this rhetoric would be of more interest to the settlers who were occupying the communities (either as invaders or by having integrated into them, for example via marriage to indigenous women) than to the Yanasha (formerly known as Amuesha) themselves. At that time, AIDSESEP was demanding indigenous rights and if, to achieve this, it had to confront the settlers, it was not prepared to change its actions for any political discourse.

Other actors were also playing an important role nationally in the rupture between AIDSESEP and this part of its support base, and in the radicalisation of its aims, to the point of promoting another parallel national organisation. This related to a number of NGOs that were beginning to work in the Amazon. AIDSESEP was highly critical of institutions of this nature, which it described as acting as intermediaries for indigenous voices, rejecting their work on the basis that indigenous people had the right and ability to work for themselves, and so the NGO field was being closed off to it. The debate even reached the international agencies which, with the intention of not exacerbating the problem, made their support to these NGOs conditional upon their work being coordinated with the indigenous organisations, something that was not always either possible or desired by the organisations.

One such excluded institution in particular took up the role of protagonist in the disagreement and, picking up FECONAYA's class-based rhetoric, began to criticise AIDSESEP, accusing it of being "developmentalist". The best proof it could come up with was the name of the organisation, however: the *Asociación Interétnica de Desarrollo de la Amazonía Peruana* (the Inter-ethnic Association for **Development** of the Peruvian Amazon). Although the name certainly was not one of the best for an indigenous organisation, it was clear that it had, nevertheless, been chosen by the leaders themselves, and was possibly simply revealing of conditions at that time. In any case, and despite

the name, AIDSESEP's actions throughout its institutional life can hardly be described as "developmentalist", as constantly noted by the State and CONAP itself, since it has focused its action on defending its members' rights.

The *Confederación de Nacionalidades Indígenas de la Amazonía Peruana* (CONAP) was finally established in May 1987. Its main premise was that its role was to represent its grassroots support base politically, not undertaking - as AIDSESEP had done - programmes and projects to title communities, skills training in the fields of education, health and other similar issues, which should remain in the hands of the support institutions. Out of step with AIDSESEP and the global indigenous movement, which both focus primarily on territorial claims and the struggle for self-determination, CONAP stated from the beginning that land was not an exclusive right of the indigenous peoples but was also a right of the settlers, and that indigenous self-determination was an absurdity that merely concealed separatist desires. (See, in this regard, Chirif 1991.)

In the few documents in which CONAP sets out its plans as an organisation, land claims do not appear once. Moreover, in practice, the communities that make up one of its most solid and longstanding support bases, in the Upper Mayo region, have rented out their land to settlers. This is an area in which rice cultivation produces high yields due to mechanisation and irrigation. It seems clear that the longer these tenants remain, having invested in machinery and infrastructure, the more consolidated private property rights will become. Such property rights are now, moreover, beginning to be promoted by current legislation.

CONAP no longer uses class-based language. Its unwillingness to take indigenous rights seriously remains unaltered, however. The best way to define its current programme is to say that it consists of supporting the opposite of whatever AIDSESEP proposes. This can be seen at the moment in the two organisations' positions in relation to the greatest problem facing the indigenous peoples: the environmental contamination and damage to human health being caused by oil and gas exploitation. While AIDSESEP and its support base are opposed to this activity, which destroys the indigenous territories and weakens the social bases of the economy and the people's organisational structures, CONAP and its affiliates have become the bastions of support for the development of such activities on the part of the State and companies. In recent years, they have taken on the task of demonstrating, in national and international fora, the advan-

tages of having oil and mining companies on titled lands as one of the most significant ways of benefiting the indigenous communities.

At the height of the crisis between the State, the companies and the *Federación de Comunidades Nativas del Corrientes* (FECONACO),<sup>6</sup> which was defending communities that were denouncing the deterioration in their lands and the fact that they as individuals were being poisoned with heavy metals, the now ex-President of CONAP, who was in post for 15 years, declared his support for oil activity, stating that it produced wealth and well-being for the communities. While, at the start of 2008, community members from the Awajun and Wampis peoples were refusing the entry onto their territory of an oil company with whom the State, in violation of the right to consultation, had signed a contract, CONAP leaders were defending the company and insulting the people, arguing that their opposition was caused by ignorance and a lack of desire for progress. Meanwhile, the same ex-President, now a CONAP advisor, announced in Washington at a meeting with oil companies that the Amazonian indigenous peoples awaited them with open arms.

This organisation is so clearly useful to business and State interests that, following the fierce rhetoric of Alan García against AIDSEP on the day that Congress was to debate repealing a legislative decree in order, more or less, to permit the free sale of indigenous lands, CONAP leaders and their ex-advisor appeared, defending this freedom and accusing AIDSEP (whose supporters were clashing with armed police contingents) of manipulating the indigenous peoples and, in turn, of being subordinate to an NGO.

A number of new organisations have emerged in recent years in support of oil activity and, where necessary, other official policies. All of them are financed by the companies themselves, although it is not clear if all of them fall under CONAP's umbrella. We believe not, and many of them are in fact independently established by the companies themselves. With the weight of their financial and human resources behind them, these organisations seem to have decided that they can carry on their work independently. In this case, then, we can say that the companies are the *centrales* of these grass-roots bases.

The role of the companies in this process still requires analysis, something that would complete the picture of biological pollution with that of the moral contamination they are encouraging by buying

off leaders and promoting parallel organisations that support their rhetoric.

## Towards the future

Given the history of the indigenous movement and of the indigenous peoples' organisation under AIDSEP's leadership, there is no cause for pessimism. The balance of its achievements is a favourable one. The indigenous peoples' energy and capacity for struggle is being rejuvenated and, at each opportunity, they are offering further demonstrations of what really lies beneath their apparent weaknesses. The exploits of FECONACO and the Achuar of Corrientes, which reached their climax at the end of 2006, will pass into history due to their decision to place their dramatic situation before the eyes of Peru and the whole world and due to their strength in facing up to their problems. And it will also live on in achievements that go beyond our own borders, having managed to get a law approved that forces oil companies, in all new contracts, to re-inject industrial wastewater into the subsoil. In addition, their efforts mean that these waters will also be re-injected in relation to oil extraction contracts that still have decades to run on their own territory, thus creating a valid precedent for the whole country.

At the very moment that we are putting these thoughts to paper, a number of areas of the Peruvian Amazon are experiencing organised protests led by indigenous organisations demanding, in general, two things: the repeal of regulations overturning indigenous rights and seeking the dissolution of the communities and the division and sale of their lands; and the cancellation of oil contracts on their territories, all signed by the State without observing the right to prior and informed consultation, as stipulated in various international documents to which Peru is a signatory.

The problems that are looming will require great effort and commitment from the leaders and their support bases if they are to face up to the threats in a level-headed and persevering manner, and if they are to face up also to the corruption that the powerful sectors, by means of various strategies, are attempting to propagate. □

## Notes

- 1 In fact, all indigenous rebellions recorded in history, from the most complex such as that of Juan Santos Atahualpa, a leader of an indigenous rebellion in the Andean jungle provinces of Tarma and Jauja (Peru) in the mid-18th century, to the most simple and fleeting, have required a certain organisational maturity in terms of their design, strategy, tactics and assembly responsibilities in order to achieve their aims.
- 2 In early 2008, Peruvian President Alan García approved more than 100 legislative decrees in order to bring the Free Trade Agreement (FTA) between the US and Peru into effect. Several of these new laws were not directly related to the FTA, but, as in the case of legislative decrees #1015 and #1073, they facilitated procedures for the fragmentation and sale of communal lands held by indigenous communities. From August 9<sup>th</sup> through 20<sup>th</sup>, indigenous demonstrations paralyzed various roads and energy installations, and on August 22<sup>nd</sup>, the Peruvian Congress saw no other issue than to repeal these two legislative decrees.
- 3 *Criollo* refers to a person of European (generally Spanish) descent.
- 4 *Caudillismo* – from the word *caudillo* meaning leader, chief – refers to a political regime or system where the authority (at the local or national level) is entirely in the hands of one specific leader.
- 5 See footnote 2.
- 6 For 35 years, the health and territory of the Achuar have been affected by the contamination from oil drilling. On 24 October 2006, after a 14-day occupation of Peru's largest oil facility, representatives of the Federation of Native Communities of the Corrientes Rio (FECONACO), reached an agreement with the oil company PlusPetrol and the Peruvian government. The agreement gave the Achuar 98 percent of their demands

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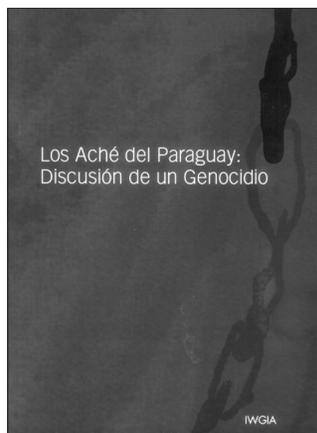
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## LOS ACHÉ DEL PARAGUAY: DISCUSIÓN DE UN GENOCIDIO

Alejandro Parellada & Maria de Lourdes Beldi de Alcántara (eds.)

The Aché (also known as Guayakí) live in the subtropical forest of Eastern Paraguay. Between 1968 and 1972, a series of events led to the drastic reduction of the population of the Aché under the government of Alfredo Stroessner. This book includes articles by prominent scholars who write about the history and situation of the Aché in Paraguay and discuss their fate as a case of genocide.

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Olga O. Murashko

# PROTECTING INDIGENOUS PEOPLES' RIGHTS TO THEIR NATURAL RESOURCES — THE CASE OF RUSSIA





RAIPON's first vice-president Pavel Sulyandriga at a demonstration on Sakhalin - Photo: Kyh-Kyh Center Sakhalin



Construction of pipelines on Sakhalin Island - Photo: Kyh-Kyh Center Sakhalin

Pipelines on Sakhalin Island - Photo: Kyh-Kyh Center Sakhalin



Of the 45 indigenous peoples in Russia with populations of fewer than 50,000, 40 live in the North, Siberia, and the Far East. These same areas are rich in natural resources, such as oil, gas and minerals, and they are the sites of large energy projects like pipelines and hydroelectric dams. Any industrial project taking place on indigenous peoples' lands presents a threat and elicits concern among the indigenous population. A newly-published map entitled "Places for Potential Conflict Between Industrial Companies and Numerically Small Indigenous Peoples of the North, Siberia, and the Far East," from the Center for Support of Indigenous Peoples of the North ([www.csipn.ru](http://www.csipn.ru)) identifies 70 hotspots with potential for conflict. Legislation on indigenous peoples' rights is designed to identify and reduce conflict between industries and indigenous peoples. But does such legislation exist in Russia? And what are interactions between indigenous peoples and corporations like in reality?

### **Current political and socio-economic situation of the peoples of Northern Russia**

The Russian Federation's constitution recognizes the concept of "numerically small indigenous peoples" and its Article 69 "guarantees rights in accordance with generally accepted principles and norms in international law and international agreements of the Russian Federation" to these peoples. In 2000, the Russian federal government approved the Official List of Numerically Small Indigenous Peoples of the Russian Federation, a list that included 45 peoples.



Oil development in the Yamal-Nenets Autonomous Okrug - Photo: Kathrin Wessendorf

Of these peoples, 40 live in the North or in regions with severe environmental conditions similar to the North.<sup>1</sup>

In 1990, the Russian Association of Indigenous Peoples of the North (RAIPON) was founded as an umbrella organization for regional indigenous associations. Over the years, RAIPON has gained significant authority and influence both with Russian government agencies and in the international arena. Although RAIPON lacks the authority to propose legislative initiatives, its strong representation has facilitated the passage of laws (see footnote 2) for the protection of numerically small indigenous peoples. Specifically, these include three federal laws<sup>2</sup>. RAIPON's outreach work in the areas of legal and environmental education of indigenous peoples has greatly raised awareness among Russian indigenous peoples in recent years. (See Kryazhkov and Murashko, 2005). In 2004, RAIPON included the Association of Komi-Izhemtsy, an indigenous people not included in the official list of the Russian government.

The 2002 Population Census indicated that numerically small indigenous peoples of the North, Siberia, and the Far East totalled approximately 250,000 individuals. Ethnologists noted a significant population growth. This is mainly related to the post-Soviet government's promise of socio-economic rights for indigenous peoples, in contrast with the 1970s when identification as Russian was encouraged among indigenous peoples (Bogoyavlenskiy, 2004).

## Socio-economic situation

The dissolution of kolkhozes, sovkhoses, and gospromkhozes that had provided almost full employment for indigenous peoples in Soviet Russia led to the loss of a majority of jobs on their traditional lands. As a result, unemployment levels among indigenous peoples have risen eight-fold over the last decade (compared to 3.5 times in Russia as a whole). Today, earnings for indigenous people are 2-3 times lower than the national average. The birth rate is down by 69% in comparison with 1995, while mortality has increased by 35.5%. The average life expectancy for indigenous people is 10-20 years lower than the Russian average. The average life expectancy for an indigenous man is 42 years and in some places it is even lower than 30. The standard of public health has decreased for indigenous peoples of the North. The number of hospitals and schools in small indigenous villages is falling, and may lead to the reappearance of illiteracy.

Facing the loss of the economic infrastructure they had grown accustomed to during the years of Soviet power, indigenous peoples are creating *obshchinas*<sup>3</sup> and native co-operatives in order to organize their economic activities. It is very difficult to accurately assess the number of such organizational structures, as some spontaneous *obshchinas* are unregistered, while others register but are unable to cope with com-



Open-pit coal mining in Kemerovo - Photo: Kathrin Wessendorf

The banner says: "...oil workers, remember on whose land you are working", V.V. Putin, Salekhard, 2004 - Photo: Kuhl-Kyhl Center Sakhalin



plex bookkeeping and tax regulations and cease to exist as legal entities. The obshchinas' difficult economic situation is further complicated by the uncertainty and challenges they face in accessing their main source of existence – the right to use natural resources and lands for traditional purposes.

## **Rights to Land and Natural Resources**

The issue of indigenous land rights in Russia is still an open question. For all practical purposes, the government owns all land and natural resources in the Russian North. Some of these lands – “lands for agricultural use” – are under the joint control of the Russian Federation and its provinces. During the collectivization period (beginning in 1930), a large portion of the lands traditionally settled on and used by peoples of the North, were handed over to kolkhozes and sovkhoses, which in most cases were managed by non-indigenous peoples. However, indigenous peoples did continue to use these lands for reindeer herding, hunting, and fishing. Today, the state auctions these lands to new leaseholders and private parties.

Although in 1999 the law “On Guarantees of the Rights of the Numerically Small Indigenous Peoples of the Russian Federation” proclaimed the right of indigenous people to the free use of their traditional lands for the purposes of conducting traditional economic activities, the Russian federal Land Code (2001) did not provide the same right. The resulting legal contradiction has, to this day, not been resolved despite numerous attempts by RAIPON to lobby parliamentary deputies for the necessary changes in the Land Code. The government opposes these changes, considering them to be economically inexpedient. At the same time, the law “On Territories of Traditional Natural Resource Use of the Numerically Small Indigenous Peoples of the North, Siberia and the Far East of the Russian Federation”, adopted in 2001, which intends to secure indigenous land rights, has not yet been implemented (Murashko, Sibirika.2006).

In practice, indigenous obshchinas are not able to acquire rights to lands for hunting, fishing, or reindeer pastures, and without documentation indicating rights to the use of these lands, they cannot obtain hunting licenses or fishing quotas. Since 2006, lands traditionally used by indigenous peoples are being auctioned off as long-term leases to resource extraction companies, and commercial fishing, hunting, and tourist operations.

Sometimes, these new owners of traditional lands employ the local indigenous people who find them-

selves in a difficult position under crippling terms. The hunting lands in Amur Oblast are a case in point. In 2006, lands belonging to former reindeer sovkhoses were put up for auction as hunting lands. The applications of eight Evenk obshchinas were rejected from the competition on the basis of incomplete documents. The hunting lands went instead to commercial companies. The new owners offered Evenk hunters licenses, however, to be used under the conditions of the owners, which did not take into consideration the indigenous life-style that combines the hunting with reindeer farming. These new commercial owners were primarily interested in the number and quality of sable skins they could collect from hunters (Murashko, 2007). The obshchinas joined together and filed a lawsuit. With the assistance of a RAIPON lawyer, and the tireless efforts of Elena Kolesova, chairwoman of the Association of Evenk of Amur Oblast, the eight trials were won, and the decisions of the auction commission were revoked as it was proved that procedures had been violated

## **Legal rights and interactions with industrial companies**

The Land Code stipulates that “community gatherings and referendums may be conducted regarding the withdrawal of land for concessions in areas traditionally occupied and used for economic purposes by numerically small indigenous peoples of the Russian Federation and ethnic obshchinas if the land is to be used for non traditional economic activities.” The organization of such referendums is the duty of the local authorities. The federal law “On Environmental Impact Assessments” (from 1995) and the Civil Construction Code of the Russian Federation contain requirements to conduct public hearings regarding industrial projects, which project initiators and local authorities are responsible for organizing.

As neither the boundaries of “places of traditional habitats and economic activity of numerically small indigenous peoples of the Russian Federation” have been identified nor have procedures been established to ensure participation in referendums and public hearings of those peoples whose traditional lands will be impacted by the projects, public monitoring by indigenous peoples is replaced with superficial project presentations for citizens at meetings in cities and towns far from the actual project site.

The 1995 law on Environmental Impact Assessments requires that project impact evaluations take place in order to warn against possible negative im-

pacts and to develop programs identifying or mitigating negative impacts on the surrounding environment and related social, economic, and other project impacts. In 2004, former president V. V. Putin introduced the term “corporate social responsibility,” and at a meeting in Salekhard stated, “Oilmen! You must remember whose land you are using!” Paradoxically in 2006, the law “On Environmental Impact Assessments” was amended, and as a result the definition of Environmental Impact Assessment no longer includes the phrase “related social, economic, and other project impacts.” The bill “On Environmental Impact Assessments” evaluating social and cultural impacts was not passed.

As a result, indigenous peoples today do not have the legal right to ownership, use, or possession of the land on which they live, hunt, fish, or graze their reindeer. Companies are not formally required to seek their permission for the implementation of projects, to evaluate damage to the native lands, to develop programs to mitigate negative impacts, or to compensate the indigenous population for conditions arising as a result of project implementation and industrial use of lands and other traditional natural resources.

### Khanty-Mansi, Yamal-Nenets and Nenets Autonomous Okrugs

Regional laws requiring companies to negotiate industrial projects with local indigenous representatives were passed in 1996 and 1997 in Yamal-Nenets, Nenets, and Khanty-Mansi Autonomous Okrugs. In Yamal-Nenets and Nenets Autonomous Okrugs, lands are legally assigned to agricultural cooperatives that were developed from old reindeer farming sovkhozes. However, the reality is that more than half of all domesticated reindeer using these pastures are privately owned by indigenous families and obshchinas. Yet project negotiations and resulting contracts are with official land rights holders – the directorates of agricultural cooperatives and regional administrations. While reindeer-farming families and obshchinas, who will be impacted by the project, may not be involved at all.

More than 500 *obshchina*-based territories of traditional natural resource use have been registered in Khanty-Mansi Autonomous Okrug. If privately or state owned companies want to use these lands, they are required to negotiate agreements with each obshchina. More than half of these 500 obshchinas have already made such agreements. However, insufficient experience among the indigenous peoples in evaluating the long-term results of industrial land use and the absence or inadequacy of methodologies for assessing losses of traditional natural resource use



The banner reads: “Valeta is the revival of reindeer herding. Give us our pasture back. Indigenous peoples, let us protect our native lands. Oil workers, have a conscience.” - Photo: Kyh-Kyh Center Sakhalin



*Demonstrations on Sakhalin - Photo: Kyh-Kyh Center Sakhalin*



*Evenk reindeer herders from Sakhalin - Photo: Kyh-Kyh Center Sakhalin*



*Coal mining in Kemerovo - Photo: Nabat*

have resulted in a failure of the received compensation to cover all damage to traditional lifestyle and activities. Nor does it compensate for lost profit from traditional production that a family or obshchinas might have secured on those lands for centuries to come. This has led to obshchinas partially, and in some cases completely, losing traditional lands. Many representatives from the indigenous peoples negotiating these agreements have moved to the cities but not found work, because there are no programs to retrain these forced migrants, provide them with jobs, or provide affordable housing.

Regional laws in Nenets, Yamal-Nenets, and Khanty-Mansi Autonomous Okrugs require industrial companies to plan for the presence of the indigenous population on lands they use for industrial projects and to pay special compensation for damage. However, these regional laws cannot protect the traditional lands and economy of indigenous peoples. There are many reasons for this: efforts by local authorities to preserve old centralized structures (sovkhozes) from which they receive income; disregard for new economic structures such as obshchinas; inexperience on the part of indigenous organizations in evaluating the long-term impacts of industrial projects; and, most importantly, the absence of federal laws designed to protect the rights and interests of indigenous peoples.

### **Sakhalin**

For several years, the Association of Indigenous Peoples of Sakhalin Oblast has been fighting for the right to participate in discussions concerning the impacts of oil extraction on the Sakhalin Shelf and the construction of pipelines on Sakhalin. Inattention by the Sakhalin Oblast administration and companies to the indigenous peoples forced the Association of Indigenous Peoples of Sakhalin Oblast to unite with "greens," and together with the environmental NGO Green Wave they organized actions at pipeline construction sites in 2005 (Murashko, 2005).

Protesters' demands were laid out in a Memorandum and draft Agreement that indigenous organizations asked companies working on Sakhalin to sign. The demands included the following main points: assess project impacts on the environment and on the traditional way of life of the indigenous peoples; define compensation levels and create a fund for the administration of these compensation payments for indigenous develop-

ment projects; create co-management structures for this fund with the participation of representatives from Sakhalin's indigenous population

The protest took place 20-23 January 2005 in Nogliki Rayon, where pipeline construction work for Sakhalin-1 and Sakhalin-2 by Exxon Neftegaz Limited and Sakhalin Energy Investment Company Ltd. and their subcontractors was already underway. In 30° below zero over two hundred men, women, and children gathered, representing the Nivkh and Even. They stood near a number of pipes that had appeared on a site sacred to the Nivkh and they signed a list of demands for the company. When it had been verified that no company representatives had attended the meeting, they blocked off all roads so the trucks carrying pipes could not get through.

This protest was a critical moment in relations between the indigenous peoples, energy companies, and the authorities on Sakhalin. Thanks to the involvement of RAIPON, the January 2005 action and the legal demands of its participants received a great deal of international coverage and support. This was especially discomfiting to Sakhalin Energy Company, as they were applying for credit from the European Bank for Reconstruction and Development (EBRD) and had indicated that they would abide by the Bank's recommended "World Bank Operational Policy 4.10 - Indigenous Peoples" in their project documentation and project implementation (Murashko, 2005).

In the summer of 2005, Sakhalin Energy representatives and Sakhalin's indigenous peoples, represented by the Regional Council for Authorized Representatives of Numerically Small Peoples of Northern Sakhalin Oblast, met to negotiate and develop a joint "Plan for facilitating the development of numerically small indigenous peoples of Sakhalin Oblast." The Regional Council proposed that the Company created a permanent operating structure for implementing the Plan – an Observation Council based on a model of the regional consultative council in use in Alaska under similar conditions. This council includes representatives of the indigenous peoples, environmental community organizations, government authorities and companies.

The Observation Council's powers as well as the process for implementing the Development Plan have become examples of the trilateral Agreement on cooperation of the Regional Indigenous Peoples Council, Sakhalin Energy, and the Oblast administration signed on 25 May 2006. This agreement requires Sakhalin Energy to provide \$300,000 annually to finance the Development Plan for five years, beginning 1 June 2006. According to the agreement, the Development Plan is managed by the Observation Council. The Ob-

ervation Council is led by the acknowledged leader of the indigenous peoples, Aleksey Limanzo. It should be noted that indigenous women conduct all technical work related to the preparation and subsequent monitoring of projects for traditional development and social aid; they are also the most active participants in seminars related to the project.

In early 2007, Sakhalin Oblast authorities passed legislation requiring mandatory environmental impact assessments on Sakhalin Oblast. Other companies working on Sakhalin, such as Exxon and Rosneft, are ignoring these regional laws because they are not supported by federal laws (Murashko and Yakel, 2008).<sup>4</sup>

### Other regions

Indigenous organizations in Krasnoyarsk Krai, Irkutsk Oblast, Sakha Republic, Yakutiya, Amur Oblast, Khabarovsk Krai, and Primorye Krai have all announced their intention to participate in discussing projects and organizing indigenous monitoring in terms of design and project inception relating to the Eastern Siberia-Pacific Ocean pipeline, the Evenkiyskaya Hydroelectric Dam, and the cascade of dams on the rivers of southern Yakutiya. This intentions is, however, being ignored by companies due to the lack of corresponding regulations in federal law.

### Current trends in the behavior of companies and the authorities – Kamchatka as an example

Calls from the international community compel companies to consider existing international standards relating to environmental and social issues in their work, especially in the implementation of large-scale energy projects and in the extraction and transportation of raw hydrocarbons. Practice in Russia, however, shows that companies go no further than announcements regarding adherence to international standards, while in the actual project documentation and during project implementation, they limit themselves to a very narrow selection of environmental demands, completely disregarding the rights of indigenous peoples. This was well illustrated by the discussions in 2007-2008 concerning the oil and gas extraction projects on the Kamchatka Shelf in the Okhotsk Sea. Despite public protests by the community, along with a **Public** Environmental Impact Assessment (henceforth PEIA) of the project as permitted by law, the project's **State** Environmental Impact Assessment was approved, and the project has been underway since July 2008. The Lach Ethno-Ecological

Information Center of the Indigenous Peoples of Kamchatka, which employs indigenous people, participated in collecting information for the PEIA.

Although Rosneft's project documentation mentions the Equator Principles<sup>5</sup>, the technical project documentation does not even review risks to traditional coastal fishing and marine mammal hunting on the Okhotsk coast of Kamchatka Krai and Magadan Oblast that could result in decreased harvests of traditional resources or the possible socio-economic crises that could befall this population in the case of an accident. It is particularly telling that when the PEIA experts pointed to the lack of materials evaluating the project's impacts on the indigenous peoples, one of the State Environmental Impact Assessment experts asked, "What laws obligate the project documentation to contain such an evaluation?"

PEIA experts asked many questions of Rosneft project designers regarding the absence of social risk assessments for the project. For example, why does project

documentation make no mention of ways of eliminating possible famine for the indigenous and local population in the event of a drilling explosion and resulting oil blowout, although illustrations in the chapter dedicated to emergency oil spill management show that the extent of the spill would reach the Kamchatka coastline? Do project implementers have back-up resources to pay for spill cleanup and to compensate traditional fishermen and marine mammal hunters for damage and losses related to their primary source of existence? In answer to the question regarding compensation to the indigenous peoples, the response was that following a damage assessment, the law would determine compensation for users of fishing grounds.

For the indigenous peoples, this means that they would most likely receive nothing. According to the law, indigenous peoples have the right to fish for "personal needs," but without the allocation of any fishing grounds. In other words, they are not legal users. To the question of whether or not the indigenous



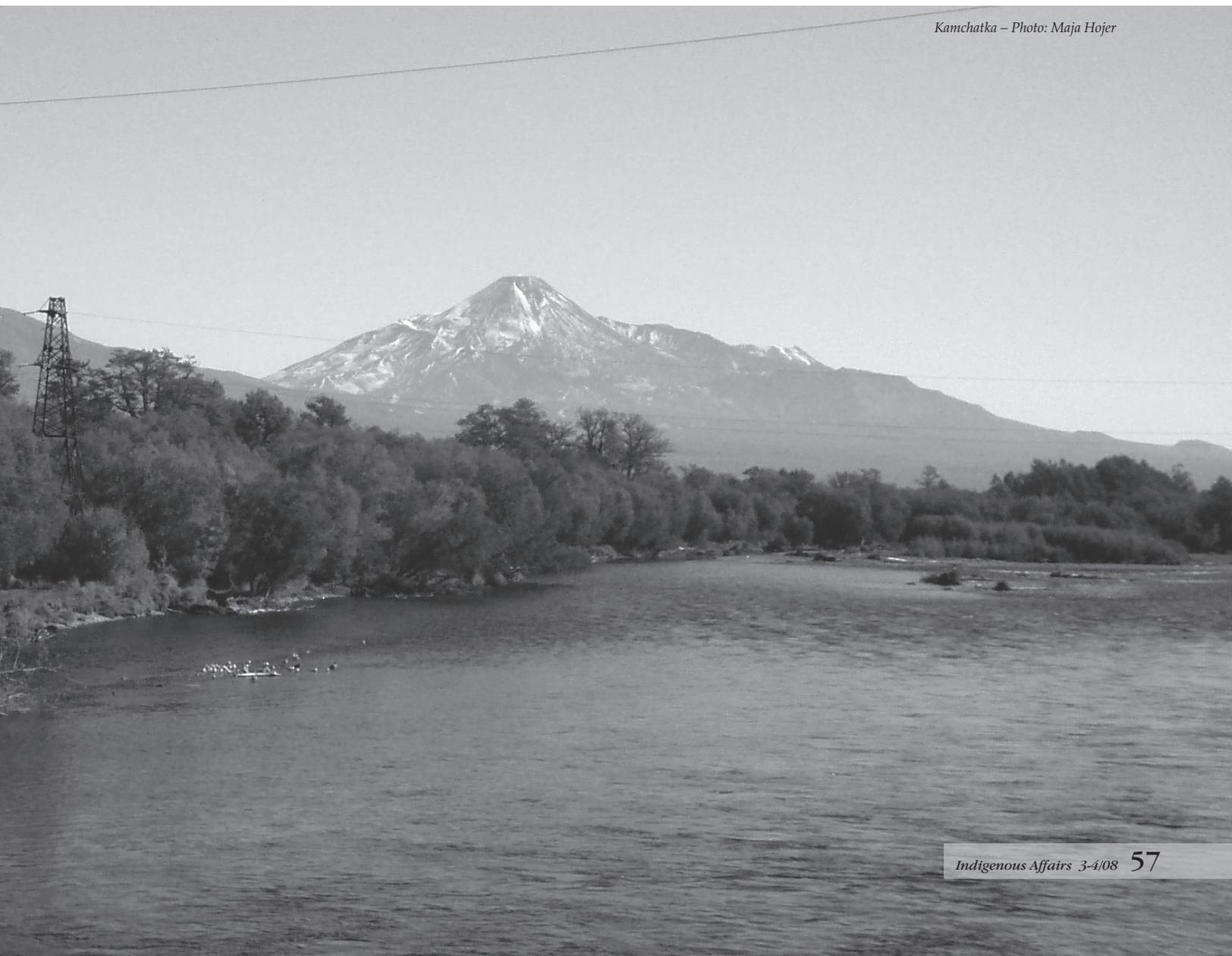
peoples of remote villages along the Okhotsk coastline would survive until their turn came in the calculation of damage and compensation in the event of an accident, we naturally received no answer. That wouldn't be Rosneft's problem.

Almost all the Itel'men (862 individuals) live in coastal villages in the southern Tigil' Rayon of Kamchatka Krai. Living in the area of a potential oil spill, they are at great risk. Their unique culture and language are extremely vulnerable and they face the loss of both in the event of forced resettlement. Recently, residents of the village of Kovran in Tigil' Rayon, the only village in Kamchatka where the Itel'men form a majority, reported that the first commercial fishing area had appeared on their river, precisely where Kovran residents fished using traditional fishing gear. An indigenous obshchina in Kovran participated in the fishing rights auction, but lost its bid to a commercial company. The appearance of this fishing company is a doubly troubling sign for Kovran residents. Firstly, those

who stand with their nets closest to the river's mouth are first to catch fish returning from the sea. Secondly, the commercial grounds are allocated to the leaseholder for twenty years, and in the event of a man-made accident, it is the leaseholder that receives compensation. So not only could Kovran residents lose fish, they would also not be compensated for that loss.

A century ago, V. N. Tyushov, a researcher working on Kamchatka's western coast, wrote: "Fishing is the primary activity for residents, because fish constitutes a significant and exclusive food for them... Fish is eaten for breakfast; fish is served for lunch; they take their tea with fish; fish is their evening dinner." (Tyushov, 1906:63-64). Today, nothing in that description has changed. There are no other sources of existence or nourishment other than fish for the indigenous peoples in Kovran and other coastal villages. In 1996, the Tkhsanom Itel'men Council demanded the creation of a special protected territory of traditional natural resource use in the southern portion of Tigil'

*Kamchatka – Photo: Maja Hojer*



Rayon in order to protect the unique culture of Itel'men as well as salmon biodiversity. In 2008, following these demands, Kovran residents see the intrusion of a commercial fishing company on the last remaining Itel'men river – as well as drilling rigs. In response to protests by the Itel'men Council of Kamchatka regarding the auctioning of the Kovran River, the Vice Governor of Kamchatka Krai responsible for indigenous affairs announced, "Protest all you want – this is not ten years ago!"

After losing the auction, the Kovran obshchina submitted documents to the court claiming that the creation of a commercial salmon fishing area on the Kovran River, the announcement of the auction for the area, and the award of the fishing grounds to a commercial operation with no relation to the indigenous population of Kovran are in contradiction of sustainable use principles of biological resources in view of the interests of future generations, and are in violation of Russian law on indigenous rights (from information published by Lach Ethno-Ecological Information Center and O. Murashko, expert, [www.raipon.org](http://www.raipon.org)).

### The outlook for new legislation

It is obvious that indigenous peoples' rights to their traditional natural resources should be protected under federal law with the following regulations: 1) a process for the determination of boundaries for territories of traditional natural resource use and territories of traditional habitation and traditional economic activities of indigenous peoples; 2) a process for conducting *Ethnologicheskaya Expertiza*<sup>6</sup> as instruments for assessing impacts on habitation areas and traditional sources of existence for indigenous peoples, and 3) special methods of evaluating impact assessments, and ratification of compensation and adaptation programs for indigenous populations affected by the negative effects of industrial development. A way for indigenous peoples to participate in the decision-making process to protect their lands and traditional way of life should be determined using conciliation.

The federal draft law entitled "On the protection of the environment, traditional way of life, and traditional natural resource use of indigenous small-numbered peoples in the Russian Federation" is dedicated to the resolution of these issues and was developed at the initiative of RAIPON by the Committee for Indigenous Affairs in the State Duma. At the end of 2007, passage of this bill was hindered by the Government's conclusion that additional regulation in the area of

protecting traditional habitation areas and traditional ways of life of indigenous peoples is not needed and that the draft law is thus unnecessary. Practice shows, however, that the centralized government of the Russian Federation is in need of such a law.

On 17 April 2008, the Russian Federation State Duma conducted parliamentary hearings on the same draft law. Representatives from the State Duma, the Council of Federations, and regional authorities as well as representatives from the world of science and the public spoke out on the timeliness and necessity of passing such a law. Two representatives from the largest resource extraction companies – LUKoil and Gazprom – were also present at the parliamentary hearings.

The LUKoil-Western Siberia representative told of the company's experience interacting with the indigenous peoples of Khanty-Mansi Autonomous Okrug, interactions based on federal and regional legislation. He stated, "In 2007, we entered economic agreements and contracts with 146 families totaling 578 individuals for 29 territories of traditional natural resource use. In the Malaya Ugra area (editor - Khanty-Mansi Autonomous Okrug) over 500 regional-level territories of traditional natural resource use have been created. The locations of these territories coincide with over 220 licensed territories identified by resource extraction companies for oil and gas extraction...." He spoke of the need and relevance of passing a law such as the one being discussed and underscored the importance of developing objective scientific methods to calculate losses in traditional natural resource use.

Two people spoke out categorically against the draft bill: A representative from the Ministry of Regional Development and a Gazprom representative. In his presentation, the Director of Yamburg Gazprom Extraction stated, "The proposed draft law will create new, catastrophic, administrative barriers to subsoil resource companies... the bill under consideration concerns first and foremost peoples living in the Far North, Siberia, and the Far East. For Russia, these regions have been the historic sources of raw materials, fur, gold, timber, and now, mineral ores and fuel resources... According to the proposed law, conducting economic activities upon which federal and regional budgets depend to a significant degree – the energy security of the country – is only possible when accompanied by commensurate compensation by entering into an agreement by both sides. Moreover, negotiations must take place not only with obshchinas or other sorts of alliances, but also with each individual private reindeer-herder... A question – how many reindeer are required for each representative of indigenous peoples of the North for an adequate life?

Perhaps it is time to set quotas for reindeer farming?" (Quoted from the transcript of parliamentary hearings, 17 April 2008) The offensive nature of the Gazprom subsidiary representative's comments reveals a perception of reindeer herders as annoying barriers to the industrial exploitation of the North and leaves no doubt as to who dislikes this draft law the most.

Nonetheless, the Committee for Indigenous Affairs of the State Duma intends to continue working on the bill, incorporating technical comments made at the parliamentary hearings and by fall 2008 will again present the bill for approval.

In Russia, only federal laws can force businesses to adhere to the rights of indigenous peoples. Russia's indigenous peoples require legal knowledge in order to demand that these laws be observed. RAIPON's participation in legislative work and related outreach plays a tremendous role in protecting the rights of Russia indigenous peoples to natural resources. □

## Notes

- 1 Aleut, Alyutor, Chelkan, Chuvan, Chukchi, Chulym, Dolgan, Evenk, Even, Enets, Itel'men, Kamchadal, Kerek, Ket, Khanty, Koryak, Kumandin, Mansi, Nanai, Nganasan, Negidal, Nenets, Nivkh, Oroch (Ul'ta), Oroch, Sami, Sel'kup, Shor, Siberian Yupik, Soyot, Tazy, Telengit, Teleut, Tofalar, Tubular, Tuvan-Todzhin, Udeghe, Ul'chi, Veps, and Yukaghir
- 2 1) 1999 - *On Guarantees of the Rights of the Numerically Small Indigenous Peoples of the Russian Federation* 2) 2000 - *On General Principles of the Organization of Communities [obshchinas] of Numerically Small Indigenous Peoples of the North, Siberia and the Far East of the Russian Federation* 3) 2001 - *On Territories of Traditional Natural Resource Use of Numerically Small Indigenous Peoples of the North, Siberia and the Far East of the Russian Federation*.
- 3 *Obshchinas* are indigenous kinship based non-commercial enterprises that can obtain fishing and hunting rights for traditional activities. They also have tax privileges.
- 4 Transl. – Citation as in original text.

- 5 The Equator Principles have become the de facto standard for banks and investors on how to assess major development projects around the world.
- 6 An *ethnologicheskaya ekspertiza* is an anthropological expert review or ethno-cultural impact assessment.

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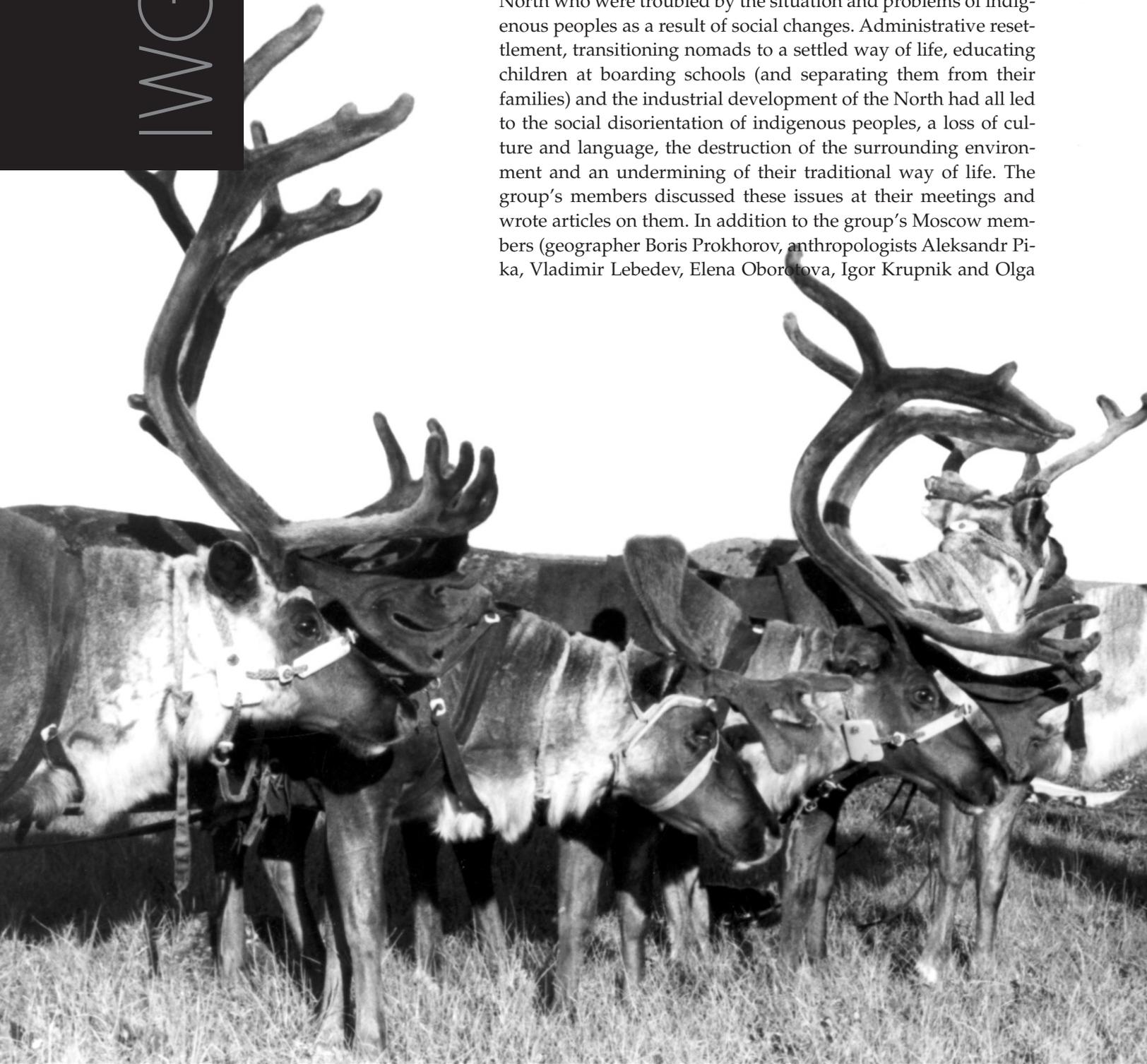
## PIPELINE DREAMS: PEOPLE, ENVIRONMENT AND THE ARCTIC ENERGY FRONTIER

**Mark Nuttall**

Interest in the Arctic as one of the world's last energy frontiers is increasing. With a focus on the North American Arctic, this book discusses how dreams of extracting resource wealth have been significant for shaping relations between indigenous and non-indigenous peoples, as well as for the opening up of northern frontier regions to economic development. It looks at the emergence of the Arctic as an imagined hydrocarbon province and, through a discussion of plans to build pipelines and explore for oil and gas, it considers a number of case studies from Canada and Alaska which illustrate the perspectives, interests and concerns of indigenous peoples. (*Forthcoming publication*)

**IWGIA 2009**

IWGIA's collaboration with Russian indigenous peoples began following the foundation of RAIPON in 1990 at the III Congress of Numerically-Small Indigenous Peoples of Russia in Moscow. Three years previously, in 1987, an initiative on the part of Arctic scholars called "Anxious North" (*Trevozhnyi Sever*) had come into being. This was a small group of Moscow scholars working in the North who were troubled by the situation and problems of indigenous peoples as a result of social changes. Administrative resettlement, transitioning nomads to a settled way of life, educating children at boarding schools (and separating them from their families) and the industrial development of the North had all led to the social disorientation of indigenous peoples, a loss of culture and language, the destruction of the surrounding environment and an undermining of their traditional way of life. The group's members discussed these issues at their meetings and wrote articles on them. In addition to the group's Moscow members (geographer Boris Prokhorov, anthropologists Aleksandr Pika, Vladimir Lebedev, Elena Oborotova, Igor Krupnik and Olga



## IWGIA, IWGIA-MOSCOW AND RAIPON\*

Murashko, demographers Dmitry Bogoyavlenskiy and Tatyana Terent'eva, and biologists Lyudmila Bogoslovskaya and Irina Pokrovskaya), Leningrad linguist Boris Vakhtin and geographer Konstantin Klokov also participated. Following publication of the article "Big Problems for the Small Peoples of the North" by Aleksandr Pika (the group's leader) and Boris Prokhorov, in the journal *Kommunist* in 1988, the group's ideas attracted the attention of a group of indigenous intellectuals who were concerned about the same issues. This latter group included the Nivkh people's writer, Vladimir Sangi (RAIPON's first president), Yevdokiya Gayer (a Nanai woman and deputy in the USSR Supreme Soviet), the Khanty writer Yermey Aipin (second president of RAIPON) and others. "Anxious North" helped the indigenous leaders to organize their first Congress. The group's members were quite interested in the adoption of the Interna-



Photo: RAIPON



Mary Simon (ICC-Canada) and Vladimir Sangi at the Congress in 1990  
Photo: IWGIA archive

tional Labor Organisation's Convention 169, concerning indigenous and tribal peoples in independent countries, and were closely following the drafting of the Declaration on the Rights of Indigenous Peoples.

The scholars from Moscow considered the distribution of international documents among indigenous communities in Russia's northern regions to be an important part of their work. The text of Convention 169, recently adopted by the ILO, was distributed by the group's members at RAIPON's First Congress, and it was there that group members gathered the addresses of delegates and later distributed further documents, articles and materials concerning indigenous peoples to them, as well as publishing letters from regional obshchinas.

In February 1990, two indigenous representatives from Russia, Chuner Taksami and Yuri Rytkeu, who had been participating in a UNESCO meeting in Copenhagen, visited the IWGIA secretariat and invited IWGIA to participate in a forthcoming meeting with ICC and the Nordic Sámi Institute. This first indigenous meeting in Russia took place in March 1990 and IWGIA was invited, along with a few Western



Olga Murashko – Photo: Maja Hojer



Vladimir Sangi – Photo: RAIPON



Yeremey Aipin – Photo: RAIPON



Sergey N. Kharuchi, current president of RAIPON – Photo: RAIPON

indigenous NGOs. IWGIA thus had the opportunity of inviting the elected Chair of the organisation “Small Indigenous Peoples of the Soviet North, Siberia and the Far East”, Vladimir Sanghi, to attend the forthcoming meeting of the Working Group on Indigenous Populations in Geneva later that July.

In 1992, members of the group “Anxious North” met for the first time with representatives of IWGIA. Jens Dahl, Inge Larsen and Peter Jessen traveled to Moscow and, from there, set out on a fact-finding trip to western Siberia and Kamchatka. Negotiations for joint work and projects began. The Moscow scholars of “Anxious North” became members of IWGIA, and an IWGIA Moscow local group came into being. Translation and publication of the 1992 IWGIA *Yearbook* was the first joint project between IWGIA and IWGIA-Moscow. This publication remains in popular use among indigenous communities to this day. Russian indigenous peoples realized that they were not alone in their challenges and aspirations. In conversations between indigenous leaders and regional authorities, references are still made to IWGIA *Yearbook* accounts of a protest by American indigenous peoples and how the UN’s reaction to that protest validated the truth of their complaints and the urgency of indigenous peoples’ issues.

Collaboration between IWGIA, IWGIA-Moscow and RAIPON has developed along several lines: publishing and distributing international and Russian documents related to indigenous issues (and, since 2000, publishing RAIPON’s journal *Indigenous World – Living Arctic*), support for indigenous leaders to attend international and national conferences and the sessions of the UN Permanent Forum on Indigenous Issues, discussing developing indigenous parliamentarianism in Russia, conducting educational seminars and creating indigenous regional information centers.

It has taken much time and professional skill to organize RAIPON’s publication work, conduct regional seminars and participate in the development of Russian legislation for indigenous peoples’ rights. Because of this, the author of this note - a participant in the Moscow group - ended up taking on the role of managing the RAIPON information center as well as becoming an official expert representing RAIPON on indigenous issues in the State Duma of the Russian Federation. Today, the other members of “Anxious North” and the IWGIA-Moscow group continue their professional work and periodically participate in seminars and round tables organized by RAIPON, presenting papers analyzing various issues related to the contemporary position of indigenous peoples.

In 2001, IWGIA received funding for the first time from the Danish Foreign Ministry for a project entitled “Capacity Building and Promotion of Human Rights and Legal Mechanisms Concerning Indigenous Peoples in the Russian Federation”, which included three related components. One focused on federal legislation, the second was aimed at supporting indigenous representation in federal, regional and local bodies and the third supported local empowerment projects, which soon developed a special priority and focus on establishing regional information centres. Core support for RAIPON was also included in the programme.

RAIPON’s outreach work, supported through joint projects with IWGIA, is facilitating the increased organizational development of indigenous peoples, the creation of new and independent information centers and timely information-sharing on urgent issues. Information seminars

focus thematically on protecting the rights of indigenous peoples affected by industrial development. Special textbooks on the use of legislation to protect indigenous rights and the negotiations between indigenous organizations and industrial companies are being published. The publication of legal handbooks and the seminars that are organised support the informed participation of indigenous organizations when it comes to protecting their interests, especially in the event of the industrial development of natural resources on their lands. RAIPON's work in this area creates the conditions for a true protection of indigenous rights and for demands to be formulated calling for international principles and regulations in indigenous legislation and the everyday life of indigenous obshchinas to be observed. In so doing, it contributes to enforcing the constitutional obligations of the Russian Federation with regard to the numerically-small indigenous peoples.

Board members of IWGIA and the coordinators of the Russia program in Copenhagen undertake frequent networking and monitoring trips to Russia and participate in seminars and other public events organized by RAIPON, as well as taking part in joint projects with IWGIA and in projects coordinated by regional indigenous organizations supported by IWGIA. □

Olga Murashko

\* The indigenous umbrella organization "Russian Association of Indigenous Peoples of the North" (RAIPON).



*Evdokya Alexandrovna Gayer – Photo: IWGIA archive*

*The first congress of the "Small People of the North", Moscow 1990 – Photo: Jens Dahl*



# SELF-RULE IN GREENLAND TOWARDS THE WORLD'S FIRST INDEPENDENT INUIT STATE?

Mark Nuttall



*Home Rule has been a process of nation-building. Self-Rule may put Greenland on the road to becoming an independent state. Sisimiut, West Greenland.  
Photo: Mark Nuttall*

On 25 November 2008, 75.5% of the electorate of the world's largest island voted in favour of greater autonomy. Greenlanders, who became the first population of Inuit origin to achieve a degree of self-government when Denmark granted them Home Rule in 1979, have given their political leaders a mandate for significant and far-reaching change. There are many in the Home Rule government who dream that this historic vote will see Greenland move from being a semi-autonomous territory to an independent state within a generation – Greenland's Premier Hans Enoksen has expressed a desire for independence in 2021, a date marking three hundred years since Danish colonization. The realities of self-rule leave others – particularly those critical that the referendum was too early in Greenland's recent political history – unconvinced that independence is just over the Arctic horizon.

The referendum is non-binding on both the Greenlandic and Danish parliaments, but it gives the go ahead to negotiations between Greenland and Denmark over some thirty-two areas that Greenland could assume responsibility for if approved by both parliaments. Thirty years after it came into being, Home Rule will end on 21 June 2009 when the new political arrangement of Self-Rule will be instituted. Areas that could come under Greenlandic control include the justice system, police system, prison affairs and the coast-guard. Greenland will also be able to represent itself on the stage of international affairs. A debate will also ensue about making Greenlandic (*Kalaallisut*) the country's official language – linguistic distinctiveness and the construction of a national language perhaps being necessary for a vernacular-specific independence movement. Despite the challenges ahead, and irrespective of whether it means eventual independence, a vote for Self-Rule is a statement expressing growing cultural and political confidence in a country of only 57,000 people, over 80% of whom are Inuit (in terms of its geographical size, an independent Greenland would make it the 13<sup>th</sup> largest country in the world).

Greenland Home Rule has often been considered a model for indigenous self-government, but it has been a process of nation-building rather than an ethno-political movement. Its relevance goes beyond that of self-determination for indigenous peoples and says much about the aspirations for autonomy in small political jurisdictions and stateless nations. Although issues of ethnicity, culture and language played a major role in the debates leading up to the referendum – and while Canadian Inuit political leader Mary Simon has heralded the vote as important for all Inuit in the world wishing to assert their rights – the overwhelming vote

for greater self-government in Greenland is a vote expressed by a people wishing to determine their own political and economic future and to assume control over the institutions and processes that may make this possible. The vote for Self-Rule in Greenland is about a new politics of difference.

### **Overcoming dependency: sub-surface rights and a self-sustaining economy**

So how will Greenland pay for the responsibilities it may eventually take over from the Danish state? The Greenlandic economy remains dependent for 60% of its budget revenue on a 3.5 billion DKK (around 470 million EUR) annual block grant it receives from Denmark, with the balance coming from local taxes. The main challenge to securing greater self-government is overcoming this reliance and replacing it with revenues generated from within Greenland. Oil and gas production and the mining of raw materials would ease this dependence, and much of the debate prior to the referendum centered on Greenland's ownership of lucrative resources.

The Danish-Greenlandic Self-Rule Commission, established in 2004 to negotiate the terms of greater self-government, considered Greenland's claim to mineral rights, its ownership of subsoil resources and right to the revenues from non-renewable resource development. The commission concluded that minerals in Greenland's subsoil belong to Greenland and that the country has a right to their extraction. Under the Self-Rule agreement, the income generated by sub-surface resource development would be administered by Greenland, with the level of the Danish block grant being reduced by an amount corresponding to 50% of the earnings from minerals and energy extraction once they exceed 75 million DKK. Future revenues from oil and mineral resources will then be divided between Greenland and Denmark, while the annual block grant is reduced further and eventually phased out.

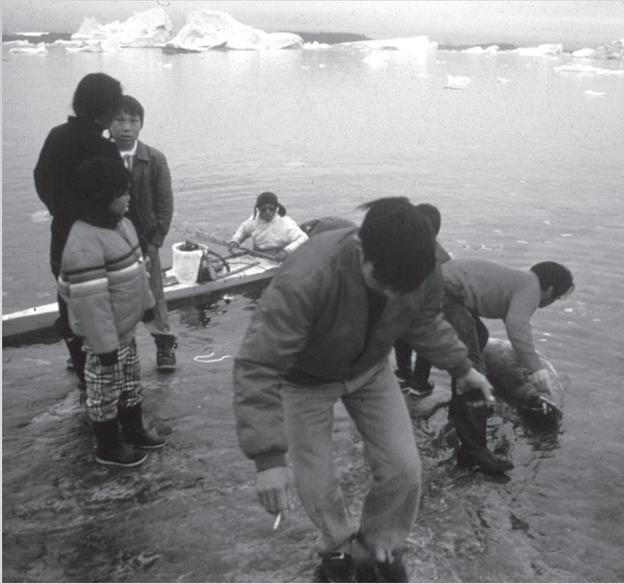
This, of course, depends on there being a rich seam of resources to tap in the first place. Geological mapping and reports on the potential for undiscovered and technically recoverable hydrocarbons serve to confirm the view that Greenland could be a significant source of new mineral and petroleum development. In 2007, using northeast Greenland as a prototype for its circum-Arctic oil and gas appraisal, the United States Geological Survey (USGS) estimated that the East Greenland Rift Basins Province could hold over 31 billion barrels of oil, gas and natural gas liquids (Gautier 2007). USGS estimates that the waters off Greenland's west coast could contain more than 110 billion barrels

of oil (roughly 42% of Saudi Arabia's reserves) have already attracted interest in the territory's potential. ExxonMobil and Chevron from the U.S., Husky and Encana from Canada, the UK's Cairn Energy and Denmark's Dong Energy are among the companies that have either already won or applied for exploration licenses from Greenland's Bureau of Minerals and Petroleum for acreage. Industry events and conferences profiling Greenland's resource potential, such as the Greenland Sustainable Mineral and Petroleum Development Conference held in Copenhagen on 6-7 May 2008, are becoming more frequent and are designed as platforms for international resource companies seeking to learn more about development opportunities in Greenland, and aim to attract international investors who are looking to gain more knowledge of potential projects in the region (Nuttall 2009).

For Greenlanders, sub-surface resources have long been part of their 'cognized environment', to borrow Roy Rappaport's phrase (Rappaport 1968). Mining is part of the story of Greenland's recent history. Coal mining, for example, was carried out at Qullissat on Disko Island in west Greenland between 1924 and 1972, and produced coal for the first power stations that were built in the larger towns. Cryolite was mined at Ivittuut in southwest Greenland, lead and zinc at Mesters Vig in northeast Greenland, and lead, zinc, marble and silver at Maarmorilik in the northwest of the country. But this mining has been part of its colonial history and, until recently, no extractive industries have been in operation in the last couple of decades or so. However, Greenland has granted a number of mineral exploration and exploitation licenses in recent years. The Nalunaq gold mine opened near Nanortalik in south Greenland in 2004, and an olivine mine north of the capital Nuuk has been in operation since 2007. Several more mines extracting gold, rubies, diamonds and other minerals are expected to open over the next five years. Despite a 1988 ban on mining uranium and other radioactive waste material, the Narsaq Business Council has expressed support for the development of a uranium mine at Kvanefjeld near the south Greenland town as a way of providing employment and of reviving a declining local economy. Greenland Minerals and Energy, an Australian-owned company that calls Greenland 'one of the world's last natural resource frontiers', argues that Greenland could surpass China as the world's leading exporter of uranium and, given the belief in the economic advantage of a mine that could be open for 40 years, the Greenland parliament is preparing to debate the consequences of repealing the ban on mining radioactive waste (a majority in parliament has already voted in favour of extracting urani-

*Greenland's environment is viewed as a vast storehouse of mineral and hydrocarbon wealth. Recent discussions between Greenland and Denmark have focused on the ownership of sub-surface resources. Northeast Greenland.*  
Photo: Mark Nuttall





*From the largest towns to the smallest settlements, Greenlanders have voted overwhelmingly in favour of Self-Rule, Nutaarmiut, Northwest Greenland  
Photo: Mark Nuttall*



*Travelling on sea ice, Thule, Northwest Greenland.  
Photo: Mark Nuttall*



um as a by-product from the mining of other minerals). Local concern in Narsaq is being voiced in community hearings and in the national media, however, and the regional municipality is opposed to the planned venture, citing environmental, health, and social and cultural impacts. .

With or without Narsaq's uranium mine, some politicians are confident that mining will eventually overtake the fishing industry as Greenland's main source of income and they speak of their cornucopian vision of Greenland's nature. However, Canadian-owned Quadra Mining has recently put plans to open a molybdenum mine in east Greenland on hold due to falling prices for metal, indicating that the global economic climate may yet temper the enthusiasm of Greenland's leaders in Nuuk for a gold rush in the Arctic's new Klondike. Sharp falls in commodity prices in late 2008 have had major consequences for mining companies around the world, most notably for Rio Tinto which has announced 14,000 job cuts in its global workforce. Such economic realities give credence to those – most notably the Demokratit party (Democrats) – who opposed self-rule and who argue that Greenland's small population, and hence its economy, can never be self-sustaining.

### The Alcoa aluminium smelter

In a previous article for *Indigenous Affairs*, I discussed the American aluminium company Alcoa's plans to build an aluminium smelter near Maniitsoq on Greenland's west coast (Nuttall 2008). With the goal of producing 340,000 tonnes of aluminium ingots annually, the smelter (planned for construction in 2012-2014) would require two hydro-power plants to supply it with energy (to be built between 2010-2014). Estimates suggest employment for between 2,000-5,500 people over the four years needed to construct the dams and smelter, with some 600 jobs available when the project is operational.

It is not anticipated that the construction jobs will go to Greenlanders. Premier Hans Enoksen has gone on record as saying that he anticipates the majority of workers will be foreigners, mainly Poles, Portuguese and Chinese. One of Greenland's main newspapers, *Sermitsiaq*, described how Maniitsoq could, like many of the world's large cities, soon have its own Chinatown. For a nation in the making, with aspirations of one day becoming an independent state, this would be a marker of cosmopolitanism that would turn it into Greenland's first multicultural centre because of the influx of the thousands of foreign workers who will come to Greenland to work on the Alcoa project.<sup>1</sup> Enoksen, however, has courted controversy by saying that

they will be isolated in a 'barrack-town' away from Maniitsoq and close to the construction site.<sup>2</sup> The idea is that local people should not come into contact with the incomers. A recent editorial in *Sermitsiaq* asked whether it was right to construct barracks for thousands of workers that Greenland 'will invite up to work in the cold'. The newspaper wondered whether the foreigners should integrate, or live geographically and socially isolated from the host population, and argued that many questions about the working environment and working conditions (including human rights aspects), environmental impacts, housing, infrastructure and carbon dioxide emissions remain unanswered.<sup>3</sup>

Missing from the reportage in the Greenlandic media is any comment on how the proposed smelter is a prime example of the global restructuring process the aluminium industry has been undergoing. Production has moved away from its traditional industrial heartlands of Western nations, such as the United States, to parts of the world where cheap energy and cheap labour can be accessed readily, and to places where environmental impact assessment and regulation procedures can be moved through swiftly. For Alcoa and other international multinationals, Greenland is a remote extractive periphery where the regulatory process and less than stringent legal requirements for environmental hearings make it an attractive place to invest. Although a Strategic Environmental Impact Assessment (SEA) has been carried out, concern has been expressed in Greenland about the lack of public consultation and hearing processes, land-use conflicts, and the absence of legislation dealing with industrial development projects (Lund Sørensen 2008, Nuttall 2008). The changing definitions of Greenland, its environment and its resources, provide a case study of what Paul Ciccantell (1999: 294), describing his own work in the Brazilian Amazon, argues is 'the essential nature of "definitions of society-nature relations": the political economy and ecology of the external imposition of definitions and uses on nature, rural communities, and indigenous peoples.' In this process of codification of the environment and the quest to develop its resources, Greenland is on the verge of capitalist penetration on the part of multinational corporations. Self-Rule may mean greater independence from Denmark but the beginning of new forms of dependency relations.

### Towards Copenhagen 2009

Internationally, Greenland constructs an image of itself as a leading participant in global policy debate on climate change, as well as being on the front line of the



*Impressions from Nuuk, Greenland's capital*  
Photos: Kathrin Wessendorf



negative experience of anthropogenic change, as evident in the reduction of sea ice and the melting of the country's massive inland ice sheet (Nuttall 2009). The Department of Foreign Affairs works closely with the Danish Ministry of Foreign Affairs on specific issues related to climate change within four main areas: the Arctic Council, indigenous peoples' issues under the auspices of the United Nations, preparations for the UN Climate Change Conference (COP15) to be held in Copenhagen in December 2009, and the European Union's Overseas Countries and Territories forum. Because of Denmark's ratification of the Kyoto Protocol, Greenland is obliged to reduce its carbon dioxide emissions by 8% by 2012, and politicians have spoken enthusiastically about reducing oil consumption and investing in hydro-power to produce renewable forms of energy as a means to achieve this. Domestically, however, there remains no policy in place on climate change, nor is there a climate change adaptation strategy formulated or defined.

Despite plans for a Centre for Climate Research in Nuuk, and while a new government department will be created to deal exclusively with climate change, the country's economic policies on resource development and extractive industries look set to establish Greenland as a significant contributor to climate change, developing industries that hasten the thinning of rapidly disappearing sea ice and accelerate the melting of the Greenland inland ice. The Strategic Environmental Assessment for the Alcoa smelter anticipates that, during normal operations, it will have an annual impact of 4,600 tons of sulphur dioxide and 450,000 tons of carbon dioxide emissions. An ambition to be a major producer of raw materials is pitting the Greenland government against the Danes as preparations step-up towards COP15. Greenland has indicated that it may seek exemption from any new agreement on CO<sub>2</sub> reductions.

Max Weber called a nation a 'community of sentiment' that can only really find its ultimate expression by striving to turn itself into a state of its own. Greenland may well be one step further towards a future as the world's first independent Inuit state. Greenlandic politicians widely agree that attracting foreign investment for the development of minerals and hydrocarbons is the key to financial, economic and eventual political independence, and that in doing so one consequence is a trade-off between environmental protection and environmental disturbance. Perhaps this is best expressed in the words of Josef Motzfeldt, an MP in the Home Rule government and former Minister of Foreign Affairs:

*...climate change has already opened new areas for the exploitation of mineral resources as the ice cap is*

*retreating. And in combination with the political and economical control of our mineral resources it will open new opportunities for Greenland to gain more economical and political independence from Denmark..... We have to choose on the one hand between unrestricted exploitation of our resources in order to gain more independence, and on the other hand the protection of our nature, which is so dear to us in order to maintain our cultural heritage in the shape of a close interrelationship between human activity and changes in the environment.<sup>4</sup>*

It is a Faustian bargain Greenland appears willing to strike, and it reminds us that self-determination is also about the right to development and, based on the rights of people to govern themselves, it is about the right to make decisions and choices that determine the path development should take. □

## Notes

1. Kurt Kristensen, 'Maniitsoq får sin egen Chinatown/Maniitsoq Chinatown-eqalissaaq' *Sermitsiaq* 28 March 2008, p.3
2. Irene Jeppson 'Alocami sulisut barakkiniissapput/Aloca-arbejdere isoleres i barakker' *Sermitsiaq* 4 April 2008, p. 2
3. Editorial, 'Silatusaarneq/Sund fornuft' *Sermitsiaq* 28 March 2008, p.44
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# IWGIA - INTERNATIONAL WORK GROUP FOR INDIGENOUS AFFAIRS

## IWGIA's aims and activities

The International Work Group for Indigenous Affairs - IWGIA - is a non-profit making, politically independent, international membership organization.

IWGIA co-operates with indigenous peoples all over the world and supports their struggle for human rights and self-determination, their right to control land and resources, their cultural integrity, and their right to development. The aim of IWGIA is to defend and endorse the rights of indigenous peoples in concurrence with their own efforts and desires. An important goal is to give indigenous peoples the possibility of organising themselves and to open up channels for indigenous peoples' own organizations to claim their rights.

IWGIA works at local, regional and international levels to further the understanding and knowledge of, and the involvement in, the cause of indigenous peoples.

The activities of IWGIA include: publications, international human rights work, networking, conferences, campaigns and projects.

For more information about IWGIA's activities, please check our website at: [www.iwgia.org](http://www.iwgia.org)

## Publications

IWGIA publishes a yearbook, *The Indigenous World / El Mundo Indígena*, and a journal *Indigenous Affairs / Asuntos Indígenas*. Furthermore, a number of books thematically focussing on indigenous issues are published each year.

Suggestions for and contributions to IWGIA's publications are welcome and should be submitted to the editors in charge.

### IWGIA's publications can be ordered by

- e-mail: [iwgia@iwgia.org](mailto:iwgia@iwgia.org)
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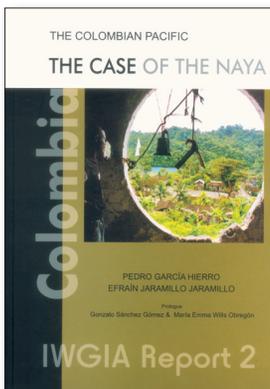
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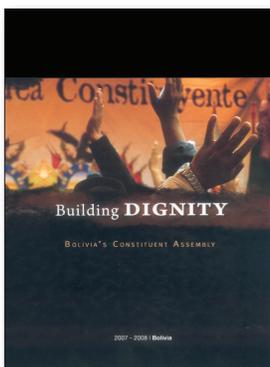
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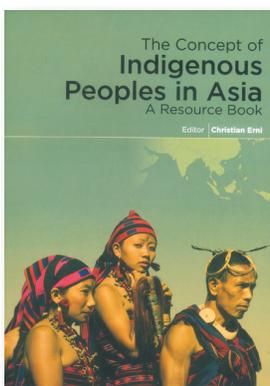


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