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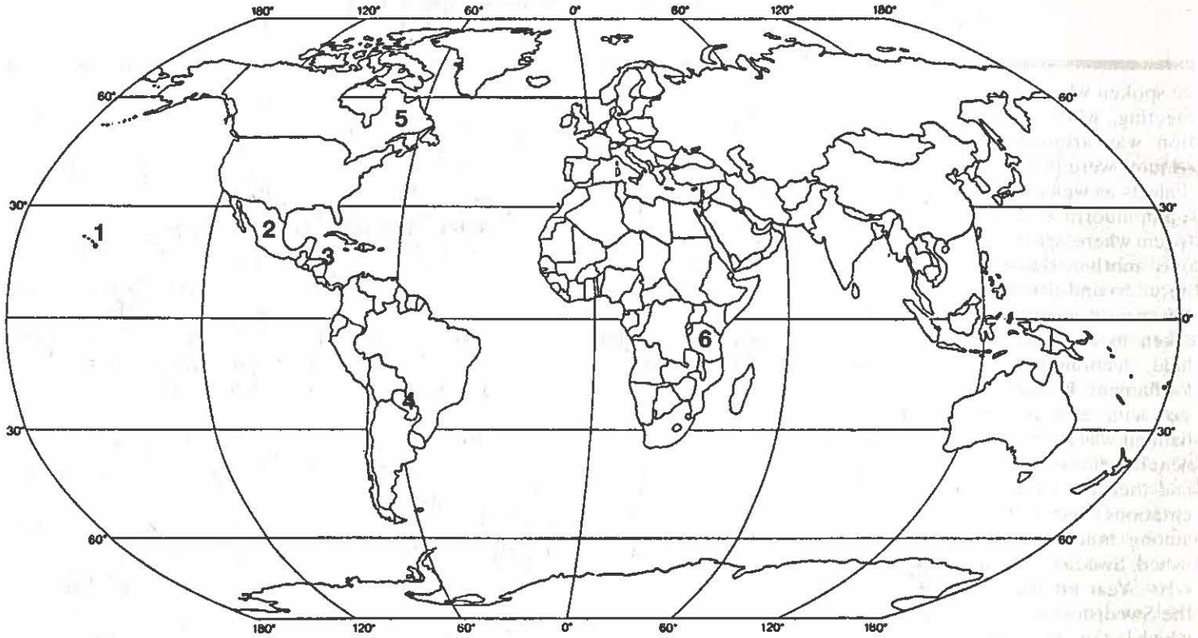

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Indigenous Affairs

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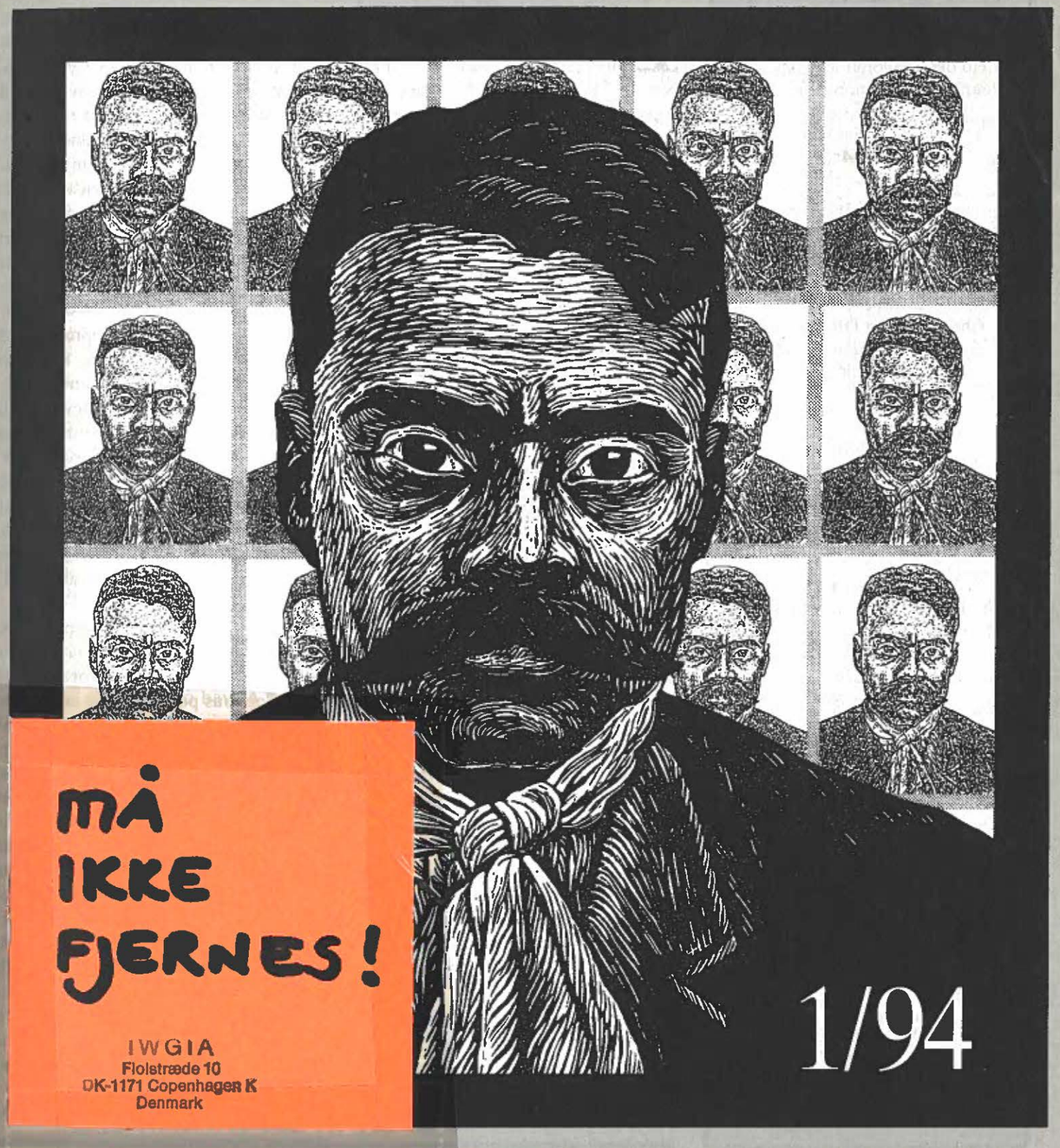
International Work Group for Indigenous Affairs



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Editorial

Life for the Bushmen is very different to that of the Saami who live along the coast of northern Norway. Reports of violations of the Bushmen's fundamental human rights are often heard, but not those of the Saami from Norway. Many Bushmen live on cattle farms in conditions of near slavery and exist on almost nothing. Nevertheless, Saami have been suffering from other violations over the last few years, which have resulted in the depletion of stocks of fish and led to an economic crisis for Saami fishermen. However, while the Bushmen languages have survived under these severe conditions and their cultures have retained a strong integrity, the Saami are losing their language.

The experience of more than a decade of the UN Working Group of Indigenous Populations as well as the much-celebrated UN Year of Indigenous Peoples and the approaching UN Decade of Indigenous Peoples, has proved that indigenous peoples have common ground between them, despite differences in living standards and in spite of very varying life expectancies. They have similar histories of colonisation and sacred relationships to their lands as peoples.

Indigenous peoples began to learn about each other and appreciate this common ground through international meetings in Geneva, Vienna, New York and other places. But it is no accident that they meet in Geneva and not in, for example, Guovdageaidnu, Saamiland. Colonisation has made them into dependent peoples. Yet decolonisation in other parts of the world and the spread of capitalism has made them into inhabitants of a global society. They are now trying to take advantage of this situation, to find their common ground and use it to fight for their survival.

Some European governments and the European Union, seem to be responding positively to indigenous peoples' appeals for recognition as peoples and accord them at least a minimum of recognition, as long is this does not endanger the dominating cultural and political order. However, most governments continue to view the world in terms of a north-south dichotomy whereby development aid flows from countries in the north to countries in the south. Indigenous peoples are slotted into this view of the world and 'northern' governments in the so-called 'developed countries' and the European Union, which are considering funding development projects among indigenous peoples, confine their support to indigenous peoples in what *they* define as 'developing countries'.

IWGIA is campaigning to persuade governments to drop criteria such as Gross Domestic Product for support to indigenous peoples. This, and other criteria, use geographical and political measures which are of no relevance to the daily lives of indigenous peoples, because they do not control their own lives and or enjoy the benefits as citizens of the states which have colonised them. Indigenous peoples are *peoples* and should be treated as such, irrespective of their geographical or political situation. Collective rights to land, culture and self-government, which are of fundamental importance to indigenous peoples be they citizens of a 'developed' or 'less-developed' country, should be recognised as universal human rights.

The policy adopted by many governments and by the European Union is a dangerous threat to strengthening the international network of indigenous peoples. For example, the indigenous peoples of Russia are in desperate need of support. To combat ethnic clashes and cultural disintegration, the rich countries need to launch a programme to support them. However, the irony of their situation is that billions of dollars are flowing into Russia to develop its oil and gas industry, but no help is being given to the indigenous groups from whose land the oil and gas is being extracted. Programmes are now being developed in support of indigenous peoples in Africa, Asia and South America but unfortunately for the Nenets, the Khants and the Mansi, they are living in oil-rich Russia. The European Union has no programme in support of indigenous peoples in Russia, and no plans to establish one.

It is IWGIA policy to support indigenous peoples' right to self-determination in Russia, Norway, Botswana and throughout the indigenous world. Indigenous peoples also have a right to freely market products harvested under sustainable conditions – be they honey from Brazil or sealskins from Greenland.

However, IWGIA's insistence on a global focus for indigenous rights costs money. We receive very little economic support for this and have consequently initiated a new campaign to increase the number of subscribers to IWGIA publications. This is one way for us to strengthen our economy and to protect our independence. We therefore urge you to inform your colleagues, friends and others about IWGIA and ask them to subscribe to IWGIA's publications. *Jens Dahl*

Cover: *Emiliano Zapata died 1919. Graphic: Jorge Monrás*

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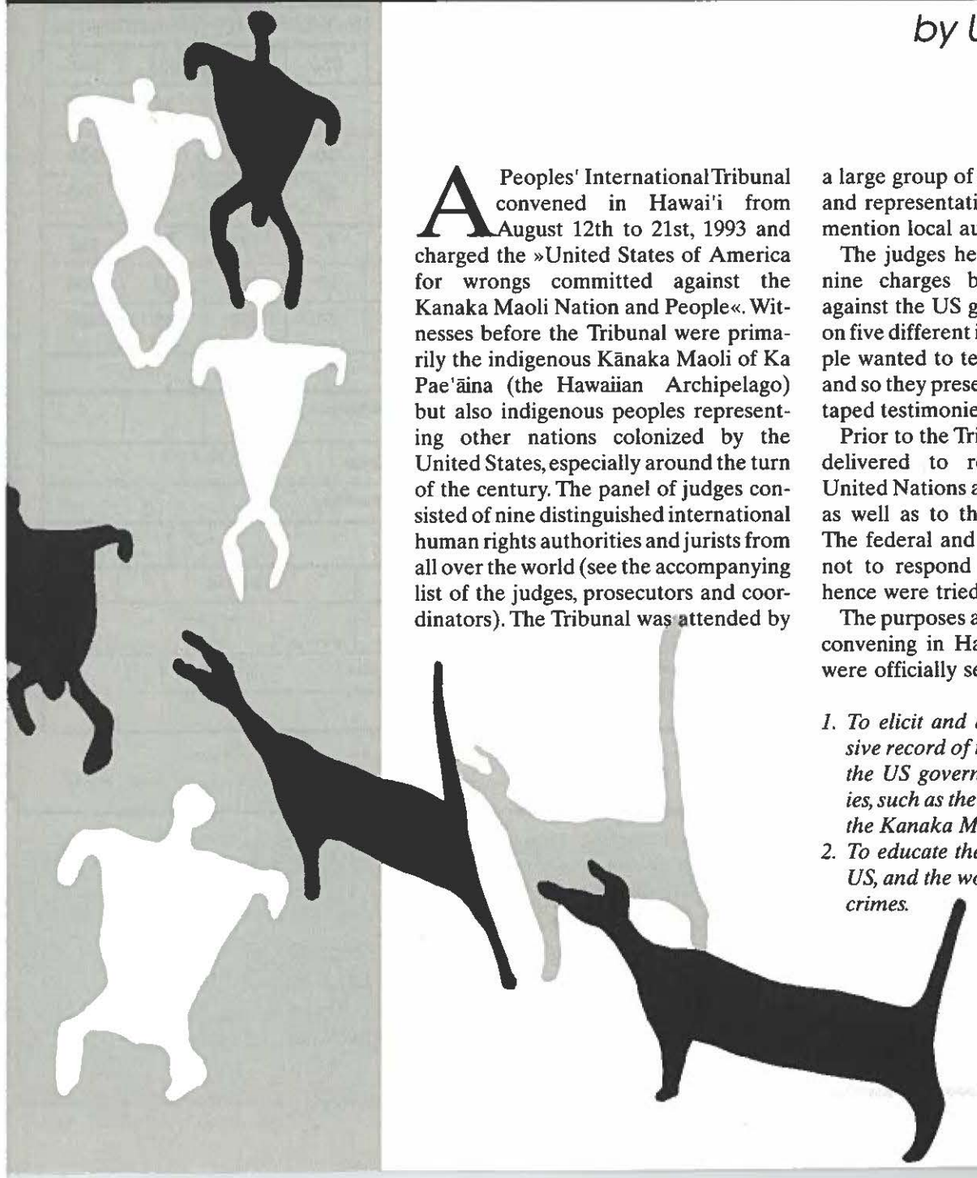
Errata

Owing to a technical fault in No. 4/93, in the article on Malaysia (Jeli incident, p. 56), a map of Indonesia was printed instead of the corresponding map of Malaysia. We apologise for the error.

KA HO'OKOLOKOLONUI

Peoples' International Tribunal, Hawai'i, 1993

by Ulla Hasager



A Peoples' International Tribunal convened in Hawai'i from August 12th to 21st, 1993 and charged the »United States of America for wrongs committed against the Kanaka Maoli Nation and People«. Witnesses before the Tribunal were primarily the indigenous Kānaka Maoli of Ka Pae'āina (the Hawaiian Archipelago) but also indigenous peoples representing other nations colonized by the United States, especially around the turn of the century. The panel of judges consisted of nine distinguished international human rights authorities and jurists from all over the world (see the accompanying list of the judges, prosecutors and coordinators). The Tribunal was attended by a large group of international observers and representatives of the press, not to mention local audiences.

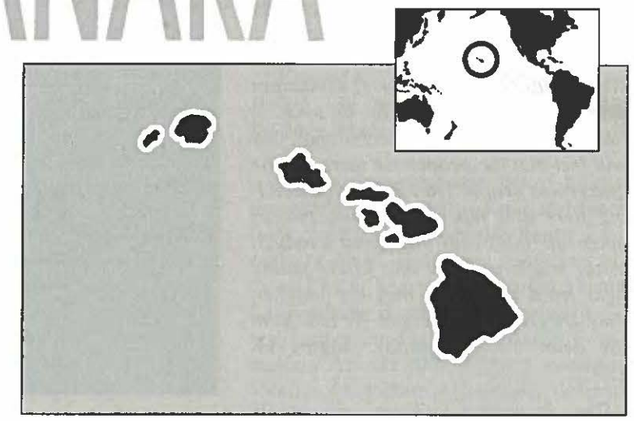
The judges heard 142 testimonies on nine charges by the Kānaka Maoli against the US government (see below) on five different islands. Many more people wanted to testify than time allowed and so they presented written and videotaped testimonies and documentation.

Prior to the Tribunal the charges were delivered to representatives of the United Nations and to the US President, as well as to the Hawaiian Governor. The federal and state authorities chose not to respond to the invitation, and hence were tried *in absentia.*

The purposes and goals of the Tribunal convening in Hawai'i in August, 1993, were officially set forth as follows:

1. *To elicit and assemble a comprehensive record of the crimes committed by the US government and its subsidiaries, such as the state of Hawai'i, against the Kanaka Maoli People and Nation.*
2. *To educate the people of Hawai'i, the US, and the world community of these crimes.*

KANAKA MAOLI



3. *To analyze the causes, consequences and implications of these crimes.*
4. *To establish an historical, moral and legal basis for remedies and to propose effective strategies for appropriate redress.*
5. *To build unity among Kānaka Maoli and solidarity with other indigenous peoples and oppressed nations through organizing a key event in the United Nations' declared Year for the World's Indigenous People and in the 1990s Decade of Decolonization.*

Peoples' International Tribunals

A peoples' international tribunal is an important instrument for indigenous peoples in their efforts to obtain their collective rights.

Since the Bertrand Russell Tribunal convened to try the US for its war crimes against the Vietnamese people, the practice of convening peoples' international tribunals has become an instrument frequently employed to seek redress for claims against nation states by indigenous peoples and nations unrecognized as nation states. There are no other options. The established judiciary systems of the nations tates and the world court, the International Court of Justice at the Hague, do not hear claims from non-nation states.

Peoples' international tribunals are a mechanism through which the international civil society can challenge nation states for violating moral codes as well as violations of documented international law. While lacking the power of enforcement, the critical judgment of such tribunals can embarrass guilty nation states before the world and pressure them to resolve outstanding issues. This mechanism was reinforced in 1978 by the establishment of the Permanent Peoples' Tribunal based in Rome, inspired by the 1976 Algiers Declaration of the Rights of People.

The Charges

The Statement of Charges »against the United States of America for wrongs committed against the Kanaka Maoli People and Nation« were brought by the Kanaka Maoli Tribunal Kōmike (Committee) and submitted to the Tribunal in August 1993. In its introduction, the Tribunal Kōmike explained the charges as follows:

»All peoples possess the moral and legal right to defend themselves against substantial and consistent violations of their self-determination, essential human rights and freedoms and of other fundamental norms governing relations between peoples, nations and states. In pursuit of this right, peoples are entitled to present their case to the international community, and to sit in judgment over the actions of those who have denied them their fundamental rights and freedoms.«

»Within this context, the Kanaka Maoli Tribunal Kōmike (Committee) submits this Statement of Charges to Ka Ho'okolokolonui Kanaka Maoli – the Peoples' International Tribunal Hawai`i 1993. The Kōmike asserts, and will prove, that the actions of the United States of America that form the bases of these charges have deprived, and continue to deprive, the Kānaka Maoli (indigenous Hawaiians) of their inherent right to self-determination and their right to assert their inherent sovereignty. Further, the Kōmike asserts that the fundamental human rights and freedoms of the Kānaka Maoli have been denied in violation of conventional and customary international law, numerous treaties between the Kanaka Maoli Nation and the United States, teachings and writings of jurists and legal scholars, the laws, norms, principles and customs of other nations of the world, including the nā kānāwai (the traditions and laws) of the Kanaka Maoli Nation, and the constitutional and statutory law of the United States.«

»In the interest of justice, the Kōmike respectfully requests the Tribunal, after it has received and studied the information supplied to it by the parties involved in the August, 1993, Ka Pihana (Gathering) of Kānaka Maoli with the Tribunal, to issue its findings, conclusions, judgments and recommendations for consideration by the world community.«

The nine charges were:

1. *Impermissible interference in the internal affairs of a sovereign people and nation.*
2. *Aiding and abetting a foreign coup d'état against the government of a sovereign people and nation.*
3. *Annexation of a sovereign people, their nation and territory without their free and informed consent.*
4. *Incorporation of a people, their nation and territory without their free and informed consent.*
5. *Illegal appropriation of the lands, wa-*

ters and natural resources of the Kānaka Maoli.
6. *Economic colonization and dispossession of the Kānaka Maoli.*
7. *Acts of Genocide and Ethnocide against the Kānaka Maoli.*
8. *Destruction of the environment of Ka Pae'āina.*
9. *Violation of International and Domestic Trust Responsibility.*

In an explanation of Charge 8, the Kōmike quotes the Polish jurist, Raphael Lemkin, who observed that *»genocide (of which ethnocide is a sub-part) is not exclusively defined as the immediate physical destruction of a people or nation. Rather, it can signify a coordinated plan of different actions aimed at the destruction of the essential foundations of the life of national groups. The objective of such a plan would be disintegration of the political and social institutions, of culture, language, national feelings, religion, and the economic existence of national groups, and the destruction of personal security, liberty, health, dignity and the lives of individuals belonging to such groups..... Genocide has two phases: one, destruction of the national pattern of the oppressed group; the other, the imposition of the national pattern of the oppressor.«*

Ka Ho'okolokolonui Kanaka Maoli

As a peoples' international tribunal appertaining to international law and precedence, the basic set-up of the Tribunal was Western. But, at the same time, the planning committees tried in different ways to make it comfortable and meaningful in a Kanaka Maoli cultural sense. One way was to let the Tribunal travel around the islands, come to the people and let the members of the Tribunal see for themselves the areas which were the subject of the testimonies. Two days of hearings on O'ahu were intended to give the judges and audience a substantial background in the situation of Kānaka Maoli history and culture. And this indeed was accomplished through a series of impressive, scholarly testimonies.

Unfortunately, this meant very little time to hear testimonies from non-academic Kānaka Maoli of O'ahu, which has the largest Kanaka Maoli population. The first 'non-expert' to speak in between the scholars was Raymond Kamaka, taro-farmer from Waikāne Valley on the North Shore of O'ahu. He gave the following analysis of the structure of the Tribunal:

»I've seen a lot of people here, the last two days, that had a lot of mana'o [knowledge, ideas] and faith. We have the people with the brains, lawyers, doctors ... for everything they do, there is a reason. We all must work together. If we cannot work together, we will be divided..... [When] you get to the [other] islands, you will feel that the people out there are the grass roots people. They will not be standing here and talk about laws, they've taken the laws into their own hands..... What you hear from me, you're gonna hear from them. But they are tougher, they are grass roots people. We talk from the heart ...« (Testimony, August 14, 1993).

The Prosecutor Team repeatedly urged the witnesses to speak freely and feel confident in their own knowledge. In Hāna, Maui, Glenn Morris for instance said,

»From the woman called Auntie Bernice [Hokoana], ... I have learned more wisdom in this afternoon than I've heard in three years at Harvard Law School. So, as the prosecutor team, we encourage you to have confidence in your own story, in your own land, because this is the place where you can tell the World the truth about who you are as Kanaka Maoli, the truth about what you want for sovereignty and self-determination. And we are here to assist you in that endeavour« (Introduction at Hāna, Maui, August 15).

Throughout the Tribunal, in an impressive showing of *aloha* (love and care) and organizing skills by the Kānaka Maoli, the participants and audience were served generous amounts of healthy food – often at no charge. The food was prepared according to traditional Kanaka Maoli diet. In several programs, such as the Ho'oke 'Ai Moloka'i Diet Study in 1987 and the ongoing Wai'anae Diet Program, this has proved very efficient in restoring the health of Kānaka Maoli who are suffering from hypertension, obesity and diabetes, to which they are much more vulnerable than other groups living in Hawai'i or anywhere else in the world.

Tribunal Diary

The Tribunal opened with a press conference followed by a rally, sponsored by two Kanaka Maoli groups protesting against the forced annexation of Hawai'i to the United States of America 95 years ago on the same date, August the 12th.

August the 13th, 1993, was the official opening of the Tribunal by advocate prosecutor, Glenn Morris, at the Reorganized Makiki Church in Honolulu. This was followed by testimonies on the first four charges. The information received by the judges was supplemented in the evening by the video, 'Act of War', by Nā Maka O Ka 'Āina/Center for Hawaiian Studies. Cultural events taking place every day during the Tribunal also reinforced the understanding of Kanaka Maoli tradition and history.

Testimonies on Charges 5 to 9 were given a full day in Honolulu, on August the 14th. Among many others, Kia'āina (governor) of Ka Lāhui Hawai'i and counsel to the Nation for the Tribunal, Mililani Trask, gave convincing, precise and substantially documented testimony before the Tribunal on the fraudulence of the United States' removal of Hawai'i from the United Nations list of Non-Self-Governing Territories (Charge 4); on the Newlands Resolution, the Organic Act for the Territory of Hawai'i, the Hawaiian Home Lands Trust, the Ceded Land Trust, the creation of the Office of Hawaiian Affairs, and the Right to Sue Bill (Charge 5); and on the report of the United States' Civil Rights Commission (Charge 9). In the evening the historic drama 'The Military Tribunal of 1895: Trial of a Queen?' was performed to a full house.

Early on Sunday morning, August 15th, about fifty of the Tribunal participants and audience started five days of travelling around the islands. The dignified welcoming ceremonies at the island of Maui were influenced by the sad news of the death the day before of one of the planned participants in the Tribunal, Parley Kanaka'ole, one of leaders of Kānaka Maoli.

At the beautiful 'Iao Valley, kumu hula Frank Hewett performed and testified to the spirituality of the Kānaka Maoli. From here everybody went on to Waihe'e, where Leslie Kuloloio testified on the destruction of sacred sites. The Japanese-owned development company, Waihe'e Oceanfront Hawai'i, Inc., has been planning to construct a private membership golf course on the shoreline lands that contain one of the richest archaeological and cultural complexes on the island of Maui. Mr. Kuloloio explained that the Kānaka Maoli are people of nature and must go out to learn. Waihe'e is the richest cultural resource on Central Maui and is important for developing an understanding of indigenous identity. He appealed to the judges: *»We thank you for your presence, for today we represent – with yourself –*

The panel of judges, from left to right: Oda Makoto, Ward Churchill, Te Moana Nui A Kiwa Jackson, Sharon Venne, Richard Falk, Asma Khader, Lennox Hinds, Hyun-Kyung Chung and Milner S. Ball Photo: Ulla Hasager

the changes that will take place tomorrow. ... We need your kōkua – kōkua – kōkua [help]... We thank you all« (Testimony, Waihe'e, Maui, August 15, 1993).

Four testimonies were heard before the group continued to Kula and from there to Kahikinui on the South East coast of Maui. Kahikinui comprises almost 23,000 acres of Hawaiian Home Land which is still not developed 72 years after the Hawaiian Homes Commission Act set 200,000 acres aside for »Native Hawaiians« (federally defined as more than 50 percent blood quantum) for the »rehabilitation« of a »dying race«. In 1991, after 70 years, only 17.5 per cent of the total available lands were being homesteaded.

At Kahikinui, nature gave yet another testimony to its power: the hearings planned there had to be cancelled because of threatened hurricane 'Fernanda'. The worst of the weather on Maui was expected at exactly the place where the Tribunal was to convene. Some of the witnesses proceeded to Hāna with the travelling group and gave their testimonies there during a long evening session. Many of the testimonies there touched upon the Hawaiian Home Land situation and upon another common threat that faces Hāna, as well as all the beautiful areas on the islands: the development of golf courses. Experience shows that golf course development is socially as well as environmentally and economically detrimental to the local community.

The hurricane remained a threat but the next morning the Tribunal continued to the island of Moloka'i, where everything turned out to be calm, sunny and very hot. The judges listened to on-site testimonies in the morning at Moloka'i's fertile East End. Fishpond builder, William Kalipi Sr., testified at 'Ualapu'e, Moloka'i. Mr. Kalipi explained the traditional land system and use of fishponds. He stressed the need in the present-day world to respect the Kanaka Maoli concept of *mālama 'āina*, to take care of the land, never to take more than you need, to give back what you take and to be grateful. Later, during the hearing at Mālama Cultural Park, Kaunakakai, he made it clear how the right to practice sovereignty and to live it out in everyday life is closely connected to these and other important Kanaka Maoli concepts, which are still being taught.

A full afternoon of testimonies followed the welcoming ceremonies. At the invitation of the people of Moloka'i, who wanted to learn about the situations of other indigenous peoples, the international witnesses, the '1898-group', gave their testimonies there.

On August the 17th, in the calm and relaxed setting of 'Ili Noho Kai O Anahola (the Anahola-District-by-the Sea) on the island of Kaua'i, the Tribunal hearings continued. Anahola is yet another contested area. Since 1986, a group of Kānaka Maoli has continued to live in the area, in spite of continuous evictions and the brutal destruction of their homes. Several beaches around Ka Pae'āina (the Hawaiian Archipelago) are designated as Hawaiian Home Land but leased out by the State to County or City administrations »for the benefit of the general public« as parks. The Kānaka Maoli at Anahola have created a thriving cultural and recreational area welcoming everybody, Kanaka Maoli style. In spite of this, the Hawaiian Homes Commission prefers to have them evicted from the area and leave the initiative and administration to the County of Kaua'i. Since the closing of the Tribunal, and after almost two years of peace and growth, five of the group were given a 45 day suspended prison sentence after a 5th Circuit Court ruled that the state is within its rights.

At Anahola, again the judges were presented with testimonies from the people of the land. Aside from the case of Anahola itself, the testimonies embraced issues ranging from personal identity problems to concerns about the US Star Wars program. Rocket launching from Keonekani o Nohili, Barking Sands, at the south point of Kaua'i, was contested on the basis of Kanaka Maoli culture and land title arguments, pollution, anti-war stands and other concerns. In February, 1993, 19 people were arrested for protesting against the Strategic Defense Initiative rocket launch. The

launch was rescheduled because of a computer problem. Again, right after the Tribunal, many people protested against the planned second test missile launch. Fourteen people were arrested. The launch was delayed, allegedly because of bad weather conditions at the point of destination. On August the 25th, the second STARS test missile was launched for the Marshall Islands.

Kupuna Nani Rogers testified against militarism and, directing herself to the empty chair of the Defendant, she said, *»The Pacific Missile Range Facility is only one of many military installations using large parcels of our Hawaiian lands. Executive Order 887 signed on June 29, 1940, by the acting governor of the Territory of Hawai'i turned over 548.57 acres for use by the US government for a site for the Mana Airport Military Reservation. It was done without the knowledge and consent of us, the beneficiaries of the 548.57 acres. Had we known then, perhaps more concern and protection would have been given to our sacred cultural sites of Nohili and its burial dunes. ... All we would have asked was to be left alone to promulgate our life purpose, which is to mālama āina [to take care of the land]. Not be the wards of the state but caretakers of the land. Again I ask, why were we ignored by you, Mr. President, and your government?«*

»I speak ... with aloha, compassion and pain when I say ... admit your wrongs, apologize for the pain and destruction of our people, and get Congress to sign that all powerful document that will return ALL ... that was stolen from us. Then PEACE can be restored, all HEALING of the wounds and pain inflicted can commence, and ALOHA PONO [balance, righteousness] can flourish« (Written Testimony at Anahola, Kaua'i, August 17, 1993).

From Kaua'i the Tribunal travelled on to Hawai'i, the biggest and most southerly island in Ka Pae'āina and two thousand miles to the Northwest. The group arrived at Hilo Airport, built on Hawaiian Home Land and for many years leased for a symbolic amount to the Territory and later the State of Hawai'i (like so many other state structures). In the meantime the number of Kānaka Maoli waiting to get on the land has grown to an estimated 12,000 to 14,000 families. Many have died without getting the lease for the lands to which they were entitled according to the Hawaiian Homes Commission Act of 1920.

Testimonies were heard on Onekahakaha Beach, Keaukaha, many focusing on homelessness and on the Department of Hawaiian Home Lands. Hawaiian Homestead 'should-be' beneficiaries at Keaukaha Beach Park have taken action themselves and are living on the land to relieve their housing problems. But since the Tribunal, their pavilion and other structures have been destroyed and they themselves have been arrested three times, on August 30th, September 22nd, and October 4th, 1993. These actions were taken by State Attorney General Investigators backed by Hawai'i Island Police in what seems to have been a concerted effort by state agencies to stop Kanaka Maoli initiatives and action to solve their social problems. The rationale seems to be to retain all control and initiative in the hands of the Hawaiian Homes Commission.

Keli'ikanaka'ole 'Ioane, testifying in the tent city of Onekahakaha, talked about »affordable houselessness,« and assimilation efforts beginning 170 years ago to pressure Kānaka Maoli to build »regular« houses: *»It is a conspiracy to keep the Hawaiian people afraid of the rain. You spend your whole life putting up four walls, investing in a stationary coffin, so afraid of the elements that you spend all your money and miss half your life. There is no need to fear the rain«* (Onekahakaha, Hawai'i, August 18, 1993).

Except for a stopover at the active volcano, Kilauea, the Tribunal travelled on to Ka Lae, at Ka'ū, the site of yet another major piece of unsettled Hawaiian Home Land. On the way, Wao Kele O Puna, the rainforest where geothermal development is being carried out, was pointed out and explained to the Tribunal members. The site for a future missile launching project was also pointed out. Evening and early morning testimonies at Ka'ū naturally concentrated on these subjects.

On the morning of August 19th, the Tribunal continued to Kona district in the southwestern part of Hawai'i. At Honokōhau Keāhole, the Pai family was visited. Having been on this land provided valuable background information for the two opening testimonies at Kona Old Airport building shortly after. The Pai 'ohana (family) has been living at Honokōhau for several generations and is presently fighting eviction by the National Park Service. They greeted the Tribunal members with these words: *»Here on the Pai Land, every act has a meaning. Normally the family sits down to welcome guests. Today we remain standing to show you that we are committed. We stand before you. Send our message around the World«* (Māhealani Pai's welcome speech, Honokōhau , Hawai'i, August 19, 1993).

At the beach, and later in testimony, Al Kaiokekoa explained about the Pai 'ohana land: »We have four *kapu* (prohibition) on the land: no drinking, no swearing, no drugs, no weapons.« They recently started a cultural learning centre which attracted many more kids than expected. While teaching the kids about the land and the sea, they have been confronted by such embarrassing enemies as a colony of nudists – certainly not a part of Hawaiian culture today.

The thirteen testimonies given in Kona ended the testimony hearings. To close, composer and songwriter, Liko Martin, lead everybody in a very moving singing of his and the late kupuna Pilahi Pāki's 'Hawai'i Loa' in honour of the late Kanaka Maoli activist and leader, Kawaipuna Prejean, who, as a board member of the International Indian Treaty Council and founder of the Pro-Hawaiian Sovereignty Working Group, initiated the work for creating Ka Ho'okolokolonui Kanaka Maoli. 'Hawai'i Loa' tells of self-determination and the beautiful places of Ka Pae'āina.

From Kona, the Tribunal returned to Honolulu where, on the basis of the substantial knowledge they had acquired through testimonies supported by 150 pounds of exhibits, the judges continued their deliberations.

August 20th saw the summation of the Advocate Counsel. The ever empty chair for the Defense Counsel gave its own silent message of indifference. After finalizing their deliberations, the judges presented the verdict, and a summary of general recognitions, findings, and recommendations (see the adjoining excerpt from the Interim Report). The closing ceremonies were followed by a

press conference and discussion.

The days following the Tribunal saw a rally at 'Iolani Palace grounds protesting the 34th anniversary of statehood on August the 21st, and meetings evaluating the Tribunal and planning for the future.

An Innovative Tribunal and Its Implications

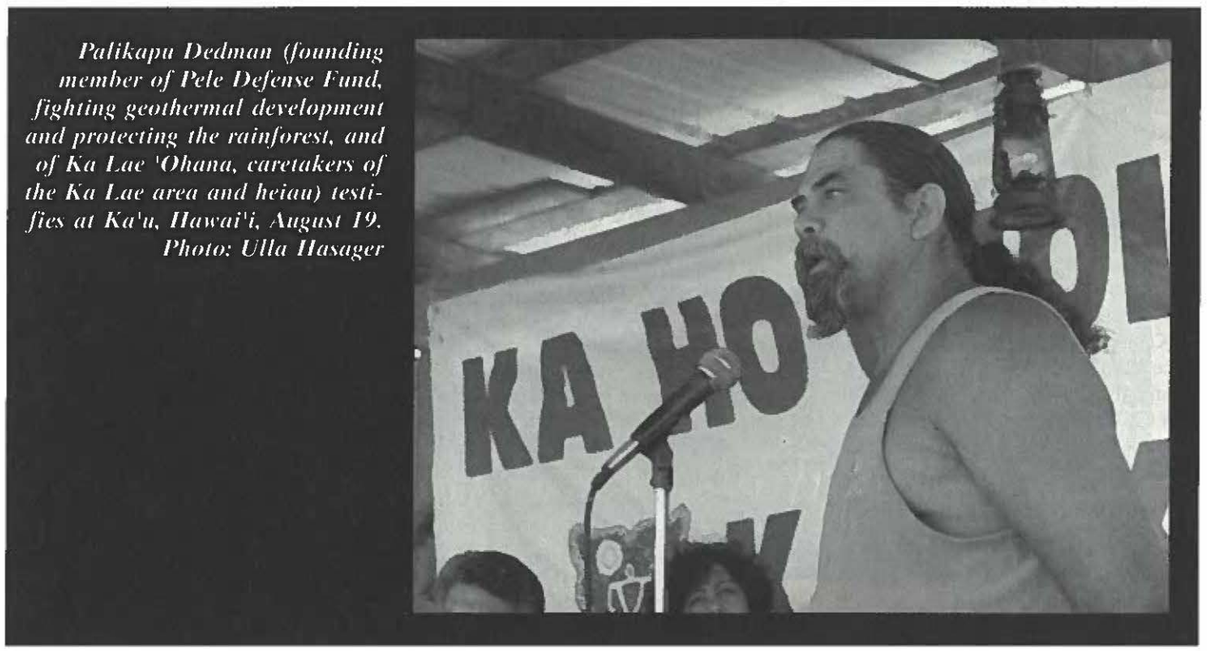
The prosecutor team explained the purpose and power of a ruling of the People's International Tribunal for each hearing session. At the close of the Hāna-hearing session, José Morin, said, *»What you have done here is to bring the judges to your community, to bring the judges to the grassroots, and that is very significant. It is very significant, because the judges now see for themselves, and hear for themselves, ... your lives, your experience, your hardship, your pain. ... I can't see these [People's International] Tribunals ever being conducted the same way again. So you have contributed something to the World, because there are tribunals that are conducted of this nature, on a regular basis, and now we see developing tribunals that are going to be much more sensitive to the needs of the people who really suffer. Particularly as they pertain to indigenous people. So you have accomplished something here, and I want ... to publicly recognize that.«*

About the implications of the Tribunal and the future of the Kānaka Maoli, José Morin said, *»We ... need to be clear about the fact that this is a long range struggle. ... We aim to take the facts, the evidence, the conclusions of this Tribunal ... to use the information for purposes of trying to bring about change, to bring it out into the international community and ... the people of the US, so that they can understand what has been going on here, what crimes have been committed by the US government against the Kanaka Maoli people. But in addition, this is also an international struggle. What you are engaged in tonight, is organizing yourself around these issues, perhaps in ways that you have not done before. And that in itself is an advancement that is very important, and we hope that that kind of struggle, that that kind of unity building, that that type of organizing will continue long after we are gone. Because in your unity you will be able to achieve a lot, and that is critical to making change in this situation«* (Speach at closing of Hāna hearing session, August 15, 1993).

Coordinator Alejandro Molina added to this, *»New forms of struggle, unprecedent unity in action, have been shown in Maui and by the Tribunal overall, in the Tribunal organizing committees, in coming to five islands to demonstrate the breadth and the width of struggle. But the Tribunal is not here to rescue – we can only do that ourselves – and some of the roads are to continue the struggle in the form of the books and video [from this Tribunal]. Continue to work in the new ways, we have learned in the process of organizing this Tribunal. Not to leave it here. If people work in the international level, then continue to work in the international level. If people do land occupations, then continue to do land occupations. If people are involved in other forms of rescuing your sovereignty or struggling for independence, then that is what we continue to do. There are no saviors, except ourselves.«*

»To close, I would just like to say from the Puerto Rican independence movement and on behalf of the 1898-group of island nations that were invaded by the US government: You are not alone, and for that, and to 1998, we work together» (Speech at closing of Hāna hearing session, August 15, 1993).

According to information from the organizing committee, the final verdict from the Tribunal will be sent to the UN Secretary General in New York, the Chairperson/Rapporteur of the UN Working Group on Indigenous Populations in Geneva, US President, William J. Clinton, and to the Governor of Hawai'i, John Waihe'e. This is only the first step in a long process for the estab-



Palikapu Dedman (founding member of Pele Defense Fund, fighting geothermal development and protecting the rainforest, and of Ka Lae 'Ohana, caretakers of the Ka Lae area and heiau) testifies at Ka'u, Hawai'i, August 19. Photo: Ulla Hasager

lishment of self-determination for Kānaka Maoli, about which Kawaipuna Prejean said when he started the preparations for the Tribunal in 1991:

»I think that it is very important that people remember that what we are talking about, as far as self-determination goes, doesn't mean a parcel of land that they are going to give us like charity. This is our inherent right to sovereignty, our inherent right to govern ourselves, in a manner we chose, without ... interference.«

Recommendations

Having heard extensive and compelling testimony on the islands of O'ahu, Maui, Moloka'i, Kaua'i and Hawai'i from August 13-19, 1993, and received voluminous documentary evidence in support and corroboration of the testimonies, as well as a number of site inspections during the same period, the Ka Ho'okolokolonui Kanaka Maoli (Peoples' International Tribunal Hawai`i 1993), has arrived at certain general recognitions and findings from which it is prepared to advance preliminary recommendations. It should be noted that a full report detailing and amplifying these results will be issued by the Tribunal within a period of six months.

The Tribunal Recommends that:

1. The US and the world recognize the inherent sovereignty and right to self-determination of lāhui Kanaka Maoli under provision of the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights, among other elements of international law.
2. The US and the world acknowledge the right of lāhui Kānaka Maoli to decolonization under provision of the United Nations Resolution 1514.
3. Kanaka Maoli lands, including all ceded lands, Hawaiian Home lands, and all other lands to which they have a claim, be returned to the control of lāhui Kanaka Maoli without delay. Land restoration should be construed as including restoration of water rights.
4. Jurisdiction over restored lands be transferred to lāhui Kanaka Maoli at the time of restoration.
5. Blood quantum standards of identification be immediately suspended. Lāhui Kanaka Maoli itself should determine the composition of its citizenry, free from external interference.
6. All other wrongs suffered by the Kānaka Maoli at the hands of the United States and its subsidiaries be rectified in a manner deemed satisfactory to the Kānaka Maoli themselves.
7. The United States, in negotiations and other interactions with lāhui Kanaka Maoli, observe the provisions of the United Nations Declaration on the Rights of Indigenous Peoples as the minimum standards to be followed.
8. The United States immediately effect a valid ratification of, and adherence to, the 1948 Convention on Punishment and Prevention of the Crime of Genocide.

This article is based on observation, interviews and the information material distributed during the Tribunal. Copies of this material and later publications, including the Interim Report and the Judges' Final Report (to be published in spring 1994), are available through IWGIA's International Secretariat in Copenhagen or through the Ka Ho'okolokolonui Kanaka Maoli Kōmike (3333 Ka'ohinani Drive, Honolulu, Hi 96817, Hawai'i). The videos which will be produced from the Tribunal and the one-hour video 'Act of War' presenting the events surrounding the overthrow of the Kingdom of Hawai'i in 1893, are available in European as well as American standard from the producers (Na Maka o ka 'Āina, 3020 Kahaloa Drive, Honolulu, Hi 96822, Hawai'i, ph. (808) 988-6984) $35 for individuals/$50 for institutions, not including mailing. In 1994 IWGIA publishes a Document on the situation of Kañaka Maoli: Hawai'i – Return to Nationhood.

Ulla Hasager participated in the Tribunal as IWGIA's observer. ❑

The Judges, Prosecutors and Coordinators

Milner S. Ball: Caldwell Professor of Constitutional Law at the University of Georgia. **Hyun-Kyung Chung:** Assistant Professor in Theology from Ewha Women's University in Korea; Research Associate and Visiting Lecturer at Harvard Divinity School. **Ward Churchill** (Creek/Cherokee/Metis) Tribunal *Rapporteur*: Associate Professor of American Indian Studies at the University of Colorado, Boulder; Codirector of the American Indian Movement of Colorado. **Richard Falk:** Albert G. Milbank Professor of International Law and Practice and a Fellow of the Center of International Studies at Princeton University. **Lennox Hinds:** Professor of Law at Rutgers University, past Director of the National Conference of Black Lawyers, Counsel to the African National Congress (ANC) in the United States. **Te Moana Nui A Kiwa Jackson** (the Ngati Kahungunu and Ngati Porou Maori), Chair: Director of Maori Legal Services, Wellington, Autearoa (»New Zealand«). **Asma Khader:** Attorney, educator, journalist; member of the Palestinian Rights Society and the National Committee for the Protection of Children (Amman, Jordan); winner of the 1990 Human Rights Watch Award. **Oda Makoto:** Novelist and literary critic, Visiting Professor of Comparative Studies at the State University of New York at Stony Brook; member of the Permanent Peoples' Tribunal. **Sharon Venne** (Cree): Lawyer, human rights advocate active at the United Nations since 1981; Rockefeller Fellow on indigenous legal systems.

The Advocate Prosecutor Team consisted of **Glenn Morris**, Shawnee and director for the Fourth World Center for the Study of Indigenous Law and Politics at the University of Colorado at Denver; **José Morin**, Puerto Rican and executive director for the North Star Foundation in New York; and **Maivan Clech Lam**, Vietnamese and City University of New York professor of Law.

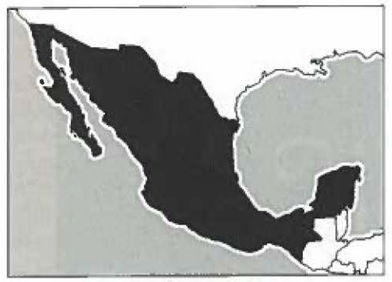
The Tribunal was coordinated by **Alejandro Molina**, Director of the 1992 San Francisco International Tribunal on Indigenous Peoples and Oppressed Nations in the USA and working with the Puerto Rican independence movement and also works to free Puerto Rican Prisoners of War and Political Prisoners, and convened by **Dr. Kekuni Blaisdell**, MD (Kanaka Maoli), member of Ka Pākaukau, a coalition of Kanaka Maoli independence groups, and co-founder of Pro-Hawaiian Sovereignty Working Group.

Indigenous Affairs
INTERNATIONAL WORK GROUP

HAWAI'I
RETURN TO NATIONHOOD

DOCUMENT 75

a new document from IWGIA



The Indigenous Rebellion in Chiapas

by Leif Korsbaek

On New Year's Morning 1994, some of Mexico's 82 million inhabitants, who were still celebrating the end of the old year and the beginning of a new one, were stunned by confusing rumours of an armed rebellion in the Southern Mexican State of Chiapas.

No newspapers were published on New Year's Day but those on the 2nd January immediately confirmed the original rumours that an armed indigenous rebellion had taken place and four cities and rural municipalities in Chiapas – San Cristóbal, Ocosingo, Altamirano and Las Margaritas – had been occupied through a well planned and coordinated guerilla operation carried out by the 'Zapata Army for National Liberation' (Ejército Zapatista de Liberación Nacional«, EZLN). Over the following 24 hours a total of 14 municipalities were occupied.

The immediate response of the Mexican Government bore the mark of a Pavlovian conditioned reflex: »this is only an act of terrorism carried out by a small group of discontent people, the government will immediately study their claims and then take steps to solve the problem«; »this is basically the work of a few foreign *agents provocateurs* who have seduced a small number of indigenous peoples or threatened them into joining the rebellion«; and »the whole movement contains only about 100 persons«.

The following practical steps taken by the Mexican Government were no less usual: a massive army force, which reached about 15,000 soldiers, was sent into the area from the military detachments in Chiapas and elsewhere and was charged with »restoring order and constitutional conditions« and reconquering with extreme military brutality the occupied cities and municipalities. Roadblocks were set up all through the affected zones in Chiapas, a virtual state of siege was established and heavy bombings of the indigenous villages were carried out with the use of helicopters and fighter planes.

However, the events soon took an unusual turn. It became clear that it was not a question of some »100 discontent persons led by a handful of foreign adventurers and professional left-wing troublemakers«; it has been estimated that the movement comprises somewhere between 10,000 and 15,000 members (according to a Mexican Army spokesman in mid-January). The repeated attacks against the XXXI Military Zone testify to the military capacity of the movement.

It became evident that the rebellion was not an exogenous movement whipped up by foreign *agents provocateurs* – various government offices and agencies have at different moments suggested that it was directed and made up by Cubans, Guatemalans, Salvadoreans or Nicaraguans – but a genuinely indigenous movement and that the bulk of participants were Tzotzil, Tzeltal and Tojolabal peoples from the Highlands of Chiapas and from the foothills leading down into the Lacandon Rainforest.

Furthermore it revealed itself as an extraordinary movement in other respects as well. Its planning and logistics were surprisingly exact and well coordinated. The military occupation of four towns and municipalities on new Year's Morning was carried out with a precision worthy of a professional army (which the Zapatista Army claims to be, and not a guerrilla movement), and the timing was near perfect, as well: at the very moment when NAFTA (American Free Trade Area) became effective and at the measurable distance of half a year from the next (problematic) presidential elections, so far postponed until August 1994.

Other features turn the Zapatista Army into a tremendous military and political threat against Mexico's government and army. The Zapatista Army has the advantage of an intimate knowledge of the local conditions in the rainforest and highlands of Chiapas, whereas the Mexican Army is not accustomed to the terrain outside the towns and the villages. The Mexican Army has very few officers with experience in this kind of warfare. It has had to transfer the ageing General Mendizábal from Morelos to Chiapas, who is one of the very few generals to combine a knowledge of the State of Chiapas with an experience in anti-guerilla warfare.

Apart from its combat virtues, the Zapatista Army appears to be an organization which combines tactics and strategy with a social base. The testimony of several of its members bears witness to the combination of military organization and discipline with thorough work in village organization and conscientization. All this contrasts in an interesting way with the fact that the bulk of the Zapatista Army is poorly equipped and armed. It has been the laughing stock of the Mexican bourgeoisie that many of the indigenous members of the Zapatista Army have been armed with toy-guns made of wood, a fact which has confirmed the conviction that the indigenous peoples are too stupid to distinguish between real guns and rifles made of wood. A reasonable assumption is, however, that these toy-guns have been used in a year-long programme of combat drills, with the intention of appropriating guns from the Mexican Army, a tactic well known from other movements in Central America. This is a further testimony to the patient planning and preparation of the rebellion.

A very particular rebellion

One of the most important features of the rebellion, which makes it most unusual in a Mexican context and which confers on it a measure of possibilities and perspectives, is the fact that it is not characterized by personal charisma which is almost invariably found in Mexican politics, governmental as well as rebellious. The official Mexican politimo« that is, a kind of one-man-show where the only important person is the President of the Republic, and all recent attempts at armed rebellions are known through their leaders: the movements of Lucio Cabañas and Genaro Vázquez in Guerrero, and that of Rubén Jaramillo in the Eastern part of the Republic. Discussing the Mexican Revolution we hear more about Emiliano Zapata and Francisco Villa than of their movements. This has made it much easier for the Government to pin down the leaders of the various movements and either kill them or buy them off. Everybody in Mexico expects a political movement of any kind to be a leader and his (much less important) followers, and it is interesting that when a class of students from secondary school somewhere in the North of the Republic was asked: »Who is the President of the Republic?«, most of the students answered: Jacobo Zabludowski (who is the most frequently-seen TV-commentator in the country and the best known official spokesman of the Government). The most visible person in the movement has been its official spokesman, Commander Marcos, and he has very often been interpreted as the leader of the rebellion. In fact, Commander Marcos has himself emphasized that he is only the spokesman of the collective leadership of the rebellion, and he has explicitly reduced his own rank to that of 'Subcommander'. This presents the Government with a most unusual situato locate the leader of the enemy and apply the usual tactics, and it might well prove to be one of the features which will make it a viable movement.

Another feature which has secured for the rebellion a huge popularity among the Mexicans is its sense of humour, a quality which normally distinguishes spontaneous rebellion movements and is, as a rule, quite absent from well organized uprisings, where we often find a pompous and self-conscious vocabulary which tends to alienate potential sympathizers and supporters from them. There is always a glimpse of humour, especially through the declarations of Commander Marcos – as when he declared that »the members of the rebellion hide their heads so that the better looking of them would not have an unfair advantage over the others«. But he is not the only humorous member of the movement. Proof of this is the sentence that the captured General Absalón Castellanos Domínguez received at a revolutionary court: he was sentenced to a life-time's manual labour in an indigenous community in Chiapas, a most outrageous sentence for a former Governor of Chiapas (and one of the most brutal at that), and such a beautiful inversion of the well known apartheid universe in Chiapas. This sense of humour has secured for the rebellion a benevolent support from sectors of the Mexican population which would otherwise neither accept nor admire it, a feat which might also prove to be very important in the ensuing discus-

sion in Mexican society.

And finally, the most important feature: the movement's dexterity at converting military demands into social demands, to move from a position of armed struggle to political opposition, a quality it shares with very few Latin American rebellious movements, let alone indigenous rebellious movements. I think the only Latin American movement of the kind which has shown a similar agility is the M-19 in Colombia which also managed to make the transition from armed struggle to political opposition. A very important element in this has been the formulation of the demands put forth by the rebels: they have usually avoided using a socialist terminology and have applied the same terminology as the Government.

Some reasons for the rebellion

The reasons for the rebellion appear with admirable clarity from the movement's demands. Although the first declared goal was to march on Mexico City and depose President Salinas – »Mexico's illegitimate dictator« – the principal demands have been democracy, decent economic and housing conditions, a just distribution of the land, an efficient health service and equal access to a good education. In all these areas Chiapas is at the bottom compared with the other Mexican states, in spite of the fact that Chiapas is one of the most important states in terms of Mexico's production of wealth. Chiapas is the Republic's first coffee producing state, with more than 70 per cent of all coffee produced there, and it is among the most important states in terms of the production of oil and corn. Chiapas is an important producer of beef: while the beef produced in the Northern states – which is of a better quality – is exported to the United States, Chiapas provides beef for the huge Mexico City market.

Mexico is a poor country – or rather its population is poor. A year ago, during the NAFTA discussions, it was mentioned that the average income in the USA was about 21,000 US Dollars a year, in Canada 18,000 and in Mexico 2,800. And Chiapas is still poorer. According to the 1990 census, Chiapas' economically active population includes 874,267 persons; of these 19 per cent have no income at all and 39.9 per cent receive less than the minimum salary, which in Chiapas is less than 2 US Dollars a day. Of the rest, 21.2 per cent receive between $2 and $4; 8 per cent between $4 and $6; 4.1 per cent receive from $6 to $10; and 3.6 per cent receive more than $10 a day. To make sense of these figures, one has to keep in mind that many of the articles sold in shops and markets cost more or less the same as in the USA and in Europe.

The Mexican Government has tried to mitigate the overwhelming misery in the cities and in the countryside through the enormous programme for social assistance called PRONASOL, the National Solidarity Programme (according to a recent report from CEPAL, 37 million Mexicans live in a state of poverty or misery, according to the criteria established by the UN). Chiapas has received a fair share of the huge budget set aside for this purpose but a number of factors contribute to prevent any positive effect. One important factor is that Mexico is a strongly corporate state, so that the money is received collectively by the communities and administered by *ad hoc* committees set up there. The effect of this is that the communities are invariably composed of and controlled by the influential people in the communities and there is very little chance that it filters down to the people who really need it. The huge majority of the money assigned to development projects in Chiapas has contributed to make the rich people in the communities richer – and the poor people have become poorer, in absolute as well as in relative terms. What has further produced a negative effect is the fact that PRONASOL, under the direction of Donaldo Colosio the official presidential candidate*, has tended to exclude the indigenous peoples from the benefits of the programme with the argument that »the Indians do not constitute a political factor«, and therefore the invested money would not produce any support for the government party.

The exploitation of the Indigenous Peoples

The indigenous peoples are exploited and cheated in a thousand ways, through different kinds of alliances between the bourgeoisie and the state, making sure that the indigneous peoples remain poor and the Ladinos either very rich, rich or, at least, less poor. For example, in San Carlos Altamirano (one of the four towns occupied on New Year's Day, inhabited by roughly one third Tzeltals, one third Tojolabals and one third Ladino landowners and merchants), the chief product in the municipality is coffee. In 1977, the Government established a centre of the Instituto Mexicano de Café (INMECAFE) there where the indigenous peoples could sell their coffee production at a guaranteed price. When they arrived with their harvest they were often told by the administrator that the bodega was full and they would have to sell to a private coffee merchant around the corner. The private coffee buyer would only pay a fraction of the guaranteed price. Moreover, the private coffee buyer was the brother of the INMECAFE administrator. When he arrived at the INMECAFE centre to sell his coffee there was always room for his produce. That way almost all the municipality's coffee production was subsidized by the Government through guaranteed prices and sold on the international market (one of Nestlé's Mexican production plants is located in Chiapas de Corzo in Chiapas), while the municipality's indigenous peoples worked around the clock to produce their coffee but remained in the same state of poverty.

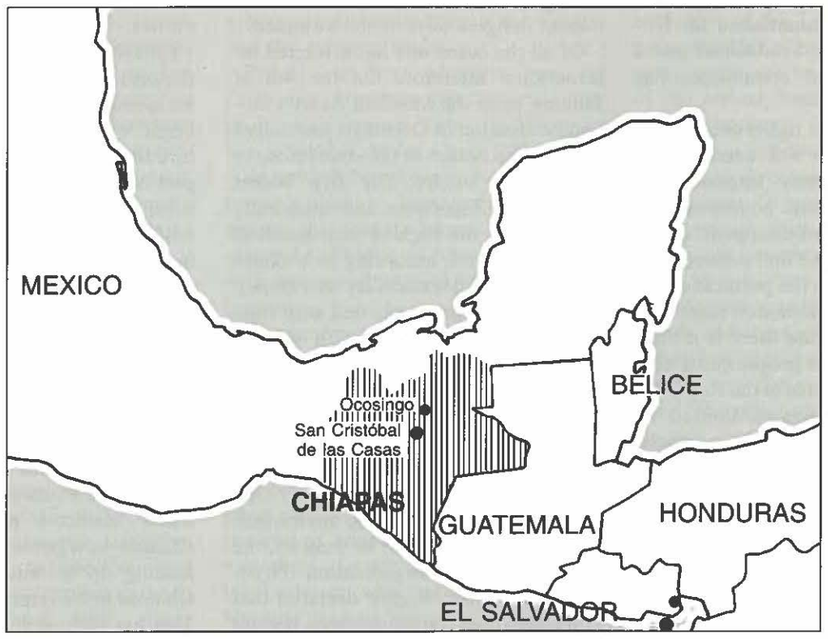
This merciless exploitation takes place under many guises and in an atmosphere of potential ecological disaster. The ranch-owners possess thousands of acres in the Grijalva River valley, of which they rent some to a Zinacantan entrepreneur against a rent in cash; in turn he rents plots of four to five acres to families from San Juan Chamula on a contract as 'medieros', which means that the Chamula families who till the land keep half of the harvest, leaving the other half for the Zinacantan intermediary. In the spring the trees are burned to provide fertilizer for the corn cultivation and after two years, when the land is exhausted, cattle are let loose on it and another tract of land is rented to the same Zinacantan entrepreneur who lets it piecemeal to the same Chamula families, and so on year after year. This is a practise which came into use in the early sixties when the International Monetary Fund started promoting cattle raising and it gave priority loans. This way, thou-

sands of head of cattle and thousands of tons of corn are produced each year and thousands of acres of land are deforested. This practice, together with only very inefficiently-controlled lumbering in the Lacandon Forest and forest clearing by new settlers will ensure that in a few years the Chiapas forests of the 1960s will only be a faint memory. While the majority of indigenous peoples have never tasted beef, the land is deforested for the profits of the Ladino population and for the benefits of a new 'civilized' diet introduced in Mexico City by foreign-owned chains of restaurants, like Burger Boy, Tomburger, etc. The indigenous peoples receive very little – if any – of the benefits, and they will still live there when all the settlers and the trees are gone and the lush green rainforest has been transformed into barren land.

The rebellions in Chiapas

There is considerable historical continuity in this rebellion. The apartheid-like system of racial discrimination and exploitation has not varied significantly since the Conquest in the 16th Century when indigenous rebellions first took place. One of the first rebellious actions was the collective suicide of Chiapas 'Indians', who threw themselves into the Sumidero Canyon after their defeat by the Spanish invaders. They would rather die than live under the yoke of foreign lords. The Zoque Rebellion took place in 1693, and the uprising covered the whole of the Zoque region in Western Chiapas, to the North of the State's present capital, Tuxtla Gutierrez. It was directed against the abuses committed by Maesterra, an official of the Spanish Crown, and by the Zoque's own chief, Hernandez. The Spaniards crushed the rebellion and took a terrible revenge: all the villages that had participated in the uprising were burned. Smaller uprisings preceded the next major rebellion, the famous Tzotzil Rebellion which took place in 1712, a rebellion so big and so ferocious that it threatened to upset the Spanish colonial system. The Spaniards suffered a number of defeats by the indigenous peoples and only succeeded in suppressing the uprising with military aid called in from other parts of the colony. The uprising was directed more against the Spanish landowners and their abuses than against the Spanish crown, and after the Tzotzil surrendered, it was only through the direct intervention of Crown officials that a total massacre was avoided.

In 1869 a big Tzotzil uprising, centred around Chamula, took place and threatened once again the whole economic and political system. It was directed against the Government's confiscation of communal lands in the middle of the last century, and again the situation was only brought under control through the intervention of troops from other provinces. In 1911 the Chamulas rebelled again, this time stirred by the Bishop of San Cristóbal de la Casas in the fight between the San Cristobal land-owning bourgeoisie and the more modern bourgeoisie of Tuxtla Gutierrez, since 1893 the capital of the State. And finally, as late as in 1977 there was an indigenous and peasant uprising in the Southern municipality of Venustiano Carranza. Again the movement was subdued – this time soldiers were transported to Venustiano Carranza by the United Nations' light blue trucks, lent by the development project PRODESCH in San Cristóbal de las Casas. The Ladinos and the Mexican Army took a terrible revenge and the corpse of the indigenous leader was left for several days to rot in Venustiano Carranza's small central square before relatives were allowed to carry it away and bury it.



What is different about the current rebellion is possibly that its consequences have already been devastating for the Government, whose very fragile foundations of legitimacy and credibility have been thoroughly shattered. It is very hard to see how the Mexican Government will escape the deadlock in which the rebellion has left it.

The loss of international prestige is quite evident, and Mexico is now more than ever a country which depends completely on the good-will of the international community. Some ten years ago Enoch Cancino Casahonda, the Chiapas President of PRI, the party of Government, complained that »we are making a pigsty of our own country at the same time that we are promoting democracy all over the world«. This seems to characterise the balance between Mexican interior and exterior policy, between words and deeds.

In terms of Mexico's international prestige there are a number of very sensitive points. Mexico has so far enjoyed the reputation of being virtually the only Latin American country with a continu-

ous and unbroken tradition for free elections and the absence of military involvement in its governmental procedures. Yet in the NAFTA negotiations the problem of Mexican democracy has been ever-present throughout the process of negotiation and Treaty signing. However, Congressman Torricelli, leading US politician in the camp opposed to NAFTA, noted that the Treaty contains a paragraph in small print which permits the exclusion of any one of the three signatories after six months' notice. He said that the fragile state of democracy in Mexico might necessitate the use of this paragraph.

Another delicate point is the guarantee of fundamental human rights. During the last ten years the question of human rights has received considerable attention in Mexico and, among other things, a National Commission for Human Rights has been established and a host of independent committees has sprung up.

The general human rights situation in Mexico, however, is not encouraging. According to Amnesty International, Mexico is among those countries with the highest number of disappeared persons and it is estimated that between 100 and 200 leaders from the political opposition have been assassinated since July 1988. At the same time there is a huge number of indigenous people being held in prison in all the States of the Republic.

The list of atrocities committed by state authorities is endless, for example, the massacre of Golonchán, perpetrated on the 15th of June 1980, under the governorship of Juan Sabines and under the direct command of General Absalón Castellanos Domínguez. During this massacre all the houses in the village burned. An idea of the human rights situation in Chiapas during the governorship of Absalón Castellanos Domínguez can be gleaned from a report elaborated by the Left Wing opposition party in 1987, at the end of his period. The report lists cases of extrajudicial violence over his six-year term of office: »68 assassinations, 327 persons disappeared, 547 arrests, 423 kidnappings and cases of torture, 223 injured, 401 families expelled from their communities, 52 villages evicted, 26 threats of eviction, 16 cases of destruction of houses, schools and churches, three police cordons, three attentats, three violent repressions of political meetings and two of demonstrations, three illegal searches of offices, among other things«.

If these are the conditions in times of 'peace', one may expect more violations of human rights to take place in times of armed conflict. Although the Mexican Army's complaints office has only four registered complaints against the armed forces, the National Commission for Human Rights has 197, and independent human rights organizations have registered approximately 300, the huge majority against the armed forces.

One evident case of unnecessary brutality is the massive bombing of Tzontehuitz, the Tzotzils' sacred mountain on the 5th and 6th of January where several houses were destroyed and innocent indigenous civilians wounded.

Of all the cases, one has attracted international attention. On the 4th of January, after the Mexican Army's violent occupation of Ocosingo, journalists located five bodies in the street close to the central square. The five bodies looked like Zapatistas, had apparently been shot in the back of their heads at close range and, according to a photo published in a Mexico City newspaper, their hands were clearly tied with rope behind their backs. On the 7th of January, the National Commission for Human Rights issued an autopsy declaration stating that there was nothing to prove they were Zapatistas, nothing to indicate that they had been executed and nothing to lead one to believe that the Mexican Army had had anything to do with it. On the 20th of January, the US humanitarian organization 'Physicians for Human Rights' declared that »this statement could have been premature« and asked Jorge Madrazo, the President of the National Commission for Human Rights, to make available all the evidence and suggested to the Mexican Government that there should be »a thorough investigation of the incident in Ocosingo«. On the 22nd of January Dr. Clyde Snow, forensic anthropologist, Dr. Margarita Aruza, forensic pathologist, and Dr. Thomas Crane, a medical doctor from Santa Rosa, California, stated that »these persons had been the victims of a summary execution«. Eric Stover, Executive Director of Physicians for Human Rights, has expressed his discontent with the fact that the National Commission for Human Rights had intentionally omitted the presence of traces of rope around the victims' wrists. Later, on the 3rd of February, Jorge Madrazo admitted that the bodies were most likely those of Zapatistas.

A history of fraud

Electoral fraud is a major political discussion point in Mexico. At the presidential elections in July 1988, Salinas won but was accused of fraud on a national level. The official result was 50.36 per cent in favour of the Government Party, but it has been estimated that the real result was about 35 per cent in its favour, while the rest of the votes were divided between the candidates of Left Wing parties.

Chiapas is by no means removed from the problem of electoral fraud – in fact, its modern history as a Mexican State began with just such an accusation. Before Independence in 1821, Chiapas was part of Guatemala (a general Captaincy within Spanish Latin America), and was only included in Mexico after an election in 1824. The Guatemalan Government still claims today that the election was a fraud. Since 1976 the Government Party has won the elections in Chiapas with huge majorities: in 1976 with 96 per cent, in 1982 with 92 per cent and in 1988 with 89 per cent.

One of the Zapatista Movement's principal demands has been »clean and transparent elections« in August 1994, when Mexico's new president and Chiapas' new governor are to be elected, leading up to municipal elections in Chiapas in November of the same year. This has been a general and persistent demand during recent years, in the light of electoral scandals in almost all of Mexico's 31 states, notably in Tabasco, Michoacan, San Luis Potosí, Chihuahua and, most recently, in Yucatan. The Government's reply has invariably been to promise »transparent elections«, and a new electoral law has been on its way for many years. The problem is that to satisfy the opposition the Government Party will inevitably be deprived of its total control over the electoral procedure.

The conflict in Chiapas reveals a deep-rooted regional conflict in Mexico, where the central government has monopolized political control, supported by an intricate system of alliances with the local power groups. There is widespread frustration over the centralization of power – from both the indigenous peoples and the Chiapas' bourgeoisie (in Soconusco in Southern Chiapas, which was only incorporated into Mexico in 1842, there was a movement in favour of independence from Mexico some years ago).

The Catholic Church

Since the Reform in the middle of the last century, the Mexican State has been a secular state, and the measures taken against the Catholic Church have sometimes been harsh: priests have been barred from any kind of participation in politics and until recently they were forbidden to wear cassocks in the street. Nevertheless, Mexico is a fervently Catholic country and remained so during years of anti-clerical policy, a fact which has given the Catholic Church an unofficial presence, sometimes dependent on the goodwill of the Government. For example, Paragraph 3 of the Constitution states that education in Mexico shall be compulsory, secular and free. It is noteworthy that, in spite of Paragraph 3, the Catholic Church has approximately 1989 schools with a total of 2,4 million students in primary school and some 400,000 students in higher education.

The presence and the importance of the Catholic Church in Mexico cannot be understood without reference to Mexico's history, especially in discussing the indigenous population's situation. Apart from the fact that the Conquest was based on the Pope's explicit authorization (in the Papal Bull »Inter Caetaera« of 1492), the monastic friars (Franciscans, Dominicans and Augustinians primarily) were the only part of the Spanish population which was allowed to be in permanent contact with the indigenous population; all other members of the 'República de los Españoles' could only have short term contact under specific conditions with the indigenous peoples.

Indigenous Mexican cultures were transformed under the influence of these friars, and even today the Catholic Church wields an enormous spiritual and political influence over the indigenous population.

During recent years the Catholic Church has had more recognition (partly due to the last two presidents, Miguel de la Madrid and Carlos Salinas de Gortari, who have been fervent Catholics, both with close links with the ultra-conservative Catholic movement Opus Dei). Only a few years ago Mexico resumed diplomatic relations with the Vatican and a Mexican Ambassador to the Vatican was appointed. However, a Papal Nuntius has been present in Mexico for the last 15 years. The present Papal Nuntius, Gerolami Prigione, has played a full part in the polarization of the modern Catholic Church in Mexico. Of the approximately 90 bishops in Mexico, only about ten have any leanings towards the Theology of Liberation, the others are divided between the Centre and the extreme Right.

Before leaving Mexico, one of Prigione's promises was to settle the problem of Samuel Ruíz, the bishop in San Cristóbal de las Casas in Chiapas. And towards New Year he was very close to succeeding: he launched a campaign against the liberal Chiapas Bishop and secured a critique of him by the Pope, with the possibility of having him removed.

However, it appears that Samuel Ruíz is the only person who has been able to establish contact with the Zapatista movement with the purpose of initiating negotiations between them and Manuel Camacho, the Government negotiator. The events in Chiapas have led to a complete change in positions and, towards the end of January, Prigione received a visit from the Mexican Archdiocese's legal advisor, who implored the Papal Nuntius to leave the country: »his presence in Mexico was no longer desired«. Since then Samuel Ruíz has become an asset to the Catholic Church in Chiapas.

Since the first of January 1994, President Salinas' response to the situation in Chiapas has not been very consistent. His reactions have been conditioned by two factors: first, by the novelty of the problem – the Mexican Government has not had to face an armed rebellion which was able to force it to negotiate on equal terms since 1929 – and, second, by the fragmentation of the Government itself and the different factions within Mexican political society. As mentioned earlier, Salinas' first reaction was violent and brutal. But after the 16th of January his tone changed: he started referring to the Zapatistas not as »criminals« and »lawbreakers«, but as »rebels«. Manuel Camacho, appointed on the 11th of January, started seriously seeking contact with the rebels. He soon learned that the total lack of direct communication between the government and its citizens (in this case, rebellious citizens) meant that the only way of establishing contact with the Zapatistas was through Samuel Ruíz, the Bishop of San Cristobal de las Casas.

A strategic point in the negotiations was the promise of a general amnesty to all persons who had participated in the rebellion. All the political parties have been in favour of an amnesty, with the exception of the Left Wing opposition party, the PRD. Out of fear that an amnesty might also be applied to members of the armed forces, it has refused its official support.

Finally, in February, contact was established and direct negotiations between the Mexican Government and the rebel group began, a situation never seen before in Mexico. According to the latest news, Manuel Camacho has accepted a considerable number of the rebels' demands and the Government has promised to honour them. It is only left to see in what way these promises will be fulfilled. The situation is by no means simple and there may be an escalation of political unrest in the run-up period before the August election, not only in Chiapas but in other states too.

*) Since this article was written, Donaldo Colosio has been assassinated.

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Chronicle of a Disaster that Could Have Been Avoided

by Marie-Odile Marion

Everything began in the 1960s. At that time, the Mayan peoples who reached the Canadas region of Chiapas hoping to find land for cultivation, saw the area not as a refuge from death but as a huge green land of hope and promise. All of these indigenous peoples had been evicted from their lands in some way: by ranchers and farmers who had slowly invaded their maize fields; by social and religious conflicts, creating irreparable disagreements in communities which had been formerly united; or by local cacique bosses, greedy for power, who had intimidated them into exile.

Gradually the Mayan peoples created new population centres in the rainforest. Along the rivers and lakes of the forest, along the valleys and side streams, they ploughed their dreams of seeing the maize sprout and grow tall which each Mayan farmer nurtures in the depths of his mind. Far from the cities and highways, the Tzeltals of Bachajon, Oxchuc, Abasolo and Chanal; the Tojolabales of Las Margaritas and Comitan; and the Tzotziles of Huistan, Larrainzar, Jitotol and Mitontic resettled themselves. They formed small communities where they spoke the language of their fathers and kept, in spite of the distance, their homesickness and exile, a strong sense of belonging to a larger group, which some of us call »identity«.

No one visited these far off regions where there were no roads and one had to walk for several days in the humid heat of the tropical forest to reach the regional headwaters of Ocosingo or Las Margaritas. On these hard rough routes the catechists entered Canadas. They came, inspired and stimulated, with a project from the Diocesan mission, following the message of the Bishop of San Cristobal de las Casas, Don Samuel Ruiz. A witness to the marginality and poverty in which the indigenous peoples of his diocese lived, the charismatic bishop had designed a large programme of care and support to these communities. During this period, dozens of young catechists, helped by laity and missionaries carried out hard and persistent work to support the most unprotected members of the regional society. Their message was not resignation in the face of adversity, nor was it subversion in the face of injustice. We should take clear note of what they said: the pastoral message was, and continues to be, a persistent call for union and organisation among the people to seek a solution to the numerous problems which affect them. The project was appropriately called »Hach Lecubtesel« which in Tzeltal means »the true union«. They knew that only through a united strength and careful planning could the indigenous peoples escape their problems and achieve their aims of living in dignity.

At the beginning of 1968, young secular development workers began small production projects to benefit the communities where they worked. This was nothing new in Mexico where cultural missions, established by Moises Saenz many years previously, had already blazed a trail throughout the national territory. »The programmes were most successful and relevant in the region of the Tojolabal and Tzeltal (the municipalities of Ocosingo, Altamirano and Las Margaritas). They were developed equally in the hill and forest areas through 'pilot actions' which gradually covered most sectors of the population.«[1]

At the beginning of the 1970s another contingent of development workers arrived, equally concerned at the marginal social and economic situation of these small indigenous population centres. They, however, were motivated by another ideology and followed different objectives from the missions. They came from universities in central Mexico where they had been threatened by repression for their active participation in the student and popular movement of 1968 and 1971. Under the influence of bright university academics (Adolfo Orive Alba and Gustavo Cordillo to name only two), they forged a network of solidarity based on the political organisation of the peasant peoples of Mexico. These militants belonged to the political approach known as the 'Line of the Masses' or the Independent Revolutionary Organisation (OIR). They introduced a whole series of organisational proposals focused on the supply, production, distribution and commercialisation of products generated by collective labour. During the first years of the decade, they had to work in semi-obscurity because of the repressive measures ordered by the state and federal governments. In fact, the wave of repression broke brutally in the rainforest in 1974, sowing confusion in dozens of communities which did not understand why their attempts at productive organisation were being punished by the authorities.

During this period, the catechist development workers of the Lascasense diocese and the young militants from the economics faculty of UNAM established a dialogue which enabled them to work in parallel and occasionally together. Their common objective was to seek peaceful means to overcome the social and economic difficulties facing the indigenous peoples who had accepted them into their villages. Together they participated in the preparation of an indigenous Congress in 1974 which was proposed and organised by the Church and administrative regional authorities to celebrate the 500th anniversary of the birth of Fray Bartolome de las Casas. The aim was to ensure the participation of indigenous delegations from Chiapas so that they could freely explain the problems they faced during the three days of the meeting (from 13th to the 15th of October, 1974). The Congress was planned as a huge cultural meeting, but the participants immediately used the platform to denounce vehemently a diverse range of social, economic and political problems. This unusual and important meeting was, without doubt, one of the first in the state and clearly established the need for all the indigenous participants to form new types of organisations to change the course of their destiny. Immediately after the Congress of 1974, peasant unions flourished in the rainforest of the Tzeltal and Tojolabales, in the highlands of the Tzotziles and the Choles. They had names such as 'Land and Freedom', 'Emiliano Zapata', 'New Generation' or 'Awake Peasants!'. The members were both indigenous and mestizos, grouped together as producers of coffee or maize. Some had a political affiliation while others were independent of any party line. However all were eager and willing to support the unstoppable process of social change to which all the union members were committed. In the face of the unexpected success of the independent unions, and concerned at the loss of control of those communities and reformed lands (ejidos) which might occur at any time, »the State responded by creating its own 'Ejidal Unions' in strategic areas, co-ordinated by the CNC to challenge the power and influence of the independent unions: in this way the Union Juan Sabines was formed to put up a government front against the Union of the Red Star (CIOAC); the Union Juan Sabines' aim was to destabilise the Union of Unions in the rainforest area; and the Union Jaime Sabines in Fraylesca countered members of the Union of the Ejidos or Grijalva (OCEZ). In 1987 there were 32 peasant organisation in all of the state of Chiapas.«[2]

Paradoxically, while this organisational process was under way, a series of divisions emerged in the communities of Canadas, which provoked a sharp rupture between the militants of the 'Line of the Masses' and the catechists of the pastoral diocese. Following the success of their projects, members of certain political lines (which eventually included the Socialist Workers Party and the Mexican Workers Party after the political reform of 1979), favoured a radicalisation of the peasant movement. The ecclesiastical authorities, suspecting the progressive radicalisation of various Priests and catechists, decided to terminate the fleeting alliance with the militants and an irreversible break took place in 1977.

That same year there occurred a series of events which considerably developed the social and political panorama of the zone. On the one hand, the break with the Church and the change in the peasant organisations (which took place because of the resurgence of the repression) provoked the break up of the development teams and the gradual dismantling of the multi-disciplinary democratic organisation. How-

ever, on the other hand, »the peasant base maintained and reproduced the programme which had been originally created with the workers from the pastoral diocese and the university political activists. This became apparent in the same year, 1977, when the Union of Unions became the largest peasant organisation of Chiapas, grouping together distinct Ejidal Unions, created after the Congress of 1974«.[3]

Hit by the repression and disconcerted by the divisions into which the movement had fallen, several militant factions broke away between 1977 and 1979. These divisions arose over methods, criteria and priorities for action which each group wanted to use in the communities. While some militants favoured strengthening the political work of organisations, others gave priority to an economistic approach, focusing on establishing mechanisms for planning, community control and self-management of production. The economistic tendency was the line which finally gained ground. And the party members of the more radical current, which promoted political struggle as an initial method of peasant regrouping, abandoned the area or maintained their influence in a marginal, clandestine form.

In 1975 a law authorizing the creation of the Rural Association of Collective Interests (ARIC) and of the Mexican Food System (SAM) was passed. After 1977, the multiplication of Provision Programmes (CONASUPO) took place along with new opportunities for finance through the creation of credit unions (advanced by the Union of Regional Autonomous Peasant Organisations, UNCORA, in 1983). These initiatives proved a success for the programme established by Gustavo Cordillo and provided several new alternatives for the Unions of Canadas.

The indigenous members of the Credit Union (Pajal and Kaktik) then put into action an ambitious project of coffee cultivation and cattle raising which regrouped most of the members of the Union of Unions. The plantations increased as the benefits from the coffee appeared; vehicles were bought and shops and warehouses established. Throughout the 1980s credits flowed and the first results were encouraging. The Mexican Coffee Institute was responsible for overseeing the commercialisation of production. As the communities inverted in productive infrastructure, the cultivation of maize became an obsolete resource base. The Tzeltales and Tojolabales of the Canadas had clearly changed the course of their social and economic reproduction.

From subsistent cereal agriculturalists, the rainforest peoples had transformed themselves into monocultivators of coffee, a product subject to the unstable fluctuations of an international market. The dangers of this dependency quickly appeared. The world slump in coffee prices began in 1988 and worsened dramatically in 1989 provoking a severe collapse in the work of the Union and landing its members with a multimillion peso debt. Economically indebted and with their morale broken, the indigenous peasants of Ocosingo, Altamirano and Las Margaritas, just as the coffee producing Choles, Mames, Chujs and Kanjobales of Chiapas, felt betrayed and abandoned by those leaders in whom they had once placed their trust.

1989 was undoubtedly a critical year for the indigenous peoples of the rainforest: this was when they understood with greater clarity the depth of their vulnerability and marginalisation. They felt this again during the fraudulent electoral process, which in a counter-coup placed local, regional and federal authorities in the power of leaders whose legitimacy was immediately suspect. The leaders who had encouraged the disastrous opening of the new production channels and alternative credits returned as functionaries of the system (Gustavo Cordillo became under-secretary in the Agrarian Reform and Raul Salinas of Gortarti became head of DICONSA) or received key positions the government-backed peasant movement (Hugo Andres Araujo in CNC). The peasants then tried to put into effect a whole series of mechanisms to stop the process of economic deterioration and restore social development, but the diverse agencies which controlled the public sector ignored their petitions.

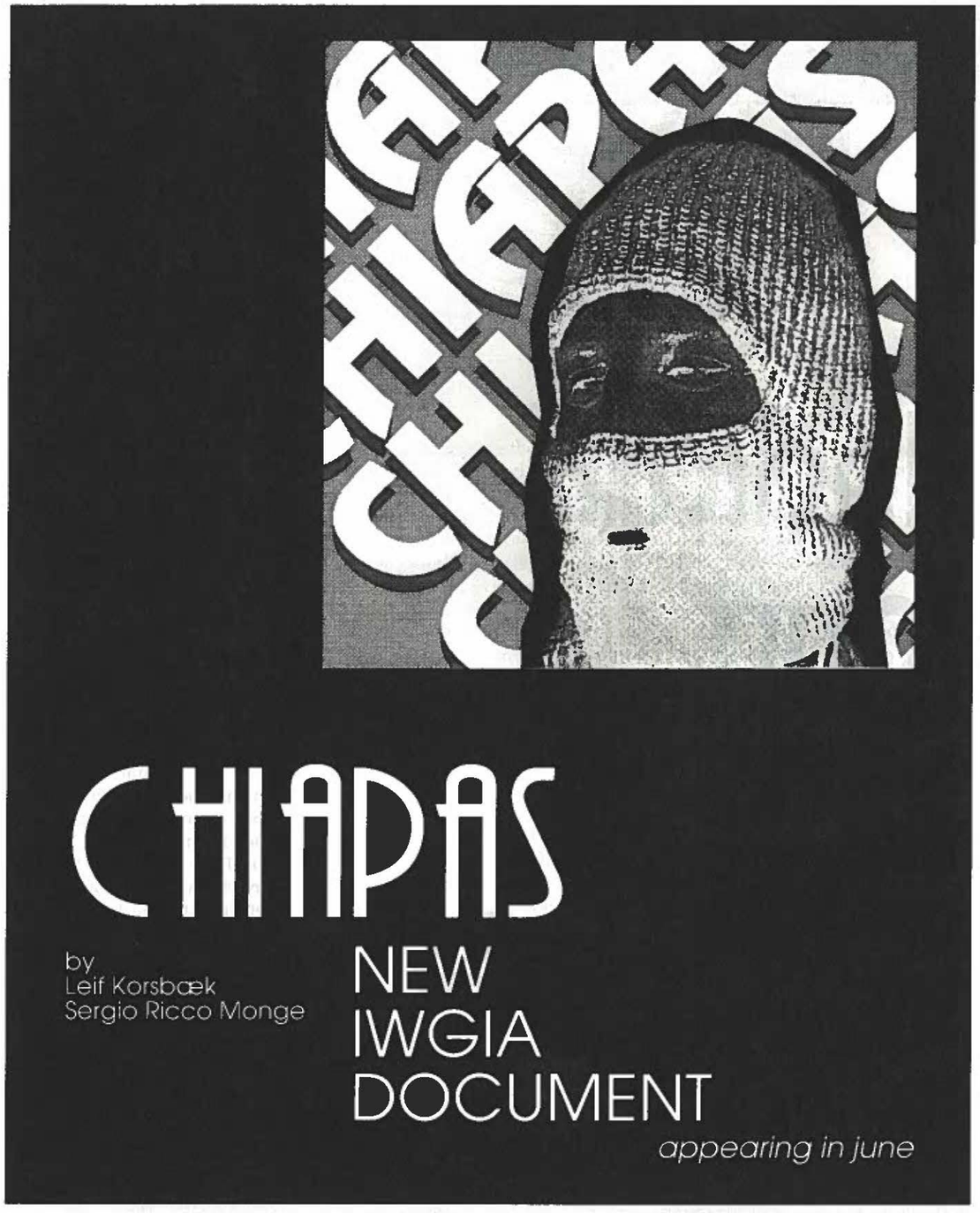
Over the years, hunger penetrated perniciously and tenaciously into the rainforest communities. Families could no longer extract sufficient coffee from the plantations to ensure enough food. Because they had converted their maize fields into coffee plantations, the indigenous peoples did not produce any more maize and were obliged to depend on the market for basic products. Some left the area to look for agricultural work in Soconusco or Fraylesca, but the farmers preferred to contract workers from Central America who were cheaper and more pliable. The indigenous people returned disenchanted, desolate and helpless in the face of the total collapse of their hopes and the irreversible deterioration of their most basic living conditions. Their existence became increasingly precarious, their poverty more intense and their lives burdened with intolerable anguish.

The old slogans of political struggle which had been left behind by a project of solid collective work regained legitimacy. In the face of the impossibility of any alternative production and the total indifference of the governmental apparatus to seek any solution to their growing misery, the peasants remembered the radical proposals which they had cast aside years before. They were abandoned and humiliated by a society which had thrown their hopes over the horizon beyond the tree-lined curtain of their rainforest refuge.

The indigenous peoples of Canadas have not needed fictitious Centro-american or Caribbean leaders to understand the depths of their misery and the magnitude of their desperation. They have not needed clever analyses from outside to explain what for them was the last chance of getting their voices heard. As the conflict spread, the government became aware of its seriousness, but in spite of its hospitals, public works, schools and electrical grid the authorities could not put in order an irreversible situation of social depression. Even the 70,000 hectares granted to the Canadas (on lands previously titled for the Lacandon people) could not generate a response: the indigenous Tzeltal, Tzotzil and Tojolabales had already understood that nothing was left but the fatal outcome to a disaster which had become inevitable.

Footnotes:

1. Marion, »Pueblos de Chiapas, una democracia a la defensiva«, in Democracia Emergente en México, *Revista Mexicana de Sociología*, 1987, No 4 p. 63.
2. Idem, p. 65-66
3. Idem, p. 69 - The Union of Unions is called Quibtic ta Lecubtese. ❑



Nicaragua

Indians and New Alliances

by
Hans Petter Buvollen and
Christian P. Scherrer

In May 1993, the Council of Elders of the indigenous organization, YATAMA, held an assembly. The purpose of the six day General Assembly in Waspám (Rio Coco) in the *Northern Atlantic Autonomous Region (RAAN)* was to discuss urgent issues and to overcome divisions within the organization. Some of the leadership was changed and the statutes were revised. YATAMA is pressing for the implementation of Eastern Nicaragua's Autonomy Law, in order to clarify the authority of the autonomous bodies and the rational use of the area's rich natural resources. The Autonomy Law is generally seen as an achievement by indigenous peoples in other Latin American countries, even though its realisation has been hampered by internal problems, mismanagement and the neglect of the Atlantic Coast by the central government over the past three years.

This Assembly was the first to be held in the Autonomous Regions (RAAN and RAAS – *Southern Atlantic Autonomous Region*) and the first in Nicaragua since 1979, when the indigenous movement was recognized by the new Sandinista government. From 1981 to 1990, organizations within the indigenous movement have represented the armed opposition to the Sandinista revolution. Over the past three years, however, YATAMA has functioned as a civil organization and gained considerable political influence in RAAN as a result of the first election for the two Regional Autonomous Councils in 1990. YATAMA members currently preside over the Autonomous Council in RAAN where they have a majority of the seats and dominate the regional government. The 7th Assembly of the Council of Elders served as an important preparation for the elections of new regional authorities in March 1994.

One faction of Miskitu leaders still works for exclusive indigenous self-rule within their own autonomous territory and will possibly not agree to participate in a regional government based on equal representation for all the six groups of the multi-ethnic population of the East coast: indigenous Miskitu, Sumu and Rama, Afro-American Creoles and Garifuna, and Hispanic Mestizos. Such a multi-ethnic venture is un unattractive proposition if it is confined to administering the present economic misery. Whatever this Miskitu faction decides, the incorporation of a few indigenous leaders into the national elite will not solve the issue and may lead to them losing support among their more militant base. Hence it is likely that the institutional and ideological controversy will continue in the future. As a result of the Assembly, and after three years of frustration in dealing with the central government under the presidency of Violeta Chamorro de Barrios, YATAMA is considering developing its working relationship with the Frente Sandinista de Liberación Nacional (FSLN) in RAAN into an alliance in order to defend the Autonomy. The 1994 regional elections, financed by European and Nordic countries, are a serious test for the stability of such an alliance.

Historical and cultural background: from armed struggle to political struggle

The Sandinista revolution in 1979, mainly a Mestizo movement, smashed the old Somoza regime. Attempts to integrate the Eastern part of Nicaragua more tightly into a state resulted in a tremendous upsurge of ethnic revival among the Indian and Afro-American minorities. The indigenous *Miskitu* have mixed throughout their history with runaway slaves and today are among the most populous lowland indigenous peoples of the Americas. They number some 130,000, of which 100,000 live in Nicaragua. The *Sumu* number some 10,000, of which 7,300 live in Northeastern Nicaragua and the rest in Southeastern Honduras[1] and comprise three different dialect groups with political divisions. The traumatic developments from 1980 to 1984 renewed, rather than disrupted, the sense of common ethnic identity among the Miskitu and Sumu. The much smaller *Rama* peoples number only about 1,000 are endogamous.

Afro-Americans (Blacks and Creoles) live along the Atlantic Coast from Belize, where they are a majority, to Columbia. There are approximately 35,000 in Nicaragua. The *Garifuna* (Black Caribs) live dispersed over the Western Caribbean; a small community of some 2,500 Garifuna lives in the Upper Pearl Lagoon area with their centre at Orinoco. The Garifuna are lagoon-fishers and agriculturists and their distinct culture shows a strong African heritage. Autonomy has to a limited extent helped restore and strengthen their particular Afro-American cultural traditions, such as the famous May Pole (*mayo ya*) celebrations, the *Walagayo* socio-medical ceremony, the promotion of herbal medicine and the recognition of traditional medicine men (*curanderos*), and

the promotion of Creole literature and local arts and crafts. There are two cultural orientations among the Creoles: one is in favour of developing a Caribbean cultural consciousness, and the other accepts increased Hispanicization as an inescapable consequence of the incorporation of Mosquitia into the Nicaraguan state in 1884.

The minority peoples initially welcomed the Revolution. However, the Creoles of Bluefields were the first to reject the integrationist policies and further Hispanization by the Sandinista Front (FSLN). In September 1980, mass demonstrations broke out but were suppressed. However, the repression led to more civil unrest and a virulent conflict between the Miskitu and the state which escalated into a fully-fledged war. Since 1979, the motor of this process has been a small group of university-educated leaders who were the effective organizers. They took over ALPROMISU, the 'Alliance for Progress of the Miskitu and Suma' and renamed it MISURASATA (Miskitu, Sumu, Rama and Sandinistas United). Indigenous demands became more radical in 1980-81. The focus of the armed conflict in Eastern Nicaragua between the *Sandinista Popular Army (EPS)* and various indigenous organizations revolved around territorial claims. The state saw these claims as 'exaggerated demands' and a threat to the state's sovereignty at a time when the USA was entering the 'Reagan era' and taking an increasingly aggressive stance towards the Sandinistas.

After the Sandinistas temporarily arrested the leadership of the indigenous movement and provoked some violent incidents, 10,000 indigenous people fled to Honduras. About 4,000 of them were armed by the CIA and trained mainly by former Somozan guards. But the Somozan contras, who were US-financed mercenaries working to destabilize Sandinista Nicaragua, had very different objectives and were never sympathetic to the indigenous cause. There were two wars in Nicaragua between 1981 and 1987 both connected to indigenous questions. Confronted with these wars which were causing considerable suffering and destruction, the FSLN response in 1984 was a triple strategy for the pacification of the ethnic conflict in Eastern Nicaragua. This strategy included autonomy as the long term solution, cease-fire agreements with different armed indigenous groups, and talks with exiled indigenous leaders. The first two strategies worked and the war began to slow down from 1985, but negotiations with MISURASATA leaders had limited success until 1988. Mediation and trust-building by Moravian Church leaders and by grassroots committees were crucial in ending the armed struggle and eventually led to a broad political debate on autonomy.

Wycliffe Diego, elected president of YATAMA by the 7th General Assembly.

Photo: Christian P. Scherrer

However, though armed struggle was put aside, antagonism between Sandinistas and indigenous organizations persisted as territorial demands were frustrated. Nevertheless, differences between organizations and groups were overlooked just before the 1990 elections when the main protagonists allied themselves together with the opposition against Sandinista rule. The unexpected defeat of the FSLN brought Brooklyn Rivera's faction of the Miskitu organization YATAMA into central government positions. From these positions they were able to oppose the elected authorities in the two Autonomous Regions at a time when the war had led to a deterioration of the economy which was limiting the autonomous governments' room to manoeuvre. Political feuds among several indigenous factions and against the local FSLN branches continued in RAAN for a period. But disagreements were soon softened by a surprising degree of co-operation between the mainstream indigenous movement and the Sandinistas in RAAN.

Weak response on the autonomy process among Creoles in the RAAS

In the *Southern Atlantic Autonomous Region* (RAAS), where Creoles comprise the majority of the population, the political polarisation led to an institutional breakdown. Moreover, there were strong allegations of corruption involving the Governor, Alvin Guthrie. After pressures from many sources, the opposition parties' coalition (the National Opposition Union – UNO) abolished its 11-month boycott of the Regional Autonomous Council and a new coalition has grown up among Creoles in defence of autonomy, which calls itself the Authentic Autonomous Coast Movement. How these different political groups survive depends on the regional elections in 1994.

The outcome of the February 1990 elections in RAAS partly reconfirmed the urban Creoles' dissatisfaction with the FSLN[2]. The final outcome could not have been more surprising: the UNO won 23+1 seats, the FSLN won 18+1 and YATAMA/MOJUME (indigenous youth) won 4. In order to get a majority, the UNO had to win over at least one YATAMA deputy. Two men loyal to Miskitu leader, Brooklyn Rivera, gave the UNO a temporary majority to elect the anti-Sandinista Creole leader Alvin Guthrie as governor[3]. Later the UNO lost its majority. The pro-Sandinista Creole leader, Ray Hooker, was elected twice as governor without being accepted by the central government and affairs and corruption scandals around UNO leaders has thrown politics in the RAAS into complete chaos.

Unity and divisions: the dynamics of an ethnic conflict

Nicaragua's indigenous movement has been divided throughout the whole period from 1981 to 1990. A pro-Sandinista civilian section (MISURASATA leaders in the FSLN, MISATAN, KISAN-pro peace) and an anti-Sandinista militant section (MISURASATA- Rivera, MISURA, KISAN, YATAMA) opposed each other. The latter organizations have in fact been one single organization which has at different moments, and under various names, represented the armed indigenous opposition against the Sandinistas[4]. The militant section not only represented the majority of the Miskitu population but gained legitimacy through its links with the highest indigenous authority, the Council of Elders (*Almuk nani asla takanka*), which is entitled to call general assemblies of the indigenous movement. Since its establishment in Bilwaskarma in 1973 there have been 7 Assemblies held in 1973, 1974, 1979, 1985, 1987, 1988 and 1993, three of which took place in exile in Honduras. These Assemblies have had a decisive influence on the course of the movement and on its organizational shape.

The First Indigenous Assembly was held in Bilwaskarma, Rio Coco, where initiatives were taken to form ALPROMISU. The organization was formalized at the Second Assembly held in Sisin in 1974. ALPROMISU represented Nicaragua in the World Council of Indigenous Peoples (WCIP). The Third Assembly was held in Puerto Cabezas in November 1979, a few months after the Sandinista revolution seized political power in Nicaragua. The organization then changed its name to MISURASATA and the leaders consisted of young professionals and students; Steadman Fagoth, Brooklyn Rivera, Alfonso Smith and Hazel Law, all Miskitu. MISURASATA became an important political force mobilizing the Miskitu and gradually challenging the policies of the Sandinista government.

In 1981, Steadman Fagoth joined the military resistance to the Sandinista revolution together with several militants from MISURASATA. Their exiled military organization in Honduras was renamed MISURA, while Brooklyn Rivera continued as leader of MISURASATA which went into exile in Costa Rica later the same year. Internal conflicts within MISURA and the initiation of the autonomy process, led to the reorganization of MISURA during the Fourth Assembly in Rus Rus, Honduras, in 1985 under the new name KISAN.

KISAN sought the unification of the factions still willing to fight a military struggle and which wanted closer ties to the US-supported Contra forces. Wycliffe Diego, a veteran since the creation of ALPROMISU, was elected leader of KISAN. In 1978, the formal unification of KISAN, MISURASATA and MISURA took place during the Fifth Assembly in Rus Rus, Honduras, under the present name *Yapti Tasba Masrika nani Asla Takanka* (YATAMA) with a leadership consisting of Steadman Fagoth, Brooklyn Rivera, Wycliffe Diego and Charly Morales (Suma). During the Sixth Assembly in Apalwas, Hondu-

nicaragua

ras, in 1988, the leadership structure was maintained but there were diverging opinions about whether to negotiate or to continue military resistance to the Sandinista revolution. YATAMA was finally recognized by the Sandinista government in 1989 and its leaders returned from exile to participate in the elections and the implementation of regional autonomy in 1990.

Trouble with factionalism within YATAMA

On its return to Nicaragua in 1989, Brooklyn Rivera's group[5] became increasingly involved with national politics. Contrary to the previous YATAMA approach, which was not to mix in national policy, they first supported Erick Ramirez' centrist Social-Christian Party (PSC), together with Eden Pastora, leader of the anti-Sandinistas and former ARDE-guerrilla. Just 16 days before the elections, they met the international press, together with Violeta Chamorro, Antonio Lacayo and contra leader Alfredo Cesar, to declare their support for the opposition, the UNO[6]. The unexpected victory of the US-supported opposition coalition with 54 per cent of the votes, soon disclosed a new YATAMA-based government for the indigenous people of Nicaragua. Its policy consisted of not implementing or promoting autonomy on the East Coast, and of giving Rivera a minister-director post in the Chamorro government. Rivera does not have a portfolio but was made head of an new body, the Institute for the Development of the Autonomous Regions (INDERA).

The outcome of the elections for the Regional Council in RAAN was most surprising and is still undecided with a result of YATAMA – 22, FSLN/KISAN – 21, and UNO – 2. Consequently Lionel Panting, a YATAMA member and former administrator of the Moravian church, was chosen as co-ordinator (now called governor) of the regional government. He was chosen by consensus and kept the executive powers in his hands. The presidency of the Regional Council was first given to YATAMA member, Urie Vanegas, a young former Miskitu military commander who signed a cease-fire with the EPS in 1987, then to Pedro Mercado.

The potential line of conflict between the FSLN and YATAMA in the regional parliament of Bilwi (Puerto Cabezas) in Northeastern Nicaragua was forestalled by a serious institutional conflict which developed rapidly before the autonomous government was even formally constituted in May 1990. The conflict was between the central government in Managua and the regional government in Bilwi. Brooklyn Rivera, now member of the central government and head of INDERA, tried to assert the powers of a Miskitu governor which was resisted by YATAMA and the FSLN representatives in the autonomous parliament and government.

Rivera temporarily appointed Fagoth as his proxy in Puerto Cabezas in May 1990. Then he began to dismiss central government delegates in the two Autonomous Regions and replace them with people who supported his approach. Rivera tried to take advantage of the power vacuum created by the transition to autonomous structures and the unregulated assignation of competence and financial powers between central and regional authorities. By using the weak points in the Autonomy Law Rivera hoped to develop an 'Indianist' type of autonomy. In April 1993, Alfonso Smith, a centrist deputy in the National Assembly and former MISURASATA commander finally succeeded in ousting Lionel Panting and was elected as governor with YATAMA and FSLN support[7]. The 1994 elections look as if they will be between Rivera and Fagoth.

The autonomy structure is based on a parliamentary system (the only one in Central America) but there is a lack of understanding of this system and the governor is usually regarded as a sort of president with almost unlimited authority. Smith has decided to dedicate himself to govern the Region and his deputy, David Rodriquez, has taken his seat in the National Assembly. Smith says that he will work for improved communications between the Council and the regional government. He says, furthermore, that during the year he is in office he will dedicate himself to seeking economic support for the municipality and to improving the education sector. The only regional income is derived from some fishing licenses granted to foreign vessels. As in all public institutions in Nicaragua, a change in command means radical changes throughout the administration.

Participants and observers of the 7th General Assembly of YATAMA at Waspam.

Photo: Christian P. Scherrer.

The 7th Assembly of YATAMA

The founding assembly of YATAMA in 1987 determined that only the Council of Elders had the authority to call a general assembly and the four leaders were obliged to attend whenever such an initiative was taken. The Council of Elders was institutionalized by KISAN and later YATAMA as the maximum advisory body while the organization was in exile in Honduras. MISURA also claimed the legitimacy of its armed struggle through the Council of Elders. Traditionally, the Council of Elders existed on a community level as an informal authority structure to guide the community in times of crisis. Invitation to the assembly is made by the Council of Elders consisting of 12 men between the ages of 50 and 70.

The Council of Elders and the leaders agreed to the organization of the 7th Assembly but from the beginning Rivera's position was not taken into account[8]. Waspám was chosen as the site because of its historical legacy as the place where the first initiatives had been taken to form ALPROMISU in 1973, and YATAMA is still primarily based on the statutes adopted by ALPROMISU. The Council of Elders had difficulty with economic support as transport and food expenses were not covered by the international and national organizations solicited. But despite all the obstacles, the delegates came to Waspám in great numbers. The Assembly was formally opened by the President of the Council of Elders, Rodolfo Rivera, with a religious sermon by Reverend Sandalio Patron (Sumu) at the compound of the National Institute on the 11th September. A board was elected to direct the Assembly[9].

Of the 187 Miskitu and Sumu communities in Nicaragua, 114 were present at the inauguration. During the Assembly, the number of participating communities grew to 152. This leaves little doubt that the Assembly was representative. Each community was represented by up to five delegates among whom were the community judge, co-ordinator and members of the council of elders. The number of registered delegates reached more than 900. Together with a number of other participants, some 1,200 persons attended. The first session consisted in the adoption of rules for voting, intervention, reporting, resolutions, etc. A revised agenda was adopted. The National Police ensured that no-one carrying arms arrived in Waspám. A high degree of discipline was exercised throughout the entire Assembly.

On the second day of the Assembly (May 12), Rufino Lucas from CEPAD presented a socio-economic panorama of the national and international situation. Ex-president, Daniel Ortega, secretary general of the FSLN, discussed the Atlantic Regions in the National Dialogue presently being held in Managua, the need to regulate the Autonomy Law, the importance of the 1994 elections, and the need to insist on a rational use of the natural resources for the benefit of the Regions. Ortega was asked to contribute to the dissolution of INDERA and to inform FSLN in the mines about the Assembly as well as querying Sandinista approval of Alfonso Smith as co-ordinator of the regional government.

Indian Democracy

Much of the Assembly was informative. Uriel Vanegas presented the Autonomy process and the Autonomy Law, the procedures of electing the regional council and the regional government, etc. Several Council members presented reports to the Assembly. Steadman Fagoth informed about natural resources and the potential economy of the region. A resolution was adopted insisting on respect for the Autonomy Law and regulation of this law in order to create an economic base for the regions. The president of the RAAN Regional Council, Pedro Mercado, spoke about the difficulties caused by the instability in the Region and about what the Regional Council had achieved in the three last years. Time was allowed for interventions from participants. Any delegate was allowed up to three minutes to address the Assembly. A large part of the meeting was dedicated to the presentation of particular problems experienced by the communities. A series of other topics not on the agenda was also presented.

Towards the end of the Assembly, the restructuring of the organization and the statutes were discussed. The democratic structure of YATAMA identifies the General Assembly as the maximum authority, followed by the Council of Elders and the president/vice-president. Furthermore, it was agreed there should be area representatives and several commissions. Fagoth was elected as YATAMA delegate to the Supreme Electoral Council. Three different delegates were elected in the organization's area of international work: Kenneth Serapio will represent YATAMA as contact person with the World Council of Indigenous Peoples (WCIP) as well as the United Nations' Sub Commission on Protection of Minorities and its Working Group on Indigenous Peoples (UNWGIP) based in Geneva. Fornes Rabonias will represent YATAMA in the Co-ordination of Indigenous People of Central America and Mexico (CORPI) and Rufino Lucas will take part in the follow-up activities of the Campaign for the 500 Years of Indigenous, Black and Popular Resistance. A commission was also elected to represent YATAMA in the National Dialogue, consisting of Steadman Fagoth (co-ordinator), Armando Rojas, Julian Holmes, Lionel Panting, Uriel Vanegas and Francisco Gonzales. A Sumu representative will be named later.

The most difficult, and for many, the most important event of the Assembly was the election of the new leaders of YATAMA. The 152 communities had one vote each, but 30 military members of YATAMA demanded additional votes. This demand was not approved. Many delegates were surprised when Steadman Fagoth announced that he would not stand as a candidate. Instead he advised his followers to vote for Wycliffe Diego who was the final candidate together with Dr. Kenneth Serapio, a surgeon without military background from the community of Raiti. The election resulted in 68 votes for Wycliffe Diego and 42 for Kenneth Serapio, with 40 abstentions. A loud and disorderly discussion broke out as the 30 commanders still claimed their votes which they said would go collectively in favour of Serapio. The dispute was finally resolved by announcing Wycliffe Diego president of YATAMA and Kenneth Serapio its vice-president. Recommendations for YATAMA candidates in the 1994 regional elections were also made.

Significance and tendency of the Indigenous Assembly

The character of the Assembly was more of a general assembly of indigenous communities than a leadership crisis meeting. The absence of Brooklyn Rivera, Alfonso Smith, the YAAD-representatives (Veterans of YATAMA) Adan Artola, Osorno Coleman, Roger Herman, and several community representatives did not reflect a desire by the Assembly or the Council of Elders to exclude them or for an exclusive assembly to manifest non-legitimate positions of the present front figures. Certainly, the internal division within YATAMA manifested itself strongly during the Assembly and Rivera indicated then that an alternative General Assembly would take place later in 1993, but it never materialized. Though there are still Rivera supporters in important offices and he still heads INDERA, the Assembly demonstrated a unifying spirit.

The crucial question of control over natural resources

Apart from all the controversies over influential positions, the major task of the Regional Councils is the establishment of an economic basis for the Regions in order that there can be some kind of autonomy. A law governing the use of natural resources is badly needed and a proposal has been issued in RAAN which awaits approval by RAAS.

In RAAS, the giant lumber mill financed by Sweden to take care of the lumber lost in the hurricane in 1988, COMABLUSA, has been transferred to the regional government. The workers have been on strike and there are problems with the management. The mill has been over-ambitious in size and has taken too long to complete. Its fate is not secure and presents a potential loss of $30 million.

In RAAN, large quantities of lumber are felled without IRENA's control. Since 1991, the company MADENSA has had a virtual monopoly on valuable mahogany which is shipped out to the Dominican Republic and other places in the Caribbean. The Sumu community, Awastingni, possesses rich areas of mahogany. MADENSA and free-lancers make agreements with the community to fell the trees. The community does not receive any tax benefits and little is paid to IRENA. The taxes collected by IRENA go straight to Managua, so neither the region nor the community benefit. IRENA acts on behalf of the state, determining control over 'state lands' and issuing concessions. Officially, the owner ought to do this, which in many cases is an indigenous community.

Many communities lack titles and cannot formally claim the right to the forest. A new law on forest administration has been passed implementing a general policy on all forest lands in the country. Rodolfo Jaenscke, head of the *Proyecto Forestal Noreste*, and former IRENA delegate in RAAN, says that presently there is not adequate control and he cannot understand why concessions are issued in Managua and not in the Region. The communities in general do not like IRENA because it syphons all potential profits and pays neither the communities nor the regional authorities their share of the income. The Proyecto Forestal Nordeste's reforestation and protection project in Slilmalila is presently being reactivated, although with very meagre budgets. IRENA has also tried to train communities to become agro-foresters but so far with little success.

The BOSAWAS story and the agrarian frontier

The famous BOSAWAS (BOcay, SAalaya, WASpuk) Forest Reserve Project is still in its planning stage. The 800,000 hectare area (6 per cent of Nicaragua), between the rivers Bocay, Waspuk and Coco, covers part of Jinotega and RAAN with the towns Wiwili, Siuna and Bonanza on the fringes. It is the largest rainforest area in Central America. There are no roads in the area and river travel is also difficult due to rapids and waterfalls. Several Sumu communities are situated in the eastern part of the reserve (Wailaska, Arandak, Alal, Kibusna, Musawas, Amaka, Okuli, Wina, Wisa, Kakabuwas and Tunuwalan) along the rivers Bocay and Amaka. The communities of Lakus and Waspuuk comprise some 3,300 inhabitants altogether. A few Miskitu communities are also within the limits of the reserve (Andres Tara, Siksayari, Raiti, Walakitan, Yakalpunani and others in Jinotega Department). These peoples have lived for generations in the forests.

To the west, however, the agrarian frontier is moving quickly into the forests. Many of those involved are former Contras. With their uncontrolled slash and burn agriculture, these Mestizo peasants constitute the biggest threat to the forests as well as to the Sumu and Miskitu. They are armed and serious conflicts could occur. IRENA has not defined exactly what it wants to do with the reserve; whether it is going to be a national park, an indigenous reservation or an area simply subject to control. The big headache is how to stop the expansion of the agrarian frontier. The Sumu are suspicious and worry that their traditional life will be regulated or that the state will deny them use of the lands. Meanwhile, discussions take place mainly on an intellectual level in offices or at seminars in Managua among people who have little or no conception that people live in these areas.

Glossary of Indigenous Organizations

ALPROMISU: Alliance for Progress of the Miskitu and Suma
(under discussion at the First Assembly of the Council of Elders in Bilwaskarma 1973; founded at the Second Assembly in Sisin 1974; renamed MISURASATA in Bilwi 1979).

MISURASATA: *Miskitu suma Rama Sandinista asla takanka* (Indians and Sandinistas all together, founded at the Third Assembly in Bilwi, 1979).
MISURASATA-Rivera (in exile) (Rivera's faction of MISURASATA, based in Costa Rica, kept the name until 1987).
MISURA: Miskitu Suma Rama (operating from Honduras) (mainstream MISURASATA from 1981 to 1985; led by Steadman Fagoth).
KISAN: *Kus Indiaka asla takanka* (operating from Honduras) (founded at the Fourth Assembly in Rus Rus, Honduras, in 1985; led by Wycliffe Diego).
YATAMA: *yapti Tasba Mariska nani asla takanka* (founded at the Fifth Assembly in 1987 at Rus Rus to unify MISURASATA, MISURA and KISAN led by Rivera, Fagoth, and Diego until 1993, by Diego and Dr. Serapio since May 1993).

Footnotes

1 See the demographic study on Eastern Nicaragua to be published in *Wani* no. 15, Managua 1994.
2 The opposition coalition (UNO) wanted a clear 2:1 majority in the 3 seats in Bluefields and Corn Islands districts. The vote of the Mestizo majority (mainly poor *campesinos*) of the hinterland such as Kukra Hill, Kama, Kukra River, Mouth of Rio Grande, Zona de la Cruz and Turtugero, went to the FSLN. This happened despite their discontent with the FSLN's land reform, from which they were largely excluded, and the fatal continuation of compulsory military conscription which particularly affected the campesino youth. Of its 18 seats, the FSLN won only 6 in Bluefields but 12 in the hinterland. The FSLN got a majority in 4 out of 9 rural districts (all 3 seats of Tortugero, 2 in La Cruz, 2 in Kukra Hill/Kama and 2 in Kukra River); YATAMA won in 2 districts (2 in Pearl Lagoon area, 2 in the Mouth of Rio Grande); and UNO won in 7 districts (two thirds of the vote in Bluefields and all from Corn Island). Surprisingly, the indigenous minority areas, Rama and Garifuna, voted two-thirds for UNO, one third for the FSLN and nothing for YATAMA.
3 Dr. Alvin Guthrie Rivers, Creole lawyer, former trade unionist and member of Alfredo Cesar's Social Democratic Party (PSD). Governor Guthrie was accused of collusion with Mafiosi and drug traffickers. Deputies of his own PSD-party accused him of corruption and merchant morality, see Scherrer 1993, Interview with Prof. Edwardo Arguella Rankin (ex-president of the RAAS-Regional Assembly, member of PSD).
4 For a chronological list of oppositional indigenous organizations see Scherrer and Buvollen 1993, Interview with Horacion Chacon and Mitchell Clinton.
5 The Rivera faction consists mainly of Rivera, Alfonso Smith, David Rodriguez, Dale Teofilo and Kenneth Bushy.
6 This has been seen as flagrant opportunism by some observers, unmasking Rivera as the authentic leader since the UNO party didn't even have autonomy on it agenda. The concerned US-agencies might have heavily pressured their former allies, and a secret agreement between Rivera's YATAMA faction and UNO was signed.
7 Scherrer 1993. See interview with Alfonso Smith. The FSLN party leader of Puerto Cabezas, Henry Hermann, publicly opposed the vote of the FSLN delegates from the mines. Apparently, the frustration with Panting's administration became stronger than the fear to support 'Brooklinista'.
8 The main reason for Rivera's final return to the coast is the central government's compromise with their allies (the FSLN) to cut down INDERA's budget and dissolve it sooner or later.
9 This board consisted of Wycliffe Diego (president), Roy Dixon (vice-president), Steadman Fagoth (secretary), Uriel Vanegs (secretary), Vivano Wilson (secretary), Yotham Lopez (secretary), Bobby Holmes (fiscal) and with José Luis Gostas from the Electoral Council as moderator. ❑

Results of the 2/94 elections in the two autonomous areas of Eastern Nicaragua:

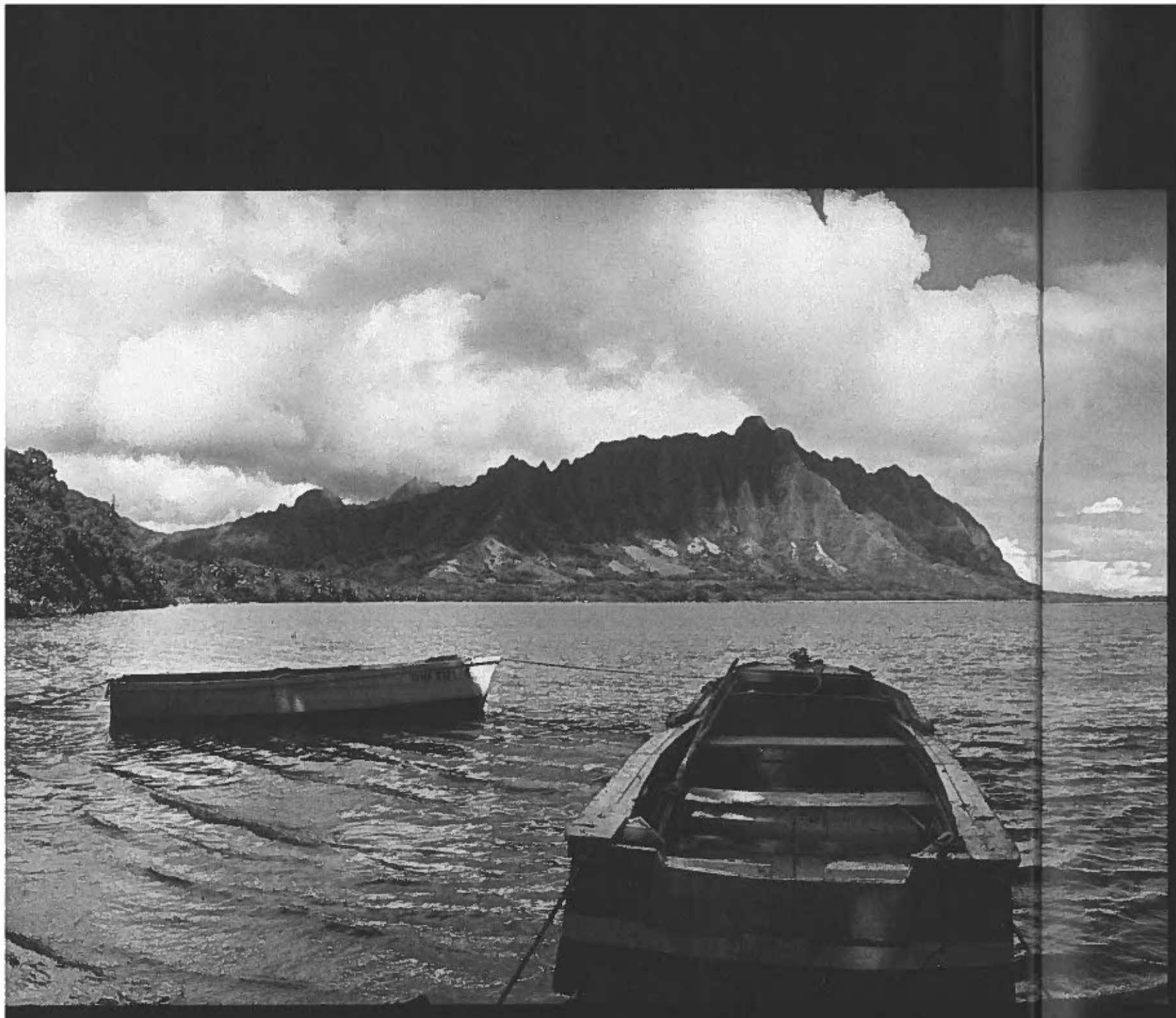
	PLC	FSLN	YATAMA	UNOp	AACM	ADECO	Total
RAAN	19 (42,2%)	19 (42,2%)	7 (15,6%)				45
RAAS	18 (40%)	14 (31,1%)	5 (11,1%)	5 (11,1%)	2	1	45
Total	37 (41,1%)	33 (36,7%)	12 (13,3%)	5 (5,6%)	2	1	90 seats

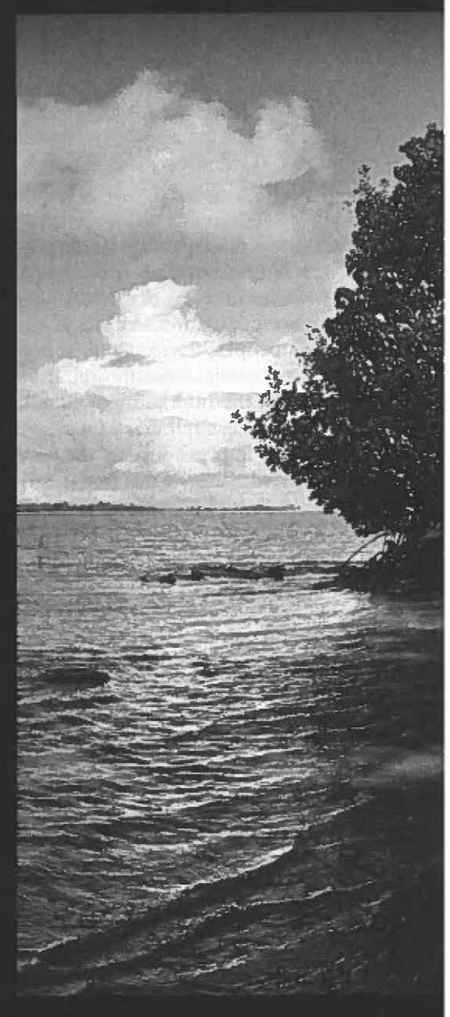
PLC: Liberal Constitutional Party (Miskito in RAAN); FSLN: Sandinista National Liberation Front; YATAMA: Wapti tasba mariska nani sla takanka/ United Sons of Mother Earth - today only the Rivera faction (Miskitu); UNOp: National Union of Opposition (Mestizo); AACM: Authentic Coastal Autonomous Movement (Criollo); ADECO: Coastal Democratic Alliance.

KANAKA MAOLI

the indigenous people of Hawai'i

Photos: Ed Greevy





PARAGUAY:

The Enxet and their struggle to regain their land

by
Stephen W. Kidd

Introduction

Paraguay is one of the least progressive countries in South America in terms of its treatment of its native population. Although the indigenous peoples' legal rights, as outlined in the National Constitution, Convention 169 of the International Labour Organization and a number of national laws, give the impression that they are well-supported, this legal framework would seem to be little more than window dressing since the situation on the ground is quite different.

This article examines the struggle of three indigenous peoples to recover a part of their traditional land. These are the Southern Lengua, Sanapana and Angaite, all of whom refer to themselves as *Enxet*[1]. They occupy part of the western area of Paraguay, known as the Chaco, and number approximately 10,000[2]. My discussion limits itself to an area of the Chaco known as the 'Anglican Zone' in which there are approximately 6,000 Enxet. Of these, 4,000 have been actively involved in claiming back part of their territory.

The colonization of Enxet land

Prior to the invasion of their land, the Enxet economy was based on hunting, gathering and fishing, although they also cultivated small gardens and had a few domestic animals, essentially cattle, sheep and goats. They lived in flexible communities which normally varied in size between twenty and sixty people. For most of the year these groups resided beside the permanent and semi-permanent water supplies, separated by distances of between seven and thirty kilometres.

Throughout the Spanish colonial period, and indeed up to the beginning of the twentieth century, the indigenous peoples of the Paraguayan Chaco managed to maintain their independence. During this time their land was never successfully invaded by the Spaniards or Paraguayans. Whilst this can be partially explained by the perceived lack of valuable natural resources in the Chaco, a significant factor was the possession of the horse by the indigenous nations in closest contact with the Spanish Empire. Whereas elsewhere in America the horse had enabled the European invader to be almost invincible, in the Chaco the *Mbaya, Lengua-Juiagde* and *Enimaga-Cochaboth*, the indigenous Chaco peoples in closest contact with the whites, had adopted it prior to entering into intensive conflict with the Spaniards. Consequently, they were able to neutralize the Europeans' military advantage who found it impossible to penetrate the Chaco and, indeed, the Mbaya expelled them from a large area of Eastern Paraguay.

The Enxet did not come into contact with the whites[3] until the late eighteenth century when they migrated towards the River Paraguay to occupy the space left behind by the equestrian peoples who, decimated by disease, had moved north or had been incorporated into other Chaco peoples[4]. During the nineteenth century the Enxet's *de facto* independence did not come under threat and indeed, their position became decidedly stronger with the defeat of Paraguay in the Triple Alliance War of 1865 to 1870. Contact with Paraguayans was limited to trading on the river as well as the occasional skirmish and theft of cattle.

Despite this, the antecedents of the territorial dispossession of the Enxet stretch back to 1825 when the Paraguayan government issued a decree requiring all citizens to present their land titles. Land without a title was declared fiscal property and the government took advantage of this decree to take 'legal' possession of the Chaco. Of course, at the time this made no practical difference to the situation on the ground.

However, in 1885, with the aim of repaying its foreign debt, the Paraguayan government began to sell off its fiscal land. Within two years, sixty people, mainly foreign speculators, had acquired 115,591 km^2 of the Chaco. Nevertheless, even at this time there was still no white settlement inland from the River Paraguay.

Gradually, some of the new owners, tempted by the economic possibilities of quebracho extraction for tannin production and cattle ranching, began to open up their possessions. Tannin factories were established on the River Paraguay and ranches set up inland, although it was not until the late 1940s that all of the Enxet land was fenced off.

The invasion of Enxet land was not without violence, although this was relatively minor when compared to the genocidal wars perpetrated against the indigenous peoples of the neighbouring Argentinean Chaco. Although the Enxet killed a small number of whites, the invaders found it relatively simple to occupy the Chaco. There were a number of reasons for this. The Enxet were severely weakened by the decimation of their population caused by diseases introduced by the whites; it has been estimated that between 1884 and 1920 the southern Lengua population fell from 8,000 to 2,000. The whites' possession of the repeating rifle gave them a distinct military advantage and this was made clear by a number of massacres committed against innocent Enxet villages, even as late as the 1940s. The colonizers were also helped by the British 'South American Missionary Society' which, from 1888, carried out an active and successful pacification campaign amongst the Enxet.

Present-day land tenure and economic systems

Enxet territory today is dominated by large cattle ranches. In 1981, 98 per cent of the land was held in ranches of over 1,000 hectares, but the reality is that properties of 10,000 hectares are considered small and the largest ranch in the area in 1991 was that of Quebrachales Puerto Colon with over 300,000 hectares[5]. The only exception to this general pattern is to the north of the southern Lengua territory where approximately 11,000 Mennonites are settled on a little over one million hectares.

The ranches practise a system of extremely extensive cattle production. Fenced-in areas are large, often 5,000 to 10,000 hectares, and little is done to improve the economic possibilities of the land. Wild cattle are common in the extensive areas of woodland, and ranching is reduced to essentially a system of 'harvesting' the cattle in the fields. As a result, Enxet territory has, to date, suffered very little environmental damage and is much as it was one hundred years ago with abundant natural fauna and flora. Nevertheless, the situation is beginning to change as woodland areas are increasingly cleared and artificial pasture planted.

The contemporary situation of the Enxet

In terms of residence, the Enxet of the 'Anglican Zone' can be divided into two groups. Approximately 3,500 live on four 'Indian colonies' whilst the remaining 2,500 are spread throughout the ranches. Ranch communities vary in size from individual families to nearly 300 people. However, this gives a somewhat false picture and needs to be examined in more detail.

The colonies comprise a total of 45,000 hectares and are on land purchased by the Anglican Church of Paraguay with funds obtained from various European agencies. Apart from Makthlawaiya, which had been obtained at the end of the last century, the land was obtained in the early 1980s and was rapidly occupied[6]. Such was the demand for land that the colonies are now extremely overpopulated. Although Paraguayan law demands a minimum of 100 hectares for each indigenous family in the Chaco, these colonies have much less available: Makthlawaiya, with 3,739 hectares, has 28 hectares per family; Sombrero Piri with 9,500 hectares has 40; El Estribo with 9,474 hectares has 30; and La Patria with 23,000 hectares has 83. As a result, it is impossible to subsist using traditional economic activities given the lack of available natural resources. The Anglicans have attempted to provide alter-

native forms of subsistence, mainly agricultural projects, but these have all failed. The reasons are various. A major limiting factor is the climate which is extremely marginal for agriculture. Rainfall is very localized and in the pre-colonization period the Enxet had overcome this by cultivating a number of small gardens over a wide area. Nowadays, this is not possible and it is common for the gardens to fail and only an unwise man, or one with a lot of expensive technology, depends on farming. Furthermore, many of the projects contradict the ethical values of the Enxet. For example, successful agriculture demands storage and saving and is in conflict with the Enxet's emphasis on the moral requirement to share. As a result, the Enxet transform the projects in accordance with their own concepts and values, resulting in their subsequent failure[7]. The consequence of the overpopulation is that the majority of people are obliged to spend most of their time working on ranches or in the Mennonite colonies.

In the ranches, the economic situation varies according to the size of the community. In small ranch communities of two or three families, most adult males are employed and hunting, gathering and fishing are relatively minor activities, although they are still practised with relish. In contrast, only a small proportion are employed in the large ranch communities and the majority continue to subsist from their traditional activities. For example, on the ranch of Quebrachales Puerto Colon, out of the approximately 230 families that consider it their home, less than 10 per cent had a family member employed in 1991.

The employment practices of the landowners *vis-à-vis* their Enxet workers leave much to be desired. At present, the statutory minimum wage is the equivalent of US$4.00 per day plus provisions, a woefully inadequate amount. A few ranches pay this, but these are very much a minority. It is not uncommon for the indigenous workers to receive US$1.20 per day, plus a small amount of provisions. On one ranch, the Enxet are paid only once a year at Christmas. During the year they are given food and clothing on credit which, at Christmas, is discounted from their wages so that they only receive between US$40 and US$80 per annum. The practice of giving provisions and clothes on credit is a feature of all ranches. The owners can charge inflated prices and it is normal for indigenous workers, at the end of the month, to receive only US$5.00 cash. Some ranches promise reasonable wages to their indigenous employees but in the end pay nothing as they know that they are not able to obtain legal protection. Women are in an even more precarious position, receiving wages of no consequence at all, and those that work do so only for the small amount of provisions they are given.

Conditions for transient Enxet workers in the Mennonite colonies are little better. Despite internal regulations that require the colonists to pay the equivalent of US$5.50 per day, many pay much less and it is rare for additional provisions to be given. Until recently, many Mennonites followed the illegal practice of paying their indigenous workers with notes of credit which could only be exchanged for goods in the Mennonite cooperative.

Employment practices are also racist in that a non-indigenous employee who does the same job as an indigenous employee is invariably paid more.

It is not surprising, therefore, that most Enxet prefer, if given the chance, to depend on hunting, gathering and fishing. This is reinforced by the fact that they do not regard these activities as work but rather as pleasure. Cash is obtained from the sale of wild honey and skins and, despite the low prices that they receive, it is not difficult to earn more than from employment. A number of landowners, especially of the large 'latifundios', continue to permit the Enxet access to their hunting areas since they realize that this maintains a population of readily available cheap labour. However, it is becoming increasingly common for the Enxet to be denied permission to hunt, and the situation is deteriorating rapidly as the large ranches are sub-divided.

Despite everything that they have suffered as a result of the invasion of their land, the Enxet have clung to their ethnic identity. There have, of course, been profound transformations. For example, to help explain and control the crisis in which they found themselves, they have created and participated in a series of new religious movements. Nevertheless, these were essentially indigenous in character and consisted of the development of syncretic practices incorporating those elements of Christianity that the Enxet considered useful. Their world-view has undergone only minor changes and, in recent years, dances that for decades had been banned by the missionaries are now practised in nearly all the communities of the zone. Their shamans, also objects of the missionaries' scorn and prohibition, nowadays practise openly and are responsible for most health-care in their communities. Their role is especially important given the lack of health services in the zone. Ranch communities are not visited at all by health personnel and, whilst in the colonies the Anglicans provide some kind of service, it is extremely inadequate with visits of only once a month. Nevertheless, it needs to be said that they are under no obligation to provide this service and it is far superior to anything given by the government.

The traditional moral values of Enxet society continue to regulate life in the communities. The personal autonomy of each individual is held dear and any potential negative effects that this could have on the unity of the community are obviated by the counterbalancing emphasis placed on the value of mutual respect. As a consequence, anger, interpreted as an attack on another person, is regarded as one of the worst human failings. Gender relations are characterized by complementarity, and marital violence is extremely rare. Indeed, it is more likely for a woman to beat a man than vice versa. As mentioned above, food sharing is still common and prestige continues to be associated with generosity. Of course, the communities are not lacking in internal conflicts and problems, especially those that have been caused by the situation of exploitation in which they now find themselves. Consequently, in contrast to the image of deculturalized and totally alienated peoples that is generally attributed to Chaco Indians, the Enxet have managed to defend and preserve a great deal of their traditional culture and practices.

Nevertheless, the Enxet have come to realize that to improve their economic conditions and to continue their distinctive way of life, it is essential to legalize

at least part of their traditional territory. Before describing how they have gone about this, the following section locates their land claims in their contemporary legal context.

Indigenous land rights in Paraguay

The legal framework supporting indigenous land claims in Paraguay is impressive. Commencing with the National Constitution of 1992, there would seem to be little legal impediment to a resolution of the indigenous peoples' land problems. They are recognized as 'peoples' and Article 64 of the Constitution stipulates that: »the indigenous peoples have the right to land held as communal property, of sufficient size and quality for the conservation and development of their own characteristic ways of living«. The State must provide the land free of cost.

Paraguay, in 1993, also ratified Convention 169 of the International Labour Organization in which Article 14 strengthens the rights of the indigenous peoples to land that they have traditionally occupied. Through a careful choice of words, the property rights of the indigenous peoples are *recognised*. By using this term rather than *grant*, »any implication that the State had a prior or overriding property right enabling it to dispose of tribal lands to whomever it chooses« is avoided (Bennett 1978: 32). Consequently, Paraguay's ratification of the Convention implies that its right to Enxet land, established through the decree of 1825, is illegitimate and that the State's subsequent sale of the land was invalid.

The law regularizing indigenous rights is the »Statute of the Indigenous Communities« (Law 904/81), promulgated in 1981. At the time it was potentially unconstitutional since the then Constitution did not recognise the existence of the indigenous peoples. Article 1 of the law guarantees land to indigenous communities and Article 14 specifies that the settlement should be on land either presently or traditionally possessed by the indigenous peoples. The land title is to be communal (Article 20) and to be calculated on the basis of a minimum of 100 hectares per family (Article 18). The procedures by which indigenous peoples should go about legalizing their land are also explained.

These procedures were strengthened by law 43 of 1989 which permits indigenous communities to obtain judicial orders prohibiting any innovations on land they are requesting or on which they are settled – for example, forest clearing and the planting of artificial pasture – and makes it obligatory to inform potential buyers that the land is in dispute.

With this formidable array of legislation, resolving indigenous land requests would seem a relatively simple matter. However, the reality is quite different.

The Enxet land claims

The first indication that the Enxet wanted to settle on their own land came in the mid-1970s. They approached the Anglican church to ask for their support in obtaining land, and the strategy that the Anglicans decided to follow was that of purchasing it. This lead to the buying of Sombrero Piri. With the promulgation of Law 904/81 a debate opened in Paraguay amongst the non-governmental organizations supporting the indigenous peoples, about whether they should continue with land purchases or if they should attempt a concerted effort to persuade the government to fulfil its legal obligations. In 1982, with the aim of testing the law, the Anglicans put in three requests to the government on behalf of the Enxet. Unfortunately, they failed to follow them up and instead continued with their programme of land purchase obtaining both La Patria and El Estribo.

Whilst the purchase of land may have seemed essential at the time given the difficult situation of the Enxet on the ranches, it can now be seen that it had some very damaging effects. The most serious is the generalized perception that the land problem for the 'colony Indians' has been resolved. The reality of the situation is quite different and, as mentioned above, the small areas of land available on the colonies is nowhere near the minimum amount stipulated by Law 904/81, never mind the Constitution. The only people who benefit from the perpetuation of the myth of adequate land are those who have no interest in the Enxet recovering their traditional territory.

It was only in 1988 that the Enxet decided to take legal action to ensure the implementation of their territorial rights. Since then, forty communities have requested from the government the legalization of at least 160,000 hectares. This includes both ranch communities and the colonies of Makthlawaiya and El Estribo which have claimed extensions. To put the Enxet claims in perspective, it needs to be borne in mind that they do not constitute even 8 per cent of the Anglican Zone.

All the areas claimed are in private hands, but the proportion of land claimed from any particular property varies considerably. In some, the Enxet are trying to legalize a small part of a large ranch. For example, they are claiming a minimum of 60,000 hectares from Quebrachales Puerto Colon[8], a ranch of over 300,000 hectares in 1991; they want 34,000 hectares from the Salazar ranch of nearly 100,000 hectares[9]; and 15,000 hectares from the Loma Pora ranch of 61,000 hectares[10]. In other cases the

Enxet are requesting whole ranches, such as that of Siete Horizontes with 18,000 hectares[11]. However, in no case could the claims be regarded as unjust. If the Enxet were to obtain the areas they require from the large ranches, the owners would still be left with massive properties and the compensation that they would receive could be used for improving productivity. Also, all the owners of the smaller properties are willing to sell them commercially and, at the moment, their interest is in receiving as high a compensation as possible. The problem is to persuade them to accept a compensation that is reasonable. Furthermore, many landowners possess more than one ranch.

The areas of land claimed are still relatively unspoilt and provide a great opportunity for the government to remove a large area of the Chaco from commercial exploitation and preserve its natural resources. This would be an important step towards protecting an important ecological zone before it is too late.

Parallel to their land claims, the colonies have also been attempting to obtain their property titles from the Anglican church. To date, two colonies have been successful with Makthlawaiya receiving its title in 1991 and El Estribo in 1992.

The development of a political discourse amongst the Enxet

The discourse used by the Enxet to promote their land claims is undergoing a process of development. It should be remembered that these people have had to pass through a destabilizing crisis and only in the last three years have they started to relate directly to government institutions. Previously the missionaries functioned as intermediaries, and the Enxet are presently undergoing an accelerated learning process, not made any easier by the fact that the vast majority are illiterate. Indeed, they have only recently become aware that they have certain rights. Furthermore, their traditional concepts of land tenure were quite different to those of Western society, and do not seem to have involved the right of exclusion. Consequently, obtaining an understanding of Western concepts of land ownership has been a necessary preliminary step to an awareness and assertion of their own rights. This has not occurred rapidly.

One key aspect of the evolving Enxet political discourse is the assertion that the Chaco used to be an area free of whites and they emphasize that there were only Enxet in Enxet territory. A good example can be found in a book written in his native language by an Enxet, Felix Bogado (1991: 13):

A long time ago there were no Paraguayans nor English. Then, for the first time, the Enxet saw Paraguayans in their homeland of Concepcion. At this time the words of the Paraguayans were very weak and they were extremely poor. The Paraguayans did not enter the Chaco as there were so few of them and it was the Enxet who travelled to the other side of the River Paraguay.

At other points in his work, Bogado stresses how well-off the Enxet were before the arrival of the whites (pp. 22f) and links the crisis they suffered to the colonization of the Chaco by the Paraguayans (pp. 29f).

Whilst much of Bogado's account is historically true, among the Enxet as a whole there is a movement whereby history is being reinvented and transformed into myth. This is most clearly observed in other indigenous peoples' accounts of battles between Paraguayans and the Enxet. One example tells how a large number of Paraguayan soldiers entered the Chaco. On seeing them, the shamans sent wasps to attack them and succeeded in chasing them away. However, they returned once again and this time the shamans used their supernatural powers to give the soldiers a severe cramp so that they all fell to the ground. The Enxet were then able to walk up to the soldiers and spear each of them. One soldier was spared and, after having his ear cut off, was sent home with the warning that his people were never to enter the Chaco again.

There is no historical evidence of battles between Paraguayans and Enxet on this scale. What is happening is that myths are being created which deal with the present-day situation. They are giving two clear messages: that the Chaco belongs to the Enxet and that it is necessary for them to defend their territorial rights.

In December 1993, the discourse employed became much more explicit. One hundred Enxet came to Asuncion to demand their rights, dancing all night in front of the Parliament building. A historic event occurred in that one of the leaders was allowed to address the full chamber of the House of Deputies. His message was clear and was delivered, in his own language, with an emotion rarely seen amongst the Enxet. In summary he said:

The Chaco is ours and we know this because of the stories told to us by our grandfathers. It is as if the Paraguayans stole the land from us. Our culture is now in danger as are the trees, the animals, the fish and the plants. We need the land to survive and we are the best people to take care of it.

It was indicative of the way that they Enxet are learning to express themselves so that their discourse becomes more easily understood by the whites.

The government's response

To date, the response of the government to the Enxet's claims has been minimal, and no land has been handed over. According to the Law 904, two government departments are responsible for the handling of indigenous land claims: the »Instituto Paraguayo del Indigena« (INDI) and the »Instituto de Bienestar Rural« (IBR). The law stipulates the tasks that both departments need to carry out along with the respective time limits. Neither institution has adequately fulfilled their responsibilities, and have only acted when pushed to do so by the indigenous peoples or their representatives. There are various reasons for this. One is a basic lack of interest since, despite the excessively large numbers of

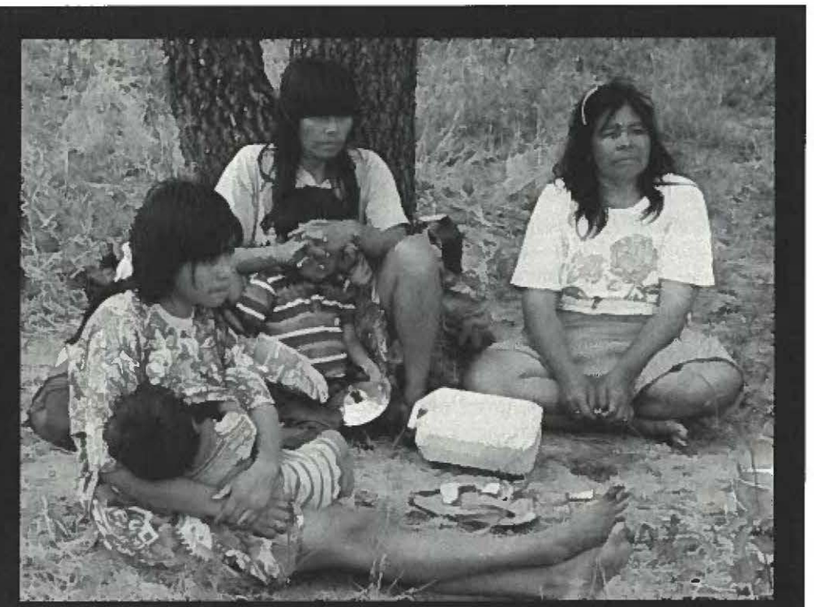


Photo: Stephen Kidd.

personnel, very few are committed to their work. However, there is also a severe problem of underfunding.

Funding available for compensating 'landowners' is almost non-existent. INDI's budget for land acquisition is insignificant and would not even cover the compensation required by one of the smaller Enxet claims. Indeed, in 1993 its total budget only just paid the wages of its employees. When the competition from land claims elsewhere in the country is taken into account, the financial resources appear even more minuscule. It means that many opportunities are lost. For example, in mid-1993, one landowner expressed his willingness to return 10,000 hectares of his land to the Enxet. Despite a verbal promise from the Finance Minister that his Ministry would provide the necessary funding, it was not forthcoming and this land is now in danger of being sold off commercially.

Many members of government are themselves large landowners, and it must be questioned whether they have the political will to resolve the indigenous land problem.

The landowners' response

Although the government has remained inactive, this has not been the case with the landowners who, nationwide, are joined together in a powerful lobbying group, the 'Asociacion Rural'. There are indications of a concerted campaign by the landowners to deny the Enxet their land. In 1992, the Chaco section of the Asociacion Rural published a document warning its members about the indigenous peoples' claims. It suggested that the situation of the Enxet was not as bad as often made out saying:

The Indians have never been forgotten. They have never been pushed or mistreated in any way more than the rest of us living in the Chaco.

This is an interesting assertion given that one of the authors, Robert Eaton, a North American, arrived in the Chaco in the 1920s as a mere foreman and came to own over 100,000 hectares. He presently pays his approximately forty indigenous workers less than half the minimum wage.

The document then goes on to deal with the Enxet's territorial claims, pointing out:

Up to now we are not talking about invasions and expropriations. There are certain pressures and vague threats that leave the owners a little unsettled. In each of the cases cited a programme of anti-progress is being dealt with which aims to destroy everything that the daring pioneers conquered in the Chaco.

The document concludes:

Nobody must, nor can, stop the progress of the Chaco and of Paraguay in general.

It is also known that in January 1994 there was a meeting of the Asociacion Rural to deal with the question of the Enxet's land claims.

In the last two years the Enxet on the ranches have, in a variety of ways, come under increasing pressure. Some ranches, especially Quebrachales Puerto Colon, have taken advantage of the government's inadequate response to sell off much of the land requested by the Enxet. They did this after insisting, in November 1991, in a letter to the IBR, that:

The company makes known its desire to find a solution to the [indigenous peoples'] request which satisfies both parties without harming either of them.

This would seem to have been a tactic to win time since, in December of the same year, they began selling off part of the land claimed by the Enxet and, by April

1993, the 300,000 hectares of Quebrachales Puerto Colon had been reduced to 152,000. Unfortunately, despite repeated requests, Law 43 was not invoked by either the Enxet's lawyer or the government until it was too late. As a result the Enxet have been forced to change their lawyer to someone more committed who will look after their interests more effectively. The difficulty with the sub-divided properties is that negotiations and future expropriations are made more complicated.

In a similar vein, some landowners are attempting to clear the forests that have been requested or are rapidly investing in minor improvements so that they can give the impression that the land is rationally exploited and thus make it more difficult to expropriate.

Direct pressure has also been put on the communities and the evident aim of the ranch-owners is to empty their properties of all Enxet without jobs. Some have used direct methods, ordering the indigenous peoples to abandon their homes, and two owners have even gone so far as to burn down the Enxet houses. One leader received a death threat whilst another was physically assaulted, although the police never arrested the attacker. However, most landowners have used more subtle methods, attempting to persuade the Enxet to leave through hunger. The exact method varies between ranches but includes: banning them from keeping their donkeys and horses near their houses and putting them in extremely large fields where they are easily lost; forcing one community to sell or kill all its pigs; not protecting the Enxet gardens from the cattle, and in one case pulling down a fence put up by an Enxet and sending cattle in to eat all the plants; banning hunting; killing their hunting dogs; and forbidding travelling merchants from reaching the indigenous communities, forcing some to travel over fifty kilometres to sell their goods and buy provisions.

Some Enxet have succumbed to the pressures, moving to the existing colonies to try and obtain some tranquillity. However, the vast majority are still hanging on, and whilst they admit that they cannot do so indefinitely, at the same time they confess to not knowing where they could go.

The North's interest in the Chaco

Since the overthrow of Stroessner in 1989, the developed countries of the North have begun to show an increasing interest in the Chaco, and a growing willingness to finance development projects. At present, there are two major projects that impinge on the Enxet. Since 1990, the Japanese government has been carrying out a study of the Department of Presidente Hayes, part of which is Enxet territory, and a proposal has been presented to the Japanese government for a project of over US$600 million. This is an amazing sum and indeed, at current prices, is sufficient to buy Presidente Hayes nearly three times over. The project is remarkable for the lack of attention that it pays to the Enxet and if it went ahead it would increase land prices to such an extent that it would be impossible for them to obtain land. A large number of Enxet leaders have already made public their aim to oppose this project if the land they claim is not secured beforehand.

The second project is being prepared by the European Community and its aim is the »sustainable development of the Paraguayan Chaco, the protection of the habitat of the indigenous peoples and of the environment«. The proposed budget is ECU18.2 million and clearly has laudable intentions. However, the involvement of local experts in its formulation has been minimal and, consequently, many of its proposals are defective and potentially damaging to the indigenous population.

Conclusion

Now is the moment to resolve the land needs of the Enxet. For over a century their worrying situation has been ignored and their rights have been violated. The land prices in the Chaco have begun to rise steeply and if action is not taken immediately it will soon be too late. The existence of these proposed projects is evidence that there is a lot of interest in investing in the Chaco. What is required is the political will to resolve the question. Continuing inaction will have two obvious results: the Enxet will come under increasing pressure and their cultures will eventually disappear whilst, on the other hand, yet another intact natural environment will fall victim to Man's voracious appetite. It is to be hoped that the governments, both Paraguayan and others, make the right choices.

References:

1 These three peoples belong to the Maskoy linguistic group along with the Northern Lengua, Guana and Toba-Maskoy peoples who all refer to themselves as either Enxet or Enenxet.
2 This number is inferred from data in the Indian census of 1981 (INDI 1982).
3 The term »whites« is used to refer to all non-indigenous, including the Paraguayan mestizo population.
4 The Lengua-Juiagde were incorporated into the Enxet and it is for this reason that one of the Enxet peoples is called Lengua.
5 In the Chaco, 59 percent of the land is held in properties of more than 10,000 hectares, whilst a further 33 percent is in properties of between 1,000 and 10,000 hectares. It also needs to be taken into account that many individuals own a number of properties.
6 The South American Missionary Society used to possess another 18,000 hectares which was to be held in trust for the Enxet. Unfortunately, around 1960 they sold it all off.
7 Of course, this does not mean that the Enxet believe they failed. From their perspective many of the failed projects were great successes since they provided a large number of goods which could be disposed of immediately.
8 These are the areas known as: Lamenxay, Kaylyephapopyet, Maskeweyke, Xakmasegkenmex, and Xakmapoma.
9 These are the areas known as: Mopey Sensap and Pañuelo.
10 This is the area known as Sawhoyamaxa.
11 This is the area known as Yan Ekyaha.

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books received

Towards an International Indigenous Arctic Policy

(Arctic Leaders' Summit) with an English-Russian Conference Dictionary

by Mads Fægteborg

is a contribution to the process of collaboration between the Arctic Indigenous Peoples which was formalized at the First Arctic Leaders'Summit, which took place in June 1991 in Denmark. The process was continued by the Second Arctic Leaders' Summit in November 1993 in Sweden. The English-Russian dictionary contains more than 500 entries that deal with notions, abreviations and organizations related to the contemporary International Arctic agenda.

Artic Information's Forlag

Indigenous Peoples between Human Rights and Environmental Protection - based on an empirical study of Greenland

The Danish Centre for Human Rights, 1994. 172pp.

by Elaine Ward

Wise use of natural resources are key-words for most Indigenous peoples. However, in their urge to protect wildlife many environmental and wildlife protection groups have overlooked this and led campaigns which demand a no use policy. This book examines the use and the wise use policy from a legal perspective. The author discusses the treatment of indigenous rights in international and environmental law. The case of Greenland is used as an example in a final chapter.

"...NEVER DRINK FROM THE SAME CUP"

Proceedings of the conference on Indigenous Peoples in Africa, Tune, Denmark. June 1-3, 1993

editors:
Hanne Veber - Jens Dahl - Fiona Wilson - Espen Wæhle

IWGIA Document 74

Indigenous Youth in Geneva

by Katja Kvaale

"The children are the leaders of tomorrow, so please help us to obtain a voice in the United Nations while we are young and clear hearted, so we can some day take your position with a much stronger foundation«. These were the closing words of Sleepy Eye la Fromboise, a young Native American Sioux/SENECA. He gave his statement at the 11th session of the Working Group on Indigenous Peoples in Geneva supported by delegates of the Second World Indigenous Youth Conference. The latter represent more than 2000 indigenous youth from several hundred indigenous nations around the world. Having held two world conferences and planning a third in Quito, Ecuador, they are at present building up a worldwide network of indigenous youth. Generally the statements of the indigenous youth create a very positive atmosphere at the UN and the youth had the full attention of and support from the Working Group. 'Claiming our Future', the motto of the Second World Indigenous Youth Conference held in 1993 in Darwin, Australia, emphasises that active and conscious participation by indigenous youth is, or should be, the backbone of the indigenous struggle.

IWGIA talked to six young indigenous people in Geneva. Four of them, Nancy Youwe, Jørgen Wæver Johansen, Lorena Allem and Aron Ross represented the Second World Indigenous Youth Conference, and Fernando Tije and Sharon Anderson are students who were observing and participating in the WGIP session. They came from five different corners of the world and have very different backgrounds. Nevertheless they agree that they have much in common and believe it is fruitful to meet other indigenous youth. First, IWGIA talked with the representatives of the Second World Indigenous Youth Conference.

Nancy: I am a West Papuan living in the Netherlands. In the Netherlands there are about a thousand Papuans living as indigenous peoples in exile, and since our people living in West Papua can't represent themselves at international conferences, we have to do it for them. For us it's very hard to actually talk about them *and* ourselves because our situations are so different. We are trying to represent them as much as possible. Communication lines are very poor due to the fact that West Papua has been incorporated in the Republic of Indonesia since the 1960s. Moreover, they don't have the right to live their lives the way they want to, on a economic, cultural or social level. They are considered second rate citizens and they cannot exercise their own indigenous culture. In all this, the Papuan youth have a very fragile position and for them it's not possible to get out of the country. So what we are trying to do is be a mouth-piece for them.

Lorena: I'm from the northwest of New South Wales in Australia and I come for my grandmother's people. Where I come from, young Aboriginal people are very marginalized. The communities are very small and isolated and there is not much for them to do. They get TV and everything else and they can see so many things, but they can't have them. They can't afford it. A lot of young people end up leaving the communities to go to the main cities to work. Not very many make it through high school. A lot of kids drink, a lot of kids are into substance abuse just through sheer boredom and basically through being dispossessed and not having anything to really belong to. The consequences of that feeling of dispossession are that we are being incarcerated at a disproportionately higher rate than any other group in Australia. Young Aboriginal people are more likely to die in custody than any other group of people in Australia. Young Aboriginal men are more likely to be institutionalized by the time they are 18 than any other group in Australia. So the statistics are pretty grim. That's the bad picture. The good picture is that there is, I think, a growing awareness of our worth as young people. Things like the conference that we just held are really to show us that we are good, that we have something worthwhile to contribute. I think that raising self-esteem through cultural revival, through positive affirmation of your identity and through things like the conference are really what the future holds for our young people.

Jørgen : I'm from Greenland. In Greenland our case is a little unique. We're probably in a very different situation from most other indigenous people because we have self-government and have had it now for 14 years. What is sad to see, though, is that the whole process of self-government came out of a youth movement in the early 1970s, and that momentum seems to have been lost. I feel that today Greenlandic youth are not as involved in the decision-making processes as they ought to be. That is really what we are trying to establish, both on a national and an international level. Youth, indigenous youth, who basically represent a majority of indigenous people, should be involved in decision-making processes. Another issue is that most indigenous peoples have more or less lost aspects of their culture. Conferences like the one we have just held are not only a revelation for your own culture but it is also a great place to exchange ideas and learn from other cultures. I think this is extremely important; especially when you're a minority group as many indigenous peoples are.

Aron: My people come from the Northeast of Australia. Youth in Australia are in a particular position where our older people are dying very early and very quickly. There is a very deep need for the youth to get involved in our struggle and our community development immediately.

Do you generally experience a growing awareness of being indigenous amongst yourselves as youth; a sort of revival of your cultures?

Lorena: For my part anyway, I wouldn't call it a revival. I can't speak for anyone else, but I grew up knowing and being proud of my heritage. So it's not really a revival, it's an opportunity to express our pride and dignity.

Aron: A lot of Aboriginal people do grow up being very aware of who they are, but what is becoming very strong in Australia is the practice of cultural genocide, of taking children away from their parents and indoctrinating them and basically wiping out their identity. There's a very rapidly growing movement of people reclaiming who they are and going back through adoption records; there are amazing stories of tracing through all these different things to find their families. And I think that in some ways that's positive because Aboriginal culture and Aboriginal people are getting much more visible in our country. It may not always be portrayed in the best way, but at least Aboriginal people are seeing other Aboriginal people and hearing Aboriginal people through different forms of communication.

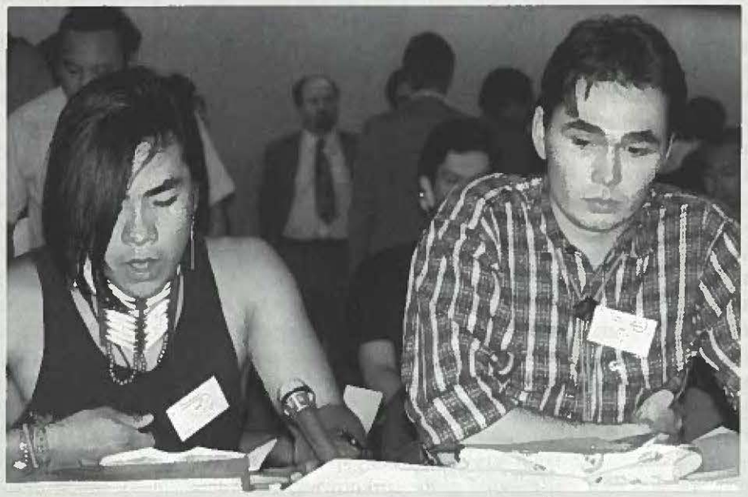
Nancy: It's been forbidden for West Papuans to call themselves Papuans, to speak their own language and to basically celebrate their own culture. So in order to exercise their indigenous culture there has been a very strong resistance towards government policies, and the youth are trying to get involved in this too. It is hard because they are very marginalized, even more so than the elders. On the coast, the repression has been particularly harsh because the peoples there have always been very stubborn about trying to maintain their culture. They are a lot of killings by the military, so it's a tough situation.

Jørgen: From our perspective it **is** in some ways a revival of our culture. During the 1960s and 1970s Greenland was very much influenced by the so-called assimilation policies of G60, and in that sense we've been westernized a lot. It's not that we have lost our culture or anything; it has always been there and it will always continue to be there, but I think fora like this and increased awareness will contribute to the reinforcement and strengthening of this beautiful cultural heritage that we have. And this is necessary.

The idea of a world indigenous youth conference arose in the early 1990s and gathered momentum at the Earth Summit in Rio in 1992 among the indigenous youth assembled outside the government's conference room. As a result, Cree youth hosted the first conference in Quebec that same year. Two conferences later, a network has emerged and the indigenous youth are making considerable headway.

Lorena: Having been at the first Conference and then organized the second one,

what I've noticed happening is that young people are becoming a lot more organized, learning how to participate in international fora, and how to actually stand up and say what they feel. I think what's really interesting about both conferences is that at some point there's always somebody who brings us all together. What we are seeing happening is that young leaders are being identified. So on a spiritual level it's like a real connection, a real meeting of the minds, and on a political level it's watching all these young people learning how to become articulate and how to express what they feel about their struggles and how they want to progress. At the conference in Darwin this year (1993), in the morning we had indigenous leaders followed by indigenous youth addressing the same issues, such as indigenous peoples' rights, landrights, culture and education, and the environment. Then in the afternoon we'd break off into workshops. That was the basic structure. There were some really beautiful moments in the forum: people singing and dancing and sharing things, really opening themselves up to each other. That's our way, too; when we get together these things happen. But I think the most important part of any conference is what happens on the periphery and not actually in the forum. You know, you would be sitting down watching some young people, one from India, one from West Papua, one from the Cree Nation, sitting around sharing a joke, laughing, exchanging phone numbers. They're the important things that happened, sharing on a very personal level.



Left: Sleepy Eye la Fromboise, Sioux/SENECA, giving his statement at the WGIP. Right: Jørgen Waver Johansen
Photo: Katja Kvaale

Jørgen, you said in your statement at the WGIP, that the Second World Indigenous Youth Conference represented 2000 indigenous youths from several hundred indigenous nations. Were some continents or regions more represented than others?

Jørgen: It is obvious, and from my point of view appropriate, that the country hosting the conference should have more representatives than other delegations. I understand that there are more than 500 different indigenous nations with their own cultures within Australia, so people from Australia are not one homogenous unit. I think it's really positive that so many different indigenous nations were represented.

Nancy: I do think equal representation is a real problem because in any continent indigenous nations aren't a homogenous group; you have loads and loads of different indigenous groups. What I personally found a big problem was that Africa and Asia were definitely under-represented. Two thirds of indigenous peoples actually live in Asia, but there was only a maximum of maybe ten delegates from Asia at the Second Conference. I think it's our responsibility to address this and make sure that next time or in the future we work to get equal representation.

Lorena: We were all aware that there are nations around the world who aren't recognized in their colonized states as indigenous peoples, even though we know who they are. So first of all it's really difficult to make contact. Secondly, to get them out of their countries safely and then get them to the Conference is difficult and I agree that it's something that we need to address in coming years. I think what we've done with the first two conferences is establish a meeting that is now known on the world stage as a forum for indigenous youth. So perhaps from now on it will be less difficult to get in contact with these people and help them get to the Conferences. We have to understand that there are people from north Burma and Thailand, who are in very remote and very unsafe areas. As young people we are learning how to contact everybody to bring them all together. So I wouldn't consider it a problem at this point, but I certainly do recognize it is something we need to work on in the future. Representation in any forum is always a difficult thing to achieve. You don't always get what you want. You might want all these people together, but it may not always happen.

During the 11th Session of the WGIP, the multilingual meetings seemed to be biased in favour of the English-speaking delegates. By planning the third World Indigenous Youth Conference in Quito, Ecuador, the indigenous youth hope to overcome this problem.

Lorena: One thing that was raised at the last forum was that the main languages we were using, English, Spanish and French, are not our languages. They are the languages of the colonizers. I think what we might see in the future is perhaps greater opportunities for people to speak their own languages. But we can't avoid having to deal with English, Spanish and French, otherwise it is difficult to communicate with people on a verbal level. But in other ways it's not so difficult at all because we do have some very obvious things in common around the world in spite of our political differences.

Jørgen: I think what we saw at this conference was that there really was a unity among the indigenous youth, despite languages. So I don't see language as being a barrier to co-operation between indigenous youth.

The WGIP and the indigenous delegates debated the technicalities of the term 'self-determination' for more than a week. However, zooming in on the concept of self-determination during this interview revealed some aspects that cannot be put into the Declaration. They are aspects which happen on a personal level prior to any political or juridical discussions.

Aron: Inextricably linked to self-determination is indigenous peoples' mandate as a sovereign people and as indigenous peoples. I think what young people are looking at now, and what I would encourage them to look at, is that to be indigenous is not only a birthright but it's a way of living, a way of relating and thinking. Indigenous peoples really **do** have to look at in what ways we have been colonized by western values, by whatever values, and to analyse them. A key aspect of self-determination is acting and living it at whatever levels and stages different people are at. Not to do this is, even if only in a small or symbolic way, is to acknowledge that governments and states are our controllers. This may not always be clear but it's an underlying thing. Along with the whole concept of **living** your sovereignty, is that very key aspect of participation. Regardless of where you are, you have to be comfortable with yourself. You have to believe in your whereabouts, believe that you can rise up and participate. I think that for too long people have sat back and expected a small group of people to do things, maybe because that's been the status quo, or because it's easier, or because they are not confident that our peoples will survive. I think that as young people, we have to get involved.

Sharon Anderson and Fernando Tijé.
Photo: Katja Kvaale

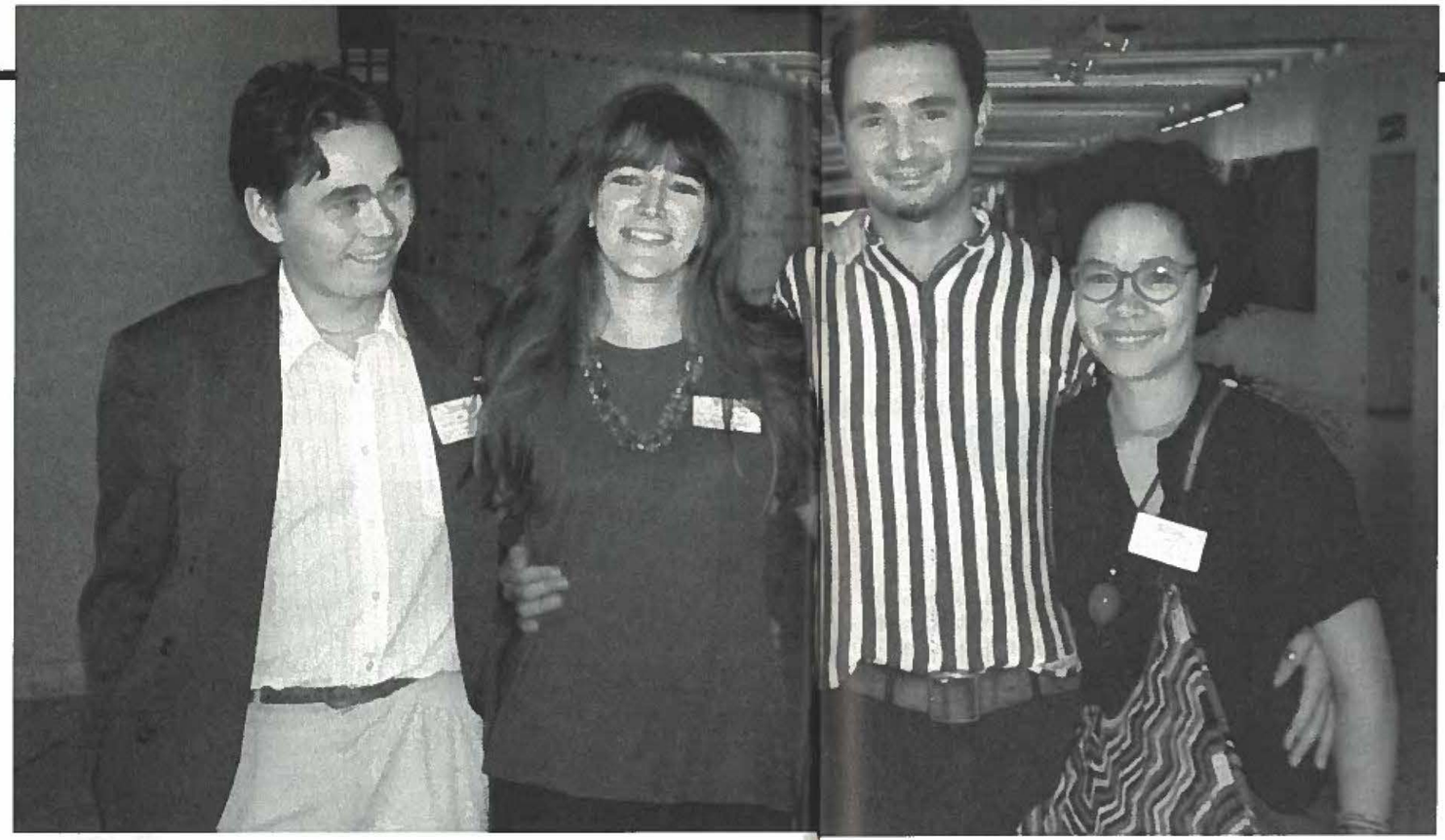
Lorena: Self-determination has to happen on a personal level as well. It's about decolonizing the way you think about who you are, and what your identity is and how you would like your society. So I think self-determination says it all: **self**-determination. As a person you have to think about all the things that Aron just mentioned; **then** on a local, then on a national level and then on a international level, you discuss those things. To me, self-determination is not something you can ask the UN or your government to give you. It's a way of living; it's how you act. In itself it is a positive expression. It's organizing ourselves and promoting the issues that are important. It's an initiative and I think that is what leaders and elders really need to see from the youth. It is self-starting people that say 'Alright, I've had enough of this and I'm gonna do something about it and this is what I'm gonna do'. I think initiatives like the World Indigenous Youth Conference are examples of young people saying that they are ready to take on their struggles and to actually mend the holes in their nets, so to speak, and to take it over eventually.

If you could say something to the indigenous youth in the world who you haven't had contact with yet, what would it be?

Nancy: Well, in the case of Asia, I see a lot of indigenous peoples who are very isolated and don't know much about what is happening in other parts of their continent. I think it is very important for them to know, be it through conferences or just reading up that they're not alone in their struggle. Indigenous peoples all over the world are struggling and it is very empowering to see that we are sitting in the same boat. In the case of West Papua, one of our sisters came along to the first Indigenous Asian Women's Conference and what she saw and heard there was really amazing to her. She brought back a lot of good new things to her sisters in West Papua. An important thing for her is to have a network in that region, so that they actually can start up and think about ways of getting together and sharing information. That's very important, stepping out of that isolated position a lot of indigenous peoples are still in.

Lorena: There is now a network of indigenous youth who know their stories and who are aware that, in order to really achieve what we want, we have to take our struggles out and make them global, and get together on an international level to make real changes. Even though these people aren't with us, they **are** with us, because we are taking on the responsibility to make sure that indigenous youth is represented.

The Third Indigenous Youth Conference is to be held in Ecuador. For information contact:
Prof. Felipe Tsenkush Chamik
President, Federación de Centros Shuar-Achuar
Sucúa, Domingo Comin 17-38, Ecuador.



Left to right: Jørgen Wæver Johansen, Lorena Allem, Aron Ross and Nancy Youwe in the UN. Photo: Katja Kvaale

Sharon Anderson and Fernando Tije are students, invited to the WGIP session through an IWGIA research project. Before going back to their respective communities in Alaska and Peru after two weeks in Geneva, Sharon and Fernando met to talk about safeguarding culture, language, education and identity.

Fernando: I am here as a student and delegate of the Association of Indigenous Students of Madre de Dios, Peru (ADEIMAD). I am here to learn about the problems at the community level as well as the national and international levels. I am studying law at the University of San Martin de Porres, and I would like to hear about ways of thinking about political questions in the western world as well as in South America. I have also some experiences to share from the creation of my Native Community.

I come from a group, the Arasaeri, which is very small. We are only 60 people, but the majority of us have some kind of education. Some have nearly finished secondary school and others are in institutes or universities either in Madre de Dios or in Lima. They are all engaged in safeguarding our culture; valuing traditions, myths and songs. This is how we are revaluing our culture, working together and through the Federation of Native Peoples of the Madre de Dios (FENAMAD). We are planning to carry out some activities for the benefit of our people.

We ADEIMAD students have a council in Lima and for a year we have been working on a project concerning the revaluation of our culture. Once a year we travel to our respective communities in order to implement cultural activities. We also join a community assembly, where the culture is valued with full participation of the elders. From them we get valuable information about the culture, but the whole community is promoted during the process. The most important activity we are planning is to present our knowledge through writing. We wish to write our culture down in order to keep this material for study. In times to come, this will serve us as the basis for re-examining aspects of our culture. This is important to us because we are not like other more numerous peoples in Madre de Dios; we are very few people indeed. And this is why we are looking for projects to reinforce our culture. The young ones want to participate fully in this by supporting FENAMAD. We students are engaged in this from our base in Lima; it is an ongoing process. I think that we should take the opportunity to exchange ideas and experiences with other indigenous cultures outside our reality; it could be with Sharon and her people. I hope that in the future Sharon can come and get to know my people and my culture, and I can go and visit hers. I would like to ask Sharon about her experiences from her community and her people. What does she feel about studying at university; why does she want to study?

Sharon: I come from Ouzinkie, a community on Kodiak Island, and I am an Aleutic. My community has about 200 people in it. The main industry is fisheries. We are fairly modern for being a native village. Our electricity comes from a small hydro project, we have three miles of road on the island, we have a dump truck, an ambulance and a VPSO, which is our policeman. But there is need for more economic development in the community. Just a small business or some kind of small industry to supplement the fishing income that's made mostly in the summertime. For a large part of the year most of the people are unemployed, and some of the men go and do logging.

I am a business student at the University of Alaska. My degree is called rural development, and it is small business management. It is designed especially for students who want to work in native or other small communities and develop the economic resources. That's what I'd like to do but if I go back to my community right now, after I get my degree, there's not going to be a job for me. I would have to take over someone else's job, or I would have to create my own, or someone would have to create a job for me. So realistically, I probably won't work in my community in the next five years. My sister was the second person to get a bachelor's degree out of Ouzinkie but she's not living there although she would like to work in the region.

How many Aleutic people are there?

In 1971 there were around 3000 so I imagine by now it's 5000 or 6000. They are all on Kodiak Island. There are Aleutic people on the mainland across from Kodiak, and also the people of the Kenai Peninsula are Aleutic but we don't really consider them Aleutic. When we give numbers or say who is Aleutic, we don't really include them. But they are the same people.

Fernando: I would like to know Sharon's opinions about regaining her culture and valuing her culture. I don't know about your plans and ideas, and your reality, and how your customs are actually practised. I don't know but I would like to.

Sharon: We've been acculturated, assimilated very well into the American culture. The Russians were the ones that 'discovered' us 250 years ago. They really didn't bother with us, with our culture. We could speak our language, we could practice our culture to whatever degree we could. Aleutic people were pretty much slaves; they cut forest for the Russians but the Russians never really affected the culture. Alaska was sold from the Russians to the United States in 1867. It was the Americans who came, made everyone speak English, moved everyone into a house so the culture was lost.

Completely lost?

Sharon: Well, very close. People say they are Aleut but they are really Aleutic because Aleut are a different people. What I did, and many people do, is to identify my culture with the religion, Russian Orthodoxy, which is not a traditional part of my culture. But that is how people identify themselves – through the Church. I don't speak my language. I've never seen a real Aleutic traditional dress, pre-Russian, pre-American or even post-Russian. I haven't seen anyone wearing fur items or headgear. And they used to have beautiful painted headgear with sealion whiskers – sealions are now very endangered. But I've never seen anything like that. Kodiak Island is surrounded by water but I've never seen anyone in my time, or even my father said he'd never seen anyone, in a kayak, one-man, two-man or the Russian three-man kayak. There's nothing; there's no language, there's no traditional ceremonies or dancing or anything like that I have ever witnessed. There is some storytelling, but I have no idea really what the stories mean. So it is very hard for me when people ask me, 'what are you', and I say 'Aleutic!'. I still really have no idea what that means. And the hard thing is to say 'Here I am, Aleutic!' because I have nothing to identify myself with; to show that I AM. I don't speak the language, no traditional clothes, it's just something that I say, and nothing that I practice.

But it's something you experience, not just something you say?

Sharon: Yes, I've always known I was an aboriginal person, indigenous. Ever since I was young I knew that I wasn't white, but I had no idea what that 'nativeness' was. And I still really don't know. I am aware now of general native culture, and I am also learning very much about my own culture through reading anthropologists' studies done years ago.

Fernando: In the whole of your community, nobody knows the language?

Sharon: People over 50 can speak the Aleutic language. People over 40 can understand the language. People under 40 really don't speak it or understand it. There's a few people who do, but that's pretty much how it is.

During this talk, it became clear that coming from heavily colonized communities, as Sharon and Fernando do, the indigenous individual is forced to grab hold of their identity by initially concluding: I am not non-indigenous. In the identity-making process, language and more visible cultural elements are possible building stones. Meeting other indigenous peoples, as here in Geneva, is stimulating that process.

Fernando: I think that the next time we meet it would be good to make a written report about our exchange of ideas and gauge whether you could safeguard your culture in the way we are safeguarding ours. We should meet soon. I want to learn my language more thoroughly, and you should also learn yours; then we could translate our experiences through English and Spanish. At the moment, with my people, we are valuing our culture both in Spanish and in our own language. We could discuss this process in letters.

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Statement of the Innu people

United Nations Economic and Social Council Commission on Human Rights
31 January - 11 March 1994

by George Rich

Mr. Chairman:
On the 19th of February 1985 Ben Andrew, an *Innu* man from Sheshatshit addressed this Commission on Item 8 and drew the attention of its members to the tragedy besetting his people.

Sadly, it is my task to inform this Commission that government practises, the effects of which were beginning to manifest themselves nine years ago in a suicide rate among the Innu People seventeen times higher than that among European settlers, have not ceased. The Government of Canada continues to deny us our right to freely determine our own future as a People. For example, in spite of vocal and explicit Innu opposition, Canada continues to rent out our airspace to the airforces of the United Kingdom, Germany and the Netherlands for tactical low level flight training. On February 20 1985, the day following Ben Andrew's intervention, the Observer delegation for Canada responded in this Commission by categorizing the Innu as a minority and hence without a right to self determination.

Since that statement the situation among the Innu has deteriorated further. Among the Mushuau Innu social collapse reached such proportions last winter that it created an international scandal when videotapes of scenes in the village were sent to the Press. The images of Innu children barricaded in an unheated shack in temperatures of 40 degrees centigrade below zero, sniffing gasoline and screaming that they wanted to die, created a brief sensation in the press. However, little of this coverage examined what had led to the appalling levels of social collapse among the Mushuau Innu. What was happening must be seen in the context of a pattern of relations between the Innu People and the alien government that had entered their land in force in the 1950s, and in the case of the Mushuau Innu only in 1970.

From the middle of this century on, the Innu population of the Labrador/Ungava peninsula were subjected to a number of Canadian government organized relocations. Among the moves with the most disastrous consequences was the move of the entire population of Mushuau Innu at Utshimassits. The 140 individuals were moved north by boat and deposited at Nutak where they were put to work cutting firewood. What happened was described by a Newfoundland official as follows:

»...it is ...true that of the children born during the past three years, two of which have been spent at Nutak only seven have survived to date, while during the Same period there have been seventy deaths.«

After this experience, in which half of the population died, the survivors escaped and walked for five months to return to the area near Davis Inlet.

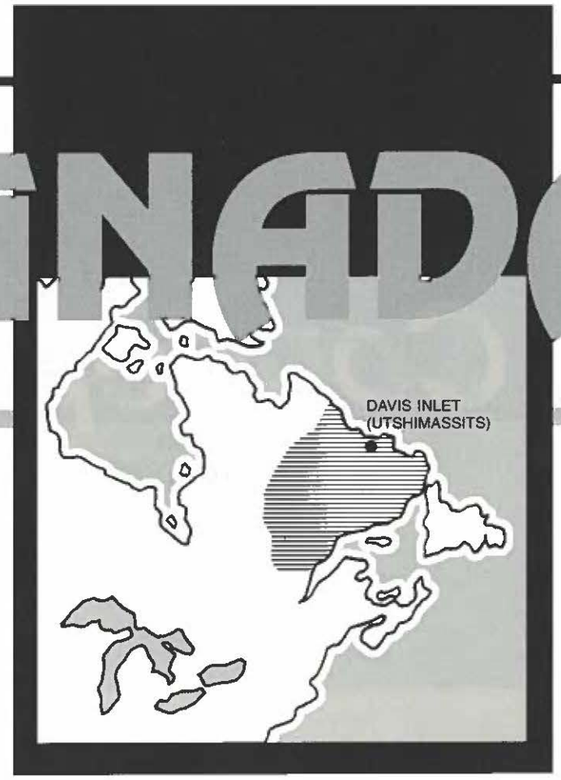
In 1967 a decision was made by the government to sedentarize the Mushuau Innu and establish them in a permanent village where, in the language of the officials responsible, they might be »civilized«.

The Mushuau Innu families who were gathered at Kastaputshikunts Shipis were moved from the mainland to the island of Iluikoyak. In the course of the years that followed houses and a school were built. Marooned for much of the year on this island and separated from the Mushuau Innu hunting territory on the mainland, alcoholism became epidemic. After the transition from tents to houses, the Mushuau Innu went from having the lowest rates of TB on the Labrador coast to the highest.

Trapped in the new village, the nomadic Mushuau Innu experienced a sustained assault by the missionary on their hunting based religion. For the first time Mushuau Innu children were subjected to structured schooling by European teachers. Innu society, being a nomadic hunting culture with no written tradition, had transmitted its knowledge, skills, values and belief systems within the family. Knowledge and values were acquired through observation and emulation of the parents or grandparents by the child. Abruptly, this system for transmitting the knowledge and values that order and give meaning to life was broken. Processes such as these quickly lead to ethnocide.

Between 1973 and 1992 there were 47 alcohol related deaths among the newly sedentarized Mushuau Innu.

In 1991 Innu at Utshimassits began to keep statistics of attempted suicides, and of those contemplated suicides where the threat was taken sufficiently seriously to necessitate intervention. The Innu recorded an exponential growth over the next two and a half years.



From July 18 1991 to July 18 1992 there were 24 attempted or contemplated suicides requiring intervention among a population of 460.

From July 19 1992 to July 18 1993 there were 89 attempted or contemplated suicides requiring intervention.

In the six month period July 19 1993 to December 31 1993 there were 90 attempted of contemplated suicides requiring intervention.

Out of the 203 attempted or contemplated suicides, 53 were serious threats, and the rest were actual attempts involving firearms, drug overdose, ingestion of poisonous substances, and hanging, with one case of attempted suicide by burning and one of attempted suicide by drowning. Two of the attempts were successful and both these fatalities involved firearms.

The Innu treatment program for alcoholics which compiled these figures emphasizes that these are only the reported attempts: they estimate that the figures just quoted therefore represent 60 per cent of the true total.

The message to the Mushuau Innu from their new European masters has been »become like us or perish«. Most Mushuau Innu have been unwilling and unable to be assimilated by Europeans. The result is that many find death a more attractive choice than life in the conditions created in the government built village.

Mr. Chairman, it is difficult in the time allotted to demonstrate how the systematic abuse and humiliation of a People can lead, and has led, to the suffering and death which are the dominant features of recent Mushuau Innu history. The gross and systematic violation of the collective rights of Peoples, as enumerated in Articles 1 and 2 of the International Covenants on Human Rights, leads to concrete suffering and the maiming and destruction of entire human collectivities and of the individual human beings of which they are composed.

In August of 1993 the Canadian Commission on Human Rights issued the document 'Report on the Complaints of the Innu of Labrador' which it had commissioned from the Dean of the Common Law section of Ottawa University's Faculty of Law, Mr Donald McRae. The Rapporteur of the Canadian Rights Commission states in conclusion number 48 of his report:

»It is clear that the Mushuau Innu are the victims of ethnocide or cultural genocide«.

The 1981 UNESCO Declaration of San Jose defined ethnocide as when

»an ethnic group is denied the right to enjoy, develop and transmit its own culture and its own language, whether collectively or individually. This involves an extreme form of massive violations of human rights...«

In conclusion, number 33 of his report the Canadian Human Rights Commission's Rapporteur states

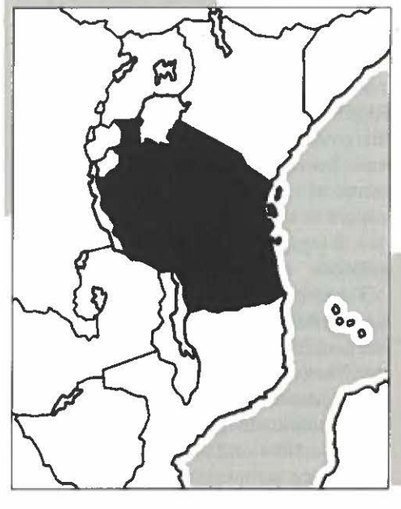
»The negligent and abusive actions by the federal (Canadian) and Newfoundland Governments, and their repeated failures to act, amount to systematic and gross violations of human rights of the Mushuau Innu.«

The report of the Canadian Human Rights Commission describes in detail the government and church policies that have brought the Mushuau Innu to the brink of complete social collapse. Full copies of this report are available from our delegation on the floor of the Commission.

Three weeks ago Canada responded to a proposal from the Innu to address both the causes and effects of the crisis among the Mushuau Innu. While we welcome this evidence of Canada's willingness to at last acknowledge the legacy of its rule over the Innu and to deal with the consequences, we await the evidence that a new approach to our People recognizing our right to self determination has actually been adopted by Canada. ❑

The Concept of Indigenous Peoples in AFRICA

by
D. Murumbi



Introduction

The concept 'indigenous peoples' does not have a prominent place in Africa compared to other parts of the world. This stems from two historical facts: firstly, in many African states aboriginal peoples form the majority inhabitants and are consequently the main group that controls the state apparatus; and secondly, the founders of African states, after attaining independence, postulated that the term 'indigenous peoples' had divisive connotations for young nations which prioritised national consolidation, unity and identity after many years of colonial rule which divided Africa into small antagonistic ethnic groups.

In many countries, such as in the Americans, Australia, New Zealand and Scandinavia, the concept 'indigenous peoples' has received recognition because it refers to the first inhabitants in contrast to other citizens who arrived later and became the mainstream population. Because of being the first inhabitants, the governments of these countries have agreed to a certain extent to put the question of indigenous peoples on their agendas. And for the same reason, some governments, such as the Australian and Canadian governments, are prepared to sit at the same table with representatives of their indigenous communities to discuss better ways of accommodating the cultural diversity in their countries.

Whether in Africa, America, Australia, New Zealand, Europe or Asia, indigenous peoples have similar characteristics which make them easily identifiable as one worldwide community of indigenous peoples. All indigenous peoples cherish the fundamental right to maintain their specific cultural identity, independent of mainstream societies within the state. They respect their ancestral lands and natural resources, which constitute the foundation of their existence, their means of livelihood, and the focus of their cultural and spiritual integrity. From the perspective of the mainstream population with its emphasis on individual appropriation, indigenous peoples are marginalised, yet their centuries-old sustainable life-style is in harmony with nature. It comprises a treasure of knowledge and techniques which, if respected by all mankind, could save mother earth from environmental destruction.

The Indigenous Peoples' Question in Africa with specific reference to Tanzania Historical Concepts

In the 1880s the African continent was forcibly divided up into 48 possessions under different European hegemonies. Africa, like other regions of the world, is not composed of one monolithic culture. The situation is the same for the 48 possessions into which Africa was divided. The policy pursued by colonial powers was designed to create a differentiation of African peoples through unequal access to formal education. This created wide disparities in participation in state apparatus and the ownership of wealth in the national economy. In countries with diverse cultural roots, those who were culturally distinct from the mainstream national population were the indigenous ethnic minorities. In Tanzania, as in other East African countries, the majority of the population is composed of Bantu speakers, who are mainly cultivators and have many cultural characteristics in common. The national culture of modern Tanzania is constructed from the value system of the mainstream population but with strong influences from European and Arabic cultures. The Tanzanian national language, Kiswahili, is a mixture of Bantu, Arabic and English. The pastoral Nilotic-speaking communities of Maasai and Barabaig (Datoga) and the hunter-gatherer communities of Hadza, Dorobo and Sandawe form the cultural minorities, and anthropological research has shown that these communities have inhabited different parts of East Africa for over 3,000 years.

During the years of struggle for independence the leaders of the new African nations used the concept 'indigenous peoples' to unite all citizens and mobilise them against the colonial powers. Indigenous communities rallied behind their national leaders hoping that independence would give them an opportunity to build a united nation based on recognition and respect for cultural diversity. They also hoped that the leaders would take steps to rectify the existing unequal access to formal education and opportunities to participate in the creation and ownership of wealth. Contrary to the expectations of many, especially the indigenous minorities, the leaders of new nations took an autocratic approach to consolidating national unity. This approach ignored the cultural identities of indigenous minorities in the name of national unity. Despite the importance of national unity, to pursue it to the exclusion of the legitimate rights of vulnerable minorities to their cultural identity is extremely oppressive.

Moreover, after independence, like Tanzania most African countries adopted a 'uniform development policy' which totally disregarded cultural diversity and different systems of production. All peoples of African origin (Bantu, Nilotic, Cushitic and Khoisan) were categorised as either 'peasants' or 'workers' (Wakulima au Wafanyakazi). No mention was made of the pastoral and hunter-gatherer communities. This uniform approach to development and the terminology used, demonstrates that the state disempowered some of its citizens both culturally and economically. This situation gave impetus to the suppression of indigenous minority cultures and the systematic destruction of their economic base by the mainstream population. Nevertheless, the pastoral and hunter-gatherer communities resisted what amounted to cultural genocide. The Tanzanian government only acknowledged the fallacy of a 'uniform development policy' in 1990. In the same year, the Prime Minister's Office issued a policy paper with the intention of paying special attention to the needs of the pastoral and hunter-gatherer communities. The state uses the term 'special tribes' (makabila maalum) to identify and group together indigenous minority communities with distinct cultures and which are marginalised in contrast to the mainstream population. It is disappointing to note that since the policy paper was issued there is no sign of any action being taken towards its implementation.

The Tanzanian government still refers to all its citizens of African origin as 'indigenous'.

Considering that the concept 'indigenous peoples' may be misused by the state's propaganda machine, we can see that fixed definitions and concepts (such as indigenous peoples) can become strait-jackets which prevent discussion and deflect from the problems afflicting specific indigenous peoples in various African countries. Instead, we need to find better ways to empower these peoples and improve their lot. One of the problems which needs to be addressed is the human rights of cultural minorities, including the right to live on their ancestral land without arbitrary displacement. Attention should also be paid to the marginalisation of indigenous peoples in national development and the importance of indigenous knowledge and techniques. Viewed from this perspective, recent initiatives by ethnic groups to form indigenous organisations and become involved in self-development projects ought to be seen as a positive move, which over time may redress the wide disparity in participation in the apparatus of the state and in the national economy.

Indigenous Organisations

When African countries attained their independence in the 1960s the new states attacked the roots of indigenous organisations (traditional institutions) in the name of fostering national identity. Therefore the present indigenous NGOs which represent the interests of indigenous minorities are not truly indigenous, because they do not conform to indigenous (traditional) organisational structures. They were new creations designed to meet states' legal requirements. Nevertheless, these organisations were created by indigenous minorities in order to adapt to prevailing conditions, and to enable them to control the content and direction of their development. The indigenous NGOs are also a means through which indigenous minorities are able to defend their rights and have direct relations with governments and other organisations throughout the world.

In recent years, many individuals and organisations have developed an interest in indigenous peoples' affairs. Some of them do not have the indigenous peoples interests at heart but are motivated by self-interest and are eager to use the indigenous cultural heritage and knowledge for their own benefits and facilitate the exploitation of indigenous peoples. However, others are doing good work for their indigenous counterparts by, for example, mobilising funding.

A Way Forward

There ought to be a code of conduct which obliges researchers, (individuals, organisations and governments) to share their research findings with the indigenous community under investigation. The code should insist on the return of the cultural heritage and knowledge to the community concerned. This process would facilitate the sharing of information between indigenous peoples and researchers and promote the use of the indigenous heritage for the benefit of mankind as a whole.

The formation of the World Foundation for the Safeguard of Indigenous Cultures (FMCA) in 1993 is a step towards achieving this goal and should be welcomed by all indigenous peoples. The FMCA ought to have a mandate to sanction research on indigenous peoples and insist on a collaboration between the researched and the researchers in order to achieve the objective of safeguarding indigenous cultures.

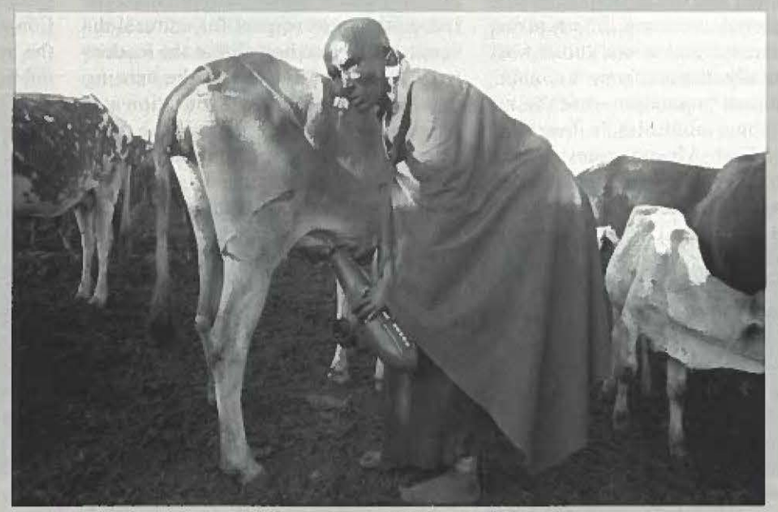


Photo: Frans Welman/WIP

Problems Facing the Barabaig Community of Tanzania

The Barabaig is a sub-group of the Nilotic Datoga people who live mainly in Hanang district in Northern Tanzania. Their number is estimated to be between 60,000 and 80,000 people (the Tanzania national census does not provide population statistics according to ethnic affiliation), of which between 30,000 and 40,000 still live in Hanang District. By tracing back through the generations, it is evident that the Barabaig have inhabited their present land for between 250 and 400 years. The Datoga are divided into 14 sub-groups of which the Barabaig is the largest. Most of these sub-groups have been assimilated by the numerous neighbouring Iraqi cultivators, while others who still maintain their culture have merged with the Barabaig. All Datoga generally acknowledge that their cultural identity is being maintained by the Barabaig who still practice pastoralism. For this reason, of all Datoga sub-groups only the Barabaig were given tribal (native) territory by the colonial administration when it demarcated tribal (native) lands throughout Tanzania (then Tanganyika) in 1931.

Each tribal territory was headed by a chief drawn from the community (tribe) through the system of Indirect Rule. The chief was entrusted to look after his peoples' interests. In spite of recognising ethnic (tribal/native) territories, the colonial administration instigated tribal wars to ensure that no tribes united against it. In the case of the Barabaig, the rulers used police and army comprised of people from farming traditions to harass and intimidate them into subjugation.

The Barabaig resisted the imposed system of administration which had no respect for their values and, for this reason, the colonial administration denied them access to formal education. The colonialists labelled the Barabaig 'most conservative' and suspected they would not make faithful colonial agents. When the British granted Tanzania independence in 1961, they left a legacy of collective tribal hostility towards the Barabaig. In all aspects of modern development, the Barabaig are amongst the most marginalised. Moreover, contrary to their expectations of more humane treatment, independent Tanzania brought the Barabaig years of overt attempts to obliterate their culture in the name of national unity. This was done in a number of different ways. For example, they were harassed through the state apparatus into changing their style of dress in 1973 and 1974. Some, including women, were stripped naked and told to buy cotton clothes from the shops in towns.

Another injustice was the alienation of Barabaig land by farming interests. In 1968, the Tanzanian government used illegal processes to alienate large areas of Barabaig pasture land for wheat production, with no compensation or any alternative place to live. Since 1968 the National Agriculture and Food Production organisation (NAFCO) has been sustained by Canadian aid, through its Agency for International Development (CIDA). Wheat production involves over 100,000 acres and half of the best Barabaig pasture land. The confiscation of this area has denied the Barabaig access to grazing, salt licks and stock routes to the only permanent watering sources in the area.

In such a situation, herders are

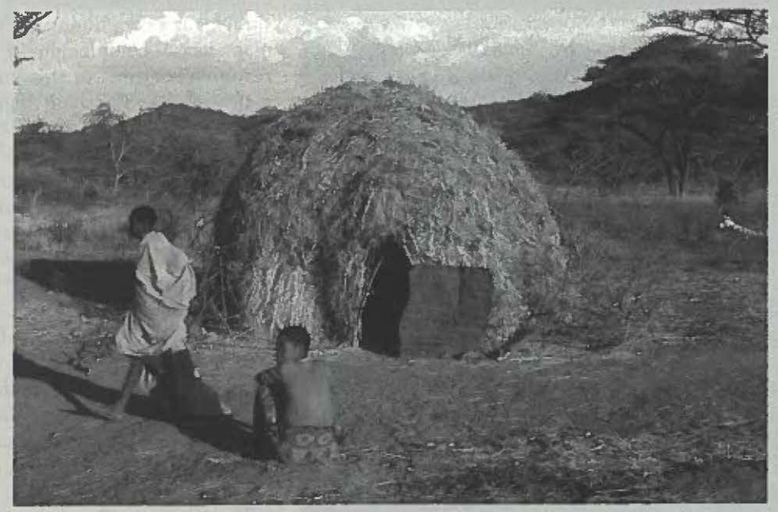


Photo: Jens Dahl.

forced to cross the farms to get to water which has been encircled by NAFCO wheat cultivation. In so doing, they are said to trespass on the farms and are arrested, harassed and beaten by NAFCO employees, forced to pay summary fines to the farm staff and their cattle impounded. Other injustices by NAFCO employees include burning homesteads and the desecration of a sacred burial place called Bung'eda. The Bung'eda is a burial place of respected Barabaig elders and is a Barabaig sacred place. The alienation of their pasture land and atrocities have forced many Barabaig to leave their ancestral land.

However, ever since NAFCO confiscated their land, the Barabaig have protested. They have also resisted the injustices associated with the continued presence of the NAFCO farms in their territory. First, they took their grievances to the administrators at all levels of government, but their complaints fell on deaf ears. In 1985 they filed the first land case against NAFCO in the High Court. They won the case but lost an appeal by NAFCO on legal technicalities that did not deny their customary right to their land.

In 1988 and 1989 the Barabaig filed two more cases against Gawal and Waret/Gidagamod wheat farms respectively. All the farms are subsidiaries of NAFCO. Barabaig litigation is based on customary land rights and theoretically protected by the Land Ordinance of 1923. To date, this instrument is still the basis for assessing land rights in Tanzania. In principle, every tribe in Tanzania can claim customary right to their tribal (native) land as this was demarcated in 1931. While these two cases were being heard in the courts, the state twice used administrative measures to deprive the Barabaig of their only legitimate grounds from which to challenge the alienation of their traditional land. This comprised the issuing of Government notices extinguishing Barabaig Customary Rights to their traditional land. Thanks to the Legal Aid Committee of the University of Dar es Salaam, which defended the Barabaig in the courts, the Government notices have been disallowed by the courts and the hearings of the two cases has resumed. In the Gawal case, the court has almost finished receiving testimonies of the defendant (NAFCO) witnesses. The case against Waret/Gidagamod wheat farms began in June 1993.

Besides taking their grievances to government administrators and filing cases in the courts of law, the Barabaig have joined a pastoral NGO called Korongoro Integrated Peoples Oriented to Conservation (KIPOC). KIPOC was registered in 1990 and opened a branch office in Hanang District in August 1991. The branch office was closed a month later by an order from the District Commissioner with no reason given. The KIPOC Barabaig office closure has been taken to Regional and Prime Minister's officers but the government has taken no positive step to date. This official silence has closed the last channel through which the Barabaig can forward their grievances to their national government. There are no Barabaig in government posts which carry enough status to be taken seriously by the state.

This is the context in which NAFCO employees have intensified their inhuman acts (torture, harassments and denial of access to water) against the Barabaig. However, some international organisations have put pressure on the Tanzanian government to investigate allegations of injustices perpetrated by NAFCO staff against Barabaig. Through their efforts, the government yielded and in December 1992 appointed a four-man commission of investigation headed by Justice R. Kisanga, a judge of the Supreme Court of Tanzania. On completion of its investigation, the Commission submitted its findings with recommendations to the Prime Minister's office in March 1993. Many Barabaig, as well as non-Barabaig, were summoned to testify.

In its findings, the Commission has substantiated the allegations that water sources upon which Barabaig and their livestock depend have been engulfed by NAFCO wheat farms, and that there were cases of violence against the Barabaig by NAFCO farm employees. Moreover, the Commission confirmed that NAFCO farm staff carried out beatings and confiscated Barabaig cattle. They also proved that NAFCO employees abused Barabaig ceremonial places at the graves of their ancestors. The Commission made over 30 recommendations including that measures be taken to redress these injustices inflicted upon the Barabaig. Although most of the recommendations are yet to be made known, one very important one has been made public. This is the necessity to: *form a body to oversee that the recommendations are implemented in a proper manner, for the benefit of the local people.* Since the government received the Commission's report, it has not taken any steps towards implementing the recommendations.

Recently, the Member of Parliament for Hanang District, F.T. Sumaye, visited Barabaig villages near the NAFCO farms. In a speech he ridiculed the people who testified to Justice Kisanga. The Barabaig interpreted this to mean that the government may not implement any of the recommendations contained in the report. It is now feared that this report may be left to gather dust like Moses Nnauye's report of 1986.

Between 1984 and 1986 four large tribes neighbouring the Barabaig accused them of being cattle rustlers and waged war against them in a type of racial cleansing operation. The government appointed an investigative Commission headed by Moses Nnauye. It found that the accusations against the Barabaig were untrue and based on prejudice. The Commission also revealed that there was a real threat to the lives of the Barabaig people. It recommended measures to be taken by government to ensure Barabaig safety and survival as a community but the government has not implemented any of the recommendations to this day. This has contributed to Barabaig migration from their traditional territory to other regions.

In view of the Tanzanian government's attitude of ignoring commission reports, I call for a concerted international campaign to pressurise the Tanzanian government into implementing the recommendations of the 1993 Commission. The government should also form a body (Ombudsman) to oversee the implementation of recommendations for the benefit of the local population. The office of the Ombudsman should include persons from the Barabaig community in its senior staff.

The threat to Barabaig pasture land does not come only from NAFCO farms. Private farming interests, mainly from outside Hanang District, are encroaching upon the remaining Barabaig pasture land. This encroachment is not checked by district officials because most of them are involved in land grabbing themselves and thus see farmers as their partners and pastoralists as against their farming interests.

The Barabaig alone are helpless against these forces of injustice. They are asking for continued and concerted international efforts to ensure their survival as a community and to be able to lead an acceptable and respectable life like other human beings.

Barabaig and the Democratic Process

International financial institutions and western governments are pressuring African countries, including Tanzania, to liberalise their systems of government. They are encouraging them to adopt a multi-party political system as opposed to one-party rule which most African countries followed after independence.

In Tanzania, the wind of multi-parti politics is blowing hard. There are now over six registered political parties in the country. Each party is engaged in establishing itself in places where it could gain some political influence. Logically, such places are mainly in cities and big towns and in densely populated rural areas. The ruling party, Chama Cha Mapinduzi (CCM), is also concentrating on entrenching itself into their places of political importance.

Prepared for the conference on the Question of Indigenous Peoples in Africa held in Denmark from 1st – 3rd June 1993.

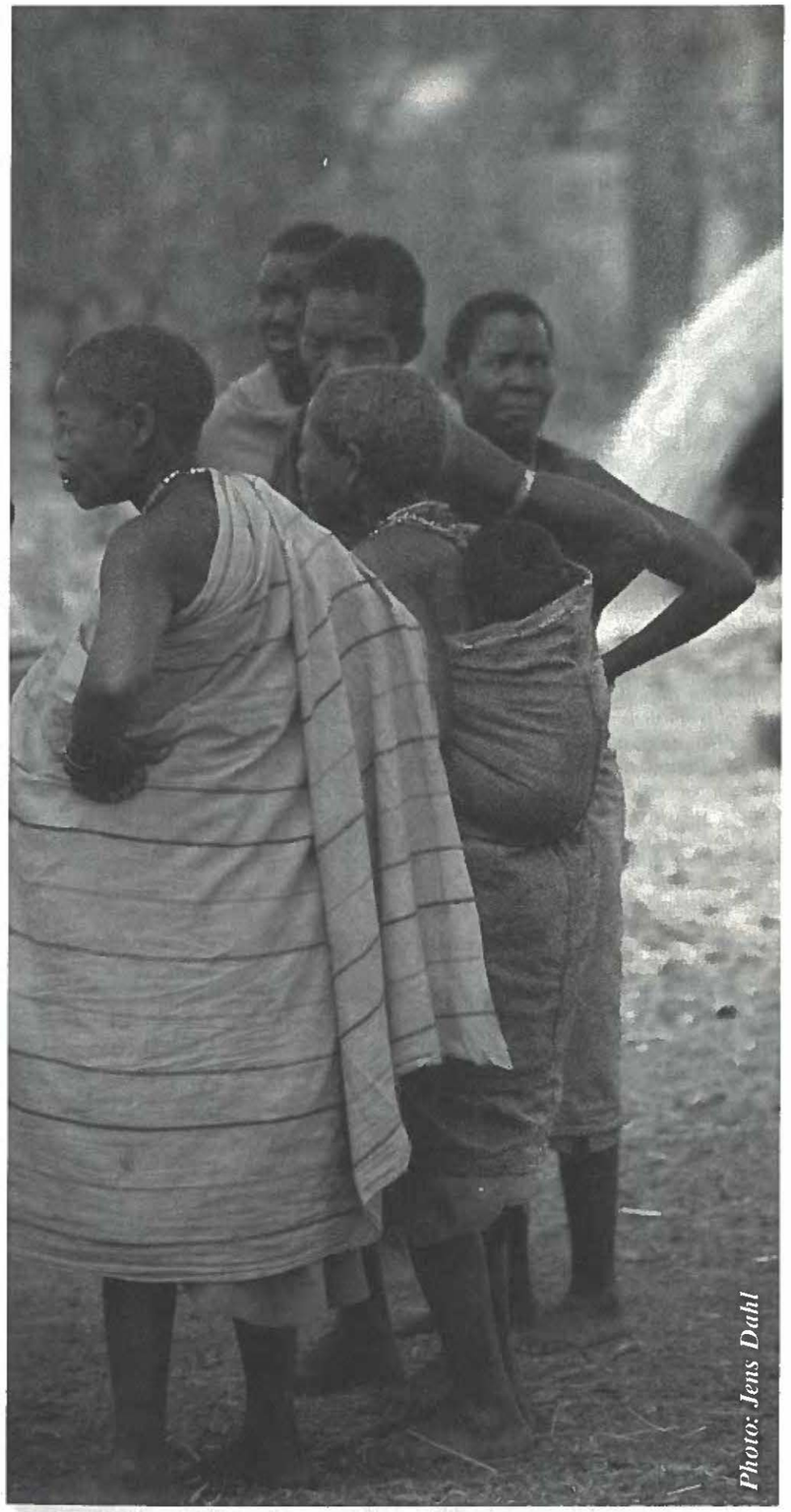


Photo: Jens Dahl

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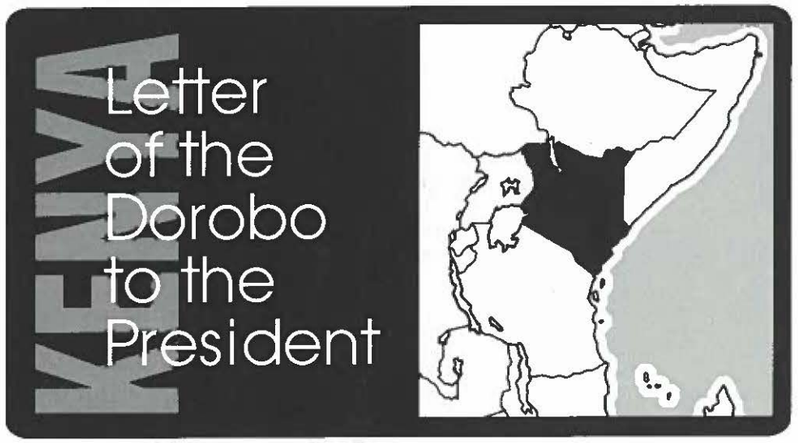

IWGIA has received a copy of a letter sent to President Daniel Arap Moi, Kenya, by the Dorobo people, who are indigenous dwellers of the Mau Forest.

Time after time the Dorobos have been evicted from their forest homelands, and time after time they have returned and settled. Today, a large number of Dorobos have settled illegally in the forest. Others, such as those who have written this letter to President Moi, still remain in resettlement villages at the edge of the forest, waiting to be granted their own land. They have placed all hope in a British-funded development project, KIFCON, the goal of which is to conserve the forest by resettling the Dorobos in the forest region. Without this Project, the Dorobos fear for their future and for the take-over of the forest by high ranking bureaucrats and politicians.

Only a few days after IWGIA received this letter we learned that the KIFCON project had been closed and now the future of the Dorobo hangs in the balance.

His Excellency, The President
Daniel Toroitich Arap Moi,
Office of the President,
Nairobi

Ndoine Chepkoburot Village
P.O. Box 127,
Molo

10th January 1994

Dear Sir,

RE : Dororo Af

We the inhabitants of Tinet Location living in Ndoinet Forest have come to a situation where we do not know our future and we ask you, our dear President Sir, for support in this matter.

All Dorobos support the ruling party KANU and your good leadership the President. We do know that the arrangements that are going on to resettle the above community will bring happiness and so we pray that should happen very soon. To speak the truth, the Dorobo people have suffered many untold problems. Like in 1936, people were evicted from their homes and their properties were destroyed. In 1941, the same thing happened when the people were evicted. In 1970, there were some disturbances

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for five years consecutively. These came to the peak in 1975 when unforgettable events took place. During this year, a most destructive eviction was performed, where houses, maize stores and household properties were burned down. People were arrested, cattle, sheep, goats, donkeys and poultry were confiscated and they were later sold at a throw-a-way price by the then Police Force. During this event families dispersed and some lost their children.

In 1985, the Government decided to put Dorobos in villages (Kijiji) after realizing that this community had nowhere to go. Since the Dorobo are very peaceful and loyal, they accepted to build their premises in confined places where the community are to the present. The confined villages are as follows:

- Ndoinet village in Ndoinet Forest
- Chepkopurot Village in Ndoinet
- Kabongoi Village in Ndoinet
- Karandit Village in Keringet
- Kiptororo Village in Saino Forest and other small villages.

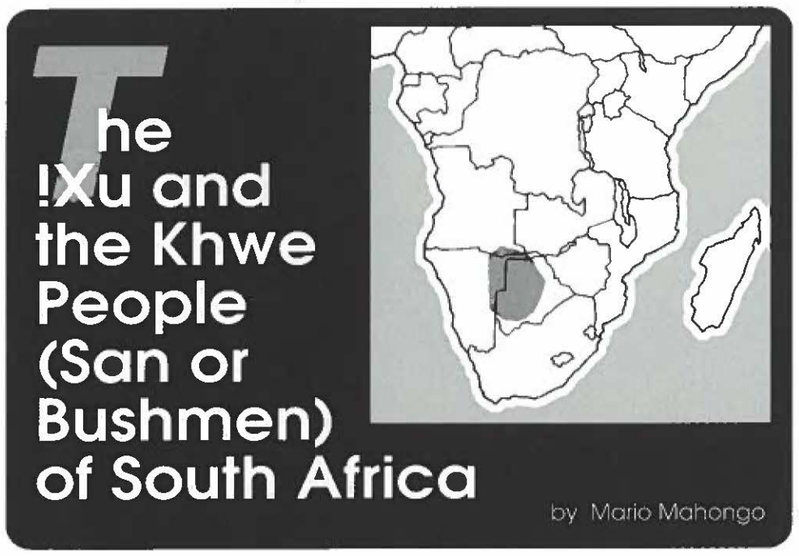
We know and trust that our being in the villages is well known by you the President. Your concern has made us really understand that you are minding about our situation. For you are the one your Excellency Sir who talked to the British Government about the survival of Dorobos in the forest which has been our home. In 1991, the Kenya government and the British government introduced the Kenya Indigenous Forest Conservation Project which started the registration programme by going to each and every house within, registering the inhabitants. Therefore, your Excellency Sir, we the Dorobos welcome the formation of K.I.F.Con Project with the assistance of the Kenya government through the appointed District Officer Mr. Clement Samoei who by now has a better knowledge of the problems of the Dorobo community at large. We thus do hope that very soon the above project will do the resettlement without any political interference. Your Excellency Sir, we do hereby request you to allow the K.I.F.CON Project with the assistance of Mr. Clement Samoei to continue with the resettlement programme after registration without any interference. We sincerely request you the President to pay us a visit for most of the Dorobos have not seen you your Excellency Sir, we know you as our saviour, especially on the side of the above mentioned problems (settlement).

Your Excellency Sir, we are confident that you will understand our situation and that you will support us in this matter which is a necessity for our survival. We look forward to receive your sincere support.

We the undersigned on behalf of the community:

1. Michael Sung
2. Kimutai Kosibon
3. Philip Sitonik
4. Samuel Towett
5. Nicholas Rutteh
6. Reuben Kosgei
7. Gabriel Too
8. William Soi
9. Jane Ruto
10. Simon Cheruyot
11. Benjamin Mosonik
12. Abraham Ruto
13. Esther Chebet Turgut
14. Paul Kosgei
15. Maritim Tigire
16. Cescillia Cherop Kemei
17. Esther Chetanui
18. Samuel K.Koskei
19. Christine Mutai
20. Daniel Tesot
21. Richard Koech
22. Joel Ngeny
23. Tapsabei Rotich
24. Arap Moritim
25. Kipruto Arap Langat
26. Samuel Chepkwony
27. Joseph Rugut
28. William Maru
29. Kirwa Boen
30. Morogo Arap Chumo

❑



Our people, known to Westerners as the *'Bushmen'* or *'San'*, once inhabited the whole of Southern Africa, and are often also referred to as the 'first people'. However, unlike the many other peoples of Africa we do not like to assert ourselves or to fight. The *!Xu* word for strangers is *'zhu dole'* which means 'dangerous persons', and for ourselves is *'Zhu twa si'*, or the 'Harmless People'. The heroes of our legends are cunning animals such as the jackal, who trick, lie and narrowly escape, rather than bolder animals such as lions.

Over centuries our people have been persecuted, hunted, and dominated by other more aggressive cultures, and now the !Xu together with the Khwe and other peoples known as the San are struggling desperately to survive. It has been estimated that as few as 70,000 San or Bushmen still exist in the Southern African countries of Angola, Botswana, Namibia and South Africa.

The !Xu (also known as the Vasaquela) lived primarily in Southern Angola. Many of us were previously associated with the colonial Portuguese as trackers, and when the Portuguese withdrew in 1974, we were persecuted and massacred by the liberation armies. We fled south, and were employed by the South African Army because of our skills at tracking and knowledge of the bush. In 1975 we had no other economic alternatives, had been chased off our traditional lands, so more and more of the able-bodied youth of the !Xu joined and became reliant on the Army.

For the next 15 years we were associated with the South African Defence Force, first in Angola and then in Namibia. As fighting did not come easily for the !Xu, as well as for the other San people known as the Khwe, we tended to be used more as trackers and reconnaissance experts than soldiers. In 1990, just before Namibia's first elections were to be held, our people had to make a choice whether to leave the South African Defence Force and remain in Namibia, or whether to remain with the South African Defence Force and move with our entire families to South Africa. It was a difficult decision. Many people believed that SWAPO, the liberation movement that had been our enemy in the bush war and who would win the election, would treat us harshly after coming into power.

About one half of our people remained in Namibia, and in March 1990 about 4,000 of the !Xu and Khwe were airlifted to Schmidtsdrift, an army base near the Northern Cape city of Kimberley in South Africa.

We moved into the tented camp in March 1990, and are still there now, living under extremely primitive and uncomfortable conditions. For example the canvas tents are extremely hot in summer, very cold in winter, and we have been placed in rows with no reference to the clans and extended families that are such an important part of our culture. We have been automatically granted citizenship of South Africa, and about 560 of the 4,000 San at Schmidtsdrift are still employed by the South African Defence Force.

Our future is very unclear. Should we remain in this our new country, or should we return to Namibia or even Angola? In November 1993 for the first time in our history we took a step towards deciding our own future, and not remaining helpless as in our past. With the help of certain anthropologists, human rights lawyers and other individuals concerned

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about our future in a Black South Africa, a Trust was formed which will assist and guide the difficult decisions that we will make in the next few years. The name of our Trust is the South African !Xu & Khwe Trust.

Our people do not have a naturally assertive culture, nor any experience of political organization in a modern society. Until recently we used to live in clans of up to 30 people, to make decisions by consensus, to worship nature, to share our few possessions, and to live off the land. No person was more important than another, and we have no word for »elections« or »voting«. We have recently elected a leadership group of 30 people who sit on the South African !Xu & Khwe Trust, and who with the assistance of 10 outside Trustees, will assist us with the major problems that face us:

- our insecurity, lack of identity, and lack of respect for tradition;
- the lack of work and economic skills in our community;
- alcoholism and delinquency amongst the youth;
- the need for a strategy to rebuild our people, and pride in our culture;
- the need for a clear vision for a meaningful existence for our people, in a modern world.

Our people have been insecure for so long, that it will take many years to build up their faith, and to re-develop those family and cultural links that make up a healthy society.

We need to be separate from other people. We can work peacefully with all races and peoples, but the Khwe have a strong desire to own our own land, and to determine our own laws, customs and lives.

We are desperate for money to assist us to buy land, to build schools and to help develop our community. Any financial assistance would be gratefully received, and should be sent to:

South African !Xu & Khwe Trust
P O Box 242
Kimberley 8300
South Africa

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Are Sami Nothing but Common Northerners?

The 1993 Sami Rights Committe Working Group Report on Property Rights in Finnmark County, Northern Norway

by Terje Brantenberg and Henry Minde

Over the last decades the issue of Sami rights to land and water has been focused around the central question of who owns the land in Finnmark? The issue has not been dealt with in the Norwegian courts but has been adjudicated away from the public eye by a body of top legal and historical experts on Norwegian property law. This legal body, the Property Rights Group, was established as a sub-committee under the Sami Rights Committee to study current law in relation to property law and use in Finnmark as well as Sami legal traditions and legal concepts and international and foreign law. The Sami Rights Committee recently published the Property Rights Group's Report (NOU 1993:34, Rett til og forvaltning av land og vann i Finnmark). The conclusion of the 'judgement' on the central issue is as follows:

According to our opinion the State's right of property to land in Finnmark, including the interior, was established prior to the recent developments in international law. This decision is the result of a long process which is described in the preceding discussion (p.266).

If not altogether unexpected, it provides confirmation of the Norwegian State's colonization and appropriation of Sami territories. This process, which took place over the heads of Sami and independent of Sami traditions, is described and analyzed more thoroughly in the Report than ever before. In this respect the Report is an impressive piece of research. However, it is controversial for very different reasons.

The Sami Rights Committee, which has substantial Sami representation, was not expected to transfer this extremely disputed issue to a sub-committee, not least because a solution has to be based on laws which are unclear and must be done so with political fairness. Moreover, while the State can be said to be represented by three senior public officials among the Property Rights Group's nine members, not a single member has a Sami background. The responsibility for this unusual situation in Norwegian legal-political practice rests on both the Sami and Norwegian members of the Sami Rights Committee. One must hope that other aspects of the Property Rights Group's Report will prevent it from becoming the equivalent of a formal and legally binding court sentence against the Sami people.

Another controversial aspect is that the Property Rights Group has decided *not* to emphasize Sami land use and legal traditions and practices as »this would have demanded a comprehensive and time-consuming investigation of local conditions in Finnmark« (p.16). But the investigations the Group *did* initiate, it said, gave it the impression that one cannot speak of the existence of a »unique

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Sami system of law« but rather of »local views« with regard to certain areas of land. Thus, what is not documented in written sources apparently only provides evidence for »highly uncertain conclusions«. Admittedly, Sami customary law and current legal concepts are characterized by being made invisible and superfluous by State law. In spite of a mandate which expressly states the opposite, the Property Rights Group, however, use this as an excuse not to study the development of the system of Sami customary law. On the contrary, the Group states that it did not have the resources, competence or practical and methodological means to do this. And, if this was not enough, it has also hinted that, even if such a study could have been carried out, it would have been superfluous (in ascertaining the current state of Norwegian law). This is the view which the Sami Rights Committee has used as a basis for focusing – for over half a generation – on the study of well-protected archival sources which are the remains of former State activities, while the oral and largely unwritten knowledge of the Sami has literally been left to die out and be buried in the ground together with the old custodians of Sami traditions.

The Property Rights Group does not only overlook Sami oral traditions but it also ignores the way in which their legal colleagues in other countries have dealt with the issue of indigenous peoples' aboriginal rights. As the Sami Rights Committee underlined in its first 1984 report, international law does not only originate in international conventions or treaties, but also from legal developments in common with different nation states. The development of such common norms can pressure states even if they have not adopted them. Thus, it is not acceptable that the Property Rights Group has overlooked the fundamental and principal facts that: 1) it is common knowledge today that indigenous peoples have recognized aboriginal rights, and 2) Sami are using and occupying Finnmark today and have done so since time immemorial. These facts are decisive, regardless of whether the State regulates the areas or not.

Looking at the development of law in other 'civilised' countries we find that the Supreme Courts of Canada and Australia not only come to completely different conclusions, but they also refer to other court decisions in Africa, Asia and the Pacific. To give just a few examples, according to the so-called *Sparrow* case of 1990:

Historical policy on the part of the Crown can neither extinguish the existing aboriginal title without clear intention nor, in itself, delineate that right. The nature of government regulations cannot be determinative of the content and scope of an existing aboriginal right. Governmental policy can, however, regulate the exercise of that right...[within strict limits].

Australia has recently undergone a legal and political revolution apparently unnoticed by the sub-committee of the Sami Rights Committee. In 1992 the Supreme Court passed its verdict on the *Mabo* case, where six out of seven judges rejected the established legal convention of *terra nullius*, which implied that the indigenous peoples of the Australian continent were considered too 'primitive' to have a separate legal system of their own and hence were not seen as having a native title to their territories. Thus, in legal terms Australia was seen as 'empty' at the time of 'discovery' and colonization. However, in the judgement in favour of Eddie Mabo and the other plaintiffs from Meer, or Murray Islands, in the Torres Straits of Northern Australia, it was acknowledged that:

...the Meriam people are entitled, as against the whole world, to possession, occupation, use and enjoyment of the lands of the Murray Islands.

The crucial issue here is that the six judges found that the aboriginal rights of the Meriam people and other indigenous groups in Australia are not extinguished by Crown power, even when regulating the use of aboriginal title, *unless* legislation makes it clear and unambiguous that such title is being extinguished. The leading judge in the Mabo case, Judge Brennan, explained that, in the decision,

...reference to the leading cases in each jurisdiction [USA and Canada] reveals that, whatever the juristic foundation assigned by these courts might be, native title is not extinguished unless there be a clear and plain intention to do so. That approach has been followed in New Zealand. It is patently the right rule.

Legal decisions in other countries have in this way established that indigenous peoples' native title cannot be extinguished through 'long processes' and retrospective legal studies such as that of the Sami Rights Committee's Property Rights Group. If the Norwegian authorities were to follow such a principle, the aboriginal rights of the Sami could not be transgressed and removed because the Government would not have the power to do so. The Norwegian government would have to put a draft law to Parliament stating that it was extinguishing aboriginal rights. So far, this has not happened.

The fact that the Property Rights Group appears to have ignored this development in foreign law since the Sami Rights Committee's first published report in 1984 is a serious flaw in its work. During the indigenous conference held at the University of Tromsø in November 1993, Canadian scholars discussed the on-going *Delamuukw* case in British Colombia. There, a special effort has been made to document the legal-historical development of the indigenous peoples' indigenous system of law. In this and similar cases, one can see a rapid development in methodology across disciplinary barriers, a development which Norwegian legal experts still appear to refuse to consider.

The Property Rights Group's denial of the existence of a unique Sami legal system appears to amount to the introduction of the principle of *terra nullius* in Sápmi, the Sami homeland, while the same principle is being discredited abroad! If the Norwegian authorities disregard the development of international law in this field – and uphold a legal conception of Sami in Finnmark county as »just Northerners« or *Finnmarking* – Norway will today be following a legal theory more colonial than that of governments which came close to exterminating their indigenous peoples in the 17th and 18th centuries.

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Sáminuorra

A profile of an indigenous youth organisation

by Peter Bille Larsen

Indigenous youth organisations are receiving more recognition as necessary voices in discussions concerning the future of indigenous peoples. In 1991 and 1992 the first World Indigenous Youth Conferences were held in Canada and Australia, respectively. The latter led to a speech last summer in Geneva at the 11th Session of the UN Working Group for Indigenous Peoples by a Greenlandic representative, Jørgen Wæver Hansen.

This international opening for indigenous youth, however, doesn't mean that indigenous youth organization is a new phenomenon. The existence of Sáminuorra, the Swedish Saami Youth Council, which celebrated its 30th anniversary in 1993, illustrates this point. There have been changes in its organizational structure over the years, for example it began as the youth section of Svenske Samernas Riksförbund (SSR, Swedish Saami National Association) and later became an independent organisation. It was so independent in its political views that it considered running as a party at the elections for the newly established Swedish Saami Parliament this year. Instead, a new party 'Min Geaidnu' ('Our Way') was constituted which maintains close relations with Sáminuorra.

The aims of Sáminuorra, as stated in the statutes, are: »To safeguard and promote Saami youths' economic, social, cultural, judicial and administrative interests especially with regard to Saami trades«. These aims are pursued over a broad range of activities such as participation in meetings and conferences, working groups, radio-broadcasting, publishing a journal with 4 issues annually and public statements. In addition, a secretariat forms a 'fixed point' in an organization where members often live far from each other, and mostly have to communicate by telephone.

The annual general meeting is central for Sáminuorra's activities. It is the highest decision-making body, where board members and spokesmen are elected and policies and issues are discussed ranging from internal matters to questions concerning youth and the Saami situation in general. The annual general meeting is also important as a social gathering. A number of activities, both formal and informal, are linked to the general meeting and serve to establish strong ties between the youth.

One of Sáminuorra's major concerns is the usage of one of the three Saami dialects. It was stressed that Saami should be spoken when possible at the general meeting, where simultaneous translation was arranged. Furthermore, the statutes were printed in all three Saami dialects as well as in Swedish.

Sáminuorra is generally considered a forum where, apart from getting to know one another, Saami youth are introduced to and debate political issues. At this year's meeting, a straw vote was taken in continuation of the recently held elections for the Swedish Saami Parliament. In addition, a panel discussion with representatives from the Parliament was arranged, and turned into a genuine dialogue between Saami youth and their elected representatives. Presentations and discussions concerned, among other things, the newly established Swedish Saami Parliament, the UN – Year for Indigenous Peoples and the Swedish state's 'Saami proposition' which led to a number of statements. The following statement, addressed to the Swedish government, refers to the loss of hunting rights discussed by Brantenberg (see the article in Newsletter 4/93). ❑

Sáminuorra's Statement to the Swedish Government, 10th October 1993

The State has Stolen our Rights and our Prospects!

Agriculture Minister, Karl-Erik Olsson has been tricked and badly advised, and has carried out the worst attack on Saami rights in modern Saami history. This violation of rights cannot be accepted. Therefore, the 30th meeting of Sáminuorra, the Swedish Saami Youth Council, demands:

that the Swedish government revokes its decision concerning types of permission for hunting small game and fishing in the high pastures and above the cultivation line.

that the government commissions the Saami people's own first elected body, the Saami Parliament, to draw up a realistic and thorough proposal for types of permission.

The right to hunt and fish in the high pasture and above the cultivation line is a Saami right. It comprises part of the right to breed reindeer and the right to use the land and water for themselves and their reindeer, and which is also called a usufruct right. This right is protected as a civil right. The law to breed reindeer only regulates this right which implies that the right does not disappear even if the law is changed. In law, reindeer breeding is established as a usufruct right exclusive to the Saami, and, moreover, no one who is not of Saami origin can breed reindeer or have the right to use the lands.

The Saami usufruct right also includes the possibility to carry out parallel activities to reindeer breeding. Traditionally hunting and fishing have been important parallel activities. The local development of Saami society has already been taking place and the widening of activities of Saami villagers to include Saami other than active reindeer breeders in the local Saami society. This is happening through, among other things, the creation of hunting and fishing associations among the Saami villages. It has permitted Saami youth and women to create new possibilities for themselves in their own surroundings. And logic would say this was a healthy development.

This Saami usufruct right has been transformed by the National Parliament in such a way that it is available to everyone. When they say everyone they really mean all human beings from all over the world. Therefore, Sweden has stolen a right which it never had. It has given the right to those who have no need for it for their subsistence but who will only use it for their own enjoyment. They say they have not stolen anything and Saami rights still exist, but now they have to share them with hunters, dogs and fishers. The Saami National Association (SSR – Samernas Riksförbund) carried out its own investigation and presented a well thought-out proposal on how hunting and fishing ought to be carried out from the point of view of reindeer breeding and Saami rights. This was not even considered by the government when it took its stand on new types of permission.

The government maintains that it has made this change for the benefit of the Saami who do not live in Saami villages. Why have they not, on the contrary, created the conditions for Saami villages to develop in this way? Why have they not worked towards converting the reindeer breeding law into a Saami law? Of course, the needs of reindeer breeders should have priority, but that could have been easily regulated.

The Minister of Agriculture must have had bad advisors. Advisors who were both short of knowledge about the subject and short of courage, and who brought with them a heavy baggage of prejudices and contempt. The Minister of Agriculture must have been badly oriented, which is unfortunate because confidence in him has now been lost. Sweden urgently needs to improve its image, nationally as well as internationally, with respect to its treatment of the Saami. It must bring to a close the Year of Indigenous Peoples in a dignified manner by tearing up its decision with respect to small game hunting and fishing above the cultivation line and in the high reindeer pastures. It has to begin again, together with the Saami people's own elected body, the Saami Parliament.

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IWGIA Indigenous Affairs
ISSN 0105-6387

The International Work Group for Indigenous Affairs (IWGIA) is an independent, international organisation which supports indigenous peoples in their struggle against oppression. IWGIA publishes the IWGIA Documents Series in English or Spanish and occasionally some titles are published in both. The IWGIA Indigenous Affairs (English) and the IWGIA Asuntos Indígenas (Spanish) are published four times annually. The Documentation and Research Department welcomes suggestions as well as contributions to the aforementioned publications. IWGIA publications can be obtained through subscription or purchased separately.

Subscription fees for 1994 are the following:

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Document + The Indigenous World:	US$ 50.-	US$ 35.-
Indigenous Affairs + Document + The Indigenous World:	US$ 70.-	US$ 50.-

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