

THE INDIGENOUS WORLD 1994-95



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Copenhagen 1995

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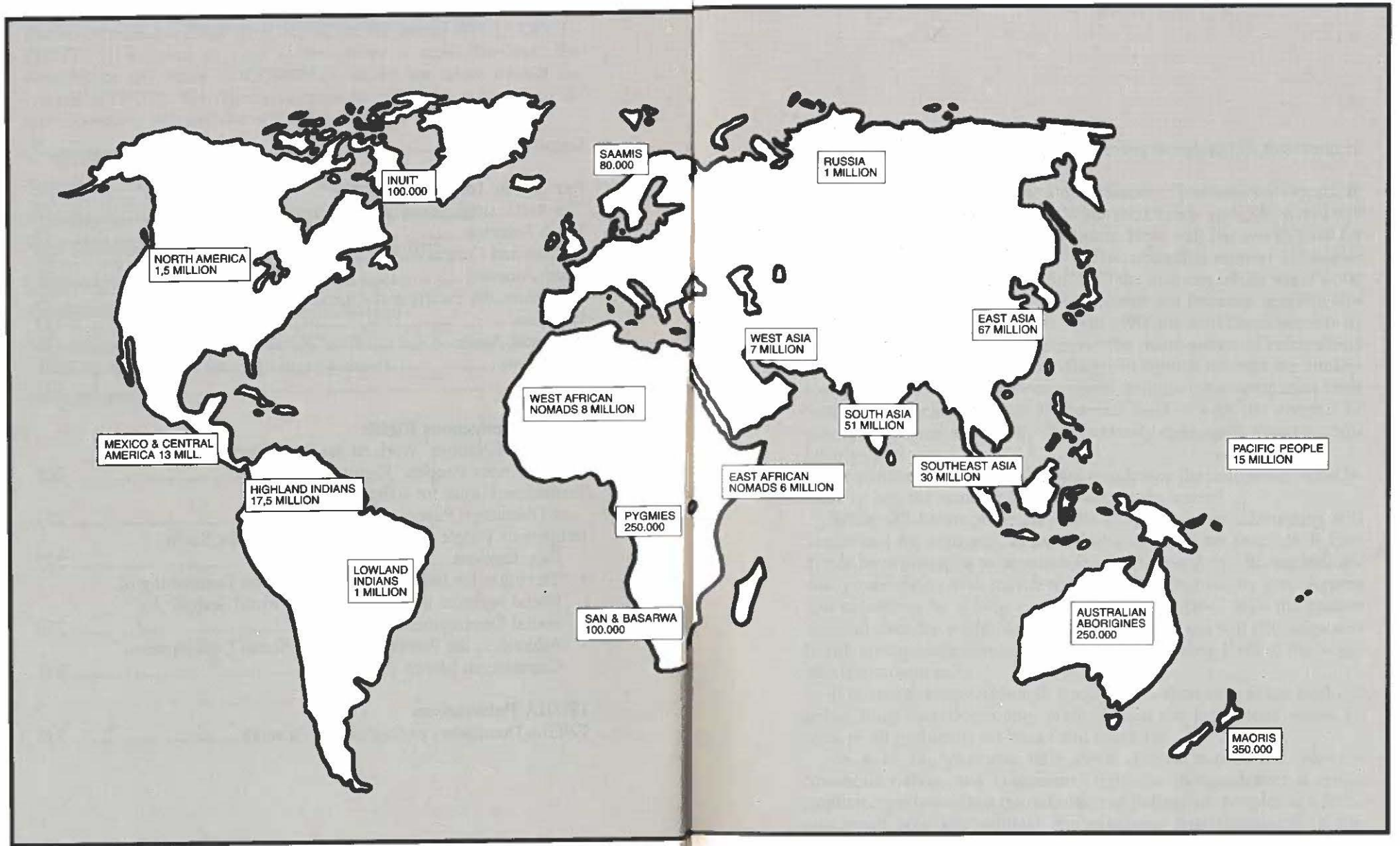
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ISSN 1024-0217

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INTRODUCTION

Another year has passed in the indigenous world and in the world of IWGIA.

1995 is the first year in the United Nations' International Decade of the World's Indigenous peoples. When the Decade ends, the world will be five years into the next millenium. How will the world look for indigenous peoples at that time? Will a substantial number of peoples have acquired self-determination? Will the majority of the world's 300 million indigenous people live in peaceful and dynamic relationships with the states of which they are a part? Will the world have come to its senses and begun to actively support the maintenance of cultural and biological diversity? And will a change in attitude towards the ruthless exploitation of resources have stopped multinational companies from further encroachment upon indigenous land – with the consent of greedy states and an egoistic and recklessly consuming Western capitalist world?

Or will the world state of affairs concerning the indigenous areas be more or less the same as today, perhaps even worse?

What will be the situation of the Chakmas in the Chittagong Hill Tracts and the refugee camps in India in ten years time? Will East Timor have managed to negotiate its way to freedom with the Indonesian government? Will massacres on Amazon Indians by gold-diggers and colonizers be a long gone atrocity of the past? Will indigenous areas all over the world have bilingual schools, and will education and health among indigenous children have reached the level of the Scandinavian countries?

It is hard to know. Although ten years is a short time in the world of today, things are developing pretty fast in the indigenous world, in spite of all problems, set-backs and obstacles.

As it is, the yearbook tells about nuclear tests in the Western Shoshone nation, and Hawaiians' fight for independence; it raises implicit questions about the definition of indigenous peoples in Africa, and about how the political and economic marginalization of the African continent will affect the situation of its indigenous peoples. It raises questions about the status of China's 8 per cent indigenous

population and indigenous peoples' possibilities of a future recognition as such; about Alaska's native peoples' risk of becoming the permanent underclass of the world's richest country, and about Australian aboriginals' gains from an intensified international contact.

What will be the outcome of the negotiations between the Mexican government and the Zapatistas and indigenous peoples of Chiapas? When will the Indian and Burmese troops leave Nagaland? Will world opinion be able to affect the Chinese campaign against Dalai Lama and stop the reckless Chinese human rights violations in Tibet? Will the Great Andamanese in India, now numbering 33 people, be able to survive as a people?

Many questions asked and few answered. In the yearbook we look back over the past year and try as well as possible to cover the main occurrences in the indigenous world. The future development depends on indigenous peoples' continuous struggle against state oppression, and the states' acceptance of indigenous peoples' right to self-determination and their willingness to open up space for dialogue with their indigenous inhabitants. Most of all, perhaps it depends on indigenous peoples' own ability to continue their efforts towards self-organization and strengthening of their international network.

Areas Covered this Year

The ultimate aim of *The Indigenous World* is to cover the situation and the latest developments concerning all indigenous peoples of the world. However, as the IWGIA contact network is stronger in some parts of the world than in others, some areas are inevitably covered more thoroughly than others.

IWGIA has strong links to the *Arctic* area. The international secretariat of IWGIA is situated in Denmark, and for geographical and historical reasons there are, thus, close relations between IWGIA and indigenous organisations in the Arctic area. This is reflected in the comprehensive contribution on the latest developments concerning the indigenous peoples of the Arctic. Also on *North America* we have tried this year to cover quite a number of important issues.

Traditionally IWGIA has a strong contact network in *South and Central America*. The indigenous issues in these regions are comprehensive, and we try to focus on those areas which have been of great importance this year.

Until recently IWGIA has not had much contact with *African* organisations. However, in 1993 we organised an international conference on indigenous peoples in Africa. This event is only the stepping

stone for what we hope to be a continued process for strengthening our indigenous contact network in Africa. The contribution on Africa tries as far as possible to cover the whole African indigenous scene (except for parts of East Africa which unfortunately we have had to leave out this year). And the important and difficult discussion of the implications of using the indigenous concept in an African context is briefly touched upon.

In *Asia* IWGIA has a steadily growing indigenous contact network. We are planning for consolidating this by a conference on indigenous peoples in Asia to be held in October 1995. Through networking trips we have strengthened our contacts in the Philippines, Thailand, Malaysia, Vietnam and India. During the last years we have covered the Philippines quite extensively, and we have chosen to focus on other areas in the south east Asian region this year. Areas like Indonesia and Laos are unfortunately not too well covered, and we hope to be able to add more next year.

Although IWGIA already has a number of contacts in *Melanesia, the Pacific and Australia* we would like to strengthen our network in these regions in the future. The contribution on Aoteroa (New Zealand) varies somewhat from the other parts of the book. It is a report of activism in 1994 which we have received from Moana Sinclair, representing the Te Kawau Maro Maori organisation. The language is somewhat more subjective than in other parts and we have chosen to keep the strong personal tone. Ultimately *The Indigenous World* should bring to the fore the voices of indigenous peoples themselves, and we see Moana Sinclair's contribution as an important step in this direction.

To this end we would like to encourage those of you who would like to contribute to next years' edition of *The Indigenous World* to contact us. And to be able steadily to improve *The Indigenous World*, we would likewise appreciate to receive your comments and criticism.

There is seldom only **one** truth. Every issue can be seen from many angles, and the way some of the issues are presented in the following pages might be applauded by some and disputed by others. To enhance the visibility of the authors of the various parts in the book, we have chosen to give some more detailed information on the background of the contributors.

In the second part of *The Indigenous World* we touch upon a number of issues which have been of importance on the international indigenous scene during the last year.

At least three major areas are of considerable importance. The first one is the further work with the Draft Declaration on the Rights of Indigenous Peoples. The second one is the possibility of establishing a Permanent Forum for Indigenous Peoples in the United Nations. And the third one is the Decade of Indigenous Peoples.

We give an account of the meeting of the Human Rights Commission in Geneva this year, where the Draft Declaration was discussed. And we try to sum up how the future work with the Draft Declaration is going to take place.

The Danish Discussion Paper for a Permanent Forum for Indigenous Peoples in the United Nations – issued by the Danish Government and the Greenland Home Rule – is printed in its entirety.

Finally we comment on the Declaration from the UN Social Summit held in Copenhagen in March of 1995, seen from an indigenous perspective. We bring a paper presented by Andrew Gray at the conference held by IWGIA in connection with the UN Social Summit. Finally we print the statement which the group of indigenous representatives who participated at the IWGIA conference at the NGO Forum forwarded to the official Social Summit Forum.

CONTRIBUTORS

IWGIA would like to extend our warmest thanks to the following people for having contributed to *The Indigenous World*:

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- *Bernhard Bös*, Cand. Mag. in Ethnography from the J.W. Goethe University in Frankfurt Am Main specialized in the Americas and Sub-arctic regions. Worked as an archaeologist in Germany and France and is now a member of the IWGIA Danish National Group (*Lubicon Cree, Mohawk*).
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Melanesia, the Pacific and Australia

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East Asia

- *Anders Højmark Andersen*, postgraduate student of social anthropology. Information officer in the Danish Tibet Support Committee. Conducted field research in Tibet in 1993 and 94 (*Tibet*).
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South East Asia

- *Torben Retbøll*, cand. mag. in Latin and History, lecturer at Århus Katedralskole. Has written and edited a number of books on mass

communication and international relations. Is preparing a new IWGIA Document on East Timor (*East Timor*).

- *Christian Erni*, social anthropologist, Ph.D., scientific assistant and lecturer at the Department of Ethnology, University of Zürich, and a founding member of the IWGIA Swiss National Group. Has conducted field work in the Philippines and has travelled extensively in mainland Southeast Asia (*Nagaland, Burma, Thailand, Malaysia, Vietnam*).

South Asia

- *Rajeen Singh*, has worked with a number of adivasi organisations and was the secretary of the Asia Indigenous Peoples Pact. Is presently associated with the Indian National Social Action Forum (*India*).
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- *Ganesh Man Gurung*, anthropologist, advisor to the Federation of Nationalities in Nepal. Head of the Department of Sociology and Anthropology at the University of Kathmandu (*Nepal*).

Africa

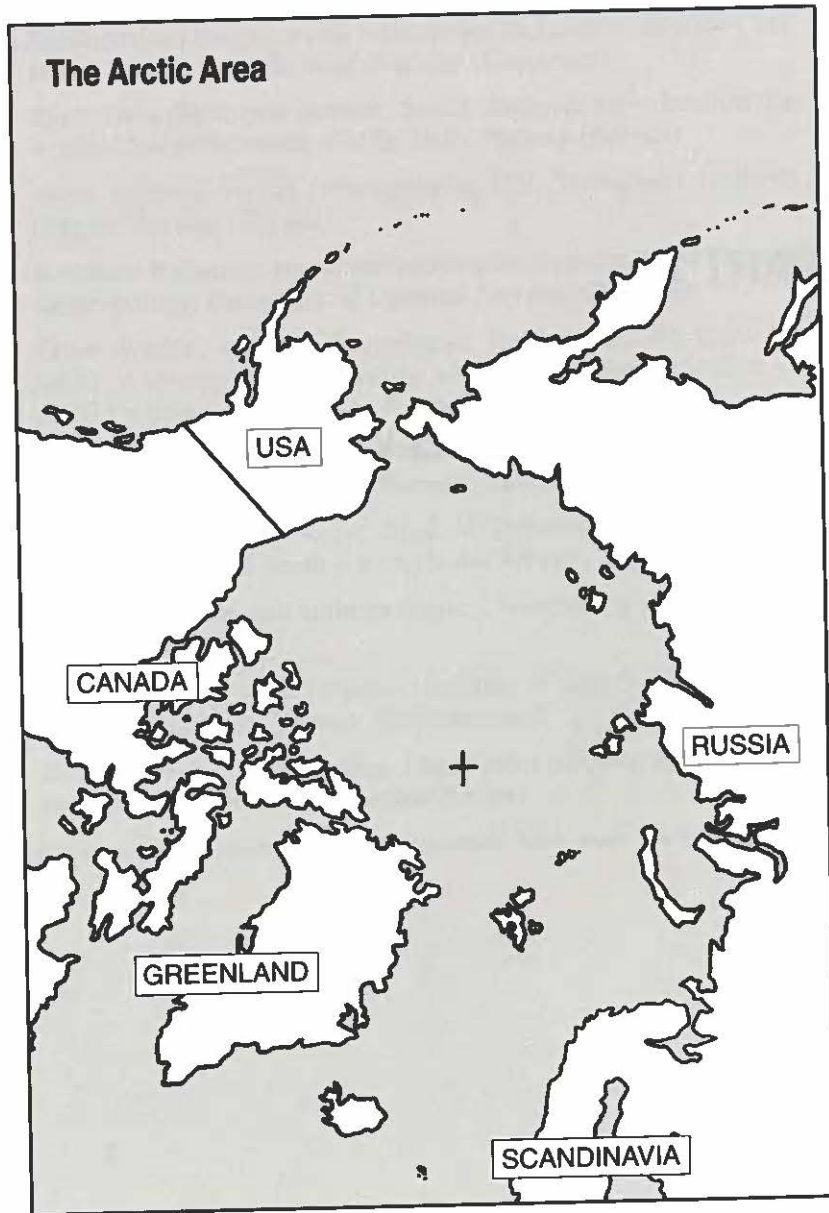
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PART I

THE INDIGENOUS WORLD



THE ARCTIC

Renewable Resources

Hunting, fishing and reindeer herding are the main trades of the Arctic indigenous peoples. Even though mining and tourism are becoming more important, the Arctic peoples continue to live off the land and they make strong efforts to be in control of the management and monitoring of the vulnerable Arctic environment.

As often mentioned in the IWGIA publications, the Arctic peoples have to fight not only governments but also the animal rights organisations that try to stop trade of all kinds in furs from wild animals. This continues to be a severe problem and the EU ban on the import of furs from a number of wild animals, to be effective from 1996, is still pending.

All Inuit societies have hunted whales since time immemorial and, even though the European and American whalers depleted a number of whale stocks in the 19th and early 20th centuries, whaling is still significant for most aboriginal peoples. The *Inuit (Inupiat)* of North Alaska have been granted an annual quota of bowhead whales, and this stock has increased over a number of years. In September 1994, three hunters from Igloodik, a community within Nunavut, took the first bowhead whale for years. In the Eastern Arctic harvesting of bowhead whales has been banned by the federal government since the 1970s because the stock had become endangered. On this background the hunt was considered illegal and the three hunters have been charged for violating the Canadian federal marine mammals fisheries regulation. Under the Nunavut land claims agreement a new institution to manage wildlife, the Nunavut Wildlife Management Board, is quoted as having stated that the Board "cannot support any harvesting activities which do not follow or adhere to the Nunavut Final Agreement" (News/North Sept.26,1995).

The meat from the hunt was distributed within Igloodik and to other Nunavut communities of the Canadian Arctic. The issue is of concern to indigenous peoples all over the Arctic, and the reactions of Inuit society to the hunt have been very mixed. The president of Nunavut Tungavik Inc. (the organisation to implement the land claims agree-

ment between the Inuit and the Canadian government) expressed the feeling of many when he said that "In this case, I am told, a bowhead whale... presented itself to the hunter who knew the desires of the elder. The Inuit respect these cultures and traditions. The hunters of Igloolik only did what they have been taught all their lives 'obey your parents and in-laws" (ibid.).

Inuit member of parliament, Jack Anawak, said that he thought "...the underlying issue in this whole matter is whether the Inuit have hunting rights that may supersede other regulations or laws - or whether the Inuit ever gave up their hunting rights at all". Inuit leaders have accused the government of starting a power game when they took the hunters to court, and that, effectively, the whole Inuit culture was on trial in this matter.

Business Development

As a result of the initiative taken by the Inuit Circumpolar Conference when hosting a conference on Inuit Business Development in Alaska in 1993, contacts are now developing, particularly between Greenland and Canada. A number of delegation visits between the Northwest Territories, Nunavut, Nunavik and Greenland have been undertaken in order to identify fields and opportunities for beneficial cooperation. One of the outcomes of this contact and exchange is a joint-venture between the Home Rule-owned Greenlandair Ltd. and First Air, owned by the *Inuit of Nunavik* through the Makivik Corporation, on the operation of weekly cargo and passenger flights between Ottawa, Montreal, Iqaluit, and Kangerlussuaq. The joint venture, utilizing the First Air aircraft, also operates the route to Pituffik in North Greenland.

The Governments of the North West Territories, Canada and the Greenland Home Rule Government have also engaged in professional exchanges with regard to physical planning and infrastructural developments in Greenland, NWT and the new Nunavut Territory. Opportunities for cooperation within the areas of airstrip and port construction and upgrading are being analysed, but may be hampered by trade barriers.

International cooperation

In May 1993, seven Arctic countries (Canada, Denmark, Iceland, Norway, Sweden, Finland and Russia) adopted a declaration on the establishment of an Arctic Council. Recently, the United States has declared that it will join the initiative.

The Arctic Council will provide a forum wherein the Arctic govern-

ments will consider and address issues of common interest and make recommendations on how to follow-up these issues. The members of the Council will be the governments, but the three regional indigenous organisations, the Inuit Circumpolar Conference, the Saami Council and the Association of Small Peoples of the Russian North and Far East will be permanent participants. The Canadian Ambassador for Circumpolar Affairs, Mary Simon, has travelled to the Arctic countries to discuss and elaborate a proposed model for the Council. Further negotiations will be held in Ottawa in June 1995.

As part of the Arctic cooperation through the Arctic Environmental Protection Strategy (AEPS) (see IWGIA Yearbook 1993-94) an Indigenous Secretariat has now been established in the Greenland Home Rule office in Copenhagen. The office coordinates the indigenous participation in the various programmes under the Strategy.

ALASKA

The Alaska Native Commission

The 86,000 indigenous *Aleut, Indians* and *Eskimos (Inuit)* of Alaska make up only 15 per cent of the total population in the richest state in USA. But the indigenous peoples, called Natives of Alaska, are among the poorest of all peoples in that country.

"Whatever words are chosen to depict the situation of Alaska's Native people, there can be little doubt that an entire population is at risk. At risk of becoming permanently imprisoned in America's underclass, mired in both the physical and spiritual poverty that accompany such social standing. At risk of leading lives, generation to generation, characterized by violence, alcohol abuse and cycles of personal and social destruction. At risk of losing, irretrievably, cultural strengths and attributes essential for the building of a new and workable social and economic order. At risk, inevitably, of permanently losing the capacity to self-govern - the capacity to make considered and appropriate decisions about how life in Native communities should be lived."

These words do not come from any radical Native pamphlet or similar publication, but they are part of the conclusion of a comprehensive study made by the Alaska Native Commission which was finalised in 1994. This Commission was created by the US Congress in Washington following an alarming report from the Alaska Federation of Natives on the social and cultural situation of Alaska's Native population. The Commission report is even more outstanding because, when the

Commission was established in 1992, six of its thirteen members, Natives and non-Natives, were appointed by the President of the USA and seven by Walter Hickel, at that time Governor of Alaska, who has been known as one of the strongest opponents to the recognition of the rights of the indigenous Natives of Alaska. The Commission report deserves to be widely known.

Diseases, alcoholism, self-destructive behaviour, cultural collapse and loss of self-reliance are among the signs of a people in peril. A sad aspect of this situation is that

“it was during the period when anti-poverty programs were being introduced throughout Alaska that Natives began to turn to alcohol in alarming numbers...The ‘Native industry’ that had evolved to encompass all aspects of life within the Alaska Native community had failed; things had not improved, they had only gotten worse” (Commission Report).

Families have broken down and dependency has become widespread. It is, in sum, an extremely appalling picture that the report provides of the situation in Alaska. The seriousness of the situation is further highlighted by the critique of earlier interventions by state and federal authorities and by the far-reaching recommendations given by the Commission. The Commission specifically stresses that there is an “urgent need for overall changes – any piecemeal reform will fail”.

The three key words put forward by the Commission are self-reliance, self-determination and integrity of Native cultures. These are the pillars for future initiatives.

“What the federal and state governments can do is to offer mutual respect and assistance. They must be willing to give control of local issues back to Alaska Natives. They must step aside in many areas so that Alaska Natives can attempt to reconstruct honourable and dignified lives for themselves.”

Taken at its word, the report is a complete break with earlier policy which has only created dependency, but no work or self-reliance of Native institutions or communities.

“Establishment of Natives’ cultural integrity, and the true empowerment of Native individuals, families and communities must become realities. In all of this, breaking Alaska Natives’ social and economic dependence on others is a fundamental part of the equation” (ibid.).

To make these general considerations a reality the Commission has a number of suggestions:

Jurisdiction

To give:

“maximum local powers and jurisdiction to tribes and tribal courts in the areas of alcohol importation and control, community and domestic relations, and law enforcement. If this cannot be achieved under current federal and state statutes or because of rigid interpretations of the Alaska State Constitution, Congress should amend Public Law 83-280 to specify that all tribes in Alaska have concurrent criminal jurisdiction with the State of Alaska..”

As it is today the State of Alaska does not even recognise that tribes exist in Alaska. The Commission’s critique of the State is unequivocal:

“Probable causes of this seeming discrepancy between what could be accomplished locally and what is, in reality, being accomplished include the State of Alaska’s unwillingness to cede to village councils and village courts the authority to handle local cases. The continuing confusion and conflicts over tribal sovereignty, which embed even more deeply the State’s conviction that any release of its authority to tribes is a threat to its authority, also stand in the way of effective local judicial control.”

Subsistence

To strengthen the economic base of Native communities and Native peoples, the commission recommends that a preference be assured to the Native population’s subsistence activities. The Commission stresses that subsistence is more than harvesting of animals. It is a way of life, integral to the Native cultures and, as such, it requires protection, and indigenous peoples should have preference over other peoples of Alaska. At present the federal authorities recognise a rural preference on their lands, but the State of Alaska has deferred to pressure from sport organisations and other private interests. The Native subsistence, including the subsistence activities of Natives living in non-rural areas, therefore, needs further protection than the existing rural preference. The Commission recommends the participation of local Natives in the resource production and highlights the Community Development Quota (CDQ) as a positive exception. This programme allows 62 communities in Western Alaska to share in the commercial Bering Sea pollock fishing.

Empowerment

In all, the key word of the recommendations of the Commission is ‘empowerment’. The Commission specifically recommends that “Congress should establish policies and relationships supporting tribal

governments in Alaska...”, and “the State of Alaska should, through Executive Order or legislative enactment or resolution recognize the existence of Native tribes in Alaska to clear obstructions to successful implementation of policies and programs affecting predominantly Native areas of the State.” Specifically, it says that “Native communities should be able to freely convey ownership and control of Native lands between Native corporations, tribal governments, individuals and other Native institutions...”

The future, as the Commission also recognises, depends on the Native themselves. The report cites Native, Pete Schaeffer of Kotzebue: “No one man or one person or anything like that is going to come to save us. I think it’s clear to us that if we as a Native people are to be saved, we’re going to just have to do it ourselves.”

CANADA

Indigenous Ambassador

Canada, the first country to do so, appointed Mary Simon, former president of the Inuit Circumpolar Conference, as Canadian Arctic ambassador. Although it is still too early to say exactly what credentials she will have, it signals an opening in the involvement of the indigenous peoples of the Arctic in the future monitoring of a region which is of great environmental and strategic importance. It is also to be hoped that this will make way for pivotal indigenous participation in the planned Arctic Council to comprise all eight Arctic states.

An Independent Quebec

The *Inuit* and *Cree* Indians living in the Canadian province of Quebec were the first aboriginal peoples of that country to enter into a land claim agreement with the government. They had to accept the extinguishment of aboriginal rights to vast tracts of land in return for fee simple title to a fraction of the land they originally used and occupied. On top of this they received compensation money.

In November, the Quebec Premier, Jacques Parizeau, suddenly announced the suspension of the gigantic Great Whale dam project which was to be added to the James Bay hydro-electric project. The project is now on ice, although not completely cancelled. It was the James Bay project which in 1975 compelled the Inuit and the Cree to sign a land claims agreement.

Since then the issue of a regional government for the northern part of Quebec, *Nunavik*, the homeland of 7,000 Inuit, has been on the

agenda and negotiations held with the Quebec provincial government. In July 1994, a framework agreement on a Nunavik Government was signed. This process, however, was put in jeopardy when, in December, the government of Quebec announced a referendum on Quebec independence to be held in 1995. The draft bill which will finally be put to the voters to accept or reject leaves no room for the Natives to exercise the same rights as the French-speaking Quebecois. The aboriginal peoples will not be allowed to vote on their own future, only to negotiate self-government within the borders of a new Quebec state:

“...[the Constitution] shall also recognize the right of Aboriginal nations to self-government on lands over which they have full ownership. Such guarantee and such recognition shall be exercised in a manner consistent with the territorial integrity of Quebec.”

The French-speaking majority of Quebec has for years threatened to leave Canada, but the Inuit do not want to stay within the new state and have appealed to the federal government in Ottawa for protection. “We have a lot of pride in our identity as Inuit and what makes us distinct from other peoples”, Zebedee Nungak told a news conference.

“We have nothing against other citizens of this country. But we have to declare that we are neither French nor English, the two peoples that are often mistakenly described as the founding peoples to the exclusion of aboriginals..”

he continued. The Cree and the Inuit living in the northern part of the Quebec province, north of the 55th parallel, constitute the majority of the population in their respective territories. The Cree nation living in Quebec and the Inuit nation of Canada (which includes Inuit living in Quebec) have each resolved to hold their own referenda to determine the respective democratic will of Cree and Inuit regarding their political future and the right of Cree and Inuit in Quebec to remain in Canada.

In spite of the uncertain future of Quebec, the Inuit, but not the Cree, have continued to negotiate a self-government deal with the provincial government. The core of an Inuit agreement, which might be reached in 1995, will be the establishment of a Nunavik Assembly with responsibility for education, social services, land management, justice and administration.

Nunavut – Our Land

In 1993, the Inuit of the Northwest Territories of Canada finally reached an agreement with the federal government in Ottawa on the establishment of a new territory, *Nunavut*, in 1999. The agreement also included a land

claim agreement. The Inuit will make up the great majority of the population in Nunavut. In compensation for giving up aboriginal rights to their land, the Inuit received fee simple title to a smaller part of the territory and a cash payment of Can.\$ 1,173,430,953 to be paid over 14 years.

The land claim agreement is now being implemented by Nunavut Tungavik Inc. and its subsidiary the Nunavut Trust which will manage the investment of the millions of dollars of compensation money to the benefit of all registered Inuit of Nunavut Territory.

The planning of Nunavut's future public government has been given to a 10-member body, the Nunavut Implementation Commission, which is travelling the North to listen to peoples' opinions on a vast number of issues. One of the first and most troublesome decisions to be taken is the location of the new capital, which was not decided upon by the end of 1994. Other issues are to set a timetable for the Nunavut government to assume responsibility for the development of services, the forming of the first Nunavut government and the establishment of the first election.

In a working paper which was made public in Spring 1995, a proposal for gender equality is suggested so that a man and a woman will both be elected to the Nunavut parliament from each of the Nunavut constituencies. At the time of writing (May) it seems as if the proposal will have support from the Nunavut Implementation Commission.

The Northwest Territories

The future of the remaining part of the Canadian Northwest Territories is still uncertain, but probings between the government and the indigenous organisations began in early 1995.

In this part of the Northwest Territories, the *Inuvialuit* were the first aboriginal people to enter a land claims agreement with the government; this was in 1984. The *Gwich'in* followed in 1992 and the *Sahtu Dene* and *Metis* finalised an agreement in 1993 which was approved by the Canadian parliament in 1994. Under this land claims settlement the Sahtu Dene and Metis will become owners of 41,437 sq.km. of land in the Mackenzie Valley region of the Northwest Territories of which 1,813 sq.km. will include subsurface rights. They will also receive Can.\$75 million over a 15 year period, and a continuing share of resource royalties received by the government from activities within the entire settlement area, which includes a share in Norman Wells oil and gas royalties. The Sahtu Dene and Metis will participate in land use planning and regulation, management of renewable resources as well

as exclusive right to hunt on their own lands in the settlement area. The settlement area covers 280,238 sq.km. and it is within this region that the terms of the settlement apply.

It was seen as a step forward in the recognition of indigenous rights when Indian Affairs Minister, Ron Irwin, announced that he accepted to link negotiations on land claims with self-government and to accept Metis land claims. This seems to follow a system of self-governing Metis communities already established in the province of Alberta.

GREENLAND

International Affairs

When Home Rule was established in 1979, Greenland remained part of the Danish realm. The constitutional principle of the Unity of the Danish Realm means that certain national responsibilities must remain with the central government in Copenhagen and cannot be transferred to the Greenland Home Rule Government. Foreign affairs is one of these along with defence and justice.

With respect to foreign policy, the authority to enter into international agreements thus remains vested with the Government of Denmark. However, as the Greenland Home Rule Government has extensive legislative and executive power over local or domestic affairs, it is often necessary to obtain Greenlandic cooperation to fulfil Denmark's international objectives and obligations. To this end, the Home Rule Act provides for a process of consultation before Denmark enters into agreements that particularly impact Greenlandic interests. Examples of international agreements of specific interest to Greenland would primarily be in the areas of fish and marine mammal management.

In the course of the development of the Greenland Home Rule, however, Greenland has been increasingly active in other areas as well. This is primarily in the area of environmental protection and human rights, where Greenland as part of the Danish delegation to international conferences has contributed to the Danish policy-making.

The ongoing cooperation with Arctic and indigenous peoples and the growing competence within international affairs, which has developed over the years in cooperation with Denmark, became a major issue during the discussions of the Greenland Parliament during its autumn session in 1993 and resulted in the decision to establish an International Affairs Office to facilitate the international activities of the Government and to provide administrative support to the Foreign Affairs Committee of the Home Rule Parliament. In 1994, the Parlia-

ment was presented with the first formal Foreign Policy Report in the presence of representatives of the Danish Foreign Service. The report was very well received by all parties.

Development Aid

In July 1994, the Danish Ministry of Foreign Affairs launched a strategy of Support to Indigenous Peoples which was developed in co-operation with, among others, the Greenland Home Rule Government. The Strategy is the result of a resolution passed by the Danish Parliament in 1993 as a follow-up on the International Year of the World's Indigenous Peoples which, among other things, called upon the Government to present a strategy for increased, efficient Danish assistance to indigenous peoples. The strategy focuses on self-determination in the sense that it aims at providing aid towards development on indigenous peoples' own terms and based on their own culture. The key elements of the strategy are to promote political dialogue, dialogue with programme countries, general integration of the consideration for indigenous peoples in development assistance, Danish aid to specific projects and trade-oriented and economic activities.

The Greenland Home Rule Government's involvement in the preparation of the strategy has sparked an interest in a more direct participation in the development and provision of aid to developing countries, in particular to indigenous peoples. As a result, the Danish Ministry of Foreign Affairs is currently conducting a study aimed at outlining the possibilities of integrating Greenlandic expertise in Danish development aid.

Danish Ratification of ILO Convention 169

Another result of the Danish Parliament's resolution was the decision by the Danish Parliament to ratify Convention 169 of the International Labour Organisation concerning the rights of indigenous and tribal peoples. This was – symbolically – carried out by the Danish Government on December 9, on the day of the inauguration of the United Nations' Decade of the World's Indigenous People, following a process of consultation with the Greenland Home Rule Government.

Renewal of the Fisheries Agreement with the European Union

While Denmark is part of the European Union (EU), Greenland has only associate status, having opted out in order to gain full control of the fisheries. As a non-member country with associate status, Greenland has the opportunity to negotiate agreements on fishing rights with



Returning to "skærgården", East Greenland, after a successful Nar-whale hunting. Photo: Tønnes O. K. Berthelsen.

the EU. The agreements are renegotiated every five years. Payments from these agreements represent a significant source of income comprising about 7 per cent of government financing.

In 1994, Greenland was successful in finalising the fisheries protocol with EU for the next five years. The major results were a significant increase of about 10 per cent – or approximately 283 million Danish Kroner – in the financial compensation and the inclusion of options for the establishment of new measures of co-operation in the form of joint ventures. Sixty million Danish Kroner has been set aside for joint venture projects over the next six years. Finally, the Fisheries Agreement with EU ensures the continuation of free trade between Greenland and the EU.

International Whaling Commission

The Greenland quotas on large whales were renewed at this year's meeting of the International Whaling Commission (IWC) in Puerto Vallarta, Mexico for the years 1995-97. The annual quota (allowable catch) on minke whale was increased from 105 to 155 and, in turn, the quota on fin whales was reduced from 21 to 19. Calculated in tonnes, this is an estimated increase from 420 to approximately 500 tonnes of

whale meat. Greenland estimates its actual need for whale meat to be approximately 670 tonnes annually. The quotas are distributed by the Greenland Home Rule Government in consultation with the Greenland Hunters and Fishermen's Organisation, Kalaallit Nunaat Aalisartut Piniartullu Kattuffiat (KNAPK).

The Greenland Home Rule Government and the Hunters' and Fishermen's Organisation participate at the IWC meetings as part of the Danish delegation. To avoid a conflict of interest, an agreement has been made between the Premier of Greenland and the Danish Foreign Minister to discuss the proposal for instructions prior to the adoption. Last year Denmark accepted Greenland's proposal to work for IWC recognition of sustainable coastal whaling or the so-called Small Type Whaling (STW). The delegation mandate for this year's meeting of the IWC in Dublin is currently under preparation.

Hunters Seminar

In February of 1995 hunters, experts, representatives of the Home Rule Government and other public institutions met for a five day seminar in Ilulissat to discuss problems and prospects of hunting in Greenland today and in the future. During the seminar a wide range of issues concerning hunting, management, and the living conditions of hunters were discussed in an atmosphere of realism and determination. External pressures on the hunting trade were also basis for discussions, including the European Union ban on the utilization of leg-hold traps, which came into effect on January 1, 1995, and on the import ban of furs from certain species of furbearing animals from countries utilizing leg-hold traps to come into effect by January 1, 1996. The Seminar released a joint statement in solidarity with the hunting communities which will be seriously affected by the EU import ban, socially, culturally and economically.

The Seminar further protested against the contradictory role played by Denmark in this context – as a member of EU. On the one hand, Denmark has ratified ILO Convention 169 on indigenous rights and supported the principles of the Rio Declaration referring to indigenous peoples' rights to sustainable development. On the other hand, Denmark as a member of EU is participating in the sabotage of the International Standard Organisation (ISO), which is currently developing standards for humane trapping methods, by overriding this process of standard-setting.

The role of the EU became even more contradictory when on January 23, 1995 the European Parliament adopted a resolution welcoming the

United Nations' proclamation of the Decade of Indigenous People as a symbol of recognition of the rights of indigenous peoples in which it calls upon the Council and Commission "to introduce into further trade and cooperation agreements between the EU and third countries specific clauses on indigenous people with a view to guaranteeing their rights."

Mineral Resources

The management and regulation of non-renewable resources in Greenland was a matter of dispute in the time leading to the establishment of Home Rule in 1979. Even though the Home Rule Act contains the statement that "the resident population of Greenland has fundamental rights to the natural resources of Greenland" a practical compromise had to be made. The compromise includes matters of the Act's administration and the revenue sharing of public sector profits from mineral development. The Home Rule Act establishes a principle of joint responsibility between Greenland and Denmark over matters of mineral policy in Greenland. Mineral policy is set by a joint Greenlandic/Danish Parliamentary Committee chaired by the Premier of Greenland. The Minerals Act itself is administered by a department in the Danish Ministry of Energy.

In November 1994, political negotiations between the Greenland Home Rule Government and the Danish Government resulted in a three year political accord aimed at increasing Greenland's influence upon and responsibility for the mineral endowment. Most importantly, the Greenland Home Rule Government and the Danish Government will co-sponsor a financial and technical reinforcement of the Department of Non-Renewable Resources in Nuuk, which is to be combined with improved cooperation between the Department and the Danish Ministry for Energy and the Environment. The Danish Government has guaranteed to contribute an annual 5 million Danish Kroner to this process. The jointly owned company, Nunaoil, receives an annual 30 million Danish Kroner from each party over a three year period. In addition, Denmark has earmarked another 15 million for joint projects carried out by Nunaoil. To support the overall process of competence building in Greenland in the area of mineral resources development, services, logistics, expertise and data will be shared in a manner which aims at maintaining the level of research, data processing and analysis.

Airborne Mineral Resources Surveys

The Greenland Home Rule Government (Department of Mineral Resources) has launched a five year geophysical project to survey the mineral deposits in Greenland by means of magnetic and electromag-

netic measurements carried out from aircraft. This year the airborne electromagnetics project, named AEM 1994-1998, will be covering Inglefield Land and be working out of the US Airforce base at Pituffik. The survey is carried out by the Greenland Geological Research Institute in cooperation with Canadian experts and the Canadian company Geoterrex.

Parliament Election March 1995

The leading political party in Greenland, the social democratic party, Siumut, made history following the parliamentary elections on March 4, 1995 when it chose to switch coalition partner in the new government. The Siumut Party has been in power since 1979 when the Home Rule Government was first instituted, starting off as a majority government. Between 1984 and 1988 and again from 1991 until the latest election, the Siumut Party formed a coalition with the socialist party, Inuit Ataqatigiit. The cooperation between Siumut and Inuit Ataqatigiit, thus, was only halted for a brief period between 1988 and 1991 when Siumut formed a minority government supported by the liberal party, Atassut. It therefore came as a surprise when Siumut won the election and Premier Lars Emil Johansen announced the coalition between Siumut and Atassut – following a four-year relatively politically stable coalition with Inuit Ataqatigiit.

The new cooperation agreement between Siumut and Atassut in effect completely leaves Inuit Ataqatigiit out of power, as it divides all major positions as chairpersons in the government-controlled businesses between the two governing parties.

Overall, it was a very exciting election as many of the members of Parliament, along with the Parliament Leader through the past four years, Mr. Bendt Frederiksen were resigning and the parliament, in addition, was extended from 27 to 31 seats. The overall result of the election was that the centre party, Akullit Partiiat won 2 seats, Atassut 10, Inuit Ataqatigiit 6, and Siumut 12 seats. Finally, 1 seat was won by a union of independent candidates, while no candidates from the conservative, the Polar Party, Issittup Partiaa, were elected. All in all, 19 of the 31 members of Parliament are new.

The new government is constituted by 5 members of the Siumut and 2 members from Atassut.

On March 28, 1995, during its constitutional session, the Parliament appointed the first ombudsman (Parliamentary Commissioner for Administration) for Greenland to take office from April 1, 1995 in a newly created legal institution. The ombudsman institution is linked to

the recent amendment of the public law of 1970 and the introduction of a new law on public administration, with the objective to create more openness in the public administration.

Business Development

Aside from the economic benefit resulting from the current restructuring of the Greenland Trade Company, KNI and the containerization of the Royal Arctic Line cargo transportation, the two major areas with potential for business development are considered to be found within tourism and mineral resources exploration. The Greenland Home Rule Government has recently released a comprehensive analysis of the current and future prospects of economic development in Greenland which confirms the growth potentials of the increased market orientated economy, a political strategy laid down by the former government and now being pursued by the new government.

To encourage and support local business development initiatives, the Home Rule Government has established a business development company, Sulisa Ltd. to facilitate evaluation and promotion of private and public business projects. The company was established only in 1994 and is still in its initial stages; however, it has already been reviewing a number of projects and has initiated a few of its own projects. The primary idea behind Sulisa is to facilitate and to create sustainable long-term businesses and employment, through investments, loans and consultancies. The Home Rule Government has invested 38 million Danish Kroner in the company and is hoping to attract investors from both public and private sectors.

The KNI and the federally owned shipping company, Canarctic, have now completed a feasibility study on the basis of a joint operation to supply oil and dry cargo to northwest Greenland and the Canadian Eastern Arctic. A commercial agreement is expected to be signed by Greenlandic and Canadian authorities in June 1995, when Canadian Government officials are expected to visit Nuuk. The KNI and Canarctic joint operation is viewed as an important touchstone with respect to future business cooperation.

Review of the Justice System in Greenland

The justice system in Greenland remains the responsibility of the State of Denmark. Changes to the system therefore have to be adopted by the Danish Parliament as amendments to existing legislation. To ensure that the Greenlandic judicial system, which is based on traditional customary law, is in line with international human rights standards, the

Danish Ministry of Justice in agreement with the Greenland Home Rule Government has established a Commission on the Administration of Justice composed of a wide-ranging group of experts and representatives from the authorities in both Denmark and Greenland to analyse thoroughly the functioning of the juridical system and to propose amendments to that end. The Commission, which is currently conducting public hearings as well as in depth studies of the current system developed in the early 1960s, is expected to report on its findings within three to four years.

The Church Elects a Woman Bishop

On May 28, 1995 the first woman to become bishop in Greenland was consecrated in the presence of Her Majesty Queen Margrethe II in the cathedral of Greenland, Hans Egede. The 39 year old theologian, Sofie Petersen, graduated from the University of Copenhagen in 1986 and returned to Greenland in 1987 to work as a minister in Maniitsoq and later Ilulissat.

Sofie Petersen, who will become the second bishop in Greenland, sees one of her major tasks as working towards more openness within the Lutheran Evangelical church of Greenland – as well as making it more attractive to the youth.

Block Funding

On April 21, 1995, the Greenland Home Rule Government and the State of Denmark finalised the negotiations which had begun in the autumn of 1994 on the annual block funding (core funding) for the period 1996-98. The result was a compromise between the parties to basically maintain the current level of block funding for the next 3 years.

According to the provisions laid down in the Greenland Home Rule Act of 1978 the level and regulation of the block funding transferred from Denmark to Greenland shall be fixed by statute. The block funding, which has usually been negotiated between the Greenland Home Rule Government and the State of Denmark every three years since the introduction of Home Rule in 1979, is linked to the transfer of authority and, hence, responsibility over different fields, such as health services, supply of goods etc., from Danish to Greenlandic political authorities.

Aside from an export income of approximately 2 billion Danish Kroner and the sale of fishing licences to the EU of about 280 million, the block funding of approximately 2.4 billion – and 2.44 billion for

1996-98 – is the most important source of income for Greenland. Since 1979, the block funding has increased concurrently with the transfer of responsibilities from the State to Greenland, based on the principle that the State should neither lose nor gain from the introduction of Home Rule in Greenland.

At this year's negotiations, the State proposed a gradual reduction of the block funding, in order to reduce Greenland's dependency on transfer payments from Denmark. The proposal was turned down by Greenland, however, on the grounds that the Greenlandic economy is still too weak to compensate for such reduction, which in the current situation would slow down the positive effects of a wide range of growth-oriented structural political initiatives. An additional argument, put forward by the Home Rule Government, was that in recent years economic growth in Denmark has been far greater than in Greenland, which is clearly reflected by the level of welfare in the two countries.

SÁPMÍ

The *Saami* area in Fennoscandia extends along a curved zone from Røros in Norway and Idre in Sweden to the east part of the Kola peninsula. The area is 1,500 km long and 300-400 km wide. It is divided by the borders of four nations and still constitutes a clear, separate cultural area where the Saami language is the most important connecting feature.

In 1994 a new line of demarcation affected the Saami people. Norway, Sweden and Finland voted on whether to join the European Union. Sweden and Finland chose to join while Norway did not. In all the Saami areas there was a strong resistance to the European Union.

Sweden

The Saami who live by reindeer herding in Sweden are divided into administrative, regional and functional units, the so-called 'Saami villages' or 'Saami siida'.

According to the reindeer herding law of 1971 and according to custom, Saami villages have the right to administer the small-game hunting within their own areas. In connection with a revision of the Reindeer Law in 1993, the Swedish state decided to take over the right to administer small-game hunting (see IWGIA Newsletter No 1. 1993). This decision has been confirmed by a government provision of 22

June 1994. This provision is a gross violation of Saami rights, a violation which has to be seen in the context of Saami rights in Sweden, which is the only Scandinavian country not to constitutionally recognise the Saami as an indigenous people. As long as the Saami are not recognised as an indigenous people, their interests will be subordinated to those of the dominant society in situations of conflict.

Since the adoption of the new small-game hunting law, many outsiders have been able to hunt in the area. The small-game hunt (especially the red grouse hunt) takes place at the same time as the reindeer are gathered for the annual autumn slaughtering of sarv (reindeer bulls). The Saami have only a short period to gather the herd to be slaughtered because the rutting season of the sarvs begins in the middle of September and at that time the meat becomes rancid and unedible.

A hunting dog or the noise from a shotgun will be enough to scatter the herd and all the Saami herders' work will be wasted. There may not be time to gather the herd together again before the slaughtering period is over. This happened to some herders, and 40 Saami villages took the Swedish government to the European Human Right Commission on 7 December 1994 for violating Saami property rights and the rights to administer their own areas.

Norway

In 1993-94, more Saami lost their prescriptive customary rights to salmon fishing on the Norwegian side of the Tana river. The Tana river is a mainstay of Saami society and settlements in the area stretching from the Tana Fiord in eastern Finnmark upriver and into both Finland and Norway. The fishing rights are linked to the land along the river and Saami who do not live on that property are denied fishing rights. There are also restrictions on the rights to temporarily take care of someone else's fishing net.

In the space of only a few years the Saami salmon fishermen have lost 40 per cent of their fishing rights. The winners are the sportsfishers who comes from outside and take more than half of the best salmon. The Tana River Salmon Association says that this is not only an attack on the economy of the fishermen, but also a destruction of an old occupation of great cultural value. In reaction to this situation, Steiner Pedersen, of the Saami group of the Labour party, has suggested that the Saami Parliament appoint a committee to estimate the Saami interests in the salmon fishing.

On December 29 1994, the Saami Rights Committee presented their report on the use of land and water in Finnmark in a historical

perspective (NOU 1994:21). The report is the third of its kind since 1980, and it forms part of the background material which will be used by the Saami Rights Committee in their discussions and as a proposal for changes in today's legal basis and administration in Finnmark. The report shows that, in a historical perspective, all of Finnmark is a Saami area. In the 12th and 13th centuries Norwegian fishermen migrated into the area. Because Finnmark has no fixed borders, Denmark-Norway as well as Sweden and Russia have collected taxes from Finnmark at the same time, but from 1826 Finnmark was situated within the kingdom of Norway.

Many Saami politicians are very sceptical about the value of the report because an earlier report (NOU 1993:34) has already indicated that the Norwegian state is the rightful owner of Finnmark (see IWGIA Newsletter No 4. 1993).

The debate about the right to land and water in Finnmark came to a head in 1994 when Rio Tinto Zinc Mining and Exploration Limited, Rio Holding Norway AS and Ashton Mining arranged for a trial drilling in Karasjok municipality in Finnmark, testing for gold, copper and possibly diamonds. Neither the Saami Parliament nor the municipality had been asked for permission for the trial drillings. The Saami Parliament told the mining companies to leave Saamiland and lodged a complaint against the Norwegian state which had granted the mining companies a licence without consulting the legally-elected Saami Parliament.

The Saami Parliament's protest meant that Rio Tinto Zinc left Saamiland in June. The mining company's approach was to wait for eventual clarification of the land issue in Finnmark. One of the reasons for this approach was that Norway has ratified ILO Convention 169.

RUSSIA

Economic and Social Crisis

For the numerically small indigenous peoples in Russia, 1994 had a disappointing beginning because of the lack of results arising out of the 1993 UN Year of Indigenous Peoples. The Second Congress of the Association of Small Indigenous Peoples of the North, Siberia and the Far East, which was held in Moscow in November 1993, heard complaints about the absence of results. Within the official agenda and programmes for the UN Year of Indigenous Peoples there were special conferences and cultural events organised and financed by the Russian State Committee of the North (Goskomsever) in which, for the first

time, all indigenous leaders took part. However, new legislation for the indigenous peoples of Russia, which had been promised by the government and president Yeltsin three years before, was not adopted, prepared or even discussed properly. Furthermore, the indigenous peoples did not receive recognition of their traditional subsistence rights or special legal status.

There is a major political and economic crisis in the Russian North and the most vulnerable of the northern populations are the indigenous peoples. Of the approximately nine million people living in the Russian North, less than 200,000 are so-called '*small peoples of the North, Siberia and the Far East*'. Under current circumstances, these peoples depend on state protection and on economic assistance. They do not, however, receive enough aid from the Russian government or assistance from local authorities. Because of the inefficient Russian governmental agencies, regional indigenous leaders in the Russian North are now looking for ways to contact non-governmental international organisations and funding agencies in order to apply for direct assistance. Many of the indigenous leaders hope that international organisations will help them to survive.

In 1994, members of the IWGIA national group in Moscow travelled in Kamchatka, Chukotka and other northern areas. The evidence indicated that life in the North at the moment is changing for the worse. First of all, there are the economic problems, but aside from the pauperisation, the indigenous peoples see a new danger in the privatisation of state-farms property and also the privatisation of traditional subsistence resources by non-indigenous persons. More and more land, rivers and lakes are now being controlled by non-indigenous people. They are there illegally and want quick profits which leads to the depletion of renewable resources.

Traditional aboriginal communities, which were organised in 1991-92 in accordance with the presidential decision, *ukaz*, are still very weak. This is because, on the one hand, these communities have no legal status and rights to use the land and resources and, on the other hand, they cannot compete with the non-indigenous businessmen who have access to the same fish and game resources.

Alcoholism continues to be a very acute problem, even more acute than the economic hardships. One cause of the heavy drinking among peoples of the North is that alcohol is readily available in all indigenous villages. The sale of alcohol is the most simple and effective business venture in Russia. It is especially profitable in northern regions where there is a shortage of other goods and foods and where

alcohol is often a substitute for food. Consumer goods and alcohol have become a severe threat to the health and the demography of indigenous peoples. Fertility rates have dropped over the last two years, the mortality rate has increased, especially through alcohol-related accidents, suicides and homicides. The economic and demographic forecasts for the indigenous peoples of the Russian North are therefore very pessimistic.

Indigenous Peoples and the Law

The Second Congress of the Association of Small Indigenous Peoples of the North, Siberia and the Far East did not succeed in adopting any constructive programmes for political action. The main reason for this was that the two-day meeting revealed disagreements between two groups of indigenous leaders over control within the organisation, which is officially recognised by the authorities to represent the indigenous peoples. This disorder continued throughout 1994.

By special order from President Yeltsin, and following discussions within the Russian government, a block of federal laws devoted to the rights of indigenous peoples of Russia ought to have been prepared. At the same time discussions were planned concerning the ratification of ILO Convention 169. However, these official discussions within the Parliament or in the Government never took place.

On April 23, 1994, Prime Minister V. Chernomyrdin signed a government resolution 'On preparation and realisation of the UN International Decade of Indigenous Peoples'. This resolution approved the setting up of a special committee, headed by the top Russian official in nationalities affairs, Vice-Premier S. Shakhray and his four deputies Evdokiya Gaer (indigenous leader and member of the upper chamber of the Russian Parliament), V. Kuramin (First Deputy of the Ministry of Nationalities and Regional Politics, and former Chairman of Goskomsever), S. Lavrov (permanent Russian UN representative) and finally V. Seyrakov (from the Ministry of Nationalities and Regional Politics).

ILO Convention 169

In November 1995, the Supreme Chamber of the Russian Parliament (the Council of Federation) organised a so-called 'scientific and practical' conference devoted to the problems of ratification of ILO Convention 169 in Russia. A small group of experts from Moscow along with representatives and peoples' deputies from northern regions were invited to the conference. Representatives from IWGIA-Moscow were

asked to write a report about the ratification of the Convention for Vice-Premier S. Shakray, but this report was rejected by the Ministry for Nationalities and Regional Politics as being too much in favour of ratification. The debate which took place at the conference was dominated by expressions of fear by experts and supported by some ministerial representatives and peoples' deputies that ratification of the Convention would cause interethnic conflicts and even civil war not only in the North but in Russia.

Shortly after this conference the State Duma Committee for Nationalities and Ethnic Affairs and the President of the Association of Small Indigenous Peoples in the North, Siberia and the Far East organised a special parliamentary hearing concerning problems of ratification of the ILO Convention. The Ministry representative talked about the 'positive and effective' activities of his Ministry, the lack of money to solve the problems, and he also stressed that there was no hurry to ratify the Convention. Representatives of other government agencies conveyed their fears for Russian ratification and expressed the view that the Convention should be adapted to the Russian situation or Russia should make its own legal framework.

The ILO representative, Lee Swepston, presented positive experiences from countries which have already ratified the Convention and he mentioned the support programmes which follow ratification.

Some bureaucrats from low ranking agencies, indigenous leaders and peoples' deputies were in favour of Russian ratification in order to protect indigenous rights, and they did not believe that the promised federal laws would soon be adopted.

The State Duma organised a sociological survey to analyse the public opinion about ILO Convention 169. The survey revealed that among representatives of federal executive bodies there was a certain scepticism about ratification and they were directly opposed to the granting of land and resources to indigenous peoples. Representatives of the northern regions (among them indigenous persons) were unanimously in support of ratification.

The conclusion of the State Duma hearing was to postpone further discussions and the Committee adopted a special document 'Recommendations of Parliamentary Hearings of the State Duma on Ratification of ILO Convention 169', which recommends a continuation of the process.

Representation

In December 1994, the Ministry on Nationalities and Regional Politics and the 'League of Numerically Small Indigenous Peoples of Russia' headed by the indigenous leader, Evdokiya Gaer, organised a festival in Moscow devoted to the 'First day of the International Decade of Indigenous Peoples'. Among the guests at the festival were leaders of regional associations and many folk dancing groups. The agenda included a scientific conference, where specialists had the opportunity to discuss the existing situation in the North and the problems of development with indigenous leaders and public officials. This meeting revealed that many regional indigenous leaders had lost confidence in the bureaucracy and in the indigenous leaders living in Moscow.

The representatives of the Ministry of Nationalities were mistrusted by regional activists. They accused the Ministry officials of never having visited or worked in the North and of being unable to understand and control the situation in the northern regions. On the second day of the festival, regional leaders organised their own separate meeting.

During this meeting time was devoted to discussing the problem with the indigenous leaders living in Moscow and other central cities, who were accused of having lost touch with the developments in the northern regions and of spending time fighting amongst themselves. They debated the problem of interference from the non-indigenous intelligentsia and the consolidation of the indigenous leadership. A final item on the agenda was the legal standards of Russian laws concerning indigenous peoples.

The Association of Small Indigenous Peoples of the North, Siberia and the Far East, headed by Yeremy Aipin, published its first document called 'The General Directions of the Activity of the Association 1994-1996'. The main points of this document are: a call for Russian ratification of ILO Convention 169; viewpoints on the efforts to establish a draft bill on indigenous peoples in Russia; the land tenure process; and involvement in international activities. The Council of the Association consists of 26 members from all regions headed by Yeremy Aipin (President) and V. Gayulski and V. Etylin (Vice-Presidents). The former President Vladimir Sanghi was not included in the list of council members.

The festival made it possible for regional leaders to meet during which time it was made clear that it was impossible for the regions to completely rely on Moscow. The publication of the IWGIA Document *Neotraditionalism in the Russian North* and the *IWGIA Yearbook in Russian* were highly appreciated.

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1. *Lubicon*
2. *Innu*
3. *Mohawk*
4. *Blackfeet*
5. *Shoshone*
6. *Apache*

NORTH AMERICA

Throughout North America, the sovereignty of Native Americans is constantly under threat. Whether legal, political, economic or cultural, indigenous rights are violated in both Canada and the United States, however, indigenous initiatives have secured several positive achievements over the last year. The following survey reviews some of the main issues affecting Native Americans and then looks at the problems facing specific nations.

Rights to Territories, Natural Resources and Water

Territorial rights, natural resources and water rights of Native Americans continue to be major sovereignty issues, both in the US and in Canada. However, over the last year, two positive developments demonstrate the effectiveness of indigenous protest.

During 1994-5, the *Cree Nation*, US congress representatives and citizen groups, sought to invalidate agreements between the State of New York and the Government of the Province of Quebec for the construction of a massive hydro-electric programme in the James Bay region of Canada. The *Hinchey v. Flynn*, the *Sierra Club v. Power Authority of the State of New York et al.*, and *Con Ed* cases have tried to prevent the building of the dams which the Cree say would flood vast areas of land and destroy their traditional livelihood and essential habitat for waterfowl and other species in the region. The cases have invoked federal and tribal environmental standards which demonstrate clearly that the programme will be environmentally damaging. After a long campaign, it seems that both the governments of New York and Quebec have agreed to postpone the scheme.

Just recently, a federal court granted the Northwest peoples access to shoreline shellfish, such as clams and oysters, a ruling that followed the logic of the famous 'Boldt decision' on salmon. Native Americans can now collect shellfish on private land owned by non-indigenous people as a right guaranteed by treaties. Implementation of this new decision has prompted public protests by the local non-indigenous population, but the decision is not likely to be overturned. Native

Americans have lost hundreds of millions of dollars over the years as a result of the denial of these treaty rights. Now they can begin to develop this resource.

Medical Testing

Other issues have been raised in the courts that indicate how the indigenous peoples of the US are vulnerable to federal and corporate power. In the case of *Iron Cloud v. Sullivan*, filed in February 1992, an injunction was sought to stop the testing of an unlicensed experimental hepatitis-A vaccine on Indian children and infants without the informed consent of parents. Apparently, the US Indian Health Service and a private pharmaceutical company attempted to conduct a vaccine trial on *Oglala Sioux* children on two reservations in South Dakota and on newborn indigenous children in Rapid City, South Dakota. Initial claims by the Indian Health Service and the pharmaceutical company that the vaccine is safe was directly challenged by documents obtained by the Center for Constitutional Rights which showed that a major purpose of the study was the evaluation of the vaccine's safety. Federal authorities are reviewing the programme at present. This case is not unique and earlier medical procedures cases involving Native Americans as well as the discovery that in the 1960s several thousand indigenous women had been sterilized without their informed consent, demonstrate the vulnerability of indigenous peoples to violations of accepted national legal standards.

Education

Indian education remains a major issue in North America with 32 indigenous controlled colleges now in existence: 28 in the US and two in Canada and two more which are currently being established. It is apparent that indigenous control over education, from preschool through college, is part of an pan-indigenous effort to expand the sovereignty of Native Americans. Many indigenous parents see their peoples' control of education as essential to their efforts to overturn more than a century of educational failures fostered by church, government and public schools. The growing success of these tribal schools is proving the parents correct.

Indian Gaming

Legalized by the US Supreme Court in *California v. Cabazon Band of Mission Indians* in 1987 and confirmed by the passage of the Indian Gaming Regulatory Act (IGRA) in 1988, Indian gaming or legalized

gambling is probably the most visible sovereignty issue in the United States at present. Indian gaming now involves more than 200 tribes and an estimated \$3 billion in tribal revenues. It includes card games, roulette, craps, pull-tabs, bingo and in some instances, slot machines, and has resulted in significant sources of revenue. These have dramatically increased per capita incomes, through profit sharing, new jobs, and paying for new or much improved indigenous-supported social services, such as health, education, housing and expanded care for children and elders. In some cases the results have been spectacular; the Foxwood High Stakes Bingo and Casino in Ledyard, Connecticut, brought in an estimated \$600 million in 1993 to the small *Pequot* people of 280 persons. It also brings in more than \$100 million in state revenue and over 8,200 jobs, although the great majority go to non-indigenous people. Nationally, it is estimated that more than 30,000 (mainly non-indigenous) jobs have been created by gaming on indigenous reservations. The rapid growth of Indian gaming has not given Native Americans sufficient time to assess fully its long-term impact, but the short term impact is clear: more money and jobs for indigenous workers and, for some historically poor peoples, a remarkable improvement in their standard of living, including new housing, access to electricity, sewage, transportation and amenities similar to those of nearby non-indigenous populations.

However, Indian gaming has precipitated new problems for Native Americans, not the least of which is the growing opposition from states with legalized casinos (such as New Jersey and Nevada) whose congressional representatives have introduced legislation to curtail or eliminate Indian gaming entirely. Failing this strategy, several major casino operators have brought in their capital and expertise to start large gambling complexes on selected reservations. In the case of smaller reservations, the arrival of externally-controlled casinos has meant a major transformation, not only in terms of money but the increased presence, even invasion, of tourists and gamblers.

To the surprise of indigenous leaders, Indian gaming has been linked through federal law to broader issues related to international trade, such as the General Agreement on Tariffs and Trade (GATT). Apparently, when the US government gave GATT the right to regulate aspects of national trade, it opened up the possibility of threatening the continuation of Indian gaming rights, either through taxation or the imposition of federal standards on gaming procedures. It is certain that in the near and foreseeable future, Indian gaming will be the major sovereignty issue facing Native Americans. A lot of money is involved

and therefore a lot of powerful political and economic interests are taking a closer and potentially destructive look at indigenous sovereignty. Historically, instances of prosperity among Native Americans have always had an unsettling effect on the national majority, usually resulting in efforts to curtail both indigenous prosperity and sovereignty.

CANADA

Lubicon Cree Nation

In Northern Alberta the *Lubicon Lake Cree Nation* faces an increasing number of threats and exploitation of their traditional territory, to which they have still not received ownership title (see IWGIA Indigenous Affairs, No.2 1995).

Since the Lubicon Cree were bypassed by the Crown Treaty Commission in 1899, which established reserves for Northern Alberta Indians under Treaty 8, they still retain aboriginal land rights and authority over their traditional lands. Since 1933, they have fought in vain for recognition as an original Indian Band, the establishment of a clearly defined reserve as well as hunting and environmental rights to their traditional lands of 4,000 sq. miles.

From the late 1970s, oil companies have invaded and devastated their hunting grounds, driving off game through seismic exploration and well-drilling which has reduced indigenous hunters to welfare dependency within a few years. Furthermore, in 1988, the province of Alberta sold logging rights for the entire Lubicon territory and surrounding areas to a Japanese multinational paper company, Daishowa. It built one of the biggest bleached kraft pulp mills in Canada, just outside Lubicon traditional territory. So, in 1991, the Lubicon Lake Nation began a campaign to boycott Daishowa paper products in Japan, Europe and Canada. The campaign began successfully, but in January 1995, Daishowa Canada filed an \$8 million law suit against the small Lubicon support group in Toronto, Friends of the Lubicon (FOL) which had spearheaded the consumer boycott of Daishowa products, accusing them of 'illegal boycott activities' and of having done 'irreparable harm' to Daishowa.

In 1988, the pulp company had made a commitment to the Lubicon that it would not log on unceded territory until land rights and wildlife and environmental agreements were in place. Daishowa later denied that it had made the commitment, and broke it when it bought smaller



Lubicon Cree, The Daishowa Paper Mill, Canada.
Photo: Gérard Pleyenet.

local companies to cut on Lubicon territory. FOL said it would call off the boycott when the paper company publicly reaffirmed the agreement. Instead, FOL was taken to court and has had to stop its boycott for three months as a Daishowa injunction against them is likely to be granted. Clearly, this legal action has less to do with redressing any real or imagined wrong done to Daishowa than it has to do with paving the way for the company to begin the process of clear-cutting the Lubicon forests in earnest – probably in the autumn. In the meantime, Daishowa will purchase salvage lumber from resource extraction activities in the general area of Lubicon unceded territory.

The Minister of Indian Affairs has finally informed Chief Bernard Ominayak that he has appointed a negotiator for the Lubicon dispute; however this took place without the promised consultation with those concerned. The person appointed has strong links with the Alberta oil and gas industry – nevertheless, the Lubicon people hope that the conflict can be resolved quickly.

The final thrust against the Lubicon Lake Nation by the Alberta government and international companies might prove to be gas. In 1994, UNOCAL, one of the oil and natural gas companies on Lubicon territory, built a sour gas (natural gas with poisonous hydrogen sul-

phide, lethal, when accidentally released) just outside and upwind of the proposed reserve without Lubicon permission. The 'plant expansion' permission did not mention processing of sour gas. When this became known to the Lubicon they protested immediately.

During a regulatory agency hearing, lawyers for the California-based UNOCAL, working closely with senior provincial government officials, even argued again that the Lubicon Lake Band was not a distinct indigenous society whose rights needed to be protected. Instead, they claimed that they belonged to the Whitefish Lake Band, which supposedly ceded its rights to the area by 'adhering' to Treaty 8 in 1901. In fact, this 'adherence' to the Treaty by the Whitefish Band only happened in 1990, well after any possible membership overlap between the two indigenous peoples had been clarified. Moreover, the claim that the Lubicon Lake people were not a group in their own right but members of the Whitefish Lake Band had already been investigated and rejected by Canadian officials in 1939. In the February 1995 hearing, the Alberta Energy Resources Conservation Board (ERCB) reaffirmed its earlier decision to approve construction and operation of UNOCAL's sour gas processing plant at Lubicon Lake, *after* it had already been built in 1994. At this hearing, to which only certain journalists were admitted, ERCB unilaterally cancelled the 1986 'notification agreement' between the Board and the Lubicon Cree in which exploitation companies had to check with the Nation before application, in order to protect sensitive Lubicon sites, such as burial and hunting grounds.

The ERCB decision found 'compelling evidence that this sour gas plant is no threat to any community', discounting, among other things, evidence from an Alberta dairy farmer whose cattle had died, aborted or delivered deformed calves after the construction of a sour gas plant in his area. During the hearing, the Lubicon under Chief Ominayak and Council together with environmental, civil rights and human rights organizations found an unlikely ally in the Catholic order of the School Sisters of St. Francis. As UNOCAL shareholders, the concerned sisters attempted to include a resolution for more information on the plant's situation from the company's management at the Annual Shareholders Meeting in Houston on 22 May. They fear a continuing controversy over the plant in unceded Lubicon territory and an eventual international consumer boycott of UNOCAL.

Preempting this, UNOCAL rushed construction and put the sour gas plant at Lubicon Lake into operation in mid-April. This was accompanied by a show of force by the Royal Canadian Mounted

Police to enforce colonial rule and protect colonial interests in the area. Lubicon parents have a right to know that they cannot protect their children from feared consequences of sour gas processing.

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The Innu of Nitassian (Labrador)

In last year's issue of the yearbook references were made to the troubled situation in the *Innu* community of Utshimassits (Davis Inlet) with soaring numbers of suicide attempts, excessive use of alcohol, a growing number of minor offenses, as well as family violence and sexual assault. These are all indicators of a community in distress. The Innu emphasise the need for healing the community, and therefore wish to handle the majority of offenses themselves and treat the offenders within the community. So far, justice has been administered in the Innu communities by White judges who speak a foreign language, and who impose a justice system foreign to the Innu people, their language, culture and traditions. Instead of heeding the Innu need for healing, the White courts send adults as well as youths to jails in southern Canada. The Chief in Utshimassits explains that:

"on December 16, 1993 we evicted the judge and his court from the community. We were saying the whole justice system does not work for the Innu and does not meet our needs to heal. We should be the ones who should judge our own people. We should be able to have our own law enforcement and have our own laws. We want to deal with the root causes of these problems through healing circles and treatment programs. Punishing people is not the answer. A couple of days later, Chief Judge Luther issued a statement saying those involved would have to pay."

Two weeks later, charges were laid against three of the some 30 people who interrupted the proceedings of the court, including the Chief. In April 1995 two of the women were taken in custody at the Stephenville Women's Correctional Centre, charged with contempt of court, and for evicting a provincial court judge from their community in December, 1993. All three women were later found guilty by the Newfoundland Supreme Court.

As a follow up of the above case, the Innu have drafted a series of principles for an Innu justice system. These are the first six points:

- 1) The Canadian Justice System is alien to Innu people. While we may share a number of values expressed in the Criminal Code, we put a different priority on those values. Certainly, we do not share the emphasis on judgment, punishment, and taking the offender from the community unless there is no other effective way of dealing with the situation.
- 2) An Innu Justice Diversion Program is a step in a transition to a true Innu Justice System. As Innu people we have never given up our jurisdiction over justice matters. The Canadian system was imposed on us and we now want to reclaim our jurisdiction. Innu definitions and solutions cannot exist apart from the current system at the outset. However, the Innu Justice Diversion Program must be acknowledged as a transition step in an Innu Justice System. Administrative refinements to the existing Canadian court system will not in the longer term be sufficient to accommodate Innu interests. A transition to an Innu Justice system is both possible and desirable as an exercise of Innu jurisdiction.
- 3) Wherever possible, offenders should stay in the community so he/she can acknowledge and change his/her behaviour. Incarceration as punishment and deterrence will not break the cycle of offending behaviour including that of sexual abuse and family violence. Instead there must be a return to balance for the person(s) involved which can best be accomplished through a process of accountability that includes support from the community through teaching and healing.
- 4) The use of judgment and punishment actually works against the healing process. Punishment without healing moves a person further out of balance.
- 5) Healing should not be separate from justice. Putting justice and social services into separate compartments will not work. Innu need a holistic approach to personal and community healing.
- 6) Special attention must be paid to victims. Their voice must be accorded a central place in decisions about the process to be followed and how reconciliation and healing can be achieved.

Mining Activities

Diamond Fields Resources, a company associated with controversial developer and stock promoter Robert Friedland, announced a major discovery of nickel, copper and cobalt at Eimish (Voisey Bay, Labra-

dor) in November 1994, spurring a rush of claim-staking activity. The Newfoundland government has refused to halt the project, which is proceeding despite the fact that both the Innu Nation and the Labrador Inuit Association are negotiating land rights with Canada and Newfoundland.

On February 4th, 1995, the Innu Nation and the Mushuau Innu Band Council issued an eviction notice to two companies conducting mineral exploration at Eimish (Voisey Bay), citing the failure of Diamond Fields Resources and Archean Resources to obtain the permission of the Innu people or prepare an environmental and cultural protection plan before conducting exploration activities on aboriginal land.

The eviction forced the company to suspend exploration activity, but a 12-day standoff between Innu and over 50 Royal Canadian Mounted Police officers ensued at the remote location. An attempt by the Labrador Inuit Association, which also has rights in the Eimish area, and the Innu Nation to negotiate with the two companies ended abruptly when the company made it clear that it would not recognize aboriginal rights and resumed exploration activity.

By issuing the eviction order, the Innu wanted to make it clear to these companies that any exploration and development on their land must be subject to the wishes of their people. Over 13,000 new claims covering several thousand square kilometres of aboriginal land have been staked in the last few months alone. But the Innu have never been approached for permission.

The Innu oppose development of a mine at Eimish. The Innu have used the area for countless generations. It has always been an important travel route, and the drilling sites and exploration camp are located in the same vicinity as historic Innu camps and burial sites. The area is an important habitat for caribou, wolves, small mammals and migratory birds, including the endangered harlequin duck.

Low-Level Military Flight Training

In the meantime, low-level flight training out of Goose Bay in Nitasinan continues unabated. During February of 1995, the Environmental Assessment Panel made public its report on Military Flying Activities in Labrador and Quebec. According to the report, approximately 6,000-7,000 low-level training flights are currently being conducted out of Canadian Forces Base (CFB) Goose Bay, over designated areas of Labrador and Quebec that total about 100,000 km². This training is being carried out under a Multinational Memorandum of Understand-

ing (MMOU), signed by Canada and NATO Allies, that expires in 1996. DND (Department of National Defence) proposes to negotiate a new MMOU that would provide for an increase in the number of aircrafts, an increase in training flights to a maximum of 18,000, an extension of the flying season, an additional practice target area of 300 km² and a change to the designated flying areas. Of the 18,000 proposed flights, a maximum of 15,000 would be at low level, below 1,000 feet. DND estimates that 90 per cent of those would likely be at 500 feet or below, and approximately 15 per cent would operate as low as 100 feet above ground level.

The Innu strongly object to the report. Innu Nation's Director of Innu Rights and Environment, Daniel Ashini, says that:

"the government's decision to expand the number of training is extremely irresponsible. Contrary to its own recommendations, the Panel noted that not very much is known about the impact of the flight training on wildlife. That's why they proposed 15 years of research on this topic. But the government wants to go full-steam ahead with the training on the basis of very little environmental data. This shows that the government's commitment to environment protection is a smokescreen."

Furthermore, says Mr. Ashini:

"this decision to increase the training is extremely prejudicial to our position at the land rights negotiating table. DND will be doing everything in its power to make sure that the flight training is protected at the table. So we have in effect lost a major portion of our territory to flight training. In conjunction with the present frenzied mineral exploration activity at Voisey Bay, forestry proposals, hydroelectric dams and other industrial activities, there isn't much of our traditional land being left for the Innu people."

On April 23, 1995 Jack Harris, Member of the House of Assembly of the Province of Newfoundland, and member of the New Democratic Party, made the following public statement on CBC Television:

"This week the Chief of the Innu Band Council of Davis Inlet, Katie Rich, was jailed because she and her people refused to accept the imposition of a justice system foreign to their language, culture and traditions without their participation and consent. Low level jet fighter and bomber practice over traditional Innu land continues unabated and with the support and encouragement of the Wells government, is proposed to be increased 10 fold. The Voisey Bay mineral discovery provides another example of the province's willingness to ignore aboriginal rights in pursuit of the desires of white

people. This is a human rights issue. Economic development on Innu or Inuit traditional lands without their agreement or the conclusion of a comprehensive land claims is a violation of their human rights."

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Phone: 1 709 497 8398

Daniel Ashini (Low-level flying)

Innu Rights and Environment, Innu Nation

Phone: 1 709 478 8827

CANADA - UNITED STATES

Mohawk

The *Mohawk* of Oka, Kanesatake reserve in Southern Quebec, made worldwide headlines in 1990, when they held out behind their barricades for 78 days against 350 Canadian troops and police. They succeeded in defending their ancient burial site and a sacred pine forest against the white community's expansion of a parking lot to a golf course. During negotiations with the Federal government under the siege, the Mohawks made it clear that the issue was also one of self-determination, a demand that was rejected by the Prime Minister as 'bizarre' (see IWGIA Yearbook 1990).

Five years after the barricade fight, in which one of the police was killed, people at Oka and the reserve are still controlled 24 hours a day by the Royal Canadian Mounted Police (RCMP) and the Sécurité de Québec (SQ).

The Mohawk people are part of the 500 year-old Iroquois Confederation of Five Nations. They are divided geographically by the St. Lawrence River which, as the Canada-US border, runs through the Akwesasne, Kahnawake and Kanesatake reserves. The tangle of contradictory laws in the US and Canada and variety of strategies for survival make a complicated spectrum of decisions open to the Mohawk. The Longhouse people, for example, argue in favour of self-defence when attacked and their Mohawk Warrior Society manned the Oka-barricades in 1990. In contrast, the Handsome Lake people seek more circumspect strategies for defence.

A parallel debate takes place on Akwesasne Mohawk territory in the US. There, income from sale of cigarettes, gasoline, gambling and

bingo halls is seen as a means for economic and even political independence by the 'traditionalist' Longhouse people, while the 'antis' from the Tribal Council are opposed to cigarette selling and condemn gambling as immoral and illegal, preferring to seek resources from government aid. In the US, contrary to Canada, indigenous reservations are exempt from taxation and therefore can sell cigarettes more cheaply and even sell them in Canada, where they run the risk of heavy fines.

The Mohawk Warrior Society argues that on their remaining tiny reserves the soil is polluted, and there remains neither wild game nor resources, whilst the tobacco trade and gambling gives their people employment and more economic independence which provides the opportunity to revive their traditional way of life. They have their Deganawidas Bill of Rights, their laws embedded in the *wampum* belts, but lack an independent source of income. Mohawk clan-mothers agree and see the income from these controversial sources as providing the means to turn a bad living-situation into a good one, where their society also is strengthened. With resources on the reserves, the men would have no need to travel to New York for work where they have gained a reputation as highly skilled construction workers on skyscrapers.

To the Mohawk, tobacco is not only a disputed source of income, but a symbol of life which the Creator gave to them for use in ceremonies (e.g. the wind ceremony) and prayers. The Lynx Clan argues, therefore, that the Canadian government has no right to tax tobacco, after having already taken 90 per cent of indigenous land which was also given to them by the Creator. Land and tobacco belonged to the Indians and they should be able to choose whether to keep it for ceremonies or to commercialise it. These discussions and debates come together however when the Mohawk say:

"We have a right to choose our path, we are a free people, we have a right to exist, we have a right to live under our own laws in the last of our lands. Tobacco will lead the way, make no mistake when we tell you, Tobacco belongs to us".

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UNITED STATES

Blackfeet

The case of the *Blackfeet people* has moved into a decisive phase. The Chevron group, USA, and Petrofina Belgium, want to drill for oil in one of the last untouched woodlands in the US, the Badger-Two Medicine area in Montana. Badger-Two Medicine, which comprises 500 sq.km. of forest, is part of the so-called Northern Rocky Mountain Front, the largest woodland in the US outside of Alaska. It borders directly onto the Glacier National Park which comes under the UNESCO International Convention for Protection of World Cultural and Natural Heritage. The region is the last area of retreat for over 270 animals and plants such as the grizzly bear and the grey wolf. Badger-Two Medicine is also the last sacred place left for the Blackfeet living in that area.

The Badger case is a clear example of how economic interests can be pushed through, although they cause environmental pollution, extermination of plants and animals and violate human rights. In 1988, in a very similar situation, the US Supreme Court denied relief to *Yurok, Karok and Tolawa* peoples who claimed that their traditional sites would be destroyed by the construction of a logging access road on federal land (see IWGIA Document No. 62). Despite the court's admission that the road would have "devastating effects on Indian culture" in the now famous case called 'G-O Road', it went ahead.

Although experts from the US Forest Service estimate the chance of finding oil at only 0.5 per cent, in January 1993, the Bush Administration, through legislation, gave Fina permission to drill for oil. The companies decided to create a precedent with this case with the future aim of opening up Alaska's great oil reservoirs, which lie on indigenous territory, for economic exploitation. However the Clinton Administration refused to give the companies the go-ahead because of a loophole in the legislation (the Bush Administration 'forgot' to include a right of veto in the text which is unconstitutional). The US Forest Service's Final Environmental Impact Statement (FEIS) was considered insufficient and the traditional Blackfeet and local environmental groups protested against it. The Clinton postponement lasts until June 30, 1995, but has not completely overruled the permission given by the Bush administration.

The Blackfeet and environmentalists are using a bill related to the Wilderness Act of 1964 which protects landscapes with the aim of keeping them in their natural conditions. They have also prepared a bill under the Northern Rockies Ecosystem Protection Act (NREPA) . In

1990, two brothers and a sister-in-law of Chief Floyd Heavy Runner, who leads the Blackfeet's protest, died in a car accident under mysterious circumstances. His uncle disappeared in 1991 and was found dead two months later behind his house. Chief Floyd Heavy Runner had his tribe-owned house and meadows confiscated. The fight for environmental protection and religious freedom is fraught with dangers.

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Western Shoshone and Paiute

Native Americans in general run a disproportionately high risk from US nuclear activities ranging from uranium mining, nuclear testing, mining, enrichment and conversion activities to waste disposal. While the affected communities are increasingly concerned about the harmful effects of past and present exposure, they are often ill-equipped to respond effectively, protect themselves and make realistic claims to redress past abuses or to prevent future ones. While radiation risks have received extensive general study, very little research has gone into understanding these risks within the specific contexts of the lives of Native American peoples. Therefore, the Childhood Cancer Research Institute and Native Americans for a Clean Environment have targeted the *Western Shoshone* and *Paiute* communities in the Great Basin as their highest priorities because of their very close proximity to the Nevada Test Site.

Since the 1950s, the US and British armed forces have tested their nuclear weapons at the site. Initially, the tests were carried out in the atmosphere and later underground. Some hundred nuclear tests made the Western Shoshone the most bombed nation in the world. The main goal of the Western Shoshone Health Project is to provide data on the effects of nuclear fallout from the test site, data which has been withheld from the Shoshone and which concerns the condition of the land, soil, water and plants as well as the health of the people. In order to keep costs low, the Shoshone are carrying out their own research and organizational and educational work in their communities, coordinated by the Western Shoshone National Council. Child Cancer Research Institute representatives met with members of the Western Shoshone National Council during site visits to Nevada in June 1993

and January 1994. From those meetings the following tasks have been identified:

- Providing an initial summary of exposure information from published reports on releases from the Nevada Test Site to Western Shoshone communities;
- Compiling available information on contamination of plant, animal and bird life (specifically deer, rabbits, pine nuts and berries) near the Nevada Test Site;
- Providing reports of specific atomic tests; and
- Utilizing the community outreach experience of the Citizen Alert Native American Program so that its organizers can conduct community presentations on radiation risk in Native communities.

The Child Cancer Research Institute spent several months working on a preliminary community exposure profile of radiation contamination and potential health risks to the Western Shoshone and Paiute communities, their traditional food sources and habitat.

Another disturbing issue for the Western Shoshone is the so-called Pipeline Project. This is a massive new gold mine owned and operated by Cortez Joint Venture, a cooperative effort between mining multinationals Placer Dome and Kennecott. The proposed project includes the construction of a new processing mill capable of milling 5,000 tons of ore a day, a 586-acre waste rock facility, a 420-acre combined heap leach and tailings facility, and a 241-acre, 1,000 ft. deep open pit. But the most important problem is water loss. The Pipeline Project intends to lose water at an initial rate of approximately 30,000 gallons per minute, pumping annually 49,000 cubic feet of groundwater. But living in the rain shadow of the High Sierras, the springs and small mountain streams of the Great Basin are of utmost importance. Although Article IV of the Treaty of Ruby Valley between the Western Shoshone and the US government of 1863 allows mining, the treaty says nothing about water. Moreover, this mining previously was carried out by sinking shafts to extract visible veins of gold or by panning grains of gold found in streambeds.

The Western Shoshone did not agree to the scale, intensity or form of modern open pit heap leach gold mining. Seeing that the US Supreme Court has ruled that treaties are to be interpreted as the native peoples would have understood them at the time of signing, the Western Shoshone Defense Project (WSDP) and the Citizen Alert

Native American Program demand that a cumulative impact study for the Humboldt River basin be undertaken before any new projects are permitted. Such a study should include and respect Western Shoshone sovereign rights and responsibilities towards water. Furthermore, the Western Shoshone Defense Project wants direct negotiations with Cortez Gold Mines.

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San Carlos Apache

The *San Carlos Apache* in Arizona have been fighting a Large-Binocular Telescope project on Mt. Graham, which is a sacred Apache area, since 1990. The Apache Survival Coalition, under the leadership of the 76-year old Ola Cassadora Davis, has the backing of three resolutions by the Tribal Council, a petition by Apache spiritual leaders, and support from other Tribal Councils such as the Mohawk, the Salt-River-Pima-Maricopa and the Kaibab-Paiute as well as the National Congress of American Indians and a broad coalition of environmental organizations. They are concerned for the future existence of animals such as the black bear and red squirrel, as well as numerous plants which have found refuge on this mountain in the middle of the desert.

The observatory is being built by the University of Arizona, the Vatican Observatory and the German Max Plank Society. Two American universities resigned from the Large Binocular Telescope project when they learned that there were some irregularities with the conditions under which special building permission for the project was granted (until recently called the Columbus project). Despite the irregularities, the courts refused to cancel the permission and the area is not under the protection of the National Environmental Policy Act or the Endangered Species Act.

At present there are two telescopes on the hill sides of Mt. Graham. A third, to be located on top of Mt. Graham, is in the planning stage and funds are being raised, especially in Europe. In order to stop this

newest project and to have the completed telescopes relocated, the Apache Survival Coalition and their supporters, as well as the recently-founded Apache For Cultural Preservation, under the leadership of two former members of the Tribal Council, are trying to convince the scientists to find another location for the observatory and to follow a policy which includes respect for the indigenous peoples and the environment.

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Leonard Peltier

Although *Leonard Peltier* was first convicted in 1977, his case is still key with respect to the treatment of Native Americans because the judgement has no legal base, only political. He was sentenced to two consecutive life sentences for the murder of two FBI agents during a fight at the Pine Ridge Reservation in South Dakota after having been extradited from Canada. However, the conviction was based on false evidence, which was produced by the FBI, and a false testimony.

Leonard Peltier's case has now reached a decisive stage. New evidence has emerged indicating that the girl who testified against Leonard Peltier had given false evidence against Native Americans before. Furthermore, the Federal prosecutor confirmed in 1994 that "we do not know who killed the two FBI agents and we do not have any evidence against Leonard Peltier". Even then, the courts were not prepared to reopen the trial. At this moment, the various Leonard Peltier Defense committees in the US are fighting for clemency because all other legal avenues in the US are exhausted. Meanwhile, Canadian groups are fighting for his re-extradition to Canada. This is because the Canadian government began an investigation in 1994 which is examining the circumstances of Leonard Peltier's extradition to the US. This is the first time that the Canadian government has indicated that it considers the legal basis for the extradition to be poor.

On the other hand, the FBI started a large campaign in leading American newspapers insisting that Leonard Peltier is a brutal murderer. In July and November 1994, hundreds of Native Americans, including many elders and spiritual leaders, demonstrated in front of the White House to support Leonard Peltier's case.

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Sources:

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1. *Hichol*
2. *Nahua*
3. *Maya*
4. *Rama*
5. *Sumu*
6. *Miskito*
7. *Kuna*
8. *Guaymi*
9. *Embera-Waunan*

MEXICO AND CENTRAL AMERICA

MEXICO

The worsening poverty and marginalisation of the indigenous peoples of *Chiapas* state in the south of Mexico led to preparations which resulted in the armed uprising by the Zapatista National Liberation Army (EZLN) at dawn on the 1st of January 1994. The EZLN announced its existence by simultaneously capturing public buildings in seven municipalities in the central western region of the state of Chiapas, close to the capital, Tuxla Gutierrez. In the first fighting, approximately one hundred people were killed, among them both guerillas and government forces.

The armed uprising coincided with the beginning of the North American Free Trade Agreement (NAFTA) between Mexico, the United States and Canada. This agreement had been preceded by an austere economic adjustment plan in Mexico which had high social costs. Even in early 1993, the Mexican army had had armed confrontations with guerilla groups but because of the fear of NAFTA witnessing this political instability, the Mexican government kept these clashes secret.

The conflict flared up in one of the poorest regions of Mexico. In Chiapas, fertile land is concentrated in the hands of 5 per cent of the population and illiteracy levels reach 50 per cent compared to 12 per cent nationally.

From the first few hours of the uprising, Subcommandant Marcos became the main spokesman for the Zapatistas, stating that the three basic demands of the Zapatistas were concerned with a transitional government for Mexico, a new constitution and the right of self-government for the indigenous peoples.

"The grotesque history of Mexico," said Subcommandant Marcos,

"has ignored the indigenous peoples and this must change so that a just and dignified country can be built. The lie which today dominates our history must be changed by a society in which policies are not imposed and in which there is a constant peaceful search for change".

Nevertheless, Marcos continued,

“we, who are always the losers are ready to spill more of our blood and give up our lives if this is the price we have to pay for change.”

The Mexican government quickly realised the strength of the Zapatista movement and the need to solve the conflict through dialogue. The first peace initiative took place on the 21st of February 1994 in the Cathedral of San Cristobal de las Casas where the Commissioner for Peace and Reconciliation, Manuel Camacho Solís, met with 19 Zapatista delegates, among them Subcommander Marcos. By the end of this first round of talks, only 25 per cent of the guerillas demands were accepted, mainly those concerned with health and education. However, the government's promises have still not been carried out in full.

Subsequently, 280 representatives from the State Council for Indigenous and Campesino Organisations (CEOIC) met in San Cristobal de las Casas and demanded the withdrawal of troops from the state of Chiapas and the recognition of the EZLN as a militant force.

In September there were many demonstrations in Mexico City in support of the Zapatistas. Some 100,000 people congregated in the main square, the Zócalo, outside the Government Palace, chanting in support of the Zapatista National Liberation Army and demanding a stop to government repression.

In the middle of October, the Salinas government drew up a proposal to strengthen the cease-fire. But the EZLN refused to continue negotiations because, according to the Zapatistas, the government was not demonstrating any political will to establish a real dialogue with the civil society or to attend to the rebels' social and political demands.

Meanwhile, Samuel Ruiz García, the Bishop of San Cristobal de las Casas, promoted an 'initiative for a new dialogue' indicating the need to gather together all the actors in the conflict around the negotiating table.

On 1st December 1994, Ernesto Zedillo was installed as the new President of Mexico. He indicated that the only possible way to resolve the problem of Chiapas was through negotiation and reconciliation. Nevertheless, on 9 February the army launched a huge offensive in the Lacandon forest to try to capture the Zapatista leadership. The offensive took place amidst an acute economic crisis and pressure from the United States to put an end to the armed conflict. Five days later, Zedillo ordered a stop to the military action in order to try to reopen negotiations with the EZLN.

On 8 March, the Mexican Congress passed the 'Law for Dialogue, Conciliation and a Dignified Peace in Chiapas' which included the



*Mexico: The Zapatistas army in Chiapas.
Photo: Franziska K. Nyffenegger*

recognition of the EZLN as “an organisation of Mexican citizens, the majority of whom took up arms to demand democracy, liberty and justice for the Mexican people”.

Meanwhile, more than 3,000 indigenous people and campesinos marched a thousand kilometres in 17 days for the ‘pacification and dignity of Chiapas’. The march by *Tzeltales*, *Choles*, *Tojolabales*, *Zoques* and *Tzotziles* arrived in the Mexican capital on 8 March. The contingent headed by the self-appointed ‘rebel governor’ of Chiapas, Amado Avendano Figueroa, espoused the demands of the Zapatista Army and announced a permanent vigil in the Zócalo. At the same time, contingents of students, housewives, colonists and others joined the demonstrations. On the esplanade of the Zócalo a huge Mexican flag was planted and ‘rebel radio’ transmitted Avendano’s speeches live. He stated that the march represented the ‘ultimate effort’ to appeal for a stop to the war because Mexicans were being “worn down by its huge costs and disgraced by the reasons for which it began”.

The first meeting of 1995 took place on 9 April in the town of San Miguel where the parties agreed that talks would be carried out on a permanent basis in the village of San Andres. The government guaran-

teed not to launch new military offensives or policing while the negotiations lasted as well as guaranteeing respect for the free passage of civilians and delegates from the EZLN. The Zapatistas, for their part, committed themselves to keeping to their 'mountain positions' during the negotiating period.

The second meeting was arranged for the 20th of April in San Andres but on the 19th of April, thousands of indigenous people carrying EZLN flags arrived at the village to form a safety cordon around the building where the negotiations were to take place. The talks eventually began on the 22nd of April and concluded the following day. The only point discussed was the proposals for relaxing the restrictions.

The most recent meeting, to date, between the Zapatistas and government representatives began on the 12th of May without, so far, achieving any concrete proposals to relax restrictions and achieve peace in Chiapas. A few days prior to this meeting, Subcommandant Marcos indicated that "hopes for its success still did not exceed fears for its collapse" given that "there is a lack of trust which will be difficult to overcome".

GUATEMALA

The *Mayan* peoples' achievement and the challenges which faced them in Guatemala during 1994 range from issues such as education to participation in the Dialogue for Peace between the Guatemalan government and the National Organisation for Guatemalan Revolutionary Unity (URNG). These achievements and challenges also encompassed areas such as community development, indigenous rights, Mayan spirituality, environmental policy, linguistic policy and influencing public opinion by breaking into the mass media.

The discussion of substantive points in the peace negotiations between the Guatemalan government and representatives of the guerillas has led to considerable activity between the different Mayan organisations in Guatemala. The agreement on 'Identity and Rights for Indigenous People' was signed on the 31st of March 1995 and was the result of pressure by the Mayan people through the Civil Society Assembly (ASC).

The ASC is a group comprising eleven sectors of Guatemalan civil society, which was born out of the need of the civil population to discuss and transmit their feelings to those party to the Dialogue for Peace. The Mayan people are one of the forces within the ASC and are represented there by the Academy of Mayan Languages in Guatemala,

the Council of Mayan Organisations in Guatemala, the Permanent Mayan Assembly and the Mayan Agency for Unity and Consensus. Another Mayan organisation, the Centre for Mayan Cultural Studies (CECMA) participates in the ASC as part of the ASC consortium of Study Centres.

With regard to educational materials, in 1994 the Council of Mayan Education in Guatemala (CEM-G) was formed and is recognised by the Guatemalan government. The council brings together 24 organisations working in formal and continuing education for Mayan communities in Guatemala. The Centre for Mayan Cultural Studies is the dominant organisation in the Council. One of the main aims of CEM-G is the creation of an education system for the Mayan population. This system, which is being supported by UNESCO, is trying to overcome bilingual- transitional and assimilationist education models and replace them with an educational practice which arises out of Mayan cultural notions of time and space.

Another important challenge for the Mayan peoples in 1994 was the discussion which took place at the national level concerning the recognition of Mayan languages as official Guatemalan languages. The Mayan people have been demanding constitutional recognition of Mayan languages where hitherto the Guatemalan constitution has only recognised Spanish as the official language. Although the Maya comprise more than 65 per cent of the population, and the majority of the school-going population is Mayan, the national education system has not been interested in reaching indigenous children. For this reason the Maya have had to lobby the Guatemalan state to change the language policy so that the Mayan people can have their own education system.

Throughout 1994, there was a more open assertion of Mayan spiritual leadership. In spite of the Catholic background of the Guatemalan population, there has been a strong resurgence of indigenous spirituality which is playing an increasingly greater role in national Guatemalan life. The Grand Confederation of Mayan Chiefs consolidated their organisation throughout 1994, and is working towards reuniting the different Mayan spiritual leaders in one movement to contribute towards the development of the Mayan people.

According to Mayan conceptualisation, the spiritual and the collective social orders cannot be separated. In 1994, the recognition of indigenous law began to become more widespread as a legitimate and viable option to the Guatemalan legal system. As the Mayan leaders become more accepted as legitimate spiritual leaders and 'legal' guides; a logical step, according to the indigenous organisations, is the

acceptance of the Mayan leaders as legitimate judges. On merit, experience and moral character, it ought to be the Mayan leaders who are responsible for imparting justice in their own communities. However, the Guatemalan legal system was designed on the basis of Roman law and does not accept either Indigenous law or Mayan leaders as 'judges'. In 1994, the Mayan people strongly questioned the efficacy and efficiency of the Roman concept of legality and presented Indigenous Law as an alternative.

The questioning of the Guatemalan legal system has arisen because of the number of human rights violations reported by Mayan communities and the Guatemalan legal systems' inability to take specific responsibility for them. Nevertheless, the Mayan communities have mechanisms of their own to deal with the violations of their citizens' human rights. In August 1994, the Guatemalan Office of Human Rights presented a report on the degree of militarisation of the country. According to this report, Civil Defense Patrols (PACs) have some 500,000 members. PACs are groups of local civilians who are organised by the army with the theoretical objective of defending the towns and villages in which they live. Basically, the army has armed these civilians under the pretext that everyone ought to defend themselves against guerillas. What is clear, however, is that the PACs and the army itself are responsible for the majority of human rights violations.

Forced conscription was another of the themes discussed extensively in 1994. In Guatemala, the army maintains its numbers by illegal press-ganging. It has been almost commonplace for the army to go out into the streets and arrest people in order to ensure that they carry out so-called 'military service'. The Mayan people have always been opposed to this practice as a violation of human rights and constitutional rights; but, worse still, the army pursues and arrests only young Mayans. In 1994, the Coordination of Guatemalan Widows, CONAVIGUA, presented a draft law to the Guatemalan National Congress which would replace obligatory military service with voluntary military service or community service.

In 1994, the UN Mission to Guatemala (MINUGUA) was set up in Guatemala, MINUGUA. This Mission is responsible for monitoring the implementation of human rights agreements signed between the Guatemalan government and the National Organisation for Guatemalan Revolutionary Unity (URNG).

Meanwhile, communal Mayan development has become a national priority with the formation in 1994 of the Fund for Indigenous Development in Guatemala, FODIGUA. This Fund is the result of agree-

ments about indigenous peoples signed by Ibero-American Presidents at the Summit of Ibero-American Presidents in Mexico. This fund is one of the bodies responsible for negotiating funding at the national level in development programmes for the Mayan people.

One of the indigenous organisations which has been working to promote sustainable community development is the Coordination for Rural Development of the West (C-DRO). This Mayan organisation, which covers the West Maya Altiplano (high plains) region, has developed programmes among the campesinos which include the sustainable management of the environment, programmes for the production of Mayan textiles for women of the Altiplano, and a bank to ensure self-financing of the different programmes which C-DRO runs. The programme for environmental protection promoted by C-DRO has been recognised as viable means for promoting a sustainable Guatemalan environment. Nevertheless, in terms of the environment of the Peten lowlands in the north of Guatemala, the destruction of the biosphere continued through 1994 at an alarming rate.

Most effective in making the indigenous people protagonists within the national society has been increasing Mayan access to different mass media. Their work in this area includes bilingual newspapers, such as *The Regional* (Maya-Spanish), radio programmes such as *Mayab* and *Winaq*, and the opinions and activities of indigenous journalists.

The indigenous peoples of Guatemala face huge challenges in 1995 but the Mayans have become renowned over the past decades for putting up a solid resistance to a domineering state.

HONDURAS

In Honduras, the Republican Congress discussed and approved ILO Convention 169 in 1994. In recent months there has been an acceleration in the presentation of documentation by the government and the indigenous organisations concerning the ratification of this Convention to the ILO in Geneva. The position of State Fiscal for Ethnic Affairs was created within the Public Ministry. An official commission was also set up to deal with problems of land comprised of different state bodies, among them the National Agrarian Institute (INA) and the Honduran Corporation for Forestry Development (COHDEFOR).

In 1994 approximately 3,000 indigenous people marched on the capital, Tegucigalpa, demanding respect for human rights, the preservation of forests and rights to land ownership. A few days afterwards the President of the Republic, Carlos Roberto Reina, subscribed to a

document in which he committed himself to carrying out improvements in road building, health, education and the creation of the first indigenous municipality in Honduras. However, the government's commitment was not unequivocal. On 1 October 1994, 10,000 indigenous people in the department of Intibuca, marched to demand that the government comply with the agreements signed in July. The indigenous leaders denounced a campaign by the Armed Forces to try to divide their people and prevent them lodging complaints.

At present, the Ministry of Public Education is initiating a bilingual education programme with wide consultation with the indigenous organisations. Meanwhile, human rights organisations in Honduras, both official and private, have begun to consider the human rights situation in indigenous communities as a particular problem and consider it a priority in terms of their plans of work.

NICARAGUA

In Nicaragua the elections for regional autonomous councils were held for the second time on February 27, 1994. The big losers were the governing parties, YATAMA in the Northern Atlantic Autonomous Region (RAAN) and UNO in the Southern Atlantic Autonomous Region (RAAS). The Sandinista party (FSLN) maintained a strong position while the Constitutional Liberal Party (PLC) gained most votes in each region. The result indicates dissatisfaction with the governing parties and reinvested hope in a new contender which represents little if any regional or indigenous interests. In RAAN, the PLC represents mainly a dissident faction of YATAMA caused by internal rivalry in the only authentic regional political organization. In RAAS, the PLC came to represent the strong anti-Sandinista sentiments, dominated by personalities with national rather than regional political aspirations. The ability to govern, however, has suffered from the urge to exercise power. An odd alliance was created between the two war rivals, YATAMA and FSLN, in the efforts to marginalize the PLC from regional power in RAAN. The power sharing meant that the president of the Regional Council is Sandinista and the Coordinator of the Regional Government is a member of YATAMA, which only received some 15% of the votes. In RAAS, the PLC succeeded in monopolizing political power by creating an alliance composed of all the parties except FSLN, YATAMA and a new Coastal Authentic Autonomy Movement (MAAC). The PLC gained the two power positions – President of the Council and Coordinator of the Regional Government – with a one vote faction.

The new Councils were constituted on May 4 from the start entered into polarized and stagnating debates. The institutionalization of regional autonomy has still a long way to go. The Autonomy law is still awaiting regulation by the Central Government in Managua which does not give much priority to the autonomy in the Atlantic Regions. While RAAS still urges the government to regulate the law, RAAN tries to obtain bilateral agreements with the various Ministries that can guarantee autonomy. The Regional Councils are concerned with the uncontrolled exploitation of maritime and forest resources which are becoming Nicaragua's main export products but without generating income for the autonomous regions. By 1994, products from the regions represented about 36 per cent of the gross national product, but the regions were awarded only 0.5 per cent of the national budget. In efforts to promote development in the regions, the autonomous authorities demand reinvestment of a fairer amount of the resources exploited in the regions. Processing plants for seafood and a major sawmill, established with international development aid during the 1980s, have been privatized and are now producing for export. Both in fishing and lumbering activities, pirating and illegal exploitation represents a serious threat to the environment and the wildlife.

The Sumu people – who now prefer to be called *Mayanga* – live isolated in communities up-river and number some 8,000 persons. Their organization, SUKAWALA, has had organizational problems for several years, but is pivotal in questioning the government's intentions for the Bosawas forest reserve, the largest area of rainforest left in Central America, where some 60 per cent of the *Mayanga* live. By designing the forest reserve, little concern has been expressed for the *Mayanga* who live and depend on the forest resources and who regard themselves as integral part of the eco-system. Dubious concessions have been granted to mining companies to explore within the boundaries of Bosawas. The *Mayanga* communities also demand communal titles for their lands.

Although the *Miskitu* organizationally manifested themselves with various alternatives in the 1994 elections, none of these organizations have showed any ability or interest after the elections. Indigenous organizations in Nicaragua became highly militarized in the 1980s and have been converted into political parties with the regional autonomy structure. The various associations of indigenous peoples existing for various purposes are rather insignificant.

The small indigenous populations in the Pacific area of Nicaragua, descendants of various Nahuatl-tribes, have shown signs of reviving

their identity and claim property rights. This is the case for the *Sutiavas* living within the city boundaries of León and to a lesser degree the *Monimbó* in Masaya and the *Sébaco* in Matagalpa. Efforts have been made to create a Nicaraguan Association of Indigenous Peoples, supported by the secretariat of the Indigenous Parliament and the Commission of Ethnic Affairs in the National Assembly.

The Autonomy Statutes in Nicaragua which grant autonomy for 52 per cent of the country, is still a very progressive document in terms of constitutional reform taking place in other parts of the Americas. The autonomy regime exists but the statutes need to be regulated and the political structures need to be institutionalized. The constitutional reform achieved in February 1995 will give the autonomy law constitutional powers. The government of Nicaragua has since 1990 denied legal autonomy to the Atlantic Autonomous Regions for fear of losing control over the richest economic resources in Nicaragua. The recent constitutional reforms reduce the executive power in Nicaragua in favour of the National Assembly. This tendency can also work in favour the Regional Autonomous Councils and their Regional Autonomous Governments which have hitherto tended to be overruled by the Central Government.

COSTA RICA

In Costa Rica the Human Rights Commission (CODEHU) denounced the state of abandonment, misery and marginalisation in which the 30,000 indigenous people of the country live. In its report, this humanitarian organisation criticised the government for closing down the Ministry of Education's advisory role on indigenous affairs. Although the illiteracy rate is around 7 per cent for the country as a whole, in some indigenous communities in the south of Costa Rica, the figure is as high as 50 per cent. In terms of health, the indigenous peoples suffer from malaria, tuberculosis, measles and other diseases without receiving the necessary medical attention.

The Human Rights Commission denounced the Costa Rican government for allowing several mining operations in areas sacred to the indigenous peoples. At present, the Legislative Assembly is studying 56 applications seeking authorisation for the exploitation of natural resources in indigenous areas.

The Human Rights commission requested that the Costa Rican government complies more closely with the human rights conventions which the country ratified, among others, ILO Convention 169 on the rights of indigenous peoples.

PANAMA

The construction of a stretch of the Panamerican highway through the Darien rainforest which will link Colombia with Panama has generated a huge reaction from the indigenous communities, which threaten to block the project if they are not consulted.

The Panamerican highway is intended to link the entire American continent by means of a 27,000 km road. However, the 108 kms which remain to be constructed to link Colombia with Panama cross the so-called 'Darien Gap', a stretch of rainforest and wetlands which make the building of the road very difficult.

The indigenous leaders announced that the road building would threaten the integrity of the 14,000 indigenous *Embera*, *Waonaan*, *Kuna* and *Guaymi* who live in the area, as well as opening up the road to timber, mining and cattle-raising companies. The indigenous peoples are therefore demanding that they be included in the studies for this new road communication between the two countries.

On the October 12, the indigenous peoples marched on the capital to protest over the lack of territorial demarcation. The indigenous leader, Atencio López, voiced the concern of the indigenous peoples of the country over the problem of concessions for mineral exploitation on the territory claimed by the indigenous peoples, because they were neither consulted nor allowed to share in the benefits.

Sources:

IPS.

Agencia Latinoamericana de Información (ALAI).



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|------------------------|-------------------------|--------------------------|
| 1. <i>Yucpa</i> | 7. <i>Candoshi</i> | 13. <i>Enxet</i> |
| 2. <i>Yanomami</i> | 8. <i>Ashaninka</i> | 14. <i>Totobiegosode</i> |
| 3. <i>Embera-Katio</i> | 9. <i>Guarani</i> | 15. <i>Whichi</i> |
| 4. <i>Huaroni</i> | 10. <i>Macuxi</i> | 16. <i>Toba</i> |
| 5. <i>Shuar</i> | 11. <i>Parakana</i> | 17. <i>Kolla</i> |
| 6. <i>Aguaruna</i> | 12. <i>Urubu-Kaapor</i> | 18. <i>Mapuche</i> |

SOUTH AMERICA

VENEZUELA

In Venezuela on the 2nd of February 1995, three indigenous *Yucpa* were murdered by the army along the western borders of the Sierra de Perija. The official version said that the soldiers involved in the incident had fired in order to repel an attack by the indigenous people while they were taking over a plot for timber exploitation. But members of the dead people's community and non-governmental organisations have stated that the soldiers fired on unarmed *Yucpa*.

Because of the death of the three *Yucpas*, the indigenous people occupied ten farms in the west of the country and blocked the roads, demanding that the government provide compensation for the deaths and that the army take measure to punish those responsible. At the same time, indigenous leaders reiterated their territorial demands. The *Yucpa* insist that the government should expropriate several hacienda farms situated along the foothills of the Sierra de Perija which they say is indigenous territory.

February was also a time when the *Yanomami* made denunciations of new violations of their territorial rights. The Diocese of Puerto Ayacucho stated that the indigenous communities near the town of Santa Barbara de Atabapo, some 1,000 km to the south of Caracas, had been thrown off their lands by private tourist companies. The same source also verified the news coming from Rio de Janeiro that the 'garimpeiros' (gold prospectors) had returned to the town of Haximu on the Brazilian border, the scene of the murder of 18 *Yanomami* by gold prospectors in July 1993. This massacre focused international attention on the human rights violations being committed against indigenous peoples of the area, but the furore it produced did not prevent the three *garimpeiros*, who were detained in Brazil for the crimes, from going free.

COLUMBIA

In the north of Colombia the *indigenous peoples of the River Sinú* are still concerned about the construction of the Urra power station and plans for its expansion into the Urra 2 Project. In April 1994, six months after the initiation of construction work on Urra 1, the company responsible for the project met the indigenous leaders from the *Alto Sinú* and indigenous organisations for the first time to explain to them the technical aspects of the project. The dam will flood 500 hectares of indigenous *Embera-Katío* territory and will mean the closure of the river Sinú to river traffic. The indigenous peoples presented a series of demands which would guarantee their survival, including the purchase of land from colonists who live on indigenous territory and the design of an environmental management plan.

To pressure the company to meet these demands, from the 5th to 12th of November, 660 *Embera-Katío* travelled 380 miles along the river Sinú alerting the riverine communities of the consequences of the power station. As a result of this protest, several environmental organisations from Bogota formed the 'Urta Alternatives Committee' which forced the Ministry of the Environment to set up a public hearing in order to analyse the environmental and social impact of Urta 1. Meanwhile, the government is still studying the proposal to expand the power programme with the creation of Urta 2 which will flood the entire *Embera-Katío* territory and two thirds of the Paramillo National Park.

From the 28th to the 30th of November 1994, representatives of indigenous organisations from Panama, Venezuela, Colombia, Brazil and Ecuador held a meeting in Bogota to draw up their own agenda for the UN Decade of Indigenous Peoples which began on 10 December 1994. The meeting agreed that in terms of the Decade

"they had not benefitted from the necessary space to elect a representative of the indigenous organisations and people to take an active and direct part in the coordination of the Decade as well as in the drafting up of the final programme".

They also indicated that the main issues of the Decade ought to be lands and territories, intellectual property rights, integral training, self-determination and self-management. Finally the meeting discussed the need to modify the name of the Decade to the 'Indigenous Peoples' Decade for Reciprocity and New Relations for World Development and Peace'.

The 199 Brazilian *garimpeiros* detained and deported in April 1995 by the Colombian authorities were scarcely one third of the group

which established itself along the river Inirida, which forms the border with the Department of Guainia. The expulsion of the gold prospectors according to the Law of the Agrarian Reform Institute which prevents "persons who are distinct from members of indigenous communities" from settling "within the boundaries of the *resguardo* [reserve]". In April 1993, a judge from Puerto Inirida ruled in favour of the National Indigenous Organisation of Colombia (ONIC) and against the extraction of gold within the jurisdiction of the *resguardo* of Guainia, where some 4,000 *Puinaves* and many *Curripacos* live. But in spite of this ruling, ONIC has had to denounce the increase in gold dredges and the continuing invasion of indigenous territory which contaminates the water and harms the fish in the river Inirida.

Indigenous territorial rights are being subject to intense debate. Over and above recognising the ancestral rights of the indigenous peoples and ethnic groups, the Political Charter which was adopted in 1991, bestowed the category of 'Territorial Entities of the Republic' on indigenous territories. This right, recognised by the National Constituent Assembly, now runs the risk of being reversed in the legislative process, which is drafting an Organic Law of Territorial Legislation. A meeting of indigenous leaders from Cauca concluded that "since the Political Charter was passed in 1991, Constitutional development has had a negative affect" on the communities. The indigenous leaders explained that over the last two years, in agreement with the Central Government, indigenous organisations have been taking part in a consultation process with indigenous communities out of which arose a text for the law to which President Gaviria was committed. Even though the text was to be included in the Organic Law for Territorial Legislation, this has not happened.

GUAYANA

In Guayana the indigenous peoples are asking for the implementation of a forestry policy which respects their territories and protects their biodiversity. But the government continues with its indiscriminate authorisation of timber concessions. Since 1989, the area of concessions has increased from 2.4 million hectares to 8.2 million. This means that almost all the state's 9.1 million hectares of forests are open to destruction and the expansion of the timber industry greatly exceeds the Guayana Forestry Commission's capacity to control it. Meanwhile, the government is advancing with the construction of an all-weather road crossing the savannas and forests of southern Guyana, uniting

Boa Vista in Brazil with Georgetown. There has been no study carried out on the social and environmental impact of the road. As the indigenous, environmental and human rights organisations have indicated on repeated occasions, this road is a threat and will have a serious impact on the indigenous communities.

Furthermore, over the past years, there has been a massive increase in mining activities. Guyanan environmental organisations and the local press have publicised serious problems of cyanide and mercury contamination.

All these incidents present considerable problems for indigenous communities in Guyana which have no recognised rights. Several communities are without land titles and almost all the area they have acquired remains unrecognised and un-demarcated. At the same time, disputes with non-indigenous neighbours, miners and lumber workers over land ownership are increasing. This is all happening despite the fact that the recognition of Amerindian lands was a condition for the independence of Guyana in 1966 (see Annex C of the Treaty of Independence).

ECUADOR

In Ecuador, the indigenous organisations continue their strong resistance to oil exploitation in the Amazon. In January 1993, 2,000,000 hectares of land was put up for bidding in the seventh round of oil concession tendering. Since then contracts for blocks of approximately 200,000 hectares have continued to be signed in the provinces of Sucumbillos, Napo and Pastaza. From the 17th to the 21th of April 1995, the *Huaorani* occupied installations belonging to the Maxus Company and demanded that they sign a new agreement between the oil company and the state because the former agreement "did not guarantee their autonomous development and security". However, the company has not complied with this either. The *Huaorani* indicated that

"since its arrival in the country, Maxus has carried out an intensive campaign of persecution aimed at debilitating the *Huaorani* people's resistance and trying to buy their consciences and desire to remain free. They have tried to control and disorganise the people by lavishing worthless objects on them as well as some food and tools".

The indigenous peoples believe that this behaviour has "made it impossible to fulfil the agreement of Friendship, Respect and Mutual Support" signed over a year ago. The *Huaorani* now propose a new

agreement between Maxus and the state which considers the defence and protection of the indigenous peoples and which includes them in decisions concerning the oil company's activities.

On June 13 1994, there was a new indigenous uprising to demand the repeal of the Agrarian Development Law which paralysed eight of the 21 provinces in Ecuador for nine days. In contrast to the uprising of 1991, on this occasion the indigenous peoples were even better organised and demonstrated a capacity for combining different tactics of protest.

In response to the uprising, President Sixto Durán Ballón, passed the General Mobilisation Decree on June 21, and ordered the removal of road blockades erected by the indigenous peoples. The indigenous peoples were ready to withdraw in order to avoid clashes but, nevertheless, there was some violence. It was in this context that, on June 23, the Constitutional Guarantees Tribunal made a judgement which supported the indigenous petition to declare the law unconstitutional. At that point, some 80 per cent of the indigenous communities of Ecuador had legal rights to their territory, but the situation of protected areas and the 40 km- wide security strip along the length of the national border were still undecided.

This period culminated in a new conflict. The war between Ecuador and Peru has affected the *Aguaruna* and *Shuar* peoples whose ancestral territories extend over both sides of the present state borders. The Peruvian national indigenous organisation, AIDSESEP, and the Confederation of Indigenous Organisations of the Ecuadorian Rainforest (CONFENIAE) issued a joint document with the following statement about the conflict:

"It is with concern that we have heard in recent days news of incidents along the Ecuador-Peru border. Without the least disregard for our positions as Ecuadorian and Peruvian citizens, we would like to make some important remarks as ancestral inhabitants of the Amazonian territories.

Today it is fashionable to talk of integration; nevertheless, we have lived for thousands of years in peaceful community with our indigenous neighbours on both sides of the border. Furthermore, peoples such as the *Shuar*, *Quichua*, and *Cofán* have been divided by borders which the Whites have created. But we shall continue to feel part of one continental Indian nation: the millennial *Abya Yala*, the American continent which 500 years ago our forefathers inhabited in liberty.

We Amazon peoples know the consequences which armed conflicts have for our peoples: the poor suffer, our children die, the

environment is laid waste and the fruits of our communities' hard labours are destroyed. And only a handful of the rich and the politicians benefit. We call upon the civil and military authorities of both nation states to end these practices, to put aside the interests of the powerful who want to obscure their intentions, and listen to the voice of we the indigenous peoples. And the voice of our peoples says PEACE. It says, unity for the indigenous peoples and for Latin America. It says freedom of movement for our peoples in our forests, and asks for the opening up of the borders, not only in terms of economics but also the social, cultural and political borders. This has to be done to rebuild our Abya Yala, the great Latin American fatherland.

The leaders of AIDSESEP and CONFENIAE call upon the indigenous peoples of both sides of the border to fight for peace and not to let themselves be caught up in false nationalism which will not bring any good for us and our children."

The war between Ecuador and Peru brings to the forefront the injustice to which indigenous peoples living along borders are subject in times of conflict and the need to consider their role in a proposal for peace and American integration.

PERU

In Peru, the violence is beginning to wane and making way for the evaluation of the real extent of its impact. The Asháninka Emergency Committee has carried out the first stage of its self-census and the results available reveal the gravity of the situation: some 3,000 to 3,500 *Asháninka* died or disappeared during the violence; some 40 - 50 communities were completely depopulated; approximately 10,000 people are displaced or have become refugees. More than 4,000 persons, including women and children who were detained by Sendero Luminoso have now escaped or been rescued and are in an alarming state of malnutrition. Communities such as *Poyeni* on the Tambo river, which were set up as bastions of Asháninka self-defence, have had to accommodate more than 1,200 families resulting in an irreversible pressure on resources. *Poyeni* and other communities which resisted Sendero have suffered all manner of deprivations. Many organisations have witnessed the deaths of all their leaders.

In November 1994, the press publicised the discovery of communal burial pits in the Ene river which were a result of the systematic extermination carried out by Sendero in its retreat in order to ensure no possible informers were left behind. Today there are hundreds of abandoned or orphaned children.



The activities of oil companies threaten the existence of the indigenous communities and the environment. The American company OXI in Candoshi territory, Peru. Photo: Alejandro Parellada

The self-census revealed that 80 per cent of those displaced wanted to return to their territories but in many cases these have been occupied by campesinos (peasant farmers) working with drug traffickers (in Pangoa, the river Ene and in Puerto Bermúdez). Consequently, the returnees are not assured a peaceful future.

The need to expand the territories under Asháninka control and to acquire new territories is a need that cannot be disregarded. The Asháninka Emergency Committee has, therefore, drawn up an ambitious territorial plan and one of its main priorities is the legalisation of the 1,000,000 hectare Sira Asháninka reserve. This plan of action is being carried out in conjunction with AIDSESEP and Asháninka organisations, and forms part of a large project for the titling of native communities supported by the Danish government and channelled through IWGIA. It includes titling 101 communities and the setting up of three Territorial Reserves and five Communal Reserves.

In spite of the advances made in the physical demarcation and technical studies, the government is proving reticent in signing the official papers. Instead, it proceeds with its colonising policy and the expansion of the resource-extracting frontier which produced the convulsive situation

in the Central Rainforest. Attempts to link Amazon lands with commercial channels runs contrary to the indigenous peoples' aspirations. The neo-liberal policy applied to the agrarian sector is designed to favour large-scale capital but will generate new migratory movements by campesinos from the high Andean regions in search of 'empty land' and new conflicts between the indigenous and migrant population.

Under these conditions, the promotion of oil companies in the Amazon has taken place. Already plots have been allocated for 59 million hectares of land, 83 per cent of which are in areas of tropical rainforest and in areas which state bodies themselves consider to be 'critical environmental zones'. At least 23 plots have been superimposed on indigenous territories, legally or not. Peoples such as the *Kichua-Alama*, *Candoshi*, *Achuar*, *Cacataibo*, *Shipibo*, *Arakmbut*, *Ara-saeri*, *Huachipaeri*, *Yine*, *Sapiteri*, *Toyeri*, *Ese-eja*, *Aguaruna*, *Huambisa*, *Machiguenga*, *Kuapakori*, *Nahua*, *Kichua (from the Napo)* and *Asháninka* are being, or could be, affected by incursions by oil companies.

At present the government is reluctant to ensure 'prior consultancy', which ILO Convention 169 demands, and the conflicts may have serious repercussions. At the end of November 1994, the creation of the National Environment Commission raised certain expectations with regard to controlling these types of activities. Nevertheless, the exclusion of the national indigenous organisation, AIDSEP, from the Commission, although it was considered in the project regulations, reveals the absence of political will to consider indigenous demands.

BOLIVIA

In Bolivia the past year has been punctuated by governmental initiatives which have offered new possibilities for the indigenous peoples within the context of the country's modernising reforms.

The constitutional reform of August 1994 recognised the country as a multiethnic and pluricultural state. In Article 171, it recognises:

"the social, economic and cultural rights of the indigenous peoples who live in the national territory and especially their relations with their communal territories of origin, and also the legal status of communities and their natural authorities in the exercise of alternative solutions to conflict".

The Centre for Indigenous Peoples and Communities of Eastern Bolivia, CIDOB, the national indigenous organisation played an important role in the proposal put to Parliament for Article 171 and, although

disappointed that the new law did not specifically mention the issue of territory, considers that it has opened the way for more respect for the indigenous peoples.

In terms of education, a new reform of July 1994 established the principles of interculturality and bilingualism in the education system together with a series of other improvements. The experiences of an intercultural bilingual education project in selected *Quechua*, *Aymara* and *Guaraní*-speaking areas have formed an important basis for some of the components of this reform. Work has begun to identify the educational needs of different peoples, such as teacher training and educational materials. This work is being carried out in close coordination with CIDOB.

The Law of Popular Participation of April 1994, strengthens municipal bodies and the participation of campesino and indigenous organisations, as well as neighbourhood groups. This reform makes way for the increased influence of indigenous organisations in activities at the level of the municipalities. These latter have funding at present and are carrying out many of the projects which were previously in the hands of the central government. Similarly, it opens up the possibility for the indigenous organisations themselves, through municipal elections, to control municipal government, in spite of the fact that bodies outside of the party political system cannot put up candidates. Given that administrative boundaries do not correspond with socio-cultural, productive or economic areas of settlements, the Law anticipates the formation of Municipal Districts which will be mechanisms for the establishment of new administrative boundaries. Two Indigenous Municipal Districts have already been formed, the Alto and Bajo Izozog among the Guaraní, and Amarete with a Quechua population, and others are planned for after April 1995. The possibility of acquiring control over public affairs will mean that the indigenous organisations can ensure better attention to the social needs of their peoples. But it is also a great challenge given the lack of administrative experience and public management. It will require access to training as well as processes of internal decision making.

Within the government, the new Subsecretary for Ethnic Affairs has played an active role in achieving positive gains for the majority of Bolivian indigenous peoples within other government bodies, and utilising a political space which has permitted the setting up of a less politicised professional team. This space opened up in April 1995 in the Secretaries of Popular Participation, Rural Development and Ethnic Affairs when a body was set up with CIDOB and the Single Union

Confederation of Bolivian Rural Workers (CSUTCB) to monitor all State projects related to indigenous peoples.

In 1992 the institutions responsible for the Agrarian Reform were taken under government control because of the high level of corruption and the need for reform. The government formulated several proposals and, at the beginning of 1995, a process of discussion and consultation was initiated between the government and campesino, colonist, indigenous and business organisations, initially in order to define the structure which would be responsible for land use. According to the organisations themselves, the result has been positive. From May 1995, the same process is being followed to draw up a new Land Law. At the beginning of 1994, the Guaraní People's Assembly (APG) presented a petition to the government with a series of demands which led to the signing of an agreement in August 1994. In this agreement, the government is committed to: 1) a process of reorganising and survey in areas traditionally occupied by the Guaraní people and to facilitate the return of lands and the collective titling of lands already under negotiation, 2) applying the General Labour Law in areas where slavery and servitude exist, 3) draw up an ethnic map as a basis for designing a proposal for indigenous municipal districts and education and health services, 4) investment in health, education and production.

The mapping has served to change municipal boundaries to those of the Guaraní organisations and their 'captaincies' and to establish Indigenous District Municipalities. However, confronted with the government's intention to apply the General Labour Law in March 1995, many landowners began to lay off workers and there is still no solution to the problem.

After a series of demonstrations by coca producers, an agreement was signed in September 1994 between the government and the Bolivian Workers' Confederation (COB), to which the campesino organisations belong. The conflict itself illustrated the problems of finding profitable products for the Bolivian campesinos who are resisting the substitution of coca production in the region of Chapare, although most of it is destined for subsequent cocaine processing.

The agreement contains two clauses which could harm the indigenous peoples living in the areas contiguous with the coca producing areas: a titling of the colonist settlement which is situated in the Indigenous Territory of the Isiboro-Scure National Park and the Carasco National Park, and the building of the Cochabamba-Beni road.

For the last ten years the pressure on indigenous territories from colonists from the high Andes has been growing. The indigenous

territory officially recognised in 1990 in Isiboro-Scure is situated next to Chapare where coca production continues to expand. This has led the indigenous peoples to ask that a clear boundary be drawn so as to halt the expansion of coca plantations onto indigenous territory. It is estimated that individual titles granted to colonists and the pressure of colonisation from the road which will pass through the indigenous area, will prevent the indigenous peoples maintaining a continuous territory.

The government hopes to solve or alleviate the problems of the campesinos, although this will bring serious risks for the indigenous peoples in the lowlands as well as encouraging the degradation of the environment and its resources.

In 1994, CIDOB held its Xth Congress. Under a new leadership it has initiated a new process to systematise sectoral planning, administration and relations with regional organisations and specific peoples.

Conflicts over natural resource management continue to lead to discrimination against the indigenous population. In Isiboro-Scure, the state has authorised oil prospecting by a consortium of companies without consultation with the indigenous organisation as is laid down in Bolivian legislation. This issue was brought to the public's notice again recently when, in October 1993, employees of Western Geophysical, were detained by the guardians of the indigenous territory.

In 1990, in the Chimanes forest, the indigenous territories of Multitnico and Chimane were created forcing lumber workers in the area to withdraw. Nevertheless, the extraction of timber continues. The timber companies have managed to win over a large number of indigenous leaders from the area which has resulted in an enormous weakening of the organisations and has led to a tense social situation.

At the beginning of February 1995, one of the members of the CIDOB leadership, Egberto Tabo, of the *Cabiñeno* people, was detained because of trouble with landowners. This case illustrates the great insecurity which indigenous leaders face where the legal system is manipulated by strong economic interests.

BRAZIL

In Brazil the continued invasion of *Yanomami* territory by *garimpeiros* has accentuated the *Yanomami*'s health problems. It is estimated that 21 per cent of the *Yanomami* population has died over the last seven years because of the widespread introduction of diseases such as

malaria, tuberculosis and measles. The mortality coefficient among the Yanomami increased from 14.6 per cent in 1993 to 18.5 per cent in 1994.

The *Parakana* indigenous peoples who live in Altamira, in the state of Para have repeatedly denounced invasions of their territory and have also expressed their determination to throw out the intruders. In 1992, a decree was signed to demarcate their area but, to date, FUNAI (the National Indian Foundation) has not been able to demarcate the area because of threats made against the technical team. The Parakana lands have been the object of continual invasions which have brought with them serious illnesses for the indigenous peoples. In 1994, three mining camps were set up within the indigenous area but FUNAI has not reacted. The Parakana have also denounced irregularities in the working of the National Institute for Colonisation and Agrarian Reform (INCRA) which on various occasions has supported the presence of miners and new waves of colonisation in the indigenous area.

There have also been invasions in the Alto Turiacu de Marañon Indigenous Area where some 1,200 indigenous *Urubu-Kaapor*, *Guaj*, *Timbira* and *Temb* live. According to the Indigenous Missionary Council (CIMI), the invaders have false land title documents to part of the indigenous territory.

On the 17th of March, the Chief Federal Justice of Boa Vista ordered the immediate suspension of all construction work by Roraima Power Company on the Cotingo Hydroelectric Plant in the Raposa Serra de Sol Indigenous Area. This decision by the Judiciary implies not just a victory for the *Macuxi* and *Ingaric* peoples against the hydroelectric company but also a step forward in the struggle of the indigenous peoples of Roraima and an important milestone in the move toward a positive law concerning the establishment of hydroelectric plants on indigenous lands. However, the action taken by the Procurator of the Republic and allowed by the Federal Justice, consolidates two opposing positions of extreme importance in this process:

- that the National Congress should authorise the construction of hydroelectric plants on indigenous lands, independently of whether they are already demarcated, and
- that the awarding of environmental licenses to hydroelectric plants on indigenous lands is an obligatory responsibility for both federal and state governments, which are usually subject to pressures from local groups contrary to the interests of the indigenous peoples.

To discuss these and other urgent problems, the leaders of 76 peoples and 40 local and regional organisations met at the First General Assembly of the Joint Council of Indigenous Peoples and Organisations of Brazil (CAPOIB) in Luziana, Goiás state, from the 3th - 7th of April. The delegates approved a final document in which they criticised governmental disinterest in the invasions and violence against indigenous peoples. Concerning the demarcation of indigenous lands, CAPOIB asserted that:

- sufficient funds ought to be guaranteed to make the demarcations effective and move intruders from demarcated indigenous areas,
- a timetable for the demarcation of indigenous lands in the short, medium and long term should be drawn up which gives priority to the areas under conflict and where there are life threatening risks for uncontacted peoples,
- Decree 22/91, which deals with administrative procedures for demarcating indigenous lands, ought to be maintained because the design of a new decree for demarcation would be prejudicial for the indigenous peoples.

The representatives of CAPOIB maintain that

“the Federal Union, as laid down in the Constitution, ought to demarcate our lands, because when the invaders cannot get rid of us they want to find a way of reducing our territories”. “.The demarcation of indigenous lands is an act of public interest and therefore should not be subject to interference from interested individuals”.

This first assembly marked the beginning of a new era for the Brazilian indigenous peoples because, with CAPOIB, they again have a national level network which will allow them to unite their demands.

PARAGUAY

In Paraguay, there was no improvement in the fortunes of the indigenous peoples during 1994. Near the end of the year, representatives of IWGLA and Survival International visited Paraguay and agreed that the situation of the indigenous peoples of Paraguay is one of the worst in America.

The root of the indigenous peoples' problems is their lack of access to land. Despite the fact that Paraguay has ratified Convention 169 of the International Labour Organization virtually nothing has been done to secure land for the indigenous population. Two cases came to public attention during the year: the *Enxet* and the *Ayoreo-Totobiegosode*.

A total of 4,000 *Enxet* are claiming title to 163,000 hectares. Despite the fact that during the year their situation was given wide coverage in the press, the government showed little interest in resolving their claims. Indeed, their situation worsened as the owners of the lands affected took action to frustrate the *Enxet* claims: attempts were made to expel some leaders from their communities, a number of areas claimed by the *Enxet* were sold off and large areas deforested. The *Enxet* attempted to protect their interests by requesting injunctions which would prohibit the land sales and deforestation, but some judges showed a blatant disregard for the law by refusing to concede the injunctions. Indeed, even when they were given, the authorities were extremely reluctant to implement them. For example, the community of Sawhoyamaya obtained a legal order to prevent the deforestation of the 15,000 hectares they were claiming. In the six months it took the authorities to act, some 1,200 hectares were completely devastated by the landowner, a German named Heribert Rödel. The community also reported that they had received death threats but the Attorney General's office refused to take any action. In the case of Quebrachales Puerto Colón – a ranch of more than 300,000 hectares in 1991 of which the *Enxet* are claiming 60,000 hectares – the government permitted the owners to sell off all the areas claimed by the *Enxet*.

The *Ayoreo-Totobiegosode* are the last uncontacted group in Paraguay. The majority of the group had been captured by the New Tribes Mission in 1979 and 1986 and are now claiming 600,000 hectares of their traditional territory. Their aim is to protect their relatives who are still in the forest. The government showed little interest in their case until, suddenly, at the end of October, Mennonite colonists who were attempting to deforest a part of *Totobiegosode* territory were attacked by the forest-dwellers. One of their bulldozers had gone straight through the *Totobiegosode*'s gardens and they defended themselves by throwing a spear and firing arrows. No one was hurt but the *Totobiegosode* immediately fled further into the forest. This was the third time in three years that Mennonite bulldozers had burst into the forest-dwellers' villages. The events quickly came to public attention and the government acted to avoid a repetition of the manhunts of 1979 and 1986 by warning both the New Tribes Mission and the Mennonites that they were to leave the *Totobiegosode* in peace. However, little progress was made in resolving the land claim.

In eastern Paraguay the situation has been no better. During 1994, no land claim in the area was resolved by the government although the Roman Catholic Church did buy two small areas of land for the *Mbya*.

There were also examples of landowners taking aggressive action against indigenous communities settled on their lands.

In Capitán Bado, a Brazilian held a *Pai Tavytera* community prisoner on his land and refused to allow outsiders to verify their situation. Another landowner used the police to throw a *Chiripa* community off his land, burning their houses and destroying their crops in the process.

The land situation shows little prospect of improving. One of the key reasons given by the government for not resolving the land question is lack of finance. Consequently, the *Enxet* began to lobby Parliament to persuade its members to substantially increase the proportion of the 1995 National Budget set aside for acquiring indigenous land. Two of their leaders twice spoke in Parliament and they were supported by an international letter-writing campaign coordinated by Survival International. Although the budget was increased to US\$ 4,500,000, virtually all of this was destined to paying for land acquired in previous years. The \$1,000,000 that remains is sufficient for perhaps 20,000 hectares in the Chaco, an insignificant amount given the scale of the indigenous claims. In contrast, Parliament showed little reluctance in approving massive increases in military spending and public workers' wages.

Furthermore, the landowners' union, the *Asociacion Rural del Paraguay (ARP)*, became significantly more active in opposing indigenous land claims. They formed a commission headed by two of the landowners most affected by the indigenous claims. A disinformation campaign was initiated to discredit both the indigenous claims and those who were providing them with legal support. A number of members of Parliament lent their support to the *ARP* but other influential sectors of society refused to collaborate. Most significantly, the Roman Catholic Church came out strongly on the side of the indigenous peoples. In contrast, the Anglican Church, which had been providing legal support to the *Enxet*, withdrew their aid at the end of July 1994.

A worsening problem in eastern Paraguay are the invasions of *Ava-Chiripa*, *Mbya* and *Pai-Tavytera* colonies by poor peasant farmers (known as *campesinos*). Part of the reason is the massive and uncontrolled deforestation of eastern Paraguay which has meant that in many areas the only remaining forest reserves are those of the indigenous colonies. It is clear that many of the invasions have been instigated by local timber merchants and, indeed, the main interest of the *campesinos* seems to be the extraction of the most valuable timber. Indigenous peoples have also been threatened and forced out of their homes and their crops have been destroyed. The authorities have been

remarkably slow to act even when the indigenous peoples have obtained judicial orders authorising the forced removal of the invaders. This is in marked contrast with the speed with which the authorities expel *campesinos* from non-indigenous land.

Over the years, a number of reports have denounced the extremely difficult working conditions of the indigenous peoples employed on Paraguayan cattle ranches.

In late 1994, three Enxet communities decided to sue their employers for unpaid wages. Fifty-five indigenous workers on the American-owned Salazar ranch claimed US\$40,000 in wages not paid in the previous year whilst in Maroma seven workers sued for US\$9,000. The cases received a lot of publicity and will take a long time to resolve. However, by the end of the year, wages had risen by 150 per cent on Salazar.

INDI, the government organization that is meant to support the indigenous communities, has continued to demonstrate its accustomed paralysis. Despite employing over 100 people, it proved itself incapable of resolving even minor problems and few of its officials were seen in the indigenous communities. The question of reforming INDI was left unanswered and, as a result, the indigenous peoples increasingly turned to Parliament and the Attorney General's office as alternative sources of support.

Even in the non-conflictive areas of health and education it was clear that the government has minimal interest in the indigenous population. There has been no improvement in the totally inadequate health services: in many areas there is no service and many communities have not received vaccinations for over ten years. Recent statistics also show that the incidence of tuberculosis amongst the indigenous population is ten times higher than the norm for the national population. In education, no attempt was made to provide adequate teaching materials and neither was training given to indigenous teachers.

The main intervention by the government in Indian affairs was to provide free handouts of food to the communities. In certain communities, especially those near the River Pilcomayo, this reflected a real need since a prolonged drought left the indigenous peoples of the area in serious difficulties. However, in many communities there seems to have been little reflection on the necessity of the handouts. Much of the food was provided by the United Nations World Food Programme and was meant to support initiatives within the communities. In reality, the handouts seem to have sapped the initiative of various communities; often community members refuse to carry out certain tasks if they do

not receive food for work. Given that the handouts were often covered by the television and newspapers, it would seem that the main interest of the government was political; for minimal cost maximum publicity was obtained.

Since it is evident that the Paraguayan government has little interest in supporting indigenous rights, the Enxet initiated an international campaign to persuade the European Union not to finance a project for the Sustainable Development of the Chaco unless Paraguay first of all resolved their land claims. The project included a donation by the European Union of US\$17,000,000 and the Enxet's campaign was a total success. The European Union demonstrated a commendable sensitivity and gave Paraguay twelve months in which to resolve the land claims. If it does not, the project will be cancelled.

ARGENTINA

In Argentina, there were some doubts as to whether indigenous rights would be included in the new National Constitution which was approved on August 24, 1994. Nevertheless, it does contain an article which promotes the process of recognising the rights of the indigenous peoples of Argentina. Article 75, inc.17, establishes that Congress should:

"Recognise the ethnic and cultural prior existence of Argentinean indigenous peoples; guarantee respect for their identity and the right to a bilingual and intercultural education; recognise the legal standing of their communities and the possession and collective ownership of the lands which they traditionally occupy; regulate the surrender of other [lands] which are suitable and sufficient for human development; none of these will be alienable, transferable or liable to obligations or embargoes; ensure the participation of indigenous peoples in the management of their national resources and other interests which affect them. The provinces should also guarantee these functions".

The approval of this text was significant for several reasons. Firstly, the debate that took place on this point in the Constituent Convention was witnessed by indigenous delegates from all over Argentina who presented and defended their own proposals against those of the Convention. It is generally recognised that they would not have achieved such favourable wording had it not been for this very tenacious indigenous presence. The indigenous participation comprised several indigenous

organisations and support organisations including, for example, the Indigenous Association of the Republic of Argentina (AIRA), the Coordination of Aboriginal Organisations of Jujuy (COAJ), the National Aboriginal Pastoral Team (ENDEPA) and the Institute for Popular Culture (INCUIPO).

In spite of this participation and the positive aspects of the new constitutional article which recognises, for the first time, that the indigenous peoples of Argentina have certain special rights, it is still limited. The main weakness, which produced protests from various indigenous delegates to the Convention itself (*Mapuches* and *Kollas*), is that it is placed within the section dealing with the attributes of the National Congress, instead of being in the first part of the constitution which deals with fundamental rights. Although Article 75, inc. 17, in effect clearly constitutes a new right, it has not been included in the section on new rights. This gives it lower status and many commentators have asked whether the inclusion of indigenous rights has not been more symbolic than real.

In the best of worlds and with the goodwill of the Congress and the Provinces to implement the rights detailed in the text, this draft is still essentially programmatic and so the current national and provincial legislation is on the whole inadequate. What the new constitution amounts to is a process of designing and sanctioning new laws for indigenous peoples at the national and provincial levels but these laws could be delayed for years while conditions in the indigenous communities deteriorate. It is apparent that the rights outlined in the Constitution imply, from here on, that it will be an arduous task to give them a concrete shape and meaning in terms of specific indigenous peoples' situations.

The recognition of indigenous rights in the National Constitution deserves one further comment. Argentina has a very strong liberal political tradition, which upholds the principle of equality in law for all without exception. Already various lawyers are questioning whether Article 75, inc. 17, is constitutional and, according to them, may be authorising preferential treatment, thus implying a racism which would damage the principle of equality established in Article 16 of the Constitution.

It is clear that in Argentina there are already people who completely oppose the recognition of a special right for indigenous peoples and these people determine official programmes and policies.

We should not be surprised, then, to discover that in practice there seem to be no significant advances in the state's attitude towards indigenous communities. In spite of nominating a new director who

says he respects indigenous peoples' cultural identity, the National Indigenous Institute (INAI) remains ineffective and basically without funding. There is talk of carrying out a Second National Indigenous Census and developing a programme of projects which would be directed at creating sources of work. However there is a conspicuous absence in the official discourse of any policy which would lead to the affirmation of indigenous rights and the possession and ownership of land.

After a reorganisation of government carried out over a year ago, it is significant that INAI now answers to the Secretary for Social Development and the latter answers directly to the President. This relationship is presumably prompted by political motives which permit assistance to be directed at specific groups according to political convenience. Among the range of programmes which the Secretary promotes there is not one which is directed exclusively towards indigenous peoples; on the contrary, the tendency is to incorporate indigenous peoples as simply another needy group into generic programmes which are fundamentally assistance-oriented, such as nutrition, the provision of water or programmes for women, etc. This is an example of how the principle of equality is imposed in practice and a glimpse of the other side of the integration policy which is so deeply rooted in Argentina.

It is the same attitude which continues to prevent the Executive Power from signing ILO Convention 169 on behalf of the government almost three years since it was approved by the National Congress. Similarly, in spite of the fact that the Argentinean government was one of the co-signatories to the convention which established the Indigenous Peoples Development Fund for Latin America and the Caribbean, it has not been passed on to the Congress for ratification and the financial resources which the Fund ought to receive have never materialised.

A very telling example of the integrationist zeal to make the indigenous peoples into citizens like everyone else is the work of the General Directorate for Taxes, which is a computerised system based in Buenos Aires. In an attempt to ensure that everyone pays their dues equally to the Integrated Pension System, the Directorate recently sent notifications to hundreds of indigenous people living in isolated regions of the Chaco forest telling them that they must inform the Directorate of their employment situation within five days because they have not registered with the Directorate General for Taxes and completed the requirements for the self-employed. Evidently the computer has not been informed about the conditions in which these indigenous peoples live and how they often have no money for the

basic necessities the market has to offer them and most certainly do not have the US\$60 which the Directorate expects them to contribute monthly.

Traditional resistance in Argentina to special legal status for indigenous peoples is finding new support today in the government's neo-liberal economics which encourages everyone to play the international market. At the regional level, this policy finds concrete expression in Mercosur, which was set up at the beginning of the year and which has as yet unknown consequences for indigenous communities. However, what will probably happen is that the expansion of production and consumption and the increase in competency which this implies, will put even more pressure on vulnerable groups which have limited production and consumption capacities. In a few specific cases, for example in missions and in the Chaco region, the physical process of integration (means of communication, etc.) will probably directly threaten indigenous land ownership and the integrity of their communities.

The economic survival of many indigenous communities, be these *Kollas* of the northwest forested hills, *Mapuches* of Patagonia or *Tobas* from the Chaco, is becoming increasingly more difficult because of the insecurity of their territories, the serious deterioration of the environment and the unfavourable market relations forced upon them. These conditions are accentuating a process of migration towards the cities and creating a new urban indigenous population with its own particular problems. These problems are possibly most obvious among the Chaco groups, especially the Toba.

Official policies and action at the provincial level, which varies slightly according to province, display the same characteristics as those at the national level. The eminently pragmatic approach to policy and practice is illustrated in the fact that the province which has responded most to indigenous communities – in the adjudication of lands and in different assistance programmes – is Formosa, the province which has the largest indigenous population. In the province of Chaco, the reform process of the Provincial Constitution showed that, in spite of a strong campaign, the political leaders were not disposed to committing state lands to the indigenous communities.

There have been no significant advances in the adjudication of lands in other provinces. Suffice to note that there are still serious setbacks with the three specific cases mentioned in *Indigenous World 1993-4*. The *Kollas* of San Andrés find that, in spite of a new law for the expropriation of reclaimed land, the law has still not been implemented

and, in the meantime, private companies are stripping the land of all its profitable wood with complete impunity. In the province of Chaco, the *Tobas* of Meguesoxochi are still demanding the delineation of the 150,000 hectares which they were legally authorised in 1924; meanwhile the provincial government sells plots of the same land to third parties.

These cases highlight the relative weakness of the indigenous organisations and support groups in the face of structural power, be these the state or economic forces which in the last analysis control the functions of the state. To date, the indigenous movement in Argentina has been either very localised or dependent on groups which are restricted to individuals who, on the whole, operate outside of the context of the local communities. At the national level, the representativeness of the Indigenous Association of the Republic of Argentina (AIRA) may be questioned, but for the time being there is no other organisation which could represent indigenous views more adequately. During the Constituent Convention a proposal was presented for the creation of a Confederation of Indigenous Peoples of Argentina. However, without stronger organisations at the local and regional level, it is difficult to see how such a federation could manage to be more than simply another collection of non-representative individuals.

In this context, we see the importance of the growth and strengthening of indigenous organisations based in the indigenous communities. Here, we can point to the work of, among others, the Coordination of Mapuche Organisations 'Tain Kinegetuam' in Neuquen, the Indigenous Advisory Council (CAI) of the Mapuche of Rio Negro, the Guarani People's Assembly in the northeastern Argentina, the Organisation of Aboriginal Communities of Santa Fe (OCASTAFE), the Association 'Thaka Honat' in the Salta Chaco and the Coordination of Aboriginal Organisations of Jujuy (COAJ). In this election year, the communities have again been bribed by politicians who are hungry for votes and ready to exploit the needs of the voter by creating upheavals and divisions among the indigenous peoples. Faced with this type of invasion, one can see a growing awareness and consciousness in the communities that it is their own organisations, independent of the parties and official institutions, which in the long term offer the best possibilities for committed representation.

Historically, support organisations for indigenous peoples and communities have been equally weak. This is primarily because the public are not disposed towards the recognition of indigenous rights. Although there has been more public awareness of the problems facing

indigenous peoples in the last few years, there is still considerable indifference about indigenous peoples' position. On the other hand, the greater the publicity given to the indigenous issue, especially internationally, the greater the risk of creating in Argentina a paternalistic attitude by non-indigenous people.

CHILE

In Chile the continuing construction of six hydroelectric stations on the Bio-Bio river is directly and indirectly affecting some 4,000 people of whom the *Mapuche-Pehuenches* are the largest group. Not only will their means and way of life be swept away but a large area of the Pehuen (*Araucaria*) forests and its unique vegetation will also be destroyed. The Chilean authorities argue that the electricity will provide an incentive for industrialisation and will create new jobs. However, the Mapuches believe that they will not benefit because of their technical and professional knowledge and racial discrimination.

Meanwhile, the Mapuche's precarious means of subsistence is being threatened by restrictions on their fishing imposed by the authorities at a time when there has been an explosion of large scale fishing.

The recent constitutional reform does not recognise the indigenous peoples of Chile and the government has not signed ILO Convention 169. Furthermore, the government has withdrawn from the Indigenous Peoples Development Fund for Latin America and the Caribbean, to which it subscribed in 1992. It justifies this move by saying that it is an "attack on the universality of the State".

Meanwhile, the participation of indigenous organisations in the Indigenous Law has been very limited. Furthermore, the Corporation for Indigenous Development (CONADI) has been at a standstill because of lack of funding. Mauricio Huenchulaf, director of CONADI, stated that due to the shortage of funds in the Land Fund, it can only meet one or two demands a year. He added that if the government does not commit more funds, CONADI will take some 20 years to "solve the most urgent cases".

The Fund for Indigenous Land and Water was created by the government in order to buy indigenous lands from landlords and businessmen and then hand them over to the indigenous peoples. This situation has provoked a protest from the Mapuches who believe that the landlords have seized their territory, illegally acquired it or simply

'bought' it through dubious financial transactions and therefore, the Mapuche reclaim it today as its legitimate owners. Through CONADI, the state is trying to authorise subsidies to Mapuche communities so that they can acquire their own lands and thus end 'illegal occupations'. Litigation between the Mapuches and Huincas (non-Mapuche Chileans) from the VIII and X regions of Chile up until the middle of March 1995 had, according to CONADI, affected around 4,000 Mapuche families and concerned some 70,000 hectares.

Meanwhile, the number of dispossession orders against the Mapuche has multiplied. The Regional Coordinator of Osorno, from the Mapuche Inter-Regional Council, denounced businessmen who are acquiring titles to indigenous lands and who prevent the Mapuche from working on them, causing considerable tensions and serious economic problems which add to their already debilitated means of subsistence. The landowners appear to have carte blanche to dispossess people forcibly, with the apparent complacency of the authorities. One example was the violent expulsion of the Rupumeica community which comprised 80 families with 500 hectares of land in the foothills of the Andes. The community leader, Francisco Quenillao, denounced the company, Carran, which already had some 7,000 hectares, for forcing out the 80 families of the community, robbing them of their 500 hectares and burning down their houses with all their contents. Now these Mapuche families are living in the neighbourhood in extreme poverty.

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in West Papua. In 1991, on signing a major new agreement with the Indonesian Government, Freeport's then President, James Moffett, proudly boasted that the company was "...thrusting a spear of economic development into the heartland of Irian Jaya". According to many observers, however, the consequences of that thrust have already been major river pollution, deaths and suffering following the forced removal of indigenous peoples, and widespread sickness caused by chemical and acidic emissions.

Also RTZ is known to be notoriously neglectful of the rights of indigenous peoples and the environment. It operates several of the world's biggest open-pit mines, and a significant proportion of its operations are in the territories of indigenous nations (such as Aboriginal Australians, Native Americans, Igorot Filipinos, Finnish Saami) who have never consented to mining. The company's most notorious venture is the Panguna copper/gold mine situated in eastern New Guinea, on the island of Bougainville.

Loss of Traditional Territories

The mining activities have caused a tremendous loss of traditional territories for the indigenous peoples. The *Amungme people* who live round the coastal town Timika, which has expanded enormously (now more than 25,000 inhabitants) since the mining operations started have suffered particularly badly. Freeport's original 100 sq.km. concession partly overlapped with the customary hunting areas of the Amungme. Their communities were offered neither services by Freeport nor employment at the mine. Even in the expanded workforce of 1993, only 13 per cent were from West Papua itself. The new huge Grasberg mining operation – covering 25,000 sq.km. in the mountainous central part of West Papua – will transform the entire region. And it will without doubt mean a further loss of traditional territories for groups like the *Dani, Yali and Hupla peoples* presently living there. Furthermore, a whole new city is to be built near the coastal town Timika which means a loss of 25,000 hectares.

Moreover, the infamous transmigration programmes – by which families from other parts of Indonesia are moved onto indigenous land – have meant a loss of traditional territories amounting to up to 1 million hectares. Already nearly 200,000 people have been moved. The government is now going ahead with a US\$93 million programme, covering the whole of Eastern Indonesia, but with West Papua as a prime target.

Alleged intimidations

Persistent reports from West Papua for the period November 1994 to February 1995 indicate that there have been military operations in the vicinity of the Freeport mine. According to the reports (among others from the Australian Council for Overseas Aid), Papuan villagers such as the Dani and Amungme have been intimidated, tortured and killed. In November 1994, an expatriate employee of Freeport was shot, allegedly following some action by the OPM (Organisasi Papua Merdeka). The Indonesian military immediately sent aircraft loaded with troops to the area. However, none of the reports give hard facts about the number of casualties.

Ever since their initiation, the mining operations have been opposed by local indigenous groups. However, the mining operation is of vital economic importance to the Indonesian government (Freeport is one of the biggest corporate tax payers in Indonesia, contributing 47 per cent to Irian Jaya's gross domestic product), and air attacks were launched against early attempts to oppose the mining operations. The plight of the local people was raised in the national parliament in Jakarta. Some MPs argued that the profits earned by Freeport were probably far greater than the benefits the local people have received from the company's presence. But no-one was listening; in its 27 years of operation, Freeport has become an invaluable asset for Jakarta.

THE PACIFIC

HAWAI'I

The demonstrations, land occupations, education and international outreach in indigenous fora and other action supporting and demonstrating self-determination continues in Hawai'i. During 1994 *Kānaka Maoli*, indigenous Hawaiians, presented their case to the UN Commission on Human Rights and the UN Working Group for Indigenous Peoples, which also was the scene of the world premiere of the video, *The Tribunal*, about the Peoples' International Tribunal Hawai'i 1993.

The state-created Hawai'i Sovereignty Advisory Commission, in 1994 became the Hawai'i Sovereignty Elections Council (HSEC) with members appointed by the former governor of Hawai'i. Under the HSEC Act

these appointees have the power to hold a so-called plebiscite vote on Hawaiian sovereignty for every person claiming to be Kanaka Maoli throughout the world. A plebiscite is binding upon the parties involved. Since the wording of the HSEC Act is not implying this, the proper term for the vote would be an 'opinion poll'. Also the word 'sovereignty' seems to be misleading. The 'models of sovereignty' discussed in local fora embrace models which do not qualify as sovereignty (for example assimilation) neither in the Western sense (to be independent, not under the control, influence or governance of others) nor in the Kanaka Maoli understanding of *ca* - life, breath, spirit.

The question to be voted on is: 'Shall the Hawaiian people elect delegates to propose a native Hawaiian government?' If the majority of the registered voters vote yes, the HSEC might hold a (state controlled) constitutional convention to create a 'Hawaiian Nation'. While the HSEC has started its voter registration, the education and discussion continues among Kanaka Maoli. Many consider HSEC an attempt by state agencies to coopt and take over the still stronger Kanaka Maoli movement for self-determination. *Ka Lahui* (the largest group in the indigenous Hawaiian movement), *Ka Pakaukau* and many other Kanaka Maoli groups strongly encourage a boycott, because they see the plebiscite as a strategy to force the Kanaka Maoli to give up their inherent sovereignty, otherwise acknowledged by the US Congress in Public Law 103/150 ('The Apology Bill' signed in 1993, see *The Indigenous World* 1993-94:78-81). They have taken initiative for an international investigation of the so-called plebiscite.

In the meantime, the social statistics of the Kanaka Maoli are becoming worse, and indigenous Hawaiian rights are being contested in court. Kanaka Maoli have been evicted from their homes on land they consider theirs. In Anahola, the cultural centre, Kaua'i, was demolished on the orders of the Department of Hawaiian Home Land, while the managers were jailed for ignoring a court order to stay away from the place. The house had been built on a federal grant. Kanaka Maoli have tried to block sales of 'ceded lands' - public land taken over by US Government when Hawai'i was annexed by the United States in 1898. This land is supposed to be held in trust and used for 'the benefit of the inhabitants of the Hawaiian Islands'. The wealthy Bishop Estate bought the lands of the bankrupt Hamakua Sugar Company, including ceded lands. Even the Office of Hawaiian Affairs was prepared to buy the land. They are in a process of purchasing state owned ceded lands for income generation.

The Department of Hawaiian Home Land has been engaged in land transfers and settlements in a restitution process for lands which have

been seized by various governments without compensation or which were never identified. The department and legislature seem to be trying to make up for decades of neglect. In seventy years, the Department and its federal forerunners did not allocate more than 17 per cent of the land to Kanaka Maoli. Two hundred thousand acres were set aside in 1920 to 'rehabilitate' indigenous Hawaiians, by that time considered a 'dying race' (at the same time protecting the sugar planters' interests in prime agricultural lands).

During 1994, various actions were taken against military projects. At the Pacific Missile Range Facility at the island of Kaua'i, a group of Kanaka Maoli and supporters built a shrine at the dunes to protest launching of a 'Stars' rocket aimed at Kwajalein.

On 16 January, 1994, the Independent and Sovereign Nation State of Hawai'i (former 'Ohana Council) proclaimed the restoration of the independence of the sovereign nation state of Hawai'i and the right of self-determination as a people. The constitution was signed 16 January, 1995. That month also witnessed demonstrations in connection with the annual commemorations of the take over of the Hawaiian government in 1893 by foreign businessmen living in Hawai'i backed by the US marines. January 1995 was, furthermore, the centennial of the Wilcox rebellion against the self-proclaimed 'Republic of Hawai'i' and the trial and imprisonment of Queen Lili'uokalani.

Ka Lahui held its 15th legislative session in May 1994. They adopted national policies and a schedule for completion of a master plan for a Hawaiian Nation. In August, more than sixty groups participated in a Solidarity for Sovereignty March and day long education at I'olani Palace.

The federal government finally signed over the island of Kaho'olawe to Kanaka Maoli caretakers in the state Island Reserve Commission in May 1994. Kaho'olawe, sacred to Kanaka Maoli and situated closely to inhabited islands, was used as a target for bombing practice by US military for fifty years. Since the mid-1970s the Protect Kaho'olawe 'Ohana and other indigenous groups have been fighting to retrieve control of the island. The formal conveyance deed was entirely written in Hawaiian.

In February 1994, two *ka'ai*, sennit containers with the remains of two famous chiefs, disappeared from the Bishop Museum in Honolulu. They are believed to have been taken home to rest in Waipio Valley on the Island of Hawai'i. In April, Yale and Harvard Universities returned two hundred skeletal remains of indigenous Hawaiians taken for research in the period from the late 1800s to 1950. They were reburied.

AOTEAROA

The following contribution on Aotearoa (New Zealand) is a report on activism in 1994, written by Moana Sinclair, together with other members of the Te Kawau Maro Maori sovereignty group.

The "Fiscal Envelope"

Like many native people in their tribal lands we face continual attacks from the colonisers. 1994 has been no different, in fact they have stepped up their campaign and are blatantly creating policies and proposals to bring about our death as a people.

The National government has been hell bent on finding a way to extinguish inherent native rights; 1994 was the year they decided to make this publicly known, after three years of denials that they were planning this. Under the guise of 'settling Maori land grievances', the government has devised a proposal called the 'fiscal envelope' which is a \$1 billion package to settle ALL Maori 'grievances' so that Maori can 'progress' into 'develop' mode. The word grievance in the government's definition suggests that Maori are malcontents who need to be snapped out of 'grievance' mode with a few bucks in order to go into 'development' mode.

Te Kawau Maro, along with other Maori sovereignty groups, worked this year to expose the government's genocidal plan. We mobilised to attack the proposed fiscal envelope by writing information flyers, creating jingles suitable for broadcast on Maori radio stations, gave lectures around the country, spoke on radio and television about government deceit against us and made a video interviewing people who had inside information about the government's 'Sealords deal' (which reduced our fishing rights and which is the blueprint for the fiscal envelope). The key clause in the Sealords deal is a clause which tells Maori that they must accept fiscal (financial) restraints and therefore the government would not meet the true cost of returning land or resources. The proposal states that, amongst other things, Maori must not make claims to the Conservation estate, yet this is where a lot of our lands are.

Its hard to say when in 1994 the activism began, because since the arrival of the colonisers, our ancestors have rejected the presence of coloniser laws which have excluded our participation in the decisions that impact on us in our own lands. Recent activism is simply part of a continuum of Maori activism against the Crown.

A good starting point for Maori activism in 1994 is probably 6 February, government chosen 'Waitangi day' (the day we're supposed

to celebrate our harmonious relations). On that day, Prince Charles, as a representative of the Crown, was told that, because his ancestor King William V acknowledged the Maori nation as sovereign and independent within the international community and that the signing of the Treaty in 1840 confirmed this Pact, he was to give a clear message to the illegal government of today that any Sealords deal that attempts to take away our customary fishery rights or any full and final settlement for 'Maori land grievances' by a cheap \$1 billion package would be totally rejected. Furthermore, their 'thirty pieces of silver' was an example of the treachery against which Maori people would always fight with whatever means, and we would always uphold our right to full and exclusive rights to our forests, fisheries, treasures and lands as guaranteed in the Treaty.

'National' New Zealand flags have been burned or dragged from the flagstuffs and our own Maori nationhood flags have been hoisted. Government policies have been burned on the steps of parliament and Crown representatives have been spat at as a gesture of our contempt for the imposter government and the treachery it continues to carry out against us.

The government has doggedly pursued its fiscal envelope policy by getting Maori Crown agents to take it around to 12 *marae* to sell (this is what they call 'consultation') and, although Maori have vigorously and unanimously opposed it with marches, speeches and protests, the government still insists that "although Maori are saying a superficial no on the surface, underneath they still mean yes". I mean, which part of NO don't they understand.

'Occupation is liberation' – this is the call of Maori people. Fifteen land occupations are currently in position, and even around the famous Rotorua geysers (geothermal tourist hotspots) their people have moved in to protect their land and resources from government's plans to sell it off to foreign investors. All occupations have been severely attacked by the government, especially the Whanganui Pakaitore occupation.

Activists have told members of the international press who came to cover the government's Asian Bank Development conference in May 1995 (i.e. the current plan to sell land to foreign buyers) that Maori would not sit by and watch while the government allowed this second wave of colonialism but that we would fight. Many truth-seeking Pakeha (Europeans) have joined us.

While the government was prostituting itself with OUR lands and treasures, soliciting foreign investment, Maori activists told the very

same media that before any government sold 'state' forests, the world could expect to see them burning and the bombing of dams, should the government continue to ignore Maori calls for sovereignty and calls for justice. Such is the desperation of our people that other activist groups have also advocated the logging of these forests regardless of foreign buyers, to build needed housing for our people. This immediately brought about charges of sedition by the government. Maori responded with a counter charge of sedition against the government in their fixation to sever all ties with the Privy Council with a view to creating a Republic that would at best rewrite the Treaty, thereby negating the constitutional document that secured our sovereignty which was signed last century with the Crown and Maori chiefs.

As I write this summary, there is an injunction being filed in the High Court which endeavours to halt the *Tainui tribes'* acceptance of the 'confiscation settlement'. Factions have been created in the Tainui tribe by this government's deal to 'settle' their land confiscations which happened last century. The deal proposes to give back a fraction of what was taken. Monies will be paid into a statutorily-created Trust board. Certain subtribes are opposing this vehemently as they fear the money will go to a government-selected few, thereby disinheriting many of the Tainui descendants. Much worse, this deal struck between Tainui and the Crown will create a very dangerous precedent for all other tribes who have had their claims heard and are awaiting action on Waitangi Tribunal 'recommendations', or who have yet to have their land claims heard by the underfunded, toothless tiger, the Waitangi tribunal, which was set up in the mid-1970s to silence Maori protests then. Maori nationalists have called the Tainui deal the beginning of the fiscal envelope, regardless of declarations from Tainui board members that they are two separate issues. The fragmentation and division of our people by the Crown continues.

Mine Smith the Maori activist who attacked the One Tree Hill symbol of oppression in order to highlight the government's continued injustices will appear in court today, on trumped up charges by a Crown agency for damage to a tree. The One Tree Hill symbol refers back to a time when early colonists cut down the totara tree which was planted by Maori last century and planted their own pine and then built a memorial which made reference to Maori as a 'dying race'. Smith's action is an action supported by many Maori. We will continue to fight as our ancestors did for the restoration of our nation, we must, because it is for our children and grandchildren that are yet to come.

AUSTRALIA

The indigenous year 1994 began with a hangover. The December 1993 debates in Parliament on the Native Title Act had been the longest in history. The debate had contained some rhetoric from Senators unfit for a contemporary political body in a multi-cultural society. However, in January 1994 the Act was law and the National Native Title Tribunal was established in Perth.

After some years of intense dispute and dramatic legal and political events, 1994 in Australia was a time of transition in indigenous policy. On the one hand, public institutions were learning to live with the new rules and new attitudes which recognised indigenous rights and, on the other, significant processes were preparing the next stage.

Regional Agreements

The major new element in policy and political discussion was Regional Agreements. This was a concept which internationally-minded Australian researchers and indigenous groups developed after examining recent indigenous experience in other countries. In particular, the regional land and sea claims settlements embracing large regions of Northern Canada attracted their interest (Richardson, Craig & Boer 1994a; 1994b). In 1993 the parliament in Ottawa had passed into law a new constitution as well as a claims settlement for the Inuit region of Nunavut, an area similar in size to Australia's two largest states of Queensland and Western Australia. No less interesting to interested Australians were the older Canadian agreements of Cree and Inuit in Northern Quebec (signed in 1975), the Inuvialuit agreement of 1984 in Canada's Northwest Territories, and the Yukon master agreement (with its sub-agreements to be negotiated by local groups) and emerging Dene Indian regional agreements in the West and South-West of the Northwest Territories.

Whereas the Canadians had negotiated these piecemeal and under pressure, constantly caught up in local factors, Australians could coolly survey the whole Canadian experience across several regions and draw their own conclusions about its strengths and weaknesses. They could also study how well or badly the older agreements among these were working in practice. This is surely how indigenous internationalism should work daily in all countries where indigenous peoples have means to travel and exchange information.

In Australia the Kimberley Land Council, building on the frustration of powerlessness of the peoples of northernmost Western Australia (WA), has been particularly active in working to develop a regional agreement and a process for bringing it into effect. This would see

“...white Australians... negotiate with us as a distinct people... [and] address a range of matters, including land ownership and management, funding and revenue mechanisms, and the structures which provide mainstream services to the region. The proposal... may appear challenging to Australian governments, but similar arrangements are well advanced in North and South America, New Zealand, and parts of Europe”. (Yu 1994, 31)

The WA government is not only the most resistant in the country to indigenous rights, but in 1994 challenged the national government's constitutional power to make native title laws. (To the relief of indigenous peoples that challenge was defeated in Australia's highest court in early 1995.) *The Kimberley peoples* have had strong support from non-indigenous researchers, many of whom worked on what is surely the finest regional study of indigenous needs anywhere in the 'first world' to date, the East Kimberley Impact Assessment Project whose 25 studies were synthesised in a summary report, *Land of Promises*, edited by HC Coombs *et al.* (1989). That project brought together many of Australia's leading non-indigenous researchers and helped establish a few new ones. The Kimberley Land Council has been exploring practical and creative opportunities within the existing Australian political and administrative structure to achieve their goals (Crough & Christophersen 1993).

The Kimberley is perhaps the best example of the difficulties facing indigenous peoples in Australia. Despite a large population, approximately 40 per cent Aboriginal in the West and East Kimberley regions, and the support of a national network, the Kimberley Land Council has been largely on its own. (If only the permanent population were counted, of course, Aborigines would be the overwhelming population majority.) Even the national government has often been reluctant to help because the federal Aboriginal and Torres Strait Islander Commission (ATSIC) council in the region has had other priorities. The frequent conflict between ATSIC and grassroots political and cultural mobilisation is a major underlying problem in Australian indigenous policy (see below). The Kimberley situation may quickly become an international one, however. Diamond mining interests from the East Kimberley (and a subject of study by the research project mentioned

above) are now working in Sami areas of Norway and Sweden, parts of Finland and Karelia, and in Dene and Inuit regions of Northern Canada. Sami, Dene, and Inuit would be well advised to learn as much as they can from the East Kimberley diamond experience.

While the Kimberley has lacked official recognition, *Torres Strait* has had too much. Around 40 federal and Queensland official offices are active on Thursday Island, the regional centre for Torres Strait, but the Islanders complain with reason about the inadequacy of public services, economic activity, and recognition of their culture and rights in the region. Islander leader, Getano Lui, Jr., insists that the centenary of the Australian Constitution in 2001 must include a new political arrangement for Torres Strait. He expressed the region's aspirations clearly in a national radio broadcast, later published.

“The principles for Torres Strait constitutional renewal are simple. We need to be able to make decisions about social, cultural, economic and environmental matters in our region, not just have the right to attend advisory meetings which may, or may not, pass our ideas up the line. We need a clear, legally enforceable regime of land and sea rights. We need real control of staff and office budgets, not the appearance of control as through ATSIC. We need the means and facilities to secure and develop our culture” (Lui 1994, 17).

On July 1, 1994, federal and Queensland ministers attended the formal inauguration of the Torres Strait Regional Authority on Thursday Island. This is a new office created within ATSIC to re-organise and better coordinate federal government activities in Torres Strait, and to provide a vehicle for negotiating a new regional future (TSRA 1994b). The future role of the Island Coordinating Council, which is the Islander body created under Queensland law and which has been seen for many years by Islanders as their principal body, is unclear. Meanwhile, the Islanders have put forward strong proposals for their future to the Prime Minister's national hearings on an indigenous 'social justice package' (TSRA 1994a). The Islanders have also spoken out strongly about their dissatisfaction with the failure of governments to act on indigenous sea rights issues or protection of Torres Strait from pollution sources in Papua New Guinea despite an Australia-PNG treaty signed for that precise purpose ('Islanders make a stand on mining', by Marion Smith, *Sydney Morning Herald*, November 5, 1994). Meanwhile, they have taken a lead in developing their own *Marine Strategy* (Mulrennan & Hanssen 1994) in successive drafts with the aid of academic, governmental and other experts.

When the Inuit premier of Greenland, Lars Emil Johansen, visited Torres Strait in mid-1994 and then took part in a conference in Cairns, Queensland, with Islanders, Aborigines, and Canadian Inuit to discuss regional agreements which would include marine issues as well as self-government, nobody could doubt that the time had come for such peoples to support each other on a more regular basis. It would seem logical that peoples like Inuit and Sami, Northwest Coast Indians in North America and Aboriginal Australians, as well as Torres Strait Islanders and other South Pacific Islanders share experience and concert agendas to secure better national and international outcomes on marine environment and development issues, including associated political and administrative issues. A pilot project or initial conference is needed.

Indigenous "Social Justice Package"

In the second half of 1994 indigenous political hopes became focused on the consultations and policy process to produce the Prime Minister's promised indigenous 'social justice package'. This was the third of three measures of which the first two were the Native Title Act and a national land fund to buy land for dispossessed Aborigines. The third item, it became clear, should be nothing less than a national policy towards indigenous people. A document, *Towards Social Justice?*, was published to help promote discussion around the country in advance of consultation meetings (CAR-ATSIC-OATSISJC, 1994). This document highlighted the earthquake fault running through Australian policy. On the one hand were the usual social issues of inadequate public services and personal living standards, problems which are critical. For instance, during 1994 it was revealed and repeatedly publicised that unlike indigenous peoples in other 'first world' countries, Australian peoples' conditions were not improving in relation to the white majority. This seemed genuinely to distress policy-makers, although many of them seemed to have no ideas other than the usual ones which had failed to solve the problem before: spending more money on the usual government services.

The later sections of the consultation document, on the other hand, turned to 'new' issues of self-government, constitutional reform and regional agreements, issues previously considered too 'radical' or upsetting for serious discussion. Of course, the battle was not so easily won. The consultation meetings were often perfunctory, and many people who attended them complained that those doing the consulting did not understand *and did not want to understand* these issues. When

later private workshops were held with experts on the 'social justice package' it was clear that there was strong resistance among some in government to the new agenda.

The problem may be considered in two ways. First, most countries when they develop new indigenous policy and political agendas also develop new institutions or change the roles of existing ones. Sami Parliaments or home rule governments or regional claims bodies or tribal governments have appeared in North America and Europe, for instance. In Australia, however, an existing bureaucracy, ATSIC, which is for all intents and purposes an integral department of the national government, has sought to manage the new issues. In fact, its conduct is usually in two stages: first it vigorously opposes an idea, and finally when it sees that the new idea will not go away, it attempts to take control of the idea and all processes for developing it. This is true of Aboriginal and Islander officials no less than white ones, although of course there are also progressive indigenous and non-indigenous officials in ATSIC, including the new head, Ms. Pat Turner, an Aboriginal woman, who are trying to reform policies and administrative habits.

The second perspective is that in a country where Labor politics are centralist and often as committed to loyalty as reforming zeal, decentralist and devolutionist impulses may be suspect. Indigenous needs have usually been a Labor issue in Australia, to the extent that some Liberal and National party members are suspicious of them for that reason alone! The fact that basic human rights can be seen as inherently radical says much about the depth of racism and blindness in the Australian public's historical view of indigenous peoples. Nevertheless, it is not surprising in this context that many Aboriginal leaders have seen a central Labor-like indigenous administration as the logical way, the smart way, the Australian way to organise themselves politically. The implications are that an in-group such as ATSIC would control things from the centre, even though indigenous peoples, *especially* the rural and remote peoples, seek power for their local and regional communities and want cultural identity strengthened at that level. The elected members of ATSIC's regional councils often complain that they have no more than token influence.

At any rate, these matters will have to be resolved if Australian indigenous peoples are to break free from the failures of welfare-style administration. Those people will also have to build on the lesson of their international work on regional agreements – an approach which has been doubly important because Australia has been less involved in the practice of indigenous internationalism than other 'first world'

countries. Distance and high travel costs, as well as sheer lack of information, have isolated Australia's Aborigines and Torres Strait Islanders from world indigenous rights progress. Although Australia's federal and state governments as well as the mining industry have been perfectly well aware of progress abroad, they have had little reason to share such information at home where it would put pressure on them to improve their own records. If Australian indigenous groups can now connect indigenous policy and politics at home with the dynamic world indigenous rights scene, they can only benefit. Likewise, there are many specific initiatives and programmes in Australia, and some policy and law e.g. the *Mabo* decision and laws on sacred sites, which would benefit indigenous peoples elsewhere.

As 1994 ended the work on the 'social justice package' was intense. Three separate public reports will be presented, to the public as much as to the Prime Minister, in March and April 1995. One is being written by the Council for Aboriginal Reconciliation and is expected to be the most moderate because of the mixed composition and the political interests of its members. The Council has also published a general report, *Walking Together*, on its first three years work and after an intense consultation on special policy issue papers (CAR 1994). The second social justice report is being produced by ATSIC national Commissioners and a few others, all Aborigines and Islanders themselves. The third is being prepared by the national indigenous rights ombudsman, Aboriginal and Torres Strait Islander Social Justice Commissioner, Mick Dodson. The three groups have shared many resource documents and experts, have held workshop-style discussions together sometimes lasting several days, have commissioned some research of their own, and have held public meetings around the country. It is clear that they are going to have some things to say about the 'big', the 'new' issues. If they can more or less agree in the direction they take, that fact, linked with Prime Minister Keating's commitment and Opposition leader Howard's readiness to listen, may make 1995 the breakthrough year for indigenous policy in Australia.

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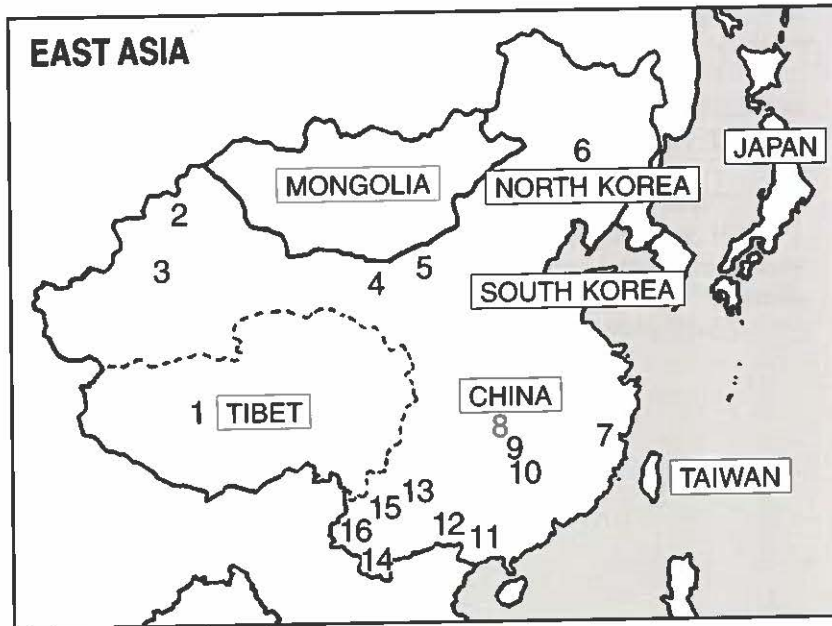
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1. Tibetan
2. Kazakh
3. Uygur (Uighur)
4. Hui (also scattered nationwide)
5. Mongol
6. Manchu (also scattered nationwide)
7. She
8. Tujia
9. Miao
10. Yao
11. Zhuang
12. Gelao
13. Yi
14. Dai/Jinuo/Lahu/Kucong
15. Naxi/Mosuo
16. Lisu

EAST ASIA

CHINA

Since the demise of the Soviet Union, China remains the only major modern state that was created on the basis of a former empire. China incorporated the indigenous peoples that happened to live inside the borders of this vast empire and for a period in the 1920s and 1930s, the Chinese communists subscribed to Comintern's strategy of granting autonomy with the right to secede for the various indigenous peoples. But in the late 1930s this policy was reversed and when the People's Republic was founded in 1949, the new state was designed a 'unitary, multi-national state'. Accordingly, the present constitution does not give the indigenous peoples of China even a theoretical right to secede.

In the case of a future change of political regime in Beijing, one would expect – since the People's Republic is built upon similar ideological foundations as the former Soviet Union – similar developments in terms of secession of the major regions inhabited by indigenous peoples. However, this is very unlikely to happen. If there is one area where the Beijing and Taiwan authorities are in full agreement, it is the indivisibility of China. Taiwan has gone even further: until recently, they did not even recognize the independence of Outer Mongolia. The only foreseeable possibility of new and independent states being established on the basis of the major regions of the indigenous peoples of China would be through long-term negotiated, political settlements.

There is really nothing comparable to the Chinese 'handling' of indigenous peoples in terms of sophistication and ingenuity. This impressive tradition of strategy and tactics about how to divide and control goes back more than two thousand years. Even if the status of the former subject peoples has changed dramatically in recent decades, many of the traditional notions of cultural superiority on the part of the Han Chinese are still alive and well. (Han is the ethnic self-appellation of the people we normally call 'Chinese').

There is no established term in Chinese for the 'indigenous people'. The nearest is *tuzhu minzu*, or 'rustic(ally residing) people' which carries a clearly pejorative connotation. In Taiwan, the term *yuanzhu*

min, or 'original(ly residing) people' has been adopted – probably as a translation of the term 'indigenous people' which will in many cases cover the historical realities (for example in Taiwan).

The Ethnic Make-up of China

The historical expansion of the dominant Han people has mainly been towards the south, although in more recent history this has been also to the north and northeast, and to a limited extent to the northwest. There has only been a considerable influx of Han settlers in the vast western and northwestern regions during the era of the People's Republic. The most dramatic change in this respect is in Tibet proper, where there were hardly any Han at all before 1949.

Most of the indigenous peoples of China – both large and small groups – may be said to have broadly defined historical homelands, but a considerable number of them, such as the *Miao* and the *Yao* in the south and the *Mongols* and *Kazakhs* in the northwest, have been more migratory. The most extreme case is that of the so-called Chinese Moslems, or *Hui*, who – in addition to inhabiting a core region in Ningxia in the northwest – are found in every province and major urban region of China.

The Chinese communists adopted the Soviet way of structuring their subject peoples, but did not streamline their terminology in this respect as the Soviets did. All distinct groups that could be identified according to certain common criteria were just called 'this or that *minzu*'. Any such association of people should be on an equal footing in terms of both terminology and status. Except for the majority Hans, all others were referred to as *shaoshu minzu*, or 'minority nationalities'. The problem with the term *minzu* is that it can cover the whole range of meanings from 'nation' on the national level to the smallest minority nationality of a few thousand persons. There are administrative minority units on three different levels: provincial-level region (*qu*), prefecture (*zhou*) and county/banner (*xian/qi*). There are also, especially in the southwest, many 'minority villages' (*xiang*), but these are not formally a part of the state structure. (In the following, I will use minority when referring to regions, and indigenous when referring to people).

The total number of indigenous peoples in China is, according to the 1990 census, well over 91 million, accounting for 8 per cent of the population. The increase in the indigenous population has been quicker than for the Hans, and has grown from 6.7 per cent in the 1982 census. The numerically largest indigenous people are the *Zhuangs* in

Guangxi, of Taiic ancestry, who number 14 million. Other large groups are the *Mongols*, *Manchus*, *Huis*, *Tibetans*, *Uygurs*, *Miao*, *Yi* and *Tujia*.

The identification and classification of the various minority peoples took mainly place in the 1950s. Compared with the pre-1949 situation, the granting of formally recognized nation/nationality status was a giant step forward for these peoples, also in terms of the general position of indigenous peoples worldwide at the time. As far as the process of identification is concerned, many groups had relatively clear-cut identities, but there were also cases of establishing new identities, or 'nations by design'.

Even if the identity of most of the minority peoples of China has been settled for the present, there will no doubt be raised voices for reclassification in the future. Some groups, like the *Mosuo* and the *Kucongs* in the Southwest, have persistently refused to be classified as part of the Naxi and Lahu nationalities, respectively. There may also be an issue concerning who has been classified as Han or non-Han; one clear tendency which can be seen in the 1990 census is that people who were formerly classified as Han have changed their status to one of the existing nationalities. Thus, the *Manchus*, *Tujia* and the *She* all doubled their numbers or more, and the *Gelao* register a spectacular increase of more than 800 per cent, from more than 54,000 to well over 438,000. The reason for this may be that the authorities gave in to their claims to 'nationhood' or that they 'came out of the closet' because they no longer felt their national identity to be a stigma, which is the case for the *Manchus*.

Another reason for the stronger growth rate of the indigenous population is that they are permitted to have two children (and where living conditions are very extreme even three or four), whereas the Han population is mainly restricted to one. There are even reports of Han Chinese who register as indigenous in order to have more children.

Today there are 56 recognized nationalities in China, including the Han. The last to acquire status as an independent nationality (in the late 1970s) was the *Jinuo*, a small Tibeto-Burman speaking group in Sipsong Banna in southern Yunnan. However, several nationalities are waiting for recognition. People have different motives for wanting nationality status which vary from the purely practical advantages it brings to a deep sense of historical identity. According to the 1990 census, there are still some 750,000 people whose identity and status has not yet been settled. These people are not permitted to use the term *minzu* and are addressed as *ren*, or 'people' in the sense of 'men'.

Strategic Importance of Minority Regions

The relatively low percentage of indigenous peoples in China compared with the former Soviet Union belies some important facts. Firstly, despite the huge absolute population of China, the more than 90 million indigenous people cannot be said to be insignificant. Secondly, most of the major indigenous peoples inhabit the peripheral regions of China (co-inhabited with Hans). These regions are vast, and constitute around 60 per cent of the country's total area. They are also rich in various natural resources, such as oil, minerals and forests. Finally, these regions have become even more strategically important to China in the wake of the break-up of the Soviet Union. From being on the periphery, many of these regions now find themselves at centre stage of events. The northwestern Chinese autonomous region of Xinjiang, for example, now borders with eight different countries.

Thus, whereas the border regions formerly constituted some kind of backyard for the Chinese heartland, they have now assumed a new importance. The Chinese government has subscribed to a long-term policy of opening up to the outside, a policy also, albeit hesitatingly, applied in the border regions. The government seems to have understood that, in the long term, it cannot hope to develop China while at the same time keep its minority population sealed off from neighbouring countries.

The overall strategy of Chinese policy makers seems to be a dual policy of opening up and more efficient control. The success of the policy relies on balancing being both overlords and guarantors of increased economic prosperity. Until now, this strategy has worked very well. The standards of living in minority regions in China today compare relatively well with those in most adjacent states. Furthermore, increased interaction between these regions has led to a more realistic understanding of the conditions and attitudes in these states and among dispersed groups. In many cases, it has been the Han Chinese and the Huis, or Moslem Chinese who have been most active and entrepreneurial in developing trans-border trade.

The development of the five newly independent states in Central Asia is of special significance to the Chinese leadership. These states constitute living examples of the possibility of establishing independent nations and may also be sources of pan-Islamic or pan-Turkic sentiments. In April, 1994, the Chinese Premier, Li Peng, paid a belated visit to four of these Central Asian states: Turkmenistan, Uzbekistan, Kirgizhstan and Kazakhstan as well as to Outer Mongolia. The overall tone of this visit was the desire to develop economic cooperation and

diversified contacts. The Chinese leadership seems to gamble on being able to set the agenda in this relationship instead of being restrictive and overtly protective.

As a result of new economic policies, there is rapidly increasing mobility in the minority regions. Frequently this mobility is in terms of an influx of Han settlers or squatters and is the most serious source of conflict between the indigenous and Han population. It also has had several negative effects, such as the degradation of marginal land because of over-exploitation, gold-rush type searches for metals, minerals and local rarities, and a general marginalization of the indigenous populations.

At the same time, the increased mobility has also benefitted minorities involved in trade. The increased presence of *Uygur* vendors in major Chinese cities is one example but there are less positive examples such as *Hui* involvement in the rapidly increasing drug trade from the Golden Triangle region. With the incorporation of parts of the Chinese province of Yunnan into this activity, we can now virtually speak of a Golden Quadrangle.

Ethnic Mobilization

With increased pressures on people from the birth pangs of modernization, we have witnessed an increasing awareness of ethnic identity among many of the indigenous peoples. This ranges from increased self-acceptance, as in the case of the *Manchus*, to mobilization around various symbols of ethnic identity. These symbols are frequently cultural and religious, such as the adoption of symbols of the Tomba folk religion as symbol of Naxi identity, the increased use of Hinayama Buddhism among the *Dais* of Sipsong Banna as a symbol both of identity and modernity (in Thailand), the resurgence of Christianity among the *Miaos and Lisus*, and the awaited return of culture heroes, that is former prominent missionaries, and the widespread pooling of the newly-won riches into the construction of mosques in Moslem communities, especially among the *Hui*. But the increased manifestation of ethnic identity is not restricted to religious expression. After an evening of Xingjian television in the Uyghur language there is very little except for the news that reminds you of China.

Regional Overview

In *Xinjiang* in 1994, the separatist forces for the establishment of an independent republic of East Turkestan sent unmistakable signals to Beijing by exploding bombs in the towns of Aksu and Kashgar. These were condemned as being supported from abroad. The security forces

of Xinjiang were ordered to increase their surveillance over railways and major roads in the border zones and around oil installations.

According to the official figures, in Inner Mongolia, the *Mongols* now constitute only 16 per cent (3.5 million) of the population, the rest being mainly Han. The adoption of Han ways of living – including the Chinese language – among younger urban Mongols has led to a marked estrangement between the pastoral and urban parts of the Mongol population. In 1994, the most notable issue in Inner Mongolia was not explicitly ethnic, but political. In spring 1994, many local officials signed a petition demanding an end to the squandering and corrupt life among top officials in the provincial party and government. The petition was presented in Hohhot and Beijing and met with strong reactions from the regional party leadership. But following visits by Premier Li Peng in late April and Politburo member, Hu Jintao, in the summer, Wang Qun, the Inner Mongolian party secretary since 1987 was sacked and replaced by Liu Mingzu, formerly vice-party secretary in the Guangxi Zhuang Autonomous Region. Even if this squabble was primarily political, talk about the danger of ‘illegal underground organizations’ had clear ethnic overtones.

A new development among exiled organizations took place in 1994. In July, a ‘Committee of Alliance Between the Peoples of Tibet, Inner Mongolia and East Turkestan’ was formed at a meeting in Switzerland. Representatives of these organizations met again in October at a conference on human rights and minority rights in China which was organized at Columbia University, New York. At the conference a prominent figure of the Chinese exiled community, the social scientist Yan Jiaqi, presented his renowned scheme for a federated China (*zhonghua banglian*) but is said to have been met with scepticism from representatives of the non-Chinese peoples. The conference decided to appoint the Dalai Lama, who was not present but who had sent a telegram, as the spokesman for the interests of the newly formed Alliance.

Significant Trends

In China today, there are several tendencies for political and economic development (besides those already mentioned) that will have a decisive influence on the future of the indigenous peoples. Firstly, there is a gradual but marked change of political rhetoric from socialism to nationalism. The increased use of the term *zhonghua minzu* is significant and ‘the Chinese nation’, which is a supra-national term that not only refers to all those people who regard themselves as Chinese (such

as the inhabitants of Hong Kong and Taiwan) but also all the different peoples of China. Indigenous peoples are apprehensive that the more prominent use of this term may signal a shift to an even stronger integrative process of modernization – where of course the Han people would play the dominant role – and a move away from the multinational character of the Chinese state.

The second marked development is the economic regionalization of China. While the whole of the Chinese economy is becoming more integrated and mutually interdependent, regions are wanting more say in the affairs that they regard as their own. One example of this is a joint meeting of the five provincial leaders of Northwest China in August 1994 in Xining, the capital of Qinghai province. The leaders of Shaanxi, Gansu and Qinghai provinces as well as the autonomous regions of Ningxia and Xinjiang met to discuss issues of common interest, such as energy and mineral riches, infrastructure, key industries and the establishment of joint enterprises operating internationally. Such a development may hold certain advantages for the indigenous peoples, as it may strengthen their generally poor, peripheral regions vis-à-vis the more commercial and aggressively developing coastal regions. But it may also put more pressures on their way of life and give them less influence over their own development. More autonomy in economic matters for the large minority regions may – paradoxically – result in less influence for the indigenous peoples, since such a development would most likely increase the power of the regional and local Han elites.

TAIWAN

In Taiwan, the indigenous people have no constitutional recognition and, on the contrary, are referred to as ‘mountain people’. Today, they number some 360,000 people, or about 1.6 per cent of the population. The indigenous peoples of Taiwan are mostly of Austronesian stock. They have been subject to policies of assimilation through education, marriage, naming and missionary activity. After the lifting of martial law in 1988, one of the first issues tackled by the indigenous peoples was the return of the land of which the government had deprived them, either in the form of agricultural land or national parks. Furthermore, they have also been concerned with minority peoples’ poor access to education and jobs. The astounding rate of indigenous child prostitution illustrates the situation: about one in three child prostitutes comes from an indigenous family.

In 1994, the Taiwan Alliance to Modify the Constitution Movement lobbied – in vain – for the inclusion of land and autonomy rights for the indigenous population in the new Constitution, which was then under revision. Also, in October 1994, there was a demonstration in Hualian against the establishment of the Taroko National Park under the slogan ‘Against Invasion, For Survival, Return our Land’. The result was that the government agreed to allocate 16,000 hectares of land for indigenous use.

In Taiwan, therefore, there is a term for indigenous peoples but they have no formal status, while in the People’s Republic, there is no term for the concept of indigenous peoples, but they have a clear-cut formal status.

TIBET

At the end of 1994 and the beginning of 1995, Tibet’s relations with the Chinese occupying power were characterised by a tendency for China’s leaders to support existing restrictions openly, and even condoning the imposition of further restrictions on the *Tibetan* peoples’ freedoms. This can be seen in, among other things, the campaign against Tibetan religion and the open promotion of Chinese migration to Tibet. It is precisely this immigration which the Tibetan government in exile stresses as one of the greatest threats to Tibetan culture.

In July 1994, China’s top leaders held their third so-called ‘National Forum on Work in Tibet’, a conference which established China’s policy in Tibet for the next decade. The Forum, which took place in Beijing, produced a list of resolutions which will have considerable significance for the future of Tibet.

On 5 September, Raidi, a Tibetan Deputy Party Secretary in the Tibet Autonomous Region’s (TAR) communist party explained the top leaders’ decisions to Tibet’s Party Committee. From what he said, it appears that former Chinese soldiers and members of the People’s Armed Police (PAP) are to become permanent or long-term officials in civil units in Tibet together with technicians and university trained people. Provincial governments and universities throughout China have received orders from Beijing to provide economic support to send people to Tibet. “The Central Committee has divided the tasks and responsibilities amongst other provinces with [specified] time limits to support Tibet with people from all walks of life as we requested,” said Raidi and emphasised that was a new strategy.



Tibetan monks by the Gadong monastery in Dharmsala. Photo: Anders Højmark Andersen.

In a speech by the Tibet Autonomous Regions’s highest leader, Party Secretary Chen Kuyuan, in Chamdo in December 1994, Chen said that: “They should not be afraid that people from the hinterland [China] are taking their money or jobs away” because “the Tibetan people learn skills to earn money when a hinterlander makes money in Tibet”.

Since the economic opening up of Tibet in 1992, the country has been flooded with Chinese traders who now control by far the largest number of private businesses in the country. The Chinese immigrants benefit from “better pay, quicker promotion and more welfare compared with those working in inland cities”, reported the state controlled news bureau, Xinhua, on 14 December, 1994. One result of this is the increasing economic, social and cultural marginalisation of the Tibetans.

The July policy gave, among other things, the go-ahead for 62 new construction projects in the Tibet Autonomous Region. One of the projects is concerned with building a railway from China to the capital of Tibet, Lhasa. The new railway, which will be completed at the beginning of the next century, will doubtless result in a large increase in Chinese immigration. The other 61 projects will in themselves lead to an even more problematic augmentation of Chinese immigration.

Chinese Campaign Against the Dalai Lama

In 1994 and at the beginning of 1995, the Chinese intensified their criticism of the Tibetan political and religious leader, the Dalai Lama, leader of the Tibetan government in exile in India. In May 1994, civil servants were informed that they could no longer have a picture of the Dalai Lama in their offices and in August they were given orders to call back those of their children who were attending Tibetan school in India. Tibetan civil servants were threatened with losing their jobs if they did not comply. On 28 and 29 September, the police confiscated all photos of the Dalai Lama which were on sale in Lhasa's streets.

On 30 March 1995, a new phase of the campaign against the Dalai Lama began where the Tibetan leader was criticised for the first time for his role as religious leader. A TV broadcast and an article in the Tibet Daily criticised the Dalai Lama for having 'falsified' Buddhist texts and offended Buddhist principles by, so it claimed, urging his followers to support Tibetan independence. The Tibet Daily reported this as "wildly attempting to use godly strength to poison and bewitch the masses". Previously, an internal document referring to Tibetan Buddhism had stressed that "to kill a serpent, we must first chop off its head". Tibetan government employees will now be forced to participate openly in the criticism. However, a Tibetan in Lhasa said quite clearly that if they found themselves having to criticise the Dalai Lama, "nobody will be foolish enough to give their own opinion. If they do they will be finished". Others have indicated that the campaign will still be fruitless. "During the Cultural Revolution atheism was publicised on a large scale amongst the masses, but got the opposite result", said Tongwe Lobsang Dondrup at a meeting of the Tibetan branch of the Political Consultative Conference.

The new campaign against the Dalai Lama is unusual because since September 1987, when the Communist Party aimed direct criticism at him, the Chinese authorities have been very careful about criticising the Tibetan leader. In 1987 verbal attacks resulted in widespread demonstrations by Tibetans in Lhasa and heralded the beginning of a wave of protest throughout Tibet which has continued to this day.

In December 1994, China allowed a UN Rapporteur into Tibet for the first time on an official human rights mission. On the same day that the UN's Rapporteur for religious affairs arrived in Lhasa, China publicly announced its new restrictions on the Tibetan people's religious freedom. This included a prohibition on the setting up of new monasteries as well as establishing a ceiling on the total number of monks and nuns.

The International Political Arena

In the international political arena, Tibetans are finding there is increasing recognition of their problems and symbolic support at higher levels. Contrary to the situation up till now, the Dalai Lama is received today by heads of state all over the world, even though the political importance of the meetings is usually toned down by the governments concerned. The support is, and remains, symbolic. No country has yet recognised Tibet as an illegally occupied, independent country, and no nation has imposed significant sanctions against China on the grounds of its injustices in Tibet.

On the 19th May 1994, the Swedish Parliament debated a resolution which called upon the Swedish government to 'recognise Tibet's right to independence'. The resolution was neither rejected nor accepted in its full wording. The Parliament decided to

"note that Tibet shall enjoy a degree of self-government as a so-called autonomous region of China" and "assume that the government continues to work so that this autonomy acquires real content".

The USA has begun to draw up a separate report on Tibet and to keep the wording in line with other countries but to still call Tibet a part of China.

In spite of the Dalai Lama's consistent policy not to give up Tibet's full independence, Tibetan exiles speaking at the beginning of the Tibetan New Year in March 1994 admitted that his policy had not produced any results. China continues to refuse to go to the negotiation table and blames the Dalai Lama for wanting Tibetan independence. China insists that he recognise that Tibet is an inseparable part of China before negotiations can begin.

At the meeting with the US President, Bill Clinton, on 26 April, 1994, the Dalai Lama announced that he would now ensure that there is a plebiscite among Tibetans on the current Tibetan policy vis-à-vis China. On the 14 September, he explained that he was ready to demand full independence for Tibet if that was what the voting indicated the Tibetan people wished. The Tibetan government in exile now plans a plebiscite among exiled Tibetans and work to gather indications of current opinion within occupied Tibet is now in process.

JAPAN

The *Ainu* Association of Hokkaido estimates the Ainu indigenous population to be 50,000, accounting for less than 1 per cent of the country's total population of 124 million. The Ainu continue to face

educational, marital and occupational discrimination, and the number of Ainu living on social welfare is 20 per cent higher than the national average.

A New Ainu Law

Until now, the debate on a new law which would recognise *Ainu* status and rights as an indigenous people has not produced any concrete results. The main obstacle to the law is the question of whether the Ainu should be recognized as an aboriginal people. A draft new law proposed by the Hokkaido Utari Society highlights three main points at which a new law should aim: 1) respect for the Ainu peoples' basic human rights, and the complete elimination of human rights abuses against them; 2) guaranteed Ainu representation in regional councils and in the national Diet; and 3) oral transmission of the Ainu language and culture and improved education for Ainu children.

The document demands that the government recognize the Ainu's aboriginal status and guarantee their aboriginal rights. Among these rights are: rights to the land which the aboriginal people now occupy, to the land they formerly occupied, and to the natural resources thereon; their rights to maintain and develop their traditional culture; and their right to political self-determination.

The discussion about the creation of a new Ainu law has been taking place for a long time. In 1984, the Hokkaido Utari Society petitioned the Hokkaido government to demand the repeal of the old law (aiming at assimilating the Ainu into mainstream Japanese culture) and replacing it with new legislation that would restore the Ainu's rights and clarify their special status as an aboriginal people. In 1988, after more than three years of discussion, the Hokkaido prefectural government, the prefectural assembly and the Hokkaido Utari Society, submitted an official request to the national government for a new Ainu law. The government set up a committee to study the question in December 1989. By the end of 1994, the committee seemed to have barely moved any closer to a decision.

However, there are now expectations that the deadlock might be broken. One reason for this optimism is that indigenous peoples worldwide have now become the focus of international attention. Another very important reason is that in August 1994, Shigeru Kayano from the Social Democratic Party became the first Ainu to hold a seat in the Japanese Diet. Shigeru Kayano is a well-known Ainu activist. A third reason is that the Social Democratic Party, long an advocate for Ainu rights, has become part of the governing coalition.

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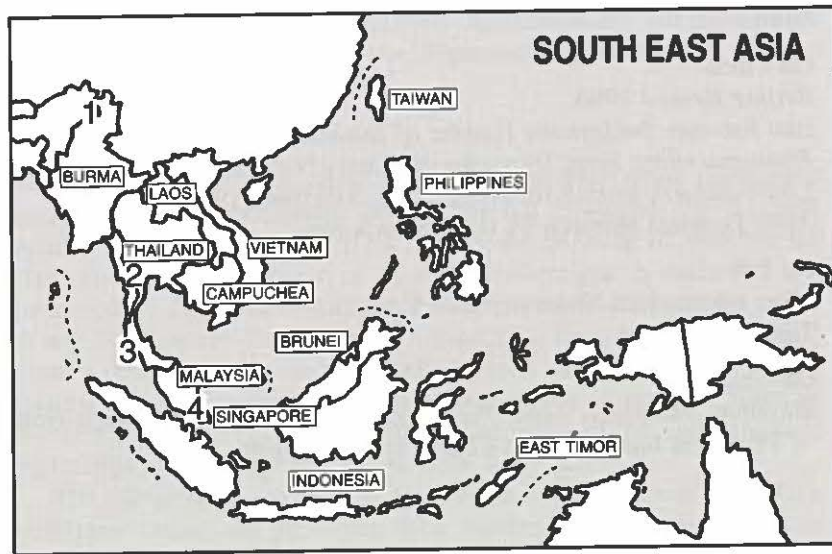
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1. Naga
2. Karen
3. Chao Thlae
4. Orang Asli

SOUTHEAST ASIA

BURMA

In Burma the ruling State Law and Order Restoration Council (SLORC) has changed its strategy towards the indigenous resistance movements by coupling increased military pressure with negotiations. It has entered into peace talks with most of the resistance groups and now claims to have reached cease fire agreements with 13 organisations. Among them is one of the largest armed resistance movements, the *Kachin Independence Army (KIA)*. The Kachin Independence Army was initially heavily criticised by the Democratic Alliance of Burma (DAB) because of its separate negotiations with the SLORC. But in spite of its earlier protestations, the DAB also declared its readiness to negotiate with the regime in December 1993. And a month before that, the *New Mon State Party (NMSP)* agreed to enter into negotiations with the SLORC. As with the Kachin, the increasing military pressure and the people wearying of the incessant suffering have played a decisive role in their agreement to negotiate. Mon representatives themselves speak of a 'forced cease fire'. A crucial factor in the realization of the cease fire was the dubious role that the Thai government played. By the middle of the year, the majority of the 8,000 *Mon* refugees living in Thailand were forcefully resettled back across the Moei river to Burma, to a camp situated only 12 km away from a Burmese military post.

The *Karen National Union (KNU)*, which has long supported demands for exclusive negotiations with the DAB, found itself increasingly isolated in a gradually dissolving alliance. In addition to that, its headquarters in Manerplaw at the Thai-Burmese border was besieged by 30 battalions of the Burmese army and the civilians were suffering increasingly from the massive military offensives. Furthermore, the military success of the Burmese army on Karen territory near the Thai border has severely weakened the economic basis of the KNU, as it found itself deprived of important revenues from trade and tolls. The Thai government also pressured them to begin negotiations. In January the KNU agreed to enter into ceasefire negotiations with the SLORC,

with formal approval of the DAB, upon which the SLORC declared the suspension of further military activities against the KNU.

But in mid-December the Burmese army, violating the ceasefire they had declared just a few months before and in blatant disregard of all preceding declarations and promises, started a massive offensive against positions of both the KNU and the All Burma Students Democratic Front along the Thai border. Doubts raised by observers on the seriousness of the junta's declarations to seek a political solution in the long standing conflict prove to have been well placed.

Actually, the unilateral ceasefire declared by SLORC was intended to give the armed forces time to consolidate the positions they already held, to familiarise themselves with the terrain and to devise strategies for weakening *the Karen Liberation Army*. An opportunity for the latter presented itself in the conflict between Christian and Buddhist factions within the Karen army which broke out in December. Several hundred Karen soldiers, some of them high ranking, broke away and began to collaborate with the Burmese army. It was these mutineers who may have been the crucial factor which led to the fall of Manerplaw, as they were able to guide the Burmese army to the well-protected area along the secret trails. After weeks of heavy battle the Karen burned their camp on January 26, 1995, and retreated.

In northern Burma, along the border with China, the regime may, however, be much more willing to make concessions in order to establish a lasting peace. Closer political and economic ties with China, sealed by Premier Li Peng's official visit to Rangoon in December, will raise the importance of this area in view of intensified trade and possibilities for an increased exploitation of its natural resources with Chinese assistance.

The Burmese army, however, continues to fight *the Mong Tai Army* of the Shan State National Congress under Khun Sa. Referring to the right to secession guaranteed to the Shan and Kayah in the constitution of 1948, the Shan declared independence in December 1993. The Burmese army reacted swiftly by launching a heavy offensive in April. In a recent statement Khin Nyunt, one of the junta's most powerful members, has explicitly excluded the Khun Sa's Muang Tai Army from any reconciliation initiative, allegedly because of its large scale involvement in the region's opium trafficking.

New Wave of Refugees

The renewed military operations in Karen territory have led to a new wave of refugees seeking protection across the border in Thailand.

According to the Karen Refugee Committee, there were nearly 62,000 Karen in 18 refugee camps in Thailand by December, and more were arriving daily as military operations continued incessantly. The Thai government and several foreign relief agencies provide the refugees with the basic necessities and medical care.

Some of these refugees have been living in the camps for 10 years already. Whereas before 1984 the Burmese army's military operations against the Karen were confined to yearly offensives during the dry season and a subsequent retreat to the Burmese-controlled lowlands leaving the civilians relatively unaffected during much of the year, a new strategy had been followed since then. Massive deployment of permanent troops in the area and, especially during recent years after the crushed uprising in 1988, massive harassment of civilians and the destruction of hundreds of villages, has made life unbearable in these areas. Between 30 and 60 per cent of Karen territory is now controlled by the Burmese army. Moreover, after the recent violation of the self-declared ceasefire by the SLORC, it is unlikely that the refugees will soon find the situation safe enough to allow them to return home.

THAILAND

The indigenous communities in Thailand are undoubtedly far better off than their brothers and sisters across the border in Burma but they too are confronted with a broad range of problems and many communities are coming under increasing pressure. In the National Security Council's 'Master Plan for Community Development, Environment and Drug Eradication' for the years 1992 to 1996, the 'tribal peoples' are conceived of as the number one national security problem. The reasons for this are: a) they live in remote and border areas, where they are 'away from the control of the government', b) they are 'ethnically, culturally and religiously different from the majority', which is said to pose a 'problem for national integration', c) their traditional practice of shifting cultivation is said 'to cause deforestation and environmental destruction', and d) opium cultivation, which is seen as a major problem for the society in general and 'the international image of the Thai government'.

The Department of Land was commissioned to gather detailed data on the upland areas covered in the Master Plan, in coordination with the Royal Forestry Department (which has just recently completed a draft discussion document of the Thai Forestry Sector Master Plan), in order to provide the basis for comprehensive planning and the implementation of the respective programmes.

By December 1993, the Department of Land had published its first report, covering Chiangmai province. The report shows that there are 1,286 villages with a total population of 200,348 people belonging to seven different 'tribes' living on the forested lands of the province. Only 28.38 per cent of them have land titles. Moreover, 672 villages are situated in already existing or potentially protected areas (primary watershed areas, national parks or wildlife sanctuaries), and only 99 of these villages are considered to fulfil the conditions for permanence, i.e. may be allowed to remain in the respective areas. All the others, mostly small and scattered villages, should, according to the recommendations given in the report, be either relocated outside these sensitive areas or regrouped in larger settlements at suitable sites within the confines of the area.

Many other indigenous communities throughout the country are faced with the same fate. Twenty four new national parks were declared this year and the Thai Forestry Sector Master Plan envisages that 28 per cent of the kingdom's total land area will be covered by the Protected Area System (PAS). These include 'forests managed by communities for purposes not in conflict with conservation'. There is growing concern with regard to the communities affected by conservation programs and the willingness to at least discuss alternative approaches. NGOs and government officials arguing in favour of a collaborative approach in conservation programmes are strongly supported by the King. Many indigenous communities, assisted by NGOs, have begun negotiations with the Royal Forestry Department and are now designing management plans for their lands which are in accordance with the conservation objectives but which would, at the same time, allow them to stay on their land. However, in most cases this nevertheless interferes strongly with the traditional economy of the indigenous communities, and alternatives are not easy to be found or quick to be developed. Moreover, the state, in any case, remains the exclusive owner of these areas as is unambiguously expressed in the Master Plan:

"However, once the PAS boundaries have been redefined jointly by government authorities and the local people, lands within the PAS will not be inalienable and people cannot legally own lands there. Subsequently, therefore, the people living within the redefined PAS boundaries will be encouraged to move to PAS buffer zones or economic forest zones, where they can lease and eventually own the land. But should they prefer to stay inside the PAS, they will not be

resettled forcibly. Nevertheless human activities within PAS will be under State supervision and control to ensure that conservation objectives are not jeopardised" (p.37).

VIETNAM

In Vietnam, article 5 of the 1992 Constitution "forbids all acts of national discrimination and division" and guarantees "every nationality [...] the right to use its own language and system of writing, to preserve its national identity, and to promote its fine customs, habits, traditions and culture". Ethnic minority affairs are represented in each of the three main structural components of the overall political system. In the Legislative system, the Council of Nationalities is one of the seven standing committees of the National Assembly. In the Government, a Committee for Ethnic Minorities and Mountainous Areas was created in 1990 and was upgraded to the status of a ministry in 1993. Within the Communist Party there exists a Department on Ethnic Minorities with consultative function to the Central Committee. Representation of the country's ethnic minorities in the political and administrative system is guaranteed on the national as well as the provincial, district and local level and, therefore, members of ethnic minority groups on each level hold positions of varying degrees of power.

However, the government's minority policy is still much less shaped by respect for and the recognition of equal rights of the ethnic minorities than by a paternalistic attitude, which is rooted in a largely unconscious ethnocentrism. This ethnocentric view is based on a 19th century model of social evolution in which the country's 'ethnic minorities' are placed on the lowest steps of the evolutionary ladder, which obliges the government to uplift these people to the 'developed stage' of the majority, i.e. the Kinh (ethnic Vietnamese). The so-called 'economic and political integration' of the ethnic minorities, which has been an important political goal ever since the creation of the Socialist Republic of Vietnam, in reality all too often means assimilation and Vietnamization.

Vietnamization

One of the main tools in this process is the educational system. With an overall enrolment rate among the ethnic minorities of only 16 per cent and dropout rates between 50 and 70 per cent (World Bank study of

1986), it contributes less to an improvement of the general socio-economic situation of the ethnic minorities than to the entrenching of a notion of inferiority. Those minority children who do have access to primary education are in most cases confronted with a situation in which their teacher – who is usually an underpaid and not much motivated Kinh – does not speak their language and all teaching is done in Vietnamese. Therefore, as a knowledgeable person put it, the first thing minority children learn in school is that they are inferior. Most children get frustrated and drop out early, never crossing the literacy threshold.

The government has established primary boarding schools in most districts and secondary boarding schools in provincial towns, in order to provide at least a few minority children with the necessary training for taking over local cadre positions in compliance with the general minority policy. However, the selection of the children is said to be based mainly on family background, i.e. their position in the administration and, above all, their Communist Party membership. The ethnic minority members attaining a position in the political and administrative system are therefore usually highly assimilated and set in line with the party ideology.

Another means for turning the 'backward minorities' into 'civilised citizens' is the Fixed Cultivation and Permanent Settlement Program, which aims at concentrating the dispersed indigenous communities in large settlements near the lowlands in order to bring them in reach of government services and control, to teach them a lifestyle similar to the Kinh, and above all 'rational' land use methods – as perceived by the Kinh officials. The committee in charge has allegedly set the target at roughly 2.8 million people in 193 districts and claims to have resettled 1.9 million in 1185 resettlement centres so far.

The need to stop deforestation by eradicating shifting cultivation is one of the main arguments brought forward in support of the programme. However, this argument is now severely being questioned and the whole program, which has been carried out since 1968 and has devoured huge financial resources, is under fire both from within the government and from foreign experts. Not only does it blatantly violate basic human rights but it has also proved to be effective neither in reducing deforestation nor in raising the standards of living of the people affected. In general, the contrary is true, as people all too often are being resettled on poor agricultural land, which leads to a severe deterioration of their living standards and the health of the communities affected.



*Muong Rala village, Daclac Province, Central Highlands, Vietnam.
Photo: Christian Erni.*

Resettlement of Kinh

At the same time, the resettlement of lowland Kinh – mainly from the Red River delta – to the uplands still continues. The responsible authorities consider the distribution of people and resources in the uplands to be 'irrational'. One of the main objectives of the programme therefore is to 'develop' the highlands through 'balancing' the population-resource ratio by bringing in lowland Kinh with their 'more sophisticated' agricultural technologies. Since the war with China in 1979, an additional explicit objective is increasing national security by moving 'more reliable' Kinh to the sensitive border areas.

At the beginning of the programme the main target areas were the uplands in the North, where more than one million Kinh were resettled between 1961 and 1975. Since then it has been the Central Highlands, above all Kon Tum and Dac Lac Province, which have recorded the heaviest influx. About 4 million people have been resettled during the last two decades and the programme continues with about 250,000 people a year. Not included in these figures is the spontaneous migration, mainly of Kinh from the North who seek a new living in the South. Though no reliable data exist, it is estimated that about 800,000 Kinh have migrated to the South since 1975, about half of whom left their home province on their own initiative.

Whereas around the turn of the century virtually no Kinh lived in the Central Highlands, they now comprise about 64 per cent of the population making the indigenous peoples a minority on their own land. Over the last five years, there has also been an increasing spontaneous migration of minority peoples from the mountain areas in the North, settling in South and the Central Highlands. Rough estimates set the figure at around 200,000 already.

The creation of a so-called 'rational distribution of resources and populations' in the uplands has caused large-scale deforestation. As foreign forestry experts were able to prove, the severest deforestation occurred in areas where lowland Kinh were resettled. And contrary to the 'Fixed Cultivation and Permanent Settlement Program', there now live more shifting cultivators in the uplands than twenty years ago, which can only partially be attributed to the natural population growth of the indigenous inhabitants.

The government is increasingly losing control over the upland areas, not only with respect to spontaneous migration – reflected in the fact that no data exist – but also concerning the emerging market forces in the wake of the economic reforms under Doi Moi. Doi Moi is the 'renovation' movement which arose in the 1980s and which has led to the rapid changes that are currently taking place at all levels of the Vietnamese society.

Future Perspectives

The move away from a command economy towards a market economy above all rapidly widened the gap between the wealthy and the poor in general, and between the Kinh and the ethnic minorities more specifically. Disadvantaged by geographical location, lack of education and capital, and at the same time faced with declining government services and state support, the economic position of poor ethnic minority communities became much more insecure. And it is feared that with the enactment of the new Land Law in 1993, making the allocated land use rights transferable, leasable and mortgageable, poor and indebted families will gradually lose control over their land and that rural capitalism with landless labourers and some kind of absentee landlordism will re-emerge.

On the national level, Doi Moi undoubtedly proved successful as the Gross Domestic Product growth rate reached 8.5 per cent by the beginning of 1995. Although agricultural production now by far surpasses domestic needs and is still growing, the high overall growth rate is mainly a consequence of rapid industrialization. For sustaining

industrial growth, however, developments in the energy sector will have to keep pace. It is expected that several infrastructure projects will be promoted in the near future, largely financed by foreign aid and multilateral lending institutions. At present, 60 per cent of the country's electric energy is generated by the 1920 MW Ho'a Binh Dam, the largest hydro-electric scheme in Southeast Asia. The dam was built with financial and technical assistance from the former USSR during the 1980s. An area of 200 km² in the Song Da (Black River) basin was flooded, and 58,000 people had to be moved. The majority of them belong to ethnic minorities. As a recent study has shown, these people are still not properly compensated for the loss of land and property. Resettled on the marginal upland surrounding the reservoir, their standard of living has dramatically dropped. The four major hydro-electric projects which are known to be most likely implemented in the near future (Ta Bu, Song Be, Yaly and Ham Thuan) will again mainly affect ethnic minorities. The largest of them, the Ta Bu (or Song La) dam will be built just at the tail end of the Ho'a Binh reservoir. It will generate twice as much electricity as Ho'a Binh, and about 130,000 people, again mainly ethnic minorities, will be displaced. Although the government still has to find financial assistance abroad (about 4 to 6 billion US\$ would be needed), the administrative centre in the capital of Lai Chan is already being moved to Dien Bien Phu as a first preparatory measure for the project's implementation.

Some high-ranking government officials seem to be honestly concerned with the fate of the country's ethnic minorities though. In 1993, the Council of Nationalities was commissioned by the National Assembly with preparing a new legislation on National Minorities. On advice of concerned foreign experts, contact with the UN Human Rights Centre was sought and the Draft Declaration of the UN Working Group on Indigenous Populations was translated into Vietnamese. However, foreign observers fear that this legislation will be only very general in nature and that it most likely will not touch one of the crucial issues, i.e. land rights. It is expected that it will just confirm parts of the already existing new Land Law, which contains no specifications concerning the ethnic minorities.

MALAYSIA

In Article 153 of the Federal Constitution of Malaysia, the Malays and the indigenous peoples of Sarawak and Sabah are recognized as *bhumiputras* (Sons of the Earth), which sets them apart from the Chinese

and Indian immigrants by providing them with protected rights and privileges. On the Peninsula, for example, so called Malay reserves protect the land from being alienated by non-Malays. Paradoxically, however, this status is denied the aboriginal inhabitants of the Peninsula, the *Orang Asli*. The position of the 83,000 descendants of the first inhabitants of the Malayan Peninsula is extremely precarious. Only 17 per cent of their land is protected as Orang Asli Areas or Reserves. 83 per cent lies in state land (forest reserves, national parks) or in Malay reserves. Despite repeated demands by the Orang Asli to speed up titling their lands, there has been hardly any progress during the last two decades. With their land rights unrecognized by the state, Orang Asli communities have lost much of their lands to government development schemes such as roads, hydroelectric dams, housing projects or new townships, and also to mining companies, private plantations, golf courses etc. Orang Asli communities can be relocated by the state government any time it so desires. And since the proclamation of the Land Acquisition Act in 1991, even the already titled Orang Asli reserves no longer provide any security. This act provides the state with the right to alienate any land for development projects serving national economic interests. Prospects for further recognition and protection of Orang Asli land rights, especially in the more accessible and fertile Orang Asli areas, now seem to be even worse.

However, the Orang Asli, known for their non-violent and gentle nature, are becoming increasingly vocal in voicing their demands. *The Persatuan Orang Asli Semananjung Malaysia (POASM)*, the Orang Asli Association of Peninsular Malaysia, whose membership remained around a mere 300 for the first decade after its foundation in 1977, has now increased to 11,000. Although having repeatedly been branded as anti-government, repressive measures could be avoided due to the association's non-confrontational policy.

In addition to demands for the amendment of Act 153 and the recognition of land rights in the National Land Code or new legislation that be created for this purpose, a thorough revision of Act 134, the so called Aboriginal Peoples Act, is one of the main concerns of POASM. Created by the British colonial government in 1954 and slightly revised in 1974, Act 154 is the legislative framework for the work of the Jabatan Hal Ehwal Orang Asli (JHEOA), the Department of Orang Asli Affairs. JHEOA, a federal government agency, is solely responsible for Orang Asli affairs. Except for land rights, state governments have no say in matters concerning the Orang Asli. Although the Act does provide for the protection of some of the Orang Asli's rights, it paves

the way for the utterly paternalistic approach exemplified by JHEOA. JHEOA's responsibilities include health-care and education programs, research and infrastructure development. JHEOA assistance to the communities, however, usually takes place in the form of subsidies. The Orang Asli communities under the protection of JHEOA consider this agency as some kind of welfare institution, which takes care of their problems and needs. JHEOA's activities therefore create dependency and a passive attitude among the communities involved. JHEOA exerts near absolute authority over the communities to which it extends its services. For example, it controls access to Orang Asli settlements; even government employees of other departments have to ask for permission to enter these settlements. Access, however, is strongly biased towards Islamic proselitizers.

Moreover, part of JHEOA's programmes over the last few years has been directly aimed at integrating the Orang Asli into the Malay section of society through Islamization. The recognition of Orang Asli culture and religion as well as their traditional rules and laws, such as the native customary laws of the indigenous peoples in Sabah and Sarawak, is therefore an urgent demand of POASM. It was part of the demands expressed in a memorandum produced by a working group headed by Senator Itam Wali, the sole Orang Asli representative in Parliament, which was submitted to the government already in 1991.

POASM's strategy of both seeking public support for Orang Asli concerns and seeking dialogue with the government slowly seems to be bearing fruit. The federal government has now instructed the state governments to produce a general Orang Asli policy. However, by 1994, only Perak State had complied with the order. The policy worked out by the Perak state government includes concrete proposals for Orang Asli land rights. Still, the policy remains not much more than a letter of intent and its implementation in the near future remains unlikely, as it runs contrary to too many interests of more powerful groups.

EAST TIMOR

East Timor is a former Portuguese colony which was invaded by its neighbour Indonesia on 7 December, 1975. Since then, at least 200,000 people, almost one-third of the population, have died as a result of war, starvation and disease.

Documentation of Human Rights Abuses

For many years, this conflict was forgotten and ignored but now the situation is beginning to change. One major turning point was the 12 November, 1991, massacre in the Santa Cruz cemetery outside Dili, East Timor's capital, where Indonesian soldiers opened fire on a peaceful demonstration, killing at least 271 and wounding many others. The scene was filmed by the British cameraman Max Stahl, whose film was broadcast on Yorkshire Television in January 1992: *Cold Blood: The Massacre of East Timor*. For the first time, there were live pictures of what was going on in East Timor. A people who had been living under occupation since 1975 was given a face and a voice.

In February 1994, a documentary film by John Pilger, was broadcast on British television (ITV): *Death of a Nation: The Timor Conspiracy*. Subsequently, it was shown on television and in cinemas in many other countries, including Australia, Ireland and Sweden.

John Pilger, Max Stahl and two friends travelled to East Timor posing as travel consultants. Each of them carried a Hi-8 videocamera which could operate through a gauze screen in a shoulder bag. In that way they were able to film places and persons without being followed by members of the Indonesian secret police. In his film, Pilger shows testimony of a second massacre. Some of those detained or hospitalized after the massacre in the Santa Cruz cemetery were deliberately finished off. They were given lethal pills or beaten to death.

In September 1994, the London-based human rights organisation, Amnesty International, published a detailed report on Indonesia and East Timor: *Power and Impunity: Human Rights under the New Order*. Here, for the first time, Amnesty International accuses not only the Suharto regime, but also its Western backers:

"The international community has, until recently, remained silent in the face of systematic human rights abuse in Indonesia and East Timor. There is a simple reason for this silence: from its inception, Indonesia's New Order government has been an important friend and ally to the West, and has been spared criticism by its Asian neighbours and member states of the Non-Aligned Movement" (Amnesty International 1994:9).

"Many governments, while publicly professing concern over human rights in Indonesia and East Timor, continue to supply military equipment to Indonesia – equipment which could be used to commit human rights violations... The willingness of foreign governments to conduct business as usual sends a clear signal that human rights take second place to economic interests" (ibid. 1994:12).

Meanwhile, Indonesia's military government was acting as its own worst enemy, openly violating human rights, not just in East Timor, but also within its own borders. In May 1994, the independent trade union movement SBSI was officially banned. Six months later, Muchtar Pakpahan, chairman of the SBSI, was sentenced to three years in jail. The only union recognized by the government is the SPSI, which is distrusted by many workers for siding with the bosses in labour disputes.

In June 1994, *Tempo* and two other news magazines were closed down by the authorities. They had published embarrassing information about Indonesia's buying of old warships from Germany. A peaceful demonstration to protest the closure of the three magazines was attacked by riot police and army troops. More than 50 protestors were detained or beaten.

Indonesia also tried to stop the Asia-Pacific Conference on East Timor in Manila, the Philippines. Fidel Ramos, president of the Philippines, was unable to comply with Indonesia's request because a ban would have been in violation of the country's constitution. In the end, Ramos decided to allow the conference to go ahead but to bar all foreigners from attending it. Some foreigners arrived in Manila airport, only to be turned back. Others made it to the conference in spite of diligent efforts to keep them out. The conference took place as scheduled from May 30 to June 4, 1994.

Suharto's brazen bullying of a neighbour and fellow member of ASEAN turned out to be a major public relations disaster. The case was widely reported in the region and the rest of the world. Many people who had never heard anything about East Timor now learned about it. And Indonesia only had itself to blame for all the bad publicity.

In November 1994, while hosting the Asia-Pacific Economic Cooperation forum, Indonesia suffered another diplomatic defeat. APEC is a trade organisation with 18 members, including the United States and Japan. A large number of reporters from all over the world were present as 29 activists from East Timor climbed the spiked fence surrounding the US embassy compound in Jakarta, unfurling banners and shouting slogans for independence. The Indonesian government had planned for a summit meeting where the only topics on the agenda would be trade and economics. They failed: human rights and East Timor featured heavily in media coverage from the APEC forum.

Self Determination

The East Timorese resistance movement, formerly known as *Fretilin*, has now been re-organized as *CNRM, the National Council for Mau-*

bere Resistance. Maubere is the name of the East Timorese people. CNRM is an umbrella organisation which includes Fretilin and other parties. It is divided into three sections: (1) the armed resistance living in the mountains of Timor, headed by Konis Santana; (2) the secret underground network of people living in towns and villages under Indonesian occupation; and (3) the diplomatic front in exile, headed by José Ramos-Horta, currently living in Australia.

Indonesia's aggression against East Timor has never been condoned by the United Nations. The invasion and subsequent annexation has been condemned twice by the Security Council (1975 and 1976) and eight times by the General Assembly (annually 1975-1982). However, these resolutions have not had any visible effect on Indonesia. At the moment, it is a member of the UN Security Council. President Suharto is chairman of the Non-Aligned Movement which comprises more than 100 Third World countries. Indonesia is even a member of the Geneva-based UN Human Rights Commission.

With almost 200 million inhabitants, Indonesia is a formidable opponent in relation to East Timor which has a population of less than one million. But the East Timorese are not about to give up. A new generation is growing up now which has never known anything but Indonesian occupation. They are as deeply committed to the principle of human rights and self-determination as their parents.

Portugal, the old colonial power, supports the call for human rights and self-determination. But the other members of the European Union are not doing anything to help. In fact, the British government is exporting more and more arms to Indonesia, as documented by John Pilger in his recent film *Flying the Flag: Arming the World*.

In 1991, Portugal asked the International Court of Justice at the Hague (the World Court) to rule on the legality of the Timor Gap Treaty, signed by Australia and Indonesia in December 1989. Portugal claims Indonesia has no right to the sea between East Timor and Australia. It follows, therefore, that the treaty is illegal. According to Portugal, Australia and Indonesia cannot give foreign companies permission to exploit the oil and gas reserves beneath the Timor Sea. This right belongs to the people of East Timor. Hearings on the treaty began in January 1995, and the case is still pending.

Human Rights Abuses Continue

Meanwhile, the conflict continues. January 1995: At least two were killed and seven wounded during ethnic riots which took place in the village of Baucau, 180 kilometres east of the capital Dili. Local resi-

dents said that hundreds of young people set fire to a market, shops and houses in Baucau after an Indonesian immigrant shot and killed a man and his aunt.

February 1995: An East Timorese leader was sentenced to four years in jail on charges of plotting the secession of the territory from Indonesia. José Antonio Neves, who until his arrest in May 1994 was the leader of the underground student movement (Renetil), was convicted of seeking support from exiles and human rights groups abroad.

March 1995: The state-controlled Indonesian Human Rights Commission declared that six persons killed in January were the victims of illegal shooting by Indonesian troops. Ali Said, chairman of the commission, said that six persons killed in Liquiza, west of Dili, on January 12, died an 'unnatural' death during a military operation in the area.

One of the few persons who is able to speak out in East Timor is Carlos Felipe Ximenes Belo, head of the Catholic Church in East Timor, who has been the local bishop since 1983. Like the United Nations, the Vatican does not recognize Indonesia's annexation of East Timor. Bishop Belo is independent of the Indonesian bishops and directly responsible to Rome. In a series of rare interviews given by telephone late at night in Dili, Bishop Belo accused Western governments of deliberately covering up the "number and scale of massacres" committed by the Indonesian regime:

"They are lying about what has happened to us," he told John Pilger, referring in particular to the killing of survivors of the massacre in the Santa Cruz cemetery in November 1991. "Their lies and hypocrisy are in the cause of economic interests. We ask the people of the world to understand this, and not forget that we are here, struggling for life every day."

Western governments claim that Indonesian rule in East Timor is no longer harsh. John Pilger quoted a recent statement by the British Foreign Office that it was wrong to suggest that widespread abuses of human rights persist in East Timor:

"I cannot believe they mean that," Belo said. "They must *know* it isn't true. It has never been worse here. There are more restrictions than ever before. No one can speak. No one can demonstrate. People disappear."

Western governments claim that Indonesia has brought great material benefit to East Timor in the building of roads, schools, etc. To this Belo asked:

"Who is this development for? Who enjoys it? Not us, the Timorese. It is for the immigrants they are bringing in from Java and Sumatra, while our young people find it impossible to get a job. Actually, they are using this so-called development to change our society, to destroy it... Look at the compulsory methods of birth control. Women are given drugs to sterilize them when they are not aware. This is a policy being enforced. This is what they call development".

Finally, John Pilger said that the British government had described the Santa Cruz massacre as an 'incident' and that the Australian foreign minister, Gareth Evans, had called it an 'aberration', not a deliberate act of state policy. But bishop Belo disagreed:

"This was not an incident. It was a real massacre. It was well-prepared. It was a deliberate operation that was designed to teach us a lesson. To say otherwise is to deny the evidence of our ears and eyes".

NAGALAND

Some 200,000 Indian and about 10,000 Burmese troops are at present occupying Nagaland, perpetuating the suffering *the Nagas* have had to endure for more than 40 years.

On May 5, Beisumpei village was raided by the Indian army, allegedly supported by *Kuki*, with whom the Naga have been virtually at war since the violent clashes of 1992. Twelve villagers were killed and the settlement burned down. On May 10, three Naga civilians were killed in an indiscriminate shelling of the residential areas of Ukhrul, 30 were arrested and are still missing and hundreds were humiliated and tortured in the subsequent raid by the Indian army. On June 2, the whole town of Ukhrul staged a rally protesting against the renewed human rights violations committed against civilians by the Assam Rifles.

In an attack against Makui Part III village three civilians died, and the firing at a school in Kachai village on August 27 cost the life of a child and left five other children seriously wounded. In the latest confirmed raid against Khoibu village on October 25, 90 houses were razed to the ground, four villagers were killed and many injured. Again, *Kuki* have reportedly supported the Indian army. Many more atrocities committed in the unscrupulous attempt to crush the Naga independence movement remain unknown, and there are no reports on events on the Burman side of Nagaland.

In addition to constant human rights violations by the army, the Indian government seeks to undermine indigenous cultural identity by forced Indianisation, and it practices a 'plunder economy', stripping Nagaland of its natural resources without investing in its economic development.

On May 24, the Naga Students Federation (NSF) organised a protest rally against the Indian state-owned Oil and Natural Gas Corporation (ONGC), warning that oil explorations would not be allowed any more unless their demands were met, and setting a deadline for all ONGC work to be stopped. The NSF accuses India of exploiting oil in Nagaland without the permission of the local people. Some 252 metric tons of oil are estimated to be extracted daily from oilfields in Nagaland. In July, the ONGC stopped all further explorations and evacuated their workers and families from the respective areas, after bombings were staged (allegedly by the 'pro-independence NSF') at the Dimapur and Hozekhe offices of the ONGC.

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1. Gujjar, Gaddis
2. Birhor, Korwa, Oroan
3. Bodo, Karbi, Anglong
4. Bilala, Bhil, Pavra
5. Gond, Bastar
6. Andamanese, Jarawa, Onge
7. Jenu Kuruba, Paniya, Adiya
8. Jumma

SOUTH ASIA

INDIA

The birth of a girl was celebrated with a great fanfare by the *Great Andamanese* people of the Andaman Islands this year. The reason was that this was the first child to be born in a long long time among the *Great Andamanese* people, who have decreased in number to only 33 people. The *Great Andamanese* people who a century ago numbered between 5,000 and 8,000 are today on the brink of extinction along with the *Onge*, *Jarawa* and *Shomphen*, the other indigenous peoples of the Andamans.

Of the total population of around 27,000 scheduled tribes in the Andaman and Nicobar Islands, the majority are the *Nicobarese* of the Island of Nicobar (26,000). The rest, of whom there are less than a thousand, are in the Andamans. The indigenous peoples of the Andamans, a hunting-gathering people, are now reduced to 9.54 per cent of the population.

The present situation of the indigenous Andamanese is alarming as the process of marginalisation continues to undermine their very existence. While the last surviving members of the *Great Andamanese* live in government settlements totally dependent on social benefit, the *Jarawa* and *Onge* are fighting the last battle for their survival. The *Jarawa* a hunting gathering people who live on the West Coast of the South and Middle Andamans and survive on wild boar and fishing in the island straits, are now reduced to about 200 people and are faced with a shrinking habitat and encroachment on their lands and forests by non-indigenous settlers. The Andaman trunk road, which was built to link the islands, has brought in large scale settlements, poaching and deforestation. The *Onge* who number around 98 people, the *Shomphen* of Nicobar who number 223 and the *Sentinalese* estimated at 98 are all on their way to extinction, if current developments in the Archipelago are not reversed.

The indigenous peoples of the Andamans are not the only people facing near-extinction. The *Birhor*, a small hunting and gathering people of Jharkhand, and the *Paharia* of Bihar are facing a similar

situation. Between 1961 and 1991, the population of the *Birhor* decreased by fifty per cent and today there are only 2,000 people left in the Palamu and Hazaribagh districts of Bihar. The Birhor form a small part of those 68 million people who are classified by the government of India as scheduled tribes, or popularly known as Adivasis (which literally means original inhabitants). These are the indigenous people of India.

Adivasis, who constitute nearly 8 per cent of the population in India, are at the bottom of Indian society, they are the poorest, most marginalised, oppressed and deprived people in the country. The 400 Adivasi groups of India are also the least educated, suffer the largest number of health problems (like malnutrition and Malaria), they account for the highest levels of debt, and suffer most from atrocities and human rights violations.

As B.D. Sharma, former Commissioner of Scheduled Tribes points out, the Adivasis are criminalised by a complex of laws relating to land, forests and other resources. These were framed without consultation with the Adivasis and without taking into account their rights. This makes it impossible for the Adivasis to survive on a day-to-day basis without violating several laws. The forests are state property and according to the laws it is an offense for the Adivasis to dwell and make a living in these forests. If an Adivasi enters the forest with a bow and arrows, grazes his cattle or brews traditional liquor to worship his ancestral gods, it is against the law. The aspiration of the Adivasis to exist in peace and harmony and human dignity is a near impossibility.

Land, Forest and Displacement

Displacement and forcible eviction from their traditional land and habitat is a fact of everyday life for a large number of Adivasis. A conservative estimate of indigenous peoples displaced by development projects such as dams, mining activities, industries and wild life parks and sanctuaries since 1950 is around 7.5 million (others estimate that a sixth of the Adivasis have been uprooted from their habitats at least once in the last fifty years). Out of these only 2 million have been properly resettled. Development accounts for the bulk of the disruption and shattering of the lives and futures of the indigenous peoples in India and the struggle to resist this is the central theme of the Adivasi movements.

Nearly 8,700 landless *Paniya*, *Adiya* Adivasi families in Waynad district, which has the highest concentration of Adivasis in the state of Kerala, launched a struggle for the recovery of their ancestral lands.

The background to the struggle are two pieces of legislation that have remained dead letter. The first is the Kerala scheduled Tribes Act (restriction of transfer of lands and restoration of lands), 1975 and the second is the Kerala Private Forests Act of 1972. The former act makes all transfer of land from Adivasis to non-Adivasis invalid for the period 1960 to 1982 and provides for the restoration of these lands to the original owners. But, despite the fact that 8,553 petitions have been filed for restoration under this act, no action has been taken by the government so far and no land has actually been handed over to the Adivasis.

Under the leadership of a young Adivasi women, Ck Janu the *Samyuktha Samara Samithi* (Joint Action Committee), an umbrella organisation of several Adivasi organisations of the *South Zone Adivasi Forum*, Adivasis organised several mass rallies and demonstrations demanding that land under the Act of 1975 be restored to the original owners and for land acquired under the Act of 1972 to be distributed. As there was no response from the Government, 220 Adivasi families marched to Ambukutty, occupied 128 acres of forest lands and erected temporary shelters there. This was followed by brutal repression and violence by the forest department and the arrest and detention of nearly 300 people. Following a protest fast by Ck Janu and other leaders the Government released the arrested people and promised to allot the land to them. As the promise was not fulfilled, more land was occupied at Kolikkampaddy and Velumunda.

At the end of the Year, the struggle was intensified when 200 families marched to Cheengery and erected temporary shelters. Cheengery is the site where 546 acres of land were taken over by the Government under the Act of 1972 with the purpose of distributing the land to 120 Adivasi families. But the Government appropriated the land for itself. The Adivasi occupied the area and demanded that all the 546 acres of land be assigned to landless Adivasi families.

The Adivasi are demanding that each Adivasi family be given 5 acres of land at Cheengari and that all land taken away from them be restored under the 1975 Act. They are also demanding that the government entrust the management of all tribal development projects to them.

In the neighbouring district of Waynad, nearly 1,500 *Jenu Kuruba* families are facing eviction from their traditional homes in the forests of Karnataka to make way for the Rajiv Gandhi National Park that is being formed with the merging of Nagarhoole and Kakankote Forest Reserves. A five star wildlife resort is also to be built in the heart of the Nagarehole forests. The Adivasis in the dense forests within the boundaries of the

national park have been asked to leave as their presence will destroy the precious gene pool within the park.

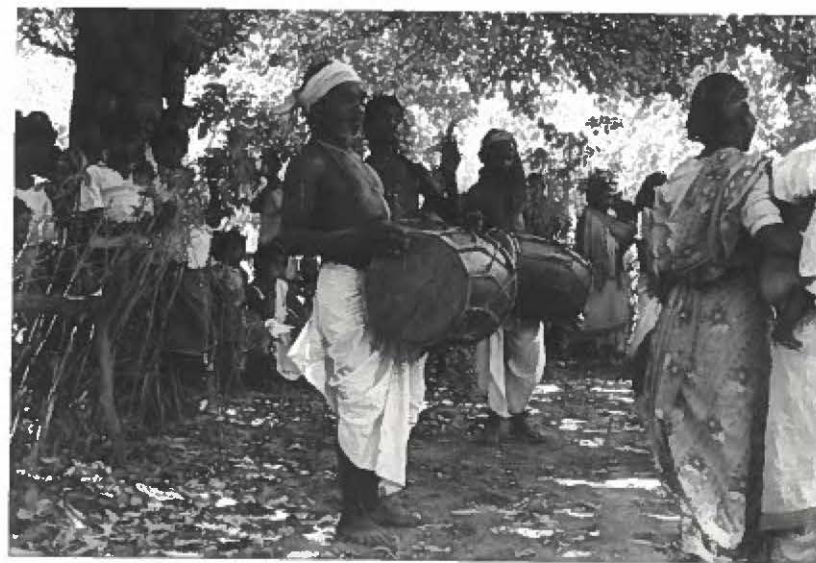
The *Jenu Kurubas* have been victims of multiple displacements since 1959 when they were forced to leave their traditional habitat to make way for the Kapila project to supply drinking water to the city of Bangalore. They were also forced to move when the Kakankote forests were made into reserves. In 1987 more families were evicted to be settled in huts located outside the forest, and were not given any compensation for their lands or provided with any means for survival.

In a petition to the chief minister of Karnataka, the *Budakattu Krishikara Shanga*, a local Adivasi organisation, has pointed out that the Adivasis need to be given full rights to remain inside the park area as they have lived for centuries in the area without causing any harm to the fauna or wildlife. They are also demanding that forced evictions be stopped immediately. The World Bank which is funding this project, is believed to have issued instructions to project officers that they should resolve this eviction issue in consultation with the people in the area before proceeding with the project.

For the last year the 250,000 *Birhor, Birjha, Oroan* and *Korwa* Adivasis from over 245 villages in Gumla and Palamu, Bihar, have been protesting against the Netrahat test firing range that is forcing them to move out of their homes permanently. The hills and valleys of the region are echoing with the slogan "*jan deenge par zammen nahi dengi*" (we will give our lives but not our land). The Adivasis to be displaced by the Netrahat firing range will be the next to join the millions of Adivasis from Jharkhand who have been uprooted from their traditional homes since 1947, when India became independent.

The 23rd Artillery Brigade of the Indian army has been using the area for periodic field firing operations since 1956. Whenever the army wanted to test its heavy artillery, 24 hours was given to the Adivasis in the area to collect their children, animals and belongings and flee to the nearby forests and wait for the firing operations to finish. At the end of the ordeal, which lasted several days, the Adivasis were paid Rs 1.50 (US 5 cents) as compensation. The damage caused to property and animals by the 12 to 15 kilo shells was never compensated. But when the army announced plans to expand the area of operations from 34 villages to 245 villages and evacuate them permanently, the Adivasis decided to protest.

On April 23, Adivasis began to trek in large numbers to Tutuaupani and block the army convoy entering the area. The *Jan Sangarsha Samithi* (Peoples Action Committee) organised this mass protest. The



*Welcome ceremony in a Munda village in Bihar, India,
Photo: Inger Sjørsløv.*

protest sit-in that began with around 5,000 people swelled in the next three days to over 100,000 including a large number of women and children. Unmindful of the shortage of water and other difficulties, the protesters set up camp, cooked their own food and refused to move out till the army called off its plans which it did on 5 May.

Earlier, around 10,000 Adivasis marched in the streets of the capital Delhi to register their protest against the project and lobby the Indian parliament. The Indian army now has no option but to shelve its plans at Netrahat.

The indigenous peoples have focused attention on two significant policy initiatives by the Indian government in the area of peoples rights, access to forests and displacement which will have significant impact on the rights, livelihood and future of Adivasi society.

The first, a draft legislation entitled "*The Conservation of Forests and Eco-Systems Act, 1994*" was widely debated and discussed among Adivasi groups, environmentalists and NGOs. This act proposes to replace the Indian Forest Act of 1927, which was promulgated by the British to promote and facilitate the forest resources for the interests of the colonial regime. This is not the first time that the Government has attempted to introduce legislation to replace the Colonial Forest Act. In

1980 attempts to change this were met with mass protests and opposition by indigenous peoples organisations so that the Government was forced to withdraw the proposal. But this time around the Government seems determined to introduce legislation that in the name of environment and conservation, will further curtail and outlaw the existing rights of indigenous and other forest dwelling communities which have already been heavily eroded.

To begin with, this piece of legislation looks at Adivasis as adversaries of the environment and argues implicitly for a curtailment of the rights and privileges of the Adivasis to their forests and the environment. What the new act stipulates is a ban on the collection of forest produce by the Adivasis and an outlawing of the cultivation of the forests. It stipulates that the Adivasis have no role to play in the conservation and development of the fast depleting forest-resources in the country.

The opposition to the proposed bill has been both informed and widespread. In fact unlike in the past when opposition was voiced mostly by indigenous peoples and their organisations, the opposition includes this time environmental groups and NGOs. The response also ranges from a total rejection of the proposed legislation to accepting the basic structure of the bill and demanding certain amendments. Several Adivasi groups are in the process of drafting alternative forest legislation and they have announced that they will take control of the forests and manage them according to those customs and traditions which have long governed the symbiotic relationship of the Adivasis to the forest environment.

In 1994, the government also began circulating a draft policy for rehabilitation entitled "*National Policy for Rehabilitation of Persons Displaced as a Consequence of Acquisition of Land*". The document is intended to cover all forms of displacements caused by development projects. The Adivasis are the main victims of such developmental displacement.

Several meetings and workshops were organised all over India to respond to this legislation that has far reaching implications for the Adivasi peoples. The opposition to the proposed legislation is growing and many Adivasi organisations have made their position clear: that they will not accept any legislation which seeks to legitimise displacement.

However, the government will hardly act decisively on these issues until there is more stability within the government itself.

Significant Gains for the Narmada Movement

Towards the end of the year, Medha Patkar and her associates of the *Narmada Bachao Andolan* (Save Narmada Movement) embarked on yet another hunger strike to demand a total review and immediate stop of the work on the controversial Sardar Sarovar dam of the Narmada valley project. The fast which ended after 25 days on December 16 did not achieve its objectives but it forced the chief minister of Madhya Pradesh to announce that his Government will demand a stop to all work at the site if the Adivasis facing displacement from the dam are not properly resettled by the end of the year. More significant was the decision by the Supreme Court on December 13, that a review report of the project, carried out by a government-appointed committee, should be published.

This review was initiated by the Government of India, after local people and *Andolan* activists threatened to commit mass suicide in 1993 by jumping into the waters of the Narmada (Jal Samarpan) if the Government did not initiate a comprehensive review of the project. The review team, headed by Jayant Patil, a member of the National Planning Commission, took one year to complete its work and submitted a report which is critical of several aspects of the ongoing work at the dam site. Though it did not recommend categorically the stoppage of the project, it provided an opportunity for the movement to point out several problem areas in the project, and to demand the work be stopped. In another significant step on this issue in late January 1995, the Supreme Court ordered the Review Committee to go back to work and submit its report on three controversial aspects of the dam - hydrology, dam height and rehabilitation - before deciding on further construction work on the dam.

These two steps are major gains for the decade old movement to stop the gigantic dams being built across the river Narmada in Central-Western India.

However, in spite of protests and several disasters at the dam site, the wall is going up and it is currently around 80 meters high. During the last monsoons in July 1994, nearly 65,000 cubic meters of concrete from the dam wall were washed away and created a giant crater of 700 cubic meters. The wall will reach a height of 110 meters by the July 1995 monsoon. This will be the critical time as it will result in the permanent displacement of several thousand Adivasi families from the banks of the river. Currently, the only realistic option (apart from breaking down the dam wall) appears to be to reduce the height of the dam wall thereby reducing the number of people who will be dis-

placed. Some state governments appear to favour this because proper rehabilitation of the displaced will be nearly impossible. The Andolan stand firm on their demand that the project must be abandoned.

The Adivasis, who have for over a decade struggled heroically against this gigantic project to protect their homes and habitats from extinction, face the prospect of being permanently uprooted from their homes to join the ranks of millions of developmental refugees in contemporary India.

In Search of Autonomy and Self Rule

1994 saw a breakthrough for the *Jharkhand* movement's demands for a separate state in South Bihar. After hedging the issue of regional autonomy for the Jharkhand for more than a decade, the Bihar State Assembly finally passed the Jharhand Area Autonomous Council Bill in December 1994. The bill envisages the formation of a Jharkhand Area Autonomous Council (JAAC) for an area of 62,000 sq. km., comprising 18 districts in the Bihar.

In those 18 districts, Adivasis form a majority in only two districts. In all the other districts the non-Adivasi people who have moved into the area in the last six decades far out-number the original inhabitants. In addition the JAAC which has power to supervise 42 departments, has no control over the crucial sectors of forests and mining. Jharkhand is the treasure house of the nations mineral wealth, and it is also a major source of forest resources. Furthermore the original demand for Jharkhand was not for 18 but for 28 districts, presently in the states of Madhya Pradesh, Orissa, Bihar and West Bengal.

Though opinions and responses to the bill have varied, all the political formations in the region agree that this is a step in the direction of gaining full autonomy for the region. While the Jharkhand Peoples Party (JPP) headed by Dr Ramdayal Munda has criticised the bill and opted to stay away from the negotiations, the Jharkhand Mukti Moorcha (JMM) headed by the Santhal leader Shibu Soren is backing the proposal. The only exception is the breakaway faction of the JMM led by Mardi, which has taken the position that any move on the issue should be for fully fledged state status comprising all 28 districts as originally conceived by the Jharkhand movement half a century ago.

While such strategic positions have the tendency to change overnight in the shifting sands of Jharkhand politics, the fact remains that the Jharkhand issue seems to have settled.

The other movements for autonomy within the Indian nation state, that of the *Bodos* and *Karbi Anglong* in Assam, have also made some

progress. The most significant is the autonomous status granted to the districts of Karbi Anglong and North Cachar. The *Karbi* and *Dimsa* people have never demanded an independent state like the more militant *Naga* and *Mizo* liberation movements. The arrangements for the *Kari Anglong* were sanctioned under Article 244 (a) of the Indian constitution, which allows for the creation of "a state within a state" and is just a shade short of full statehood. The autonomous council will have 48 departments under its jurisdiction and deal directly with the planning commission to finalize their budgets and advise the Government on law and order.

What the peaceful movement for the autonomous status has achieved for the Karbi and Dams people has not been possible for the neighbouring plains tribal people of Assam the *Bodo*. The Bodo who is the major group next to the *Mishing*, *Tiwa* and *Rabhas* in the upper plains north of the river Bramhaputra, were the first to demand autonomy within the state in the 1960s. The Bodos have been involved in a protracted and violent struggle with the Government of India over the issue of autonomy. This year saw several incidents involving the Bodo security force, claiming nearly 150 lives and creating 50,000 refugees. The Bodo accord, between the Government of India and the All Bodo Student Union and the Bodo Peoples Autonomy Council (BPAC) was signed last year when an autonomous council was to be created for 2,570 villages on the Northern banks of the river Bramhaputra. The Bodo leadership has been split on this issue and a section is demanding the inclusion of an additional 515 villages. As a result of this conflict the final contours of Bodoland are yet to be drawn and any progress concerning greater autonomy for the Bodo has been hampered.

While the issues of Adivasi regions demanding greater autonomy appear to have been temporarily resolved at the regional level, the fundamental issue of Adivasi self rule and control over their institutions and resources gained momentum by the formation of a National Front for Adivasi Self Rule. At the centre of this movement for self rule is the 73rd and 74th amendments to the Constitution that provide for village self rule through the system of Panchayat Rai (a system of local self-government based on village councils). However, these amendments were not extended to the scheduled areas.

On the request of the Adivasi members of Parliament a committee was set up by Parliament headed by Adivasi member of Parliament, Dilip Singh Bhuria, in June 1994 to make recommendations on the extension of the amendments to the scheduled areas. The committee's recommendations, which are yet to be considered by the Indian parlia-

ment, will have far reaching implications for the Adivasi in terms of future control over their own areas.

The National Front for Adivasi Self Rule, which is mobilizing Adivasis and supporters all over the country, is demanding that the recommendations of the Bhuria Committee must be implemented. The Bhuria Committee has recommended that the natural habitat should be deemed as the village in the scheduled areas. The village councils should be given powers to manage local resources according to customary laws and to settle disputes via the councils consisting of local people. This has fundamental implications for the administration of the Adivasi areas.

In 1992, the Government replaced the office of the Commissioner for Scheduled Castes and Scheduled Tribes with a National Commission for Scheduled Castes and Scheduled Tribes. The Commission is the ultimate body to look into the implementation and performance of the comprehensive legislation that the Indian state has enacted for the Adivasis. But so far, the Commission has not been able to investigate and evaluate the working of even one single of the 28 safeguards provided by the Constitution, except for reservations. In fact, the government's attitude seems to be one of utter callousness; for instance the reports submitted by the former Commissioner of Scheduled Castes and Scheduled Tribes, BD Sharma which pointed out several serious lacunas and recommended several fundamental changes so far have not been discussed by the Parliament. And no action has been taken. The responsibility of the Commission seems confined to the reservation policy that guarantees a certain percentage of jobs in the government to indigenous peoples.

The Indian government, which proudly claims that it has a comprehensive legislation to protect and promote the interests of the tribal peoples, is yet to prove that what exists on paper is being translated into action. With the Indian government embarking on a path of globalisation and a free market economy the pressure on the lands, forests and resources in Adivasi areas will intensify in the coming years. And this will without doubt accelerate the process of displacement and disruption of Adivasi society in the years to come.

Nomads

Among the *Gujjars* and *Gaddis*, pastoral nomads and graziers in the western and central part of Himalaya – Himachal Pradesh and Uttar Pradesh – , tempers are rising. After years of repression and hidden resistance they are now gaining visibility and have started to fight back. Through history they have played an important role in the regional

economy providing meat, wool, milk and draught animals for settled populations. Their specific lifestyle has been finely attuned to a regional ecosystem by means of using natural resources in an optimal way through seasonal migrations between high and low altitudes. But history has also seen them pushed further and further into the hinterland where they have been hard pressed to maintain access to vital resources of forests, alpine pastures and village "wasteland". This is all land - part of so called 'commons' - which they have been using for generations to provide for their flocks but over which they have never gained legal ownership.

Independence did not bring any relief in the conditions of the nomads. On the contrary new borders were drawn across old tracks of migration and movements were restricted to smaller pockets of land. As village populations grew, villagers took possession of wasteland, earlier used seasonally by nomads, and conditions hardened. Nomads were forced to purchase fodder during transhumance where they used to have access to free grazing, and the need of cash during this period has often pushed them further into the claws of moneylenders. With pastoral practices being regulated by forest laws the nomads have been forced to pay heavy bribes to forest officials. The choice has been between payment and eviction from the forest and losing the forest would mean losing the only way of life known to them.

Recently new frontiers have developed in the forests of the Shiwalik foothills. These forests extend all the way from the Nepalese border to Jammu and Kashmir and have, along this entire stretch, been traditional and vital grazing grounds for nomads, *Gaddis* as well as *Gujjars*, during the winter. In Gurdaspur district in Himachal Pradesh a new hydro-electric project is being constructed where the river Ravi meet the Shiwalik foothills, and upon completion it will submerge a large part of the Shahpur Kandi Forest used as winter pastures by the *Gaddis* and *Gujjars*. Agricultural land will be drowned as well but whereas the sedentary cultivators are entitled to compensation, the fate of the nomads is much more unsure as they do not have any legal rights to the area, only customary usage. For them their whole lifestyle is in jeopardy. The *Gaddis* are now starting to unite but so far their movement has not gained any real momentum and it will need all the outside support it can get.

Conflicts over Conservation

For the *Van Gujjars* in Uttar Pradesh the big issue has been a national park, Rajaji National Park, in the middle of their winter pasture land in the Shiwaliks. In 1992 they were threatened with eviction from the park area but now three years later they are still in the forest and the

Rajaji National Park has remained in the planning stage. The whole idea of the national park is now being questioned and at the centre of the controversy are the Van Gujjar nomads. The movement that was started among them as a response to the eviction threats has been highly successful. To their help came a local NGO, Rural Litigation and Entitlement Kendra, RLEK, and as the Van Gujjars' story was broadcast by the media it came to symbolize the controversy between 'conservation' and local forest dwellers. The result was that the Van Gujjars put forward a proposal to manage the forest and conserve its biodiversity claiming, that they are better conservators than the forest department. So far the issue has not been settled but the Van Gujjars are working on a management plan for the forest and wildlife together with environmentalists.

An important milestone in getting the Van Gujjars and their conflict with conservation practices into the national discourse was the 'National Workshop on Declining Access to and Control over National Resources in National Parks and Sanctuaries' held in Dehra Dun, October 1993. The seminar was organised jointly by RLEK and PRIA (Society for Participatory Research in Asia) and held at the prestigious Forest Research Institute. The location was strategically chosen to get the issue of people and forests into the very centre of forest research in India. The seminar was attended by grassroots groups, NGO activists, forest administrators and researchers from all over India, and it was well covered in the media. It was significant that although grassroots groups had come from all over India with reports on 'conflict round conservation', the Van-Gujjar case was the main example used. At the workshop, the Director General of the Indian Council of Forest Research and Education argued that tribals are part of the environment. He was in favour of involving people: "Without people's involvement, conservation cannot succeed. Tribals are also part of the biosphere, and their existence is as much endangered as that of any wildlife."

There was consensus at the workshop that the problems facing many of the parks and sanctuaries were similar. One of the conclusions reached was that NGOs should form a network which could raise such issues in public fora and put pressure on the government to modify laws or reform the implementation process. The workshop concluded with the passing of a resolution called the "Doon Declaration on People and Parks". The Doon Declaration is important because it is the first attempt to transcend the particular struggles at grassroots level in order to create a general blueprint for a national movement against a conservation policy that excludes people. Its central message was as follows:

"The situation of widespread degradation of our natural resources, forest and wildlife has been obtained primarily due to indiscriminate and unsustainable use of these resources. ... Local forest dwellers and tribals have been the major agents of protection and conservation of our forests and wildlife. They have developed insights and valuable knowledge about ecological preservation and sustainable use of such resources. They have created institutional mechanisms and norms to ensure that people live in balance and harmony with nature. The protection of our forest flora-fauna and wildlife is critical for the conservation of biological diversity in the country. This is a common purpose among tribals and forest dwellers, environmentalists, voluntary organisations and social activists, the Ministry of Environment and Forests and the management of National Parks and Sanctuaries."

The specific recommendations adopted include:

"a campaign for recognition of customary rights of local people - including nomads- living inside and around protected areas, to the use of natural resources, and for making local people responsible for management of local parks and sanctuaries. The management proposal put forward by RLEK and CSE (Centre for Science and Environment) which was worked out with the Van Gujjars, was considered an appropriate model to be followed in sanctuaries where wildlife conservation and people's needs are in conflict."

Voting Rights for Nomads

As a result of RLEK's efforts on the 22nd of August 1994, the Van Gujjars were given voting rights for the first time in history. Being nomads without fixed addresses they, as well as other nomadic communities in India, had until that date been denied the right to vote as Indian citizens. Once again the Van Gujjar movement was a spearhead for the civil rights of nomadic people all over India, as the Chief Election Commissioner said that not only the Van Gujjars but all nomads should be included in the electoral rolls and that nomadic people should be kept as 'focal group' under his new 'Voter Awareness Campaign'. Inclusion in the voting list has given new possibilities of being part in local self-governance.

NEPAL

Since the emergence of the nation state under the dominant high caste Hindus, the Brahmin-Chhetris, the indigenous peoples of Nepal, have suffered from exploitation and discrimination. On the occasion of the UN Year of Indigenous Peoples in 1993, a National Committee for

Indigenous Peoples, Nepal, was formed under the chairmanship of ex-Auditor General, Ramanada Prasad Singh Tharu. This National Committee brings together different ethnic organisations of Nepal including the *Gurung, Magar, Rai, Limbu, Tharu, Thakali, Tamang, Chepang, Dhimal, Rajbanshi, Chhantyal* and *Thami* to combat discrimination, exploitation and injustice and to bring about respect for human rights, democracy, equality and justice. Since its formation in 1993, the committee has been very active.

Until the elections of November 1994, the National Committee for Indigenous Peoples, Nepal, was never recognised by the Nepali Congress and received no cooperation from the so-called democratic government. After the minority government of the Nepali Communist Party, the United Marxist-Leninist (UML), came to power the National Committee sent two delegations in February and March 1995 under the leadership of the General Secretary, Professor Parsu Rama Tamang, to meet the Prime Minister, Man Mohan Adhikari, to seek the recognition of the 1993 Committee or to form a new Committee of Indigenous Peoples of Nepal. The Prime Minister was very positive and agreed to form a new committee soon but, to date, this has not happened. Instead the committee is still fighting for legal status and government recognition.

However, some of the Committee's demands have been partially met. During the government of the Nepali Congress the news was broadcast in eight languages, including Gurung, Tamang, Tharu, Magar, Rai, Limbu and Bhojpuri. The new Communist government has introduced a few special programmes to help the indigenous peoples living in poverty, such as the *Chepangs*. Moreover, it has shown a commitment to eliminate the problem of kamaiya, a bonded labour system prevalent among the Tharus of Far Western Terai.

In April 1995, the Committee submitted the following demands to the government:

- a) Sanskrit should not be made compulsory.
- b) Primary education for indigenous children should be in the mother tongue.
- c) Nepal should be declared a secular state rather than a Hindu kingdom as it is inhabited by people of different religions.
- d) The rights of indigenous peoples should be protected by ratifying ILO Convention 169.
- e) Promotion of the indigenous peoples in state power-sharing. All the peoples (nations) which make up Nepal should be represented in

the Upper House of Parliament on the basis of equality and size, to give groups both large and small the opportunity to participate in the decision-making process.

- f) Establish a constitutional National Development Commission for Indigenous Peoples for the formulation of policy and programmes with the informed consent of indigenous peoples.
- g) Release bonded labourers and resettle them.

In the first week of May 1995, the Committee organised a large open meeting in the open theatre of Kathmandu together with a rally protesting against discriminatory steps being taken by the government, such as news broadcasts in Sanskrit, a dead language, government scholarships and free education for children of high caste Brahmins and no facilities for indigenous children.

In March 1995, a one-day seminar was held in Kathmandu on different issues concerning indigenous peoples of Nepal such as language, religion, education, political rights, job opportunities, political appointments and the implementation of integrated development programmes for indigenous peoples. The seminar was chaired by the director of the Indigenous Peoples' Development and Information Centre, Nepal, and papers were presented by Kamal P. Malla, Jank Lal Sharma, Bihari Krishna Shrestha, Ganesh Man Gurung and Ramanada Prasad Singh.

CHITTAGONG HILL TRACTS

Over the last two years, several developments have given the impression that there may have been improvements in the situation of the *Jumma people* of the Chittagong Hill Tracts (CHT). Since 1992, the Bangladesh government has been in dialogue with the indigenous party, the Jana Samhati Samiti (JSS). A parallel cease-fire has been in operation during this period and since February 1994 about 5,000 refugees from a total of 56,000 living in camps in the Indian state of Tripura have returned to Bangladesh. In spite of these superficially positive developments, a closer analysis shows that they have not been as positive as would have been hoped. Indeed the situation in the Chittagong Hill Tracts continues to give cause for grave concern.

Between November 1992 and May 1994, the government of Bangladesh participated in seven rounds of negotiations with the JSS which is seeking autonomy for the 400,000 indigenous people of the Chitta-

gong Hill Tracts. For thirty years the Hills have been rife with conflict, stemming from the devastating effects of the building of the Kaptai dam which dispossessed 100,000 indigenous peoples from their lands in the early 1960s. This has been compounded by the transmigration policies of successive governments which have encouraged over 350,000 Bengali settlers to move onto indigenous Jumma lands.

Four rounds of talks took place in the second half of 1994 where a Sub-Committee of the Bangladesh Commission responsible for the dialogue was delegated to continue negotiations with the JSS. The talks agreed to continue with the cease-fire arrangement between the Bangladesh government and the military wing of the JSS, the Shanti Bahini. During this period, the JSS pursued its demand for a 'Regional Council' in the CHT within the framework of the Bangladesh constitution, and also for the restoration of the land in the hills which had been taken from the indigenous Jumma people by the Bengali settlers.

In spite of the flexibility on the side of the JSS, the Bangladesh government has made no response to the revised position. With no movement on the part of the Bangladesh authorities in over two years of talks, observers are being forced to the conclusion that the government is 'negotiating' in order to create a positive impression to the international community while the oppression of Jumma people continues unabated.

One of the positive elements of the communication between the government and the JSS has been the cease-fire. But unfortunately, even here, the results on the ground are a bitter disappointment. Reports of cease-fire violations have filtered out from the Chittagong Hill Tracts throughout the year and the break in armed conflict does not mean that the paramilitary forces and the army have not been in action. Reports from the area give lists of villages being burnt, women raped, prisoners captured and tortured, villagers being beaten up and several cases of extra-judicial killing. For example, throughout August and September, 1994, military operations in the villages led to at least 60 cases of human rights violations. This includes people being shot, attacked and villages burnt. Serious accounts of forced labour by the armed forces and restrictions on the amount of rice reserved by Jumma add to the oppressive conditions which are reported from the Hill Tracts. Indeed, the number of cases of human rights violations approaches those which were occurring in the period prior to the cease-fire when the armed conflict was at its height.

The most serious disturbance over the last year took place in the southern district of Bandarban on March 15th, 1995. The occasion was

the conference of the Hill Student's Council which had been planned well in advance and approved by the authorities. However, an organisation of Bengali migrants into the area called a general strike for that day and the situation became increasingly tense. The police denied the Hill Students the right to meet and they were subject to a police baton (lathi) charge. The students agreed to change the venue of the meeting to an indigenous *Marma* area in order to avoid conflict. However, they were about to start the meeting when the police returned with the Bengalis, fired tear gas and rubber bullets. The Bengalis beat the students and local inhabitants and then set fire to the nearby houses. The police did nothing to stop the attacks and the fire brigade were prevented from carrying out their work by the Bengali mob. About 1,000 people were affected by the fire, 300 houses were burnt down and 100 Jummas were injured. Furthermore, 22 indigenous people were arrested; they received no bail and reports from the prison say that they had been beaten.

During 1994, 5,000 Jumma refugees returned to Bangladesh from the camps in Tripura. This means the return of less than ten per cent of the total of 56,000 Jummas estimated to be living in the six refugee camps. The repatriation took place after severe restrictions of the rations given to the refugees by the Indian government and assurances made by the Bangladesh government in a 16-point agreement. According to this agreement, the returnees would be provided with the means to start up their lives again in their original communities and benefit from employment and education opportunities.

The first Jumma, comprising some 1,845 persons (379 families), returned in February 1994. A team from the Jumma Refugees Welfare Association was allowed into the Chittagong Hill Tracts in April 1994 to see the effects of repatriation and found that the 16-point package was not being implemented. Although they had received rations and some money, the refugees were not being rehabilitated in their communities and were denied employment and educational opportunities. After negotiations, the Bangladesh government agreed to remedy the situation and in July 1994, a second batch returned consisting of 3,323 refugees (648 families).

A second visiting team was invited to the Chittagong Hill Tracts to see the effects of the repatriation in March, 1995. It discovered that the Bangladesh authorities had, for each batch of returnees, substituted a 12-point and a 19-point package of benefits, substantially weaker than those agreed with the refugees prior to their return. Kalpa Ranjan Chakma MP, Chairman of the Tribal Refugees Rehabilitation Commit-

tee in Bangladesh resigned his position along with four other members because of the authorities' refusal to implement the 16-point package.

As the first mission found in 1994, returnees received next to none of the support promised, the military camps were not removed from holy places and there was no attempt to relocate the Bengali settlers so that the Jumma people could have their lands back. In the areas where they visited, the team found examples of six complete villages whose members could not resettle on their lands and a further 103 examples of families which had lost their lands and could not retrieve them. Countless examples were given of returnees who were not compensated in payment, employment or facilities as had been promised in the 16-point agreement. Not one landless Jumma family received the five acres guaranteed by the authorities and most of the families were suffering acute food shortages. The conclusion of the team was that no further repatriation should take place until land is restored and people have their jobs and services guaranteed.

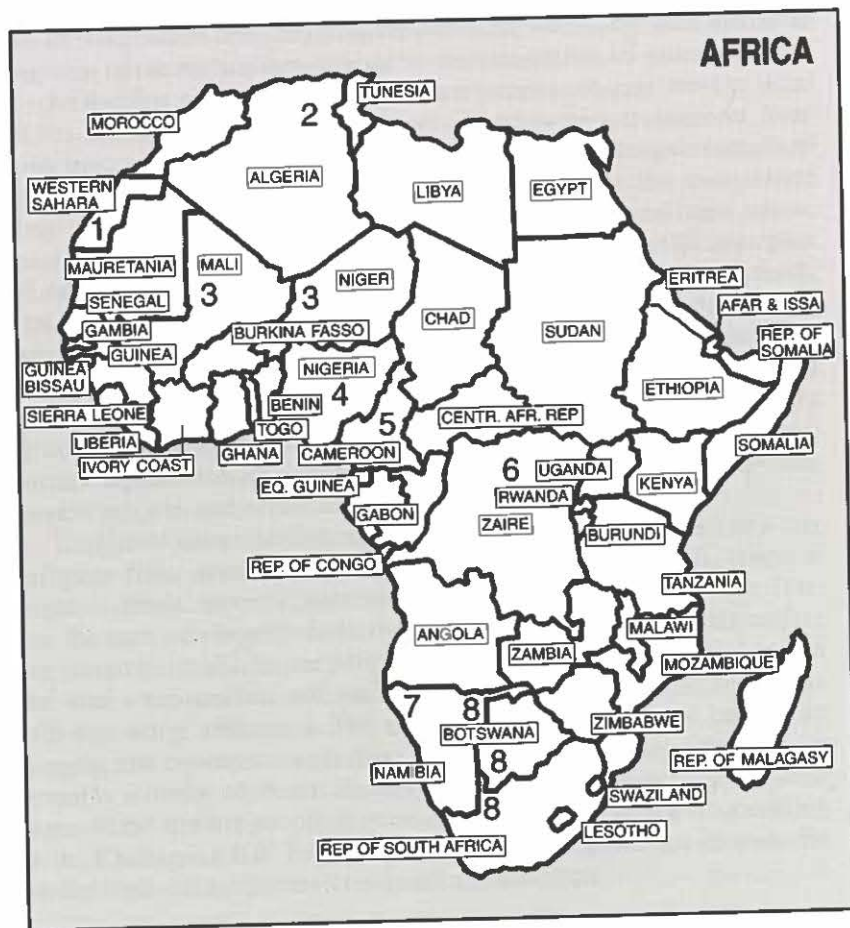
In spite of the cease-fire, negotiations and the initial return of a few refugees from Tripura, the situation in the Chittagong Hill Tracts is highly volatile. Several other developments add to this situation. During the past year reports from the area state that more Bengali settlers are entering the Hill Tracts which means that the underlying problem in the area - recognition and implementation of Jumma land rights - is still not being addressed. The environmental degradation caused by logging and concessions given to the military means that deforestation remains a major problem. Finally, the consistent human rights violations of the Jumma people give credence to the view that the situation in the Chittagong Hill Tracts is not improving and that the area should be the focus of much more international attention.

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1. Sahrawi
2. Berber
3. Tuareg
4. Ogoni
5. Mbororo
6. Twa
7. Himba
8. San/Basarwa/N/oakhwe

AFRICA

Introduction

Due to the extensive migrations on the African continent, the concept of 'indigenous peoples' needs to be flexible and sensitive. Trying to define "who came first" will exclude many of the peoples who today are facing severe difficulties in trying to secure their access to land and their right to self-determination. Other clear-cut definitions would face many of the same problems. In this chapter on the indigenous situation in Africa we have chosen not to distinguish between peoples on an academic level. We have not tried to make a comprehensive presentation of all the relevant African issues, but we hope the examples chosen will give our readers a notion of some of the challenges with which unrepresented African minorities are confronted.

While most of Western media and policy makers are turning their eyes away from Africa, IWGLIA has chosen to go the other way and broaden our insight on African issues. There is no reason why Africa should receive less attention in a situation where the continent is being increasingly marginalized in the global political and economic development, and where many African states seem to be at a deadlock in their attempts at building modern, unified nation states.

Although politically understandable, these policies have not been to the advantage of a great number of Africa's thousands of ethnic groups. Our concern is to provide a forum for such groups, a forum where their particular case can be raised, and where their points of view can be expressed.

Unfortunately most of the news we can offer from Africa in 1994 is dominated by the disastrous consequences of war, armed conflicts and political stalemates. The most dramatic event has been the bloody massacres in Rwanda where more than half a million people became victims of the racist policy of the French-supported Hutu extremists. Though the majority of victims were Tutsi, a third group has also suffered heavy losses, namely the *Twa (or Batwa)*. The Twa Pygmies have suffered humiliation from both Hutus and Tutsis for centuries, having been regarded as at the bottom of the Rwandan ethnic hierarchy

and being relatively small in number. Their lowly status and numeric size must be considered as one of the reasons why their plight has never reached international headlines or, until recently, the attention of international aid agencies.

This is also the case with the many minority groups who are experiencing an increasingly difficult situation in the ongoing war in Somalia. While attention is being paid to the politically powerful Somali clans on an international level, the deaths among groups constituted by ex-slaves and other marginalized Somalis are barely mentioned.

In Sudan, the *Nuba* mountains are practically closed to foreign observers and the situation of the southern Sudanese groups is also largely unknown to the international public.

Algeria has entered its third year of civil war, something which is not helping the *Berber* people's struggle for the acceptance of their cultural rights. The conflict between the radical Islamic movements and the military government has reached Kabylia and is currently causing tensions within the Berber community.

Further west the *Sahrawis* are expecting a new postponement of the referendum that is to decide the future for Western Sahara, a country that has been annexed by Morocco for more than 18 years. On the southern side of the Sahara desert the *Tuaregs* in Mali are facing a new and aggravated situation. The National Pact between the young and fragile Malian democracy and the Tuareg movement seems to be slipping. Sedentary groups in Northern Mali have taken up arms against the Tuaregs, who, for their part, are frustrated by the slow implementation of the Pact. Parts of the Malian army have also been reported killing Tuareg civilians and thousands of Tuaregs are presently living as refugees in neighbouring countries.

In Nigeria the crimes against the *Ogoni* people have reached a peak. The Ogonis, who have tried peacefully to raise awareness of the Shell Oil Company's destruction of their environment, have been met with brutal violence instigated by the Nigerian authorities. The Ogoni leader, Ken Saro-Wiwa, is presently facing a death-penalty for speaking out on behalf of his people.

The *Himba* nomads of Northern Namibia are also facing a major challenge linked to the possible industrialisation of their area. A prestigious hydroelectric project is being planned which will inundate at least 250 sq. km. of Himba traditional land. The Himbas have just recently been informed about the plans and they have few possibilities for making their opposition heard in a country where policies protecting cultural and ethnic rights are seen as part of the apartheid legacy.

The *Bushmen* of Namibia, however, have officially been granted special consideration, but few steps have been taken to secure their rights legally. Their best chance of protecting their land seems to be through a Nature Resource Programme. This programme is welcomed by international 'ecocrats' but critics claim that it tolerates Bushman traditions only because of their commercial value as 'stone-age people'. However, the Bushmen in Eastern Bushmanland have recently forced representatives of international NGO to leave their area because of their top-down attitude towards the community.

Conflicts linked to complex relations between the need for ecological preservation and human rights are also well known in East Africa. On the positive side, the organisation of marginalized peoples seems to be proceeding slowly but steadily as can be seen in places as different as Botswana and Cameroon. The First People of Kalahari, one of the African organisations supported financially by IWGIA, opened its office in Ghanzi in 1994, and the first *Mbororo* organisation in Cameroon, MBOSCUA, is gradually making its voice heard.

As we enter the UN Decade for Indigenous Peoples, we should note that more and more African organisations are participating in international conferences and that networking between indigenous groups in Africa, America, Europe and Australia has increased in the last few years and is still increasing.

ALGERIA

Berber

In 1994, international observers began speculating on whether the Algerian *Berber* minority was about to claim autonomy for one of Algeria's richest regions, Kabylia. The speculations followed massive spontaneous demonstrations and strikes in this area, after the abduction of popular singer, Lounes Matoub, an outspoken member of the Berber Cultural Movement in October.

As with most Berbers, Matoub and the Berber Cultural Movement are calling for greater recognition of Berber culture and language (Tamazight) to be taught in schools. But Matoub has also asked for some degree of political independence for Kabylia, an area where two thirds of Algerian Berbers live. However, too much political importance should not be placed on these claims, even though the theoretically non-political Berber Cultural Movement has gone through a period of radicalisation, and is increasingly influenced by anti-islamic hard-liners. This has split the movement into two parties, one that

supports the leading Berber party, the FFS (Front des Forces Socialistes) and another that supports the more radical RCD (Rassemblement pour la Culture et la Démocratie).

The RCD is led by Said Saadi who is completely opposed to the Islamic movements and who has encouraged Berbers to arm themselves "because the government is failing to protect its people". The FFS, led by former war hero Hocine Aït Ahmed, is also promoting Berber cultural rights, but he fears that a militant radicalisation of the Berber community will lead to devastating bloodshed in Kabylia and also to a situation where the political realities of the present war in Algeria may be covered up by the government as an ethnic conflict.

The Berbers, who constitute almost one third of the Algerian population, have a reputation for being critical towards both the Algerian military regime as well as the violent Islamic movements. The Berbers are also Muslims, but not fundamentalists. In Kabylia they live as farmers in democratic clan-based villages. A large number of Berbers also live in the capital, Algiers. Many Berbers have a relatively high level of education compared to the Algerian population in general, and also have the reputation of being more cosmopolitan than many Arabs.

The friction between the Arab majority and the Berber minority is not a recent one. After the bloody liberation war against the French, Algeria imposed a severe Arabization programme on the Berber community, in the name of a unifying nation building policy based on Muslim and socialist values. Many Berbers felt betrayed by the Arab-dominated National Liberation Force (FLN) with whom they fought side by side in the war against the French. One of the most famous Berber leaders, Hocine Aït Ahmed, barely escaped a death penalty and had to go into exile in Europe.

Aït Ahmed formed the Front des Forces Socialistes (FFS) which existed as a clandestine movement dominated by Berbers, until the democratisation process started in 1989 and all political opposition parties became legal. During this period Berber culture gained some recognition. Today one finds both radio stations and newspapers in Kabylia using Tamazight. However, the Berbers claim that fundamentally nothing has changed, and that the government only accepts Tamazight and Berber culture on the folkloric level.

The FFS refused to participate in the local elections in 1990, but would have become the second biggest party in Parliament in the 1991 elections. The Islamic Salvation Front (FIS) got the majority of the votes (48 per cent) and the former governing party, the FLN, would have become the third biggest party in Parliament.

When the elections were annulled and the FIS was banned, the FFS was strongly against the annulment while Said Saadi's RCB was in favour of it. Together with FIS and FLN, the FFS is now trying to negotiate with the military government. A meeting between the three opposition forces in Rome, in January 1995, resulted in the following common claims: a cease-fire on both sides (the military and the Islamic movements); liberation of the detained FIS leaders as well as all other political prisoners; a lifting of the ban on the FIS; an end to torture; an independent commission to investigate the more than 35,000 murders that have been committed during the last three years; the establishment of an interim government constituted by members of both the government and the opposition; and the implementation of free and democratic elections.

Unfortunately the government has so far refused any kind of cooperation, saying that the three parties are supporting terrorists, meaning they are supporting both the FIS and the violent Islamic Armed Group (GIA).

WESTERN SAHARA

Sahrawi

Once again the referendum on the future of Western Sahara has been postponed. In 1994, UN optimism ran out in terms of completing the tedious process of defining eligible voters acceptable to both the Polisario Front and the Moroccan authorities. The referendum was due to have taken place on the 14th of February 1995, but Secretary-General Boutros Boutros-Ghali said in November 1994 that it would still take many months for sufficient progress to be made in the identification process. The referendum had been originally set for January 1992, three months after the implementation of a fragile cease-fire.

Since 1976, the *Sahrawi* liberation movement, the Polisario Front, has fought the Moroccan army, which annexed Western Sahara piece by piece after the Spanish colonial power withdrew in 1974. Morocco claims that the phosphate-rich, inhospitable desert about the size of Italy is a legitimate part of Morocco and that there are no ethnic differences between Western Sahara and Morocco. They want the Sahrawi struggle to be seen as an internal matter, not as a fight for national self-determination against a colonial power. "All tribes that are found in the Sahara are found elsewhere in the monarchy", stated the vice-governor of Laayoune province in an interview with the

Associated Press in 1993, and claimed that the referendum was like asking a Parisian if he was French.

But the Sahrawis have a different point of view. They are the original inhabitants of the area, a confederation of the northern tribes of the *beidan*, or 'Moorish' nomads of mixed Berber, Arab and black African descent. They speak a dialect of Arabic known as Hassanya and their economy is traditionally based on pastoral nomadism. Thousands of Sahrawis, especially those with nationalist leaning, have been forcibly moved into Morocco, and thousands of Moroccans, claimed to be the 'sons of Sahrawis', have been moved into Western Sahara by the authorities to ensure that the referendum will turn out in favour of Morocco.

This explains some of the difficulties the UN has in defining who is an eligible voter and who is not. The Polisario Front defines the number of eligible voters according to the last census conducted by the Spanish in 1974. This census is seen as the only neutral point of departure and will give some 74,000 people, plus their adult children, the right to vote.

Morocco wants all the present inhabitants in the area to participate. This means about 120,000 people, of which at least 35,000 from Morocco have been living in tented camps for the last couple of years waiting for the referendum. Five criteria have been set up by the UN to define the rightful voters: 1) participation in the 1974 census, 2) proof of having lived in the area at the time of the census but hindered from participation, 3) close family relationship to someone who fulfils the former criteria, 4) father born in the area and 5) having lived permanently in the area for at least six years.

The Polisario Front is not satisfied with these criteria, partly because they exclude all Sahrawis who fought in the Algeria-based liberation movement. Another problem is that many Polisario leaders did not participate in the 1974 census due to studies abroad or political exile. The final word is in the hands of the UN Security Council.

In the meantime, two hundred UN peacekeeping soldiers continue to monitor the cease-fire. The forces are unarmed and unable to protect the population against human rights violations. Many young Sahrawis say they are afraid to leave their houses at night because of arbitrary arrests by the Moroccan police force.

"Keeping the peace does not necessarily mean ending the war", a Polisario representative said to IWGIA. "In the view of most pundits and analysts, the UN has only postponed rather than resolved key problems. Fear and uncertainty can be expected to persist, at least

until the United Nations resolves the difficulties in the implementation of the Peace Plan or runs out of money for its mission."

The Polisario representative also pointed out that Morocco has a major stake in a successful resolution, despite the fact that Rabat remains openly hostile to the implementation of the present Peace plan. Success will relax Moroccan diplomatic relations, especially with Algeria, and help a reconciliation with the Organisation of African Unity, from which it withdrew in 1984 when the OAU accepted Western Sahara as a full member.

The Polisario Front, on the other hand, feels caught in a strange dilemma. It claims to believe in the UN plan while knowing that it is helping Morocco gain time. In this way Polisario is diminishing the possibility of a return to armed conflict, still viewed as the only real means of pressure on Rabat. In going along with the UN conditions for a referendum, Polisario has broken with its past positions and there is a growing opinion that it has undermined its own means without scaling down its goals.

MALI/NIGER

Tuareg

The *Tuareg* conflict in the countries of the Sahel, Mali and Niger, has become even more complicated in 1994. In Niger there are some signs of optimism due to the peace plan that was re-negotiated and signed in Burkina Faso in October. However, there is still some uncertainty as to how representative the Tuareg negotiators are, considering the number of rebel movements that constitute what has been labelled the Tuareg rebellion in Niger.

A true implementation of the plan is also largely dependent upon the army, which has a reputation of seeing a military overpowering of the Tuaregs as the only real solution to the conflict. The agreement is, first and foremost, a plan aimed at restoring peace, and the most delicate questions, such as defence, security, division of resources and economic aid have been put aside to be resolved through further negotiations. However, the plan may also be seen as a first move towards a decentralisation of the whole country.

In Mali, events have taken a much more dramatic turn since the armed conflict was resumed last spring. The latest figures IWGIA has received indicate that approximately 400,000 Malian Tuaregs are now living as refugees in the neighbouring countries of Mauritania (90,000

in camps, 6,000 outside camps), Algeria (170-180,000 in camps, perhaps as many as 70,000 outside camps) and Burkina Faso (40,000 in camps, 10,000 outside camps). If these numbers are correct, almost 90 per cent of the 'white' Tuareg population (mainly the nobility) are now living in exile.

The conditions of these refugees vary. Recent reports claim that tension is growing in Burkina Faso because the local population feels that the refugees are receiving a disproportionate amount of financial support compared to the relatively poor host community. In Algeria, the large number of refugees is causing problems for the local population. Acts of banditry, committed by gangs exploiting the insecurity of the region, have been reported in the Hoggar mountains.

In Mauritania, the nutritional and educational situation for children is not satisfactory, although better than some months ago. Mauritania has been accused of welcoming the refugees mainly because of the money the state receives in international humanitarian aid. There is also a risk that the Mauritanian regime will exploit the situation for internal political reasons by offering refugees permanent settlement in the depopulated Fouta region of southern Mauritania. If this happens it will be at the expense of the black sedentary communities that were forcibly deported by Mauritania's 'white' Moorish regime in the so-called Senegal-Mauritanian conflict in 1989-90.

The Tuareg conflict dates back to the massacres of hundreds of Tuaregs in Tchénouba in Niger 1990. Peace treaties, comprising a greater political say for the Tuaregs in the regions where they are most represented, as well as plans for the development of the often highly neglected northern regions, have been signed and re-signed over the years. In particular the Malian National Pact, signed in April 1992, has been viewed as a positive step towards a greater understanding between the Tuareg nomads and the political authorities in Bamako.

But even if the young Malian democracy has showed positive signs of political will concerning the Tuareg minority, one of the great obstacles for the implementation of the Pact has been slim economic resources. The slow implementation of the pact, and the problems of getting the promised money out of Bamako, has caused frustration among the Tuaregs who accuse the government in the south of using the money for their own purposes. In the south, the Tuaregs have been accused of lacking a true will to demobilise, one of the main criteria demanded by the government.

Hence, the conflict has grown even more complex. In May, 1994, the sedentary populations traditionally sharing territory with the Tu-

aregs took up arms against the nomads. The most famous of these armed groups is the Ghanda Koy, a Songhay organisation heavily influenced by soldiers and former soldiers. Their argument is that the Tuareg community is receiving financial and political support at the expense of the other groups living in the north.

Another headache for the fragile Malian government is that a fraction of the army has committed inexcusable crimes in the region, killing Tuareg civilians. The situation is not facilitated by the fact that the friction between the 'white' Tuareg nomads and the black sedentary communities in Mali has a history that goes back centuries. Today, this friction occurs in a situation where both parties accuse each other of racism. In the present situation the southerners see the Tuaregs as representing a great threat to the national and inter-ethnic unity of which the Malians pride themselves. This must be considered when analysing the harsh and one-sided commentaries most of the Malian media has delivered concerning recent events.

This is also one of the factors behind the massive demonstrations in Bamako in December, when the government was highly criticized for not being sufficiently tough on the Tuaregs. The Tuareg movement, which has now disintegrated into several factions, seems no longer to have a common policy. So far none of the Tuareg groups accept the media accusations of having consciously committed crimes against civilians, but a spokesman in one of the factions is reported to have said that if the conflict is aggravated any further, the Tuareg military groups cannot guarantee that they will continue to choose exclusively strategic targets in their attacks.

Considering the economically and politically weak position of the Malian government (elected in 1992 as the first democratic government in Mali since 1968), and the splintering of the Tuareg movement, the two parties that re-signed the peace treaty as recently as May 1994 are no longer in a position to control the events. Also considering the huge refugee problem, a short-cut to a peaceful solution in Mali seems to be depressingly far off. However, one positive sign is the locally-based peace agreements that have been negotiated at the grassroots level between non-military Songhay community leaders and Tuaregs, ensuring the latter an access to wells and markets in some areas.

NIGERIA

Ogoni

1994 has been a dramatic year for the *Ogoni* people, one of Nigeria's 250 ethnic groups. Hundreds of deaths, massive arrests and human rights abuses have followed in the path of their peaceful protests against the ecological devastation and human suffering they are experiencing due to the massive destruction of farm land for oil producing purposes.

The Ogoni are a small fishing and farming people of about 500,000 members. They are one of nine ethnic minorities situated in the densely populated Niger-river basin in south-western Nigeria, an area where Shell has been extracting crude oil since 1958. Nigeria is Africa's largest oil-producing country, and the oil from this area accounts for 90 per cent of Nigeria's export income. But although Ogoniland has yielded more than US\$30 billion of oil, the area has no electricity, piped water, dependable health facilities or motorable roads linking communities and for the past two years schools have not been functioning because teachers are not being paid.

Farmland and fishing possibilities have been steadily deteriorating as a result of spills, pipeline ruptures and fires produced by the oil industry, and the Ogonis have not received any compensation for their environmental losses. As a result of this situation massive non-violent protests were held in January 1993.

Since then, the Nigerian government, which owns 55 per cent of Shell Oil Nigeria, has played a major part in the repression of the Ogoni people. Since April 1993, more than 1,000 people have been killed, hundreds have been arrested and at least twenty villages destroyed, producing tens of thousands of refugees. Some of the killings have been reported as ethnic clashes between the Ogonis and a neighbouring group called the Andonis, but the international environmental organisation, Greenpeace, claims to have proof that this is merely a cover-up by the security-forces, who have been ordered to start so-called 'wasting operations' in the area and to target Ogoni leaders who are 'especially vocal individuals'.

In its critique of the Nigerian government, Greenpeace is supported by organisations such as Human Rights Watch and Unrepresented Nations and Peoples Organization (UNPO). In addition, the exiled Nobel Prize winner for literature, Wole Soyinka, accuses the Nigerian regime of 'genocide' against the Ogonis. The Nigerian human rights group, the Constitutional Rights Project, has declared 1994 as the worst year of human rights abuses in Nigeria's history.

One of the most dramatic events last year was the killing of four Ogoni leaders on the 21st of May. The leader of the Movement for the Survival of the Ogoni People (MOSOP), the playwright Ken Saro-Wiwa, was arrested the following day. He is alleged to have ordered the killing of the four leaders because of a political rupture between MOSOP and more moderate Ogoni factions.

Saro-Wiwa has been an 'especially vocal individual' both within Nigeria and internationally since the Ogoni protests started, and he has been detained on several occasions for short periods because of his political activity. If he is found guilty of murder he will most likely face the death penalty without the right of appeal. The trial was due in February 1995, but has been adjourned. Saro-Wiwa is suffering from a bad heart condition but has received no medical aid.

Ogoniland is at present under military occupation. Shell has been temporarily forced to withdraw after sabotage by activists ruined equipment to the value of US\$30 million. Foreign observers are not popular in the area and the international press, which has hitherto reported on the Ogoni situation, has been expelled from Nigeria.

CAMEROON

Mbororo

The *Mbororo* are one of the most marginalized groups of Cameroon. As pastoral nomads of Fulani (Fulbe, Fula) stock, the Mbororo have a relatively short history in the areas they presently occupy. The Mbororo penetrated northern Cameroon in the 19th century, whereas their cousins, the sedentary Fulanis, arrived a century earlier. Because of their nomadic lifestyle and their dispersed way of life, the Mbororo are a minority wherever they go, and they are often seen as trespassing on sedentary land, even among other Fulanis.

A few years ago, the first Mbororo organisation, MBOSCUA, was formed. It is slowly but steadily increasing its activities and is concerned with mobilisation, education and other issues where the Mbororo lack political influence. To gain recognition of special rights for the Mbororo in a country comprising some 230 ethnic groups is not an easy task, nor is it easy to raise confidence in those Mbororos who are destitute and have lost their former pride in their identity. Today many are suspicious of strangers, including MBOSCUA officials, few of whom have personal experience as cattle herders.

The Mbororo are mainly found in the northern and northwestern provinces of Cameroon. This is an area politically dominated by the

sedentary Fulanis (Fulbe Wuro) who dominate the traditional leadership which still holds sway in the region ('les chefferies'). Only three such positions are occupied by Mbororos. Always considered a minority, they are exposed to demands from both the local population and representatives of the administration. They are often heavily taxed for arbitrary reasons, and with no political support on either the local or national level, their possibilities for complaining about such treatment is limited.

The Mbororo do not own land and are always vulnerable to being thrown out. They have very little formal education, which makes their integration into the state difficult. They are practically unrepresented in the civil service and they are completely unrepresented in the Ministry of Pastoralism, and not attended by the various veterinary services. Their economy is mainly based on animal herding. Rich in stock, their presence has contributed towards making the northern province of Adamaoua the richest cattle province in Cameroon. A Mbororo will only slaughter and sell a cow in extreme economic situations or on special occasions (marriage, baptism, for tax paying purposes, or as a fine when damage is caused by Mbororo animals, etc.) Thus, they take little part in commercial cattle raising. Their income is based on milk products produced by the women.

In spite of their large number of cattle, the Mbororos have never benefited from the national policy on cattle raising. On the contrary, the development of cattle ranching has been to their disadvantage as the richest pasture land has been confiscated. However, the 'Laitier project' is trying to help the Mbororo organise as milk producers. This attempt is very recent and its success cannot yet be judged. However, it is noteworthy that there are no Mbororo amongst the organisers. They are only seen as producers and do not have any say in the price of their products.

Recently the Mbororo have been facing a new challenge. A new law has been passed to protect a particular breed of meat-producing cattle kept by the Fulbe Wuro. This law prohibits the Mbororo cattle, which are another breed, having access to the richest land in the Adamaoua region. To gain access to this region the Mbororo have had to get rid of their traditional cattle, which they value. In recent years, many Mbororos also lost their cattle because of drought and disease. But unlike other groups, they have not received aid from the state for reconstituting their herds. To survive, many have abandoned their nomadic life to search for work in the urban zones. In an urban situation, some continue their traditional way of life by taking up employment as

herders for urban cattle owners, in particular the sedentary Fulbes. However, they are paid too poorly to be able to regain their former herds. Others, who profit from the Mbororo reputation of being good traditional healers, establish themselves in the cities or in villages and put their knowledge of traditional medicine at the service of the urban dwellers. Others try to participate in local activities. Women go from village to village, braiding women's hair, repairing broken kitchen utensils, etc. Many of these women also make a living from prostitution, at the high risk of catching AIDS.

ERITREA

Afar, Tigre, Nara, Hedareb, Kunama

One of the greatest challenges the ethnic minorities in Eritrea are presently facing is the planned resettling of almost half a million refugees presently living in camps in Sudan as a consequence of the protracted liberation war (1961-1991).

The Eritrean government's top priority is to repatriate the refugees to Eritrean territory as soon as possible. The Government is concerned that if the repatriation takes some time, Islamic fundamentalism, promoted by the Sudanese government and Jihad Eritrea, an Islamic opposition group advocating armed resistance, may find favourable conditions for growth in the refugee camps.

To repatriate such a vast number of people, huge resettlement areas are being planned in the western lowlands of Barka and Gash-Setit, an area traditionally inhabited by nomadic and semi-nomadic groups. To carry out this policy a new land proclamation has been passed, abolishing all traditional land tenure systems and claims to land by different segments of the population. Many of the fundamental principles in the new land code are of great importance for an increase in agricultural output in Eritrea. The World Bank considers that the greatest opportunity for growth in rainfed agriculture would be to expand the amount of land under cultivation in the south-western lowlands for small holding and commercial farming. However, few questions are raised about some of the fundamental aspects involved in this development strategy. One of the most crucial points that should be considered is that the land that will be settled is not vacant.

Eritrea comprises nine ethnic groups with different languages and cultures. The dominant group is the Coptic Christian Tigrinya-speaking highlanders who are predominantly sedentary subsistence agriculturalists. They constitute about half of the total population of approxi-

mately 3.5 million people in the country. The other eight groups, with the exception of some of the *Kunamas*, are adherents of Islam and settled in the lowlands and on the escarpment.

Groups of pastoral nomads such as the *Tigre* (formerly known as Beni Amer clans) and the *Nara* (also called Baria) as well as the *Kunama* (traditionally hunters and gatherers) all have traditional claims to the land which will not disappear because a land proclamation has been passed in Asmara. If the development plans are carried out, land feuds will almost certainly arise.

The development schemes might also have a disastrous effect on the fragile ecological system in the lowlands. The organisation, Pastoral and Environmental Network of the Horn of Africa (PENHA), is concerned about the Government's policy. While PENHA accepts the need to establish settlements in the area, their main concern is the type of farming system planned. Huge cultivation schemes with artificial irrigation and mechanised agriculture will seriously affect, and possibly disrupt, the lowland ecological systems. Such farming systems are extremely capital-intensive, and problems caused by rapid siltation of irrigation dams as well as salinization of the soil are likely to occur.

PENHA, on the contrary, advocates a development based on the traditional herding/grazing system that exists in the area, which is especially adapted to the ecological conditions. With the development of new and improved techniques, PENHA believes this would be favourable not only in ecological terms, but also economically. Such a solution would also be acceptable to the nomadic and semi-nomadic peoples of the area, ensuring that they had an option to pursue their way of life.

ETHIOPIA

Oromo, Somali, Kshitic – and Omotic Speaking Groups

With the new regime in Ethiopia since 1991, the concept of ethnic identity has gained formal political importance. This is a break with former assimilation policies that traditionally dominated Ethiopian political leadership. Several ethnically based political parties have been formed or have come out into the open after leading a clandestine existence for years. Some, like the *Western Somali Liberation Front* and the *Oromo Liberation Front*, have a long tradition as ethnic resistance movements, fighting for autonomy or separation from Ethiopian central power. Today, during the implementation of a new administration and constitution, the government uses ethnic identity as a point of departure and the importance of local autonomy and voluntary

participation in the Ethiopian state has been underlined. This has been seen as an attempt to find a new solution to a problem that Ethiopia shares with many African nations.

However, the relations between the interim government and some of the new political parties is not without conflict. This is particularly true among the *Kushitic and Omotic* peoples who accuse the government of double standards by allowing local autonomy only in certain fields (such as local administration and language policy) while maintaining political control in the most important fields (e.g. economic policy, legal policy and security issues). The government is criticised for its support (and control) of several of the ethnic parties, formed in competition with traditional parties that claim to 'represent the people'. This has been criticised as a strategy for breaking down the legitimacy of these parties and splitting any anti-government opposition.

Ethiopia comprises a great number of ethnic groups, speaking as many as 70 different languages. Since the Middle Ages, the politically dominant groups have been the Tigray and the Amhara, both largely considered colonisers of other, sometimes larger, groups such as the *Oromos* who are the largest ethnic group today. Although the war with Eritrea and the uprisings in the Tigray-areas in the north caused the fall of the Mengistu (Amhara) regime in 1991, for many Ethiopians, the new political situation has failed to represent anything fundamentally new. It is mainly conceived as a new episode in the age-old struggle between the two groups, and the new Tigray-government, which has taken over from the former Amhara government, still controls the same colonialist state that was created by Emperor Menelik II in 1889.

Many of the more autonomy-oriented ethnic parties are thus still in conflict with the government but their freedom to act has been limited. The government has not shown much tolerance in relation to the right of opposition groups to democratic political participation (e.g. debate, electoral campaigns or elections). However, the experiment of creating an ethnic federation is only in its first phase and the 1995 general elections will be one of several indicators for the future.

SOMALIA

"The Other Somali"

The irony of the minorities' issue in the Somali context is that their position is determined not by themselves or by traits (such as being 'indigenous') which they possess but by the fact that they fall outside the common descent model that the large and politically dominant

Somali clans rely upon to define membership in the nation. The civil war that has raged in Somalia since the autumn of 1990 has sharpened the contradictions between the Somalis who trace descent from the big clan-families, such as the Daarood, Dir, Hawiye, Isaaq, Rahanweyn (or Merifle) and Digil, and the 'other Somali'.

Politically and socially it is the membership of a clan that provides a person with an acceptable identity and security. Clans and sub-clans fulfil a number of crucial functions among which is the collective paying of blood-wealth. A number of groups living in Somalia have traditionally stood outside such arrangements either because they are unable to trace descent back to a Somali ancestor or because, for other reasons, they have occupied peripheral or disadvantaged positions in their communities.

A collective label for such groups are the 'other Somali', emphasising their common Somali national identity. This category covers a large number of different minorities with different histories and cultures. Examples of such groups are the *Midgan, Tumaal and Yibir* who are often found as artisans or serfs of other Somalis. Other groups, such as the *Shabelle, Shiidle, Boon Marehaan, Tunni Torre and Eeyle*, are probably constituted by several different population elements including descendants of manumitted and runaway slaves of East-African origin, members of neighbouring peoples (*Oromo and Booran*) as well as destitute members of 'ordinary' Somali clans. Some, like the hunters who call themselves *Ribe*, claim to be the original settlers of Southern Somalia. Another type of minority is the groups of presumed or alleged Persian, Arab and Portuguese descent that traditionally have resided in the urban centres along the southern Somali coast.

The mutual relations of protection and different types of agreements between the Somali clans and the 'other Somali' have now shifted character and are no longer just a question of derogative terminology. The ex-slave ('*Bantu*') communities stand out as the big losers and most of them that have been forced by the war to flee will probably not have a future in Somalia.

The agricultural communities in the Jubba and Shabelle river valleys have been exposed to systematic looting from both former patron clans as well as newly arrived conquerors. With a traditional political organisation that rarely extends above the village level, many of them have been forced to flee to camps in Mogadishu or in Kenya. The looting of their home areas has been so systematic that, in some cases, it is difficult to imagine that agricultural production, in any meaningful sense of the term, can ever be resumed again.

Attitudes towards these groups, which have always been very harsh, have reached a level of explicitness where they themselves now use the terms that in the past were regarded as pejorative (e.g. *jareer*). In 1992, Mohammed R. Arbow, formerly from an ex-slave community along the Shabelle river, formed a political party to safeguard the interests of his people. This party is known as SAMO, the Somali African Muki Organisation (Muki meaning 'tree') which has had little success. Lacking a militia and armoury of its own, SAMO has been entirely at the mercy of the more powerful militias such as the Somali National Alliance, the United Somali Congress and the Somali Patriotic Movement. Their situation was also undermined when the United Nations Operation in Somalia (UNOSOM II) sought to reconstruct local government structures by building district councils. In several districts with a majority population made up of descendants of ex-slaves, UNOSOM decided to install councillors who represented only the ordinary Somali clans in the area leaving the ex-slave communities entirely unrepresented.

However, UNOSOM paid attention to the ex-slave communities' cause in another way. Learning that the ancestors of many in their communities had spoken Bantu languages, the term 'Bantu' was adopted as an ethnic label. In many circumstances, UNOSOM treated the 'Bantu' as a category on a par with the Somali clans. This practice was pursued to the absurd extent that in some districts UNOSOM officers insisted that people were to be regarded as 'Bantu' on the basis of their facial features and hence had their own representatives in the district council, not the representatives which had been appointed by the clan to which the supposed 'Bantu' belonged.

Moreover, the position of many adopted members of Somali clans (especially in the Digil and Rahanweyn clans) has been put in jeopardy because of a surge in the importance attributed to clan membership. The status of the Boon in particular appears at present to be very precarious. It is not unlikely that UNOSOM's manoeuvres regarding the alleged Bantu members of these clans, has contributed to speeding up a process by which already weak segments of these clans are further marginalized.

Furthermore, the light-skinned coastal groups have suffered severely. A number of atrocities directed specifically against these groups have been reported. Many have fled en masse to the Swahili coastal communities along the Kenyan coast.

In 1992 the Somali National Union was formed and recruited members from these groups but, like the SAMO, this party lacks armaments and has been entirely dependent on Ali Mahdi's USC.

The problems that the vulnerable Somali minorities are facing today are related to the sufferings of the entire Somali people. The problems of minority groups' status within the society have little chance of being addressed constructively while the political situation on the whole remains unresolved.

RWANDA

Batwa

In the reports on the blood bath in Rwanda, starting April 6th 1994, the world got to know the differences between the Tutsi and the Hutu. The situation of a third important group, the *Batwa (or Twa)* or so-called *Pygmies* was seldom mentioned. During summer 1994, Charles Uwira-giye of the Association for the Promotion of Batwa (APB) in Rwanda, was able to escape Rwanda and to report to human rights organisations and news media in Europe and participate at the UN Working Group on Indigenous Peoples in Geneva, Switzerland.

The Batwa may have been targets in the conflict because of their traditional association with the Tutsi, but it may also have been due to the fact that traditionally they were discriminated against and marginalised by both the Tutsi and the Hutu. Another possible factor may have been their recent success in organising themselves and trying to attract international attention.

There were reasons to doubt the accuracy of official population estimates of the Batwa prior to the blood bath, and estimates as to how many Batwa lost their lives during the massacres are even harder to determine. The early reports from APB stated that the Batwa were also victims of systematic genocide in Rwanda – possibly as many as 65 per cent are believed to have been killed. Since 1993 the APB has been a member of UNPO (Unrepresented Nations and Peoples Organization) and together they formed a mission in late 1994 to investigate the situation of the Batwa in Rwanda. In some villages which the mission visited as many as 80 per cent of the Batwa population have been killed or were still missing, while other communities lost only a few Batwa. The interim report of the UNPO Mission says that “it would appear that the already small number of Batwa in Rwanda has been reduced dramatically as a result of genocide and war”.

Possibly as many as 8,000 Batwa are living in the refugee camps in Zaïre. Survival International has distributed material to NGOs informing them about the particular situation and problems of the Batwa. In Bukavu

(Zaïre) one Zaïrian NGO has worked with the UNHCR and UNICEF and focused mainly on helping the Batwa in the camps. Other Batwa may be found in refugee camps in neighbouring Tanzania and Burundi.

Assistance to Rwanda should benefit all Rwandans, including the Batwa. Both UNPO and Survival International have stressed that because of the disadvantaged position of the Batwa in the past and their vulnerability today, special care is needed to ensure equality when it comes to rehabilitation and repatriation.

BOTSWANA

N/oakhwe (Bushmen)

Little has been done by the Government of Botswana to follow up the Second Regional Development Conference for Africa's San Populations, in Gaborone October 1993. However, indigenous organisation among Botswana's *Bushman* population (*N/oakhwe*) is steadily growing, and the University of Botswana has also been taking positive steps towards preparing for a new Basarwa Research Programme.

The Gaborone Conference in 1993 was seen as a very promising step towards a dialogue between the Botswana government and the Bushmen. However, the report from the conference is still not out, which means that the resolutions passed (unanimously) at the end of the conference have not been submitted to appropriate parties for further action.

A review of the policy for the government's Remote Area Development Programme (RAD), which has been on the agenda for some three years now, has not been finalised either, although a policy document was submitted to the cabinet by mid-1994.

The RAD is generally recognised as the development programme that most directly affects the conditions of the Bushmen, who make up the majority of the poorest and most marginalised people in the country. The programme is, however, carefully worded so that the target group is not identified according to ethnic or cultural criteria, but according to the social problems the programme seeks to address: those who are poor, and lacking in resources and in organisation.

The more passive attitude of the government to follow up or take new initiatives concerning the Bushmen, is partly due to their painstaking concern not to appear to single out any one particular group for special treatment. At the present point in time, this reluctance has been corroborated by the decision that NORAD (the Norwegian Agency for

Development Co-operation), which is the main foreign donor to the RAD programme, shall undertake an evaluation before committing further support to the programme. This decision was made at the same time as the highly successful Regional San Conference in 1993. An evaluation mission was in Botswana in March 1995, and the results of the evaluation are still awaited.

Fortunately, the mobilisation process that started among the Bushmen, and which played an important role in bringing forward delegates for the Gaborone Conference, has continued and taken on speed. A number of local NGOs joined in an ad hoc NGO Committee to assist in the mobilisation. Since the conference, the Botswana Christian Council has continued to facilitate a series of regional workshops which took place during 1994.

In this non-governmental process, the *First People of the Kalahari* (FPK) has emerged as an important factor. The organisation was established in 1992, and gained a sudden notoriety after speaking up on a prestigious Rural Development Conference in Gaborone, and thereafter by presenting a statement outlining their problems to the Botswana Government. Initially, the official reaction was less than enthusiastic.

However, by October 1993 the organisation was officially registered and participated as an NGO at the Gaborone conference, and in April 1994 an office was opened in Ghanzi (the Bushman 'core area' of Botswana). Support for basic office and travel expenses for a three year period has been granted from Denmark through IWGIA. There is also contact with Plenty of Canada, Six Nations, Saami and Inuit organisations.

Among the main objectives of the organisation are: 1) to work for the recognition of the N/oakhwe as one people, and to advocate the rights of the N/oakhwe people vis-à-vis the Botswana Government and the public; 2) to create a National Council for the N/oakhwe through duly elected representatives, and to work for the recognition of land rights and 3) to invigorate the culture as well as individuals' identification with the culture of the N/oakhwe.

Until now the main activities of the First People of Kalahari organisation have been awareness raising at grassroots level and networking with other indigenous peoples at a regional and international level. Furthermore the organisation is involved in human rights work, e.g. documentation of human rights abuses against the N/oakhwe people. Human rights abuses such as torture have taken place on several occasions, and at least in one documented instance causing the death of the victim.



*N/oakhwe settlement in Ghanzi District, Botswana.
Photo: Marianne Jensen.*

Despite the RAD programme, which was supposed to improve the living conditions among the Bushmen, the Bushmen still live in utter poverty in the settlements (now open communities). The traditional hunting and gathering lifestyle is rapidly becoming impossible to maintain, and no other sustainable development alternatives are being seriously promoted in the settlements. The result is poverty, malnutrition, despair and alcoholism. Despite the formal existence of Village Development Committees (VDC) in the settlements, the Bushpeople have in practice a very limited say in political decision making processes taking place in the settlements. Recognition of land rights continues to be of prime importance to the Bushpeople if any genuine and sustainable development is to take place.

In recent years the University of Botswana has initiated activities and made preparations for a Basarwa Research Programme. There are a number of issues on the political agenda, e.g. mother tongue education and land rights, which for their solution need the contribution of basic research e.g. in linguistics (Khoesan languages) and law (analysis of legal status of traditional agro-pastoralism, versus foraging). The Uni-

versity of Botswana is recognising a special obligation to initiate research in these and other areas of concern for the N/oakhwe and is currently seeking support from NORAD, in collaboration with the University of Tromsø, Norway, and is also linking up with other Universities in the region in order to promote such research.

NAMIBIA

Bushmen (San, Ju/'hoansi)

The delimitation of new districts in what was formerly Eastern Bushmanland in Namibia forms a threat to *Bushman* land rights. The relative protection which the Bushman community of Northern Namibia received from the Government, following the Land Tenure Conference in 1991, seems no longer to hold, considering the Herero political control of the area and the lack of Bushman representation. It is of no help to the Bushman community that there is still no legislation covering land tenure on communal land.

The Land Tenure Conference of 1991 showed positive signs for the Bushman population in Namibia. One year after independence, the participants unanimously agreed that special protection of land rights was to be received by "disadvantaged communities and groups, in particular the San..." Two committees were set up after the Conference, one to consider commercial land and one to consider communal land. Recently, the committee on commercial land produced a report, but the committee on communal land has not reported back yet. Although there is an open door for Bushmen self-help efforts, most of Namibia's official 'preoccupation' with Bushman rights must be seen in a post-war context. President Sam Nujoma (SWAPO) took an important political step when he offered reconciliation to the Bushmen of Caprivi and Western Bushmanland, who were forced to cooperate with the South African Defence Force during the liberation war. Securing minority rights is, however, another and more complicated matter, especially in a country highly sensitive to the apartheid legacy.

Some of these problems can now be seen in East Bushmanland, which has become part of the Otjozondjupa Region. After the 1991 Land Tenure Conference, Hereroes made several attempts to settle illegally on Bushman land which boasts good pastures, but were peacefully contained with Government help. Other skirmishes between the two communities have appeared in the press with favourable reporting on the Bushmen. But with the delimitation of new regions and districts, there is no Bushman representation in the decision mak-

ing fora in an area which also comprises traditional Herero land.

East Bushmanland is also facing a major challenge through Bushman participation in a community-based natural resource management programme (the so-called LIFE Programme), declared by the Namibian Ministry of Wildlife, Conservation and Tourism at the First Regional Bushman Conference in Namibia in 1992. This programme was much larger than other Bushman projects. External critics pointed to the inherent danger in such a programme of Bushmen being caught in a Western-originated 'ecocrat' ideology, where Bushmen traditional values fit the ideas of sustainable development as some sort of "stone-age" people, more than a group of people who have a right of development on their own terms.

However, although large-scale funding was welcomed by the Nyae Nyae Development Foundation (NNDF), the oldest NGO promoting Bushmen rights, in September 1994 Bushman leaders told the leaders of the NNDF to leave the area. The reason was what was considered by the Bushmen as a top-down attitude towards the community the NNDF was originally set up to help.

The Namibian Bushmen number some 33,000 people. Of these, about 12,000 were employed by the South African Defence Force. One third of this group went to South Africa after SWAPO gained power in 1990 and the others, who stayed to be 'demobilised', were left abandoned and landless and many succumbed to drunkenness and poverty around small settlements and towns. This situation led to a government programme of resettling Bushmen on the land, and by 1994 more than 9,000 had been resettled in Western Bushmanland and Caprivi. The Resettlement policy, which enters its third year of operation, has been criticised as being rushed and ill-planned. It aims to make the resettlers independent in five years, mainly by teaching them skills such as tailoring, knitting, brick making and small-scale horticultural farming, activities which are not easily compatible with Bushman traditions, family relationships and land-use.

Himba

In January 1995, a Scandinavian consortium of hydroelectric engineers signed a contract with the Namibian authorities to conduct a feasibility study for a giant hydroelectric plant on the Kunene river in Northern Namibia. The proposed dam will inundate an area of some 250-350 sq.km. and ruin the livelihood of the *Himba nomads* living in the area (about 1,000 Himbas will be directly affected by the dam, while some 8,000 will suffer indirect consequences).

The Himba are semi-pastoral nomads who have lived in the Northern Namibian desert since the great Bantu migration reached this part of Southern Africa allegedly sometime between the 16th and the 17th centuries. The Himba are a subgroup of the Herereo pastoralists and are today the largest population group in Kaokoland in North-western Namibia.

For various reasons, the Himbas have kept to their old traditions to a great extent which makes them culturally 'exotic' in today's modern Namibia. They live in small nomadic communities on both the Angolan and the Namibian side of the Kunene river. Their economy is based on cattle herding and, until the severe drought that hit Kaokoland in the early 1980s, they were able to keep up a way of life relatively independent of the outside world. The drought hit the Himbas hard, but in recent years they have been able to regain some of their former activities and relative autonomy.

Now it seems as if they will be caught in a trap by a modernisation project imposed on them by external forces. The flooding of the Kunene river will destroy some of their most important grazing areas as well as their sacred ancestral burial sites. If they have to abandon pastoralism, both their traditional system of inheritance through double descent as well as their decentralised political system will suffer.

The Epupa dam has become a prestige project for the Namibian government. The first plans for such a dam were made by the South African government in the 1960s, but were never implemented. Now, Sam Nujoma's democratic government appears to be doing what the oppressors never managed.

Namibia does have need for electric power. Today the Ruacana dam, a smaller dam also on the Kunene river, is the only supplier of hydroelectricity, but Ruacana is not very effective due to the great seasonal variations in rainfall in the area, and also because of faults in the construction and problems connected with the war in Angola. Consequently, Namibia imports about 50 per cent of its energy from costly sources in South Africa. The government has a well publicised goal of becoming independent of energy imports, and especially from a politically unstable country like South Africa. This is one of the main reasons why Epupa has been seen as an effective and prestigious solution to the energy problem.

However, critics have pointed out several problems with this analysis: 1) the mining industry in Namibia is the greatest energy consumer today but this industry is facing deep economic problems and a major part will probably be halted in about ten years time; 2) to make Epupa an economic success Namibia will have to export energy to

South Africa. But, according to World Bank analysis, South Africa will not need such energy until well into the next century; 3) environmental experts point to international experience on giant hydroelectric dams, and claim the dam will be too big. Considering the sandy soil in the area, a dam of the size of Epupa will probably have only a limited functional period due to the rapid accumulation of silt. This period may be as short as 20-30 years; 4) building a giant dam will also have a major effect on the environment and such a vast area of still water may produce new diseases such as schistosomiasis; 5) alternative solutions to the energy problem have not been thoroughly investigated.

For the Himbas these are, however, mainly academic questions. Their basic problem is that they have not been consulted on the Epupa project. During the pre-feasibility study the government sent a letter to one of the Himba chiefs, but as most Himba are non-literate this letter was still unopened when a team of researchers visited the area some months later. Today the Himba communities that will be most directly affected by the dam have been informed through other sources and they are strongly opposed to the project.

Internal disagreement among Himba clan leaders is, however, an obstacle to the formation of a majority protest. Furthermore, the Himbas have marginalized themselves politically, to a certain extent, by having co-operated with the South African Defence Force during the Namibian struggle for independence. Some Himba leaders are also organised in the Democratic Turnhalle Alliance, the main opposition party in Namibia, and they are strongly against local political authority being held by SWAPO (mainly Ovambo) representatives.

The Himbas will also have a problem claiming minority rights in a modern Namibia which is strongly against dividing the country into ethnic groups, a policy the government sees as a prolongation of South African apartheid politics. Although the participants at a National Conference on Land Reforms in 1991 unanimously agreed that "disadvantaged communities and groups...should receive special protection of their land rights" (a recognition that still needs to be legally formalised), this seems not to include the Himbas.

SOUTH AFRICA

Bushmen (!XU, Khwe)

The !Xu and Khwe who are at present settled at Schmidtsdrift near Kimberley in South Africa, originally came from Angola where many of them had sided with the Portugese regime in the freedom struggle.

After the Portugese left in the mid-1970s, these so-called Bushpeople fled to Namibia where they joined the South African Defence Force (SADF) against the liberation forces, SWAPO. When Namibia became independent in 1990 and rumours abounded that SWAPO would not be well disposed towards ex-SADF soldiers, some 4,000 !Xu and Khwe opted to be resettled in South Africa.

In South Africa they were settled by the Defence Force in Northern Cape province on land that originally belonged to the local Tswana people who had been forced to relinquish it. The !Xu and Khwe settlement was intended to be a temporary measure, however, five years later the !Xu and Khwe are still living in army tents. In 1994, they took part in the first South African democratic elections.

Meanwhile, the Land Claims Commission ruled that the land on which the !Xu and Khwe were settled should be returned to the Tswana people. The government has promised money with which to buy land for resettling them but so far this has not happened, although the !Xu and Khwe know they will have to move sometime. However, due to the uncertainty about their future they have experienced, this displaced community is facing serious problems, including alcoholism, teenage pregnancies, suicides, poverty, apathy and despair. The ongoing uncertainty means that they are unable to participate fully in local affairs and local people are hostile to them and view them as outsiders.

In November 1993, a !Xu and Khwe trust was established with !Xu and Khwe on the board of trustees as well as several professional people. The trust functions as the mouthpiece of the !Xu and Khwe in negotiations over their future with the government and provincial state departments. It is also involved in negotiations with the Namibian government about the possibility of some of them returning to Namibia. The trust is also involved in a number of development projects and in empowering the !Xu and Khwe.

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PART II

INDIGENOUS RIGHTS

THE UNITED NATIONS' WORK ON THE DRAFT DECLARATION ON INDIGENOUS PEOPLES' RIGHTS IN 1994-1995.

The Draft Declaration on Indigenous Peoples' Rights (printed in *The Indigenous World 1993-94*) was formally accepted by the United Nations' Working Group on Indigenous Populations in July 1994, after intensive discussions among the indigenous representatives on the best strategy for further dealing with the Draft Declaration. In the weekend in between the technical meeting and the Working Group meeting, informal debates were held among the indigenous representatives, and arguments for and against opening up of the Draft Declaration were given. One main issue was article 31 in relation to article 3, the last one saying that *indigenous peoples have the right to self-determination*. There were fears that article 31 could be interpreted as a weakening of article 3, and suggestions came up for cutting out article 31. Article 31 says:

Indigenous peoples, as a specific form of exercising their right to self-determination, have the right to autonomy or self-government in matters relating to their internal and local affairs, including culture, religion, education, information, media, health, housing, employment, social welfare, economic activities, land and resources management, environment and entry by non-members, as well as ways and means for financing these autonomous functions.

On the other hand fears were expressed that if the Draft Declaration was opened up for further discussions, the influence of states who consider the Draft Declaration too far reaching could result in a weakening of the Declaration as such.

Much discussion took place at this meeting on the rules of the UN system, and the fact that this whole process of work is founded upon rules created by the colonizers. There was general agreement on the

importance of working for acquiring indigenous representation and the right to speak further up in the UN system, i.e. in the Subcommission and the Commission on Human Rights.

In the Working Group an extra half day was given to the indigenous organisations' discussion on the strategy for dealing with the Draft Declaration, which had been finished by the WGIP in August 1993 and formally closed for discussion. Many different opinions were given, and the indigenous organisations did not agree upon a common statement in relation to the Declaration, although serious efforts were made. The opinions ranged from acceptance of the Declaration as it is by several indigenous representatives, particularly from Asian countries, to statements on its weaknesses by among others Maori and North American Indian representatives, and a plea for independence from a group of Hawaiian representatives. After one and a half days of discussions, the Draft was passed on to the Subcommission with the statements given attached as comments.

The Subcommission on Prevention of Discrimination and Protection of Minorities approved the Draft Declaration during its meeting in August without discussions, and it was passed on to the Commission on Human Rights, which held its meeting from January 30 to March 6, 1995.

Considering the importance of the process of the Draft Declaration, the IWGIA International Board at its meeting in October 1994 decided that the whole process must be followed closely and that an IWGIA representative were to be present during the six weeks meeting. As the meeting developed, however, the discussions on the indigenous issue were finished by the end of February, and only the voting remained. Thus there seemed to be no reason for the representative to stay. The whole four weeks before, however, three IWGIA representatives, one at the time, attended the meeting in the Human Rights Commission, and an abridged version of their respective diaries is presented in the following. As will be noticed, not much happened of direct interest to indigenous peoples in the first two weeks. It was not known, however, exactly when the indigenous issue and the Draft Declaration would come up, and therefore it was necessary to be present and follow the course of events.

Geneva Diary, January 30 to February 24

First week

The first days were characterized by few speakers and very short sessions. This was not unusual, as the meeting often starts slowly. The main items on the agenda during the first week were the occupation of

Arab territories and self-determination - not in any way related to indigenous peoples' self-determination, but a general discussion on self-determination in relation to states' integrity.

All the governments who spoke on this issue stressed the importance of self-determination, indeed they all stressed that without self-determination other human rights would be meaningless. However, they also all stressed that the concept of self-determination must not be used in such a way that it furthers the break-up of sovereign states. For example, Australia presented a balanced but very strong statement on the issue, concluding that if all ethnic groups were to have their sovereign states, the world could never become a peaceful place. Self-determination entails the right to recognition of distinct peoples within the state, but cannot be used to support the endless splintering of multi-ethnic states into smaller and smaller units, and most states are multi-ethnic. Australia could not support groups working towards such splintering.

It is worthwhile noticing how this discussion reveals the conflict that may arise when indigenous peoples claim their right to self-determination within the state. States see this as a challenge to *their* self-determination. In relation to states, self-determination is a concept that concerns the relationships between states and the integrity of the state.

Both Australia and Russia underlined the need to find ways of realizing self-determination, and to further research the concept.

The debate on self-determination then turned into reciprocal criticisms between India and Pakistan on the Kashmir question, and China criticising an NGO which had mentioned Tibet.

Otherwise the meeting had very little relevance to indigenous issues.

Second week

Hardly any indigenous representatives were present yet. Items on the agenda for this week were among others questions in relation to the Declaration on the Right to Development, status of the International Covenants on Human Rights, rights of persons belonging to national or ethnic, religious and linguistic minorities, and the question of the human rights of all persons subjected to any form of detention or imprisonment.

During the lunch break on the first day, the American delegation held an informal informative meeting with NGOs to discuss the different themes dealt with in the Commission. On a question about the indigenous issue, a representative of the delegation answered that the American delegation was not quite clear yet on its position towards this issue. Meetings had been held with about 25 indigenous organisations in the United States prior to the meeting, and these organisations

did not agree between themselves. Recently the American government delegation had received a note from the Hawaiians saying that they did not consider the Draft Declaration on indigenous peoples strong enough.

During the second week, much discussion took place concerning whether all indigenous issues would be collected under one special item, or put in a sub-item under item 19: report from the Subcommission. Item 19 was scheduled for Monday of the third week. At the same time, a meeting was to begin in Paris, organized by The Indigenous Initiative for Peace, with the Nobel Prize Laureate 1992 Rigoberta Menchu as president. It was expected that most indigenous representatives would be attending this meeting, and as a consequence would not be able to be present in the Human Rights Commission during the discussions on item 19.

During the second week, the informal discussions intensified on a key issue: the future representation of indigenous peoples in a new working group to be set up under the Human Rights Commission to deal with the Draft Declaration on Indigenous Peoples Rights. The Australian and the Danish governments had issued non-official progressive resolutions about indigenous representation. The Australian government suggested the establishment of an "open-ended working group with maximum participation of indigenous representatives, including those of non-governmental organisations". This suggestion was fully supported by the Nordic countries: "Indigenous peoples and organisations would participate fully in the discussions of the new working group regardless of their consultative status at ECOSOC."

A few indigenous representatives were now present, but not many, and on Friday it was announced that the question of whether the indigenous issues would get a separate item and when it would be up for discussion in the Commission, would be announced on Monday morning of the third week. The agenda was behind schedule, and it could not be known at that point exactly when the indigenous issue and the issue of the Draft Declaration would come up.

Third week

Nothing was said about the indigenous item on Monday, however, and at the same time the meeting of The Initiative for Peace took its beginning at UNESCO in Paris, for which reason still very few indigenous representatives were present in Geneva.

Indigenous issues and the question of the future dealing with the Draft Declaration were being dealt with under item 19 of the agenda, the report from the Subcommission. In order to make sure that indig-

enous representatives had an opportunity to take part in the discussion during this meeting, it was suggested either to postpone the whole item until a later stage, as several indigenous representatives were taking part in the meeting in Paris, or to create an item specifically dedicated to indigenous issues. Such suggestions were supported by Greenland and the Nordic countries, but they were not accepted. The compromise was to have a specific sub-item (19a) which focused on indigenous issues, and some governments suggested that in the future, i.e. from 1996 onward, indigenous issues should have its own agenda-item in the Commission.

On Tuesday of the third week, item 19: report from the Subcommission, was started upon. Until Wednesday at one o'clock when the speakers list on this item was closed, only a few indigenous representatives had signed up: Indian Law Resource Centre, International Indian Treaty Council, Saami Council, Grand Council of the Crees, International Organisation of Indigenous Resource Development and Indigenous World Association. Many indigenous representatives were still in Paris, and item 19a concerning indigenous issues was soon finished with. The question of representation in the future working group on the Declaration was, however, still unsettled.

New Zealand came in with strong support for an open-ended working group allowing indigenous organisations without consultative status. The statement made by the United States government was also supportive, and it urged "the Commission to create an open-ended working group so that governments may have further opportunity to analyze its provisions." At this point, the US delegates supported free access of indigenous NGOs to the working group.

Both Australia and the Nordic countries suggested that the working group under the Commission should meet either before or immediately after the Subcommission WGIP, i.e. in July-August.

The Brazilian government put forward the opinion that the time had come to discuss the matter in each country between the governments and the indigenous NGOs "in order to make sure that our Government delegates are duly instructed to convey national positions which truly reflect each country's individual circumstances." Ecuador expressed a similar opinion on this matter. In order to maintain the dialogue, Brazil suggested that the Commission hold public hearing sessions with the participation of indigenous observers to the WGIP. Brazil therefore opposed changing the rule of intersessional working groups under the Commission, but urged indigenous NGOs to register and achieve consultative status with ECOSOC.

Ecuador suggested the establishment of a secretariat on indigenous issues. El Salvador supported the establishment of an open-ended working group under the Commission.

On Thursday the 16th of February, during the third week, a major government meeting was held. The Western countries tried to get support for an open-ended working group, but the Asian countries were strongly against. Specifically Malaysia, Bangladesh and China. Instead they wanted to have a discussion on how to define indigenous people. The United States came out clearly in support of allowing indigenous organisations into the Working Group and lobbied for that. After the meeting the Western countries seemed to have realised the necessity of having to vote on the issue and in that voting, the African countries and the East Europeans, who were opposed to changing the ECOSOC rules, would have been decisive.

During the following days the opposition from the Asian countries seemed to become more and more vigorous, and among the indigenous NGOs it was decided to make an extra effort to lobby the Asian and East European countries. It was obvious that none of the countries from the Western group had really tried to talk to the Russians, and they were quite surprised that the Russians were not negative at all.

At a certain stage there were a couple of suggestions for a text to a resolution on this issue. One was made by the Canadians and one was worked on by Australia and a few other countries.

Voting on the Issue of Indigenous Representation

After the third week, the indigenous issue was practically done with, and it looked as if no more lobbying could be done. IWGIA did not stay for the voting, but during the last days of the meeting, several indigenous representatives were present, and important things happened.

Considering the favourable attitude towards open indigenous representation in the future working group, which had been shown by several governments, among which the Australian and the Nordic governments in cooperation with the Greenland Home Rule, it is surprising that things eventually turned out the way they did.

On Friday the 3rd of March 1995 the Commission on Human Rights adopted resolution L.62 to establish an open ended working group to elaborate the Draft Declaration on the Rights of Indigenous People. "Open-ended", however, means open to the governments, not to indigenous peoples, and the resolution can only be regarded as a major step backward for indigenous peoples' rights.

Two indigenous representatives, one of whom had been present in Geneva during the voting and who came to Copenhagen right after the meeting to attend the IWGIA conference in connection with the World Social Summit, stated their strong disappointment with the outcome of the whole process of the Draft Declaration so far. In a paper, *Action Alert to All Indigenous Nations Around the World*, issued on March 8 in Copenhagen, Mililani Trask and Sharon Venne gave their pessimistic version of the history of the introduction of the resolution L.62 in the Commission on Human Rights.

In short, the Australian government introduced a draft resolution on the establishment of a working group of the Commission to consider the Draft Declaration. At the last minute, the resolution changed the wordings from "considering" the Draft Declaration to "elaborating". A number of other amendments were made, and this was done without consulting or even informing the two indigenous representatives present in the room.

The contention of the resolution concerning indigenous peoples' participation in the new working group under the Human Rights Commission, is that, aside from governments, indigenous organisations with consultative status to the ECOSOC can participate. At present there are twelve indigenous NGOs, nine of which are North American based, one is from the Nordic countries and one from Australia. Indigenous organisations which are not in consultative status with the Economic and Social Council will have an opportunity to participate, but only after having applied for permission to the Coordinator of the International Decade, Mr. A. Fall of the Human Rights Centre in Geneva.

The procedure for application is somewhat complicated. It must contain the following information:

- 1) The name, headquarters or seat, address and contact person for the organisation;
- 2) The aims and purposes of the organisation (these should be in conformity with the spirit, purposes, and principles of the Charter of the United Nations);
- 3) Information on the programme and activities of the organisation and the country or countries in which they are carried out or to which they apply;
- 4) A description of the membership of the organisation, indicating the total number of members.

Once the application is received by the coordinator, he is obligated to consult with any state concerned. The state must recognize the organisation or indigenous group which applies for permission; if it does not, the application will be rejected. After approval, the application is forwarded to the NGO Committee for its decision. The NGO Committee under its own rules of procedure is obligated to consult with the state of the concerned applicant to ensure that legitimacy.

It is understandable that severe disappointment was shown by some of the indigenous people who were present during the last days of the meeting when the voting took place, and the resolution was changed at the last minute. Put forward by the Australian government, together with Canada, Denmark, Finland, New Zealand and Norway, it initially called for an "establishment of a working group of the Commission to consider the draft United Nations declaration on the rights of indigenous peoples as contained in the appendix to resolution 1994/45 of 26 August 1994 of the Sub-Commission on Prevention of Discrimination and Protection of Minorities..." (our emphasis). In the resolution that was adopted, this was changed to: Establishment of a working group of the Commission to *elaborate* a draft declaration in accordance with Operative Paragraph 5 of the General Assembly resolution 49/214 (our emphasis). The justified fear is that all the work which has been done over the years in the WGIP will be thrown aside by governments who are hostile to indigenous peoples' right to self-determination, and that the "elaboration" will mean the drafting of a substantially different and much weaker declaration.

On the original drafting of the Declaration, the two indigenous sisters, who issued the Action Alert said,

"There were hundreds of indigenous people in the room during the process thus making the Draft Declaration a truly universal document. While there could be a need for stronger language in some of the sections and editing of some of the material, the draft fundamentally recognized the rights of Indigenous Peoples which have been denied by the colonizer governments since the time Columbus sailed from Europe."

The Present Situation (June 1995)

Three issues are still up for discussion:

- 1) The Draft Declaration.
- 2) The Decade on indigenous peoples.
- 3) The establishment of a Permanent Forum for indigenous peoples at the UN.

The Draft Declaration:

As it appears from the Geneva-diary, the Draft Declaration itself was not discussed in the meeting of the Human Rights Commission. Most important was the discussion on procedural matters on how the text will be dealt with further on. The next step in this process is the meeting in the new working group directly under the Human Rights Commission.

As already stated, the application for participation in this working group is a highly bureaucratic affair. An indigenous group who wants to participate must first send its application to the leader of the Human Rights Centre in Geneva. From here, the application is sent to the respective governments for comments. After that it goes to the ECOSOC. Both the government in question and the ECOSOC have the right to veto the participation. It is as yet not known how often the ECOSOC will meet to discuss the applications.

According to recent IWGIA information, about ten indigenous organisations have applied for permission to participate in the working group, which will meet for ten days from November 17, 1995, i.e. not in connection with neither the WGIP nor the Human Rights Commission meeting, which will be in February-March 1996.

The Decade:

Concerning the decade, the Geneva office works to improve communication and inform indigenous peoples of the work of the UN. The Centre aims at establishing a network among indigenous peoples and the UN and it tries to raise funds for e.g. legal aid offices for indigenous peoples. The aim is to establish funds that get resources directly from the UN system and to set up a system whereby indigenous peoples are empowered to administer these funds.

The Permanent Forum:

In the meeting in the Human Rights Commission, the Danish delegation put forward a resolution stating the procedure for the establishment of the forum. However, without much fight, they agreed to remove the s from peoples. A sad and fatal step which, however, had the resolution adopted.

A workshop will be held to discuss the further creation of the permanent forum, and participants will be governments, invited indigenous organisations and experts. The workshop will be held in Copenhagen, June 26 to 28, 1995, organised by the Danish ministry of Foreign Affairs.

It is IWGIA's contention

- that the permanent forum must be situated as high up in the UN system as possible.
- that indigenous peoples themselves must be represented.
- that the process towards the establishment of the forum must be a slow one, so that there will be sufficient time to discuss details.
- that the establishment of the forum must not hinder the continuous work of the WGIP.

When firmly established, the forum will be a means for getting more funding for indigenous peoples and a start to facilitate indigenous peoples' participation in the decision making processes. A crucial question, however, is which kind of decisions the forum will be empowered to make.

At the moment, the outcome of the workshop on the forum, which will be a forum for debate with indigenous representation invited by the Centre for Human Rights in Geneva, is not known, but IWGIA is following the process closely, and will inform about the results in future publications.

PERMANENT FORUM FOR INDIGENOUS PEOPLES – A DISCUSSION PAPER

The following is the discussion paper on a Permanent Forum for Indigenous Peoples in the UN, which was submitted by the Danish Government and the Greenland Home Rule to the United Nations Centre for Human Rights in July 1994. The paper is listed as UN-document E/CN.4/1995/141, February 1995: *Note verbale dated 18 January 1995 from the Permanent Mission of Denmark to the United Nations Office at Geneva addressed to the United Nations Centre for Human Rights.*

The Permanent Mission of Denmark to the United Nations and other international organisations in Geneva presents its compliments to the United Nations Centre for Human Rights, and, with reference to the latter's Note of 15 April 1994 (reference G/SO 232/26 46th), inviting the Danish Government to express its views on the possibility of establishing a permanent forum for indigenous people, has the honour, on behalf of the Government of Denmark and the Greenland Home Rule, to submit the attached discussion paper to the Commission on Human Rights at its fifty-first session..

It is our hope that the paper will facilitate deliberations on the subject in the time to come.

The paper reviews a number of questions relating to the establishment of a permanent forum for indigenous people without reaching definite conclusions. At this stage it seems to be necessary to keep an open attitude and to provide sufficient time for an extensive process of consultation and discussion to take place before reaching a decision.

A basic consideration must be to ensure that a permanent forum in no way weakens the recognition of the rights of indigenous peoples or the existing procedures and institutional structures in the United Nations

system, including the Working Group on Indigenous Populations. To achieve this it will be important that indigenous peoples have the opportunity to take part in all negotiations leading to a decision. Establishing a permanent forum will have to be a gradual process building on a mutual understanding among the interested parties: indigenous peoples, the United Nations, and governments.

The mandate of a permanent forum should be open and basically cover all matters of concern to indigenous peoples. Effective indigenous participation and influence in the United Nations system require, however, some division of labour with other UN bodies. In this connection it will be particularly important to focus on the role of the Working Group of Indigenous Populations. While the mandate of the Working Group could be continued and strengthened a permanent forum could bring human rights questions from a legal into a practical framework, drawing together the social, economic and cultural implications of indigenous rights and their ramifications in development and environmental issues. Furthermore, a permanent forum could play an important role in the coordination of United Nations' activities affecting indigenous peoples.

The forum should be open for participation of indigenous representatives, governments and other UN bodies and organisations. To create focus and directions a focal point in the forum should be established, possibly in the form of a committee who would direct proceedings and receive representations from participants. This committee should consist of both governments and indigenous representatives. One possible way of selecting members for the focal committee would be for indigenous organisations and governments to nominate an appropriate number of candidates to the Secretary General who would then appoint them. Indigenous peoples would have to discuss the possibilities of establishing a procedure for nomination of indigenous candidates, taking into account the need for a broad regional spread.

A variety of possibilities exist for the institutional status of the permanent forum. It could be placed directly under the Secretary General or under the General Assembly, ECOSOC, or the functional commissions under ECOSOC.

A Permanent Forum in the United Nations for Indigenous Peoples Discussion Paper.

Government of Denmark
Greenland Home Rule

1. Introduction

For many years, indigenous peoples throughout the world have raised the possibility of establishing a permanent international forum which can reflect their concerns and contribute to the alleviation of their problems. During the inauguration of the "International Year of Indigenous People" in New York on 10 December 1992, several indigenous representatives outlined a wide range of different options for promoting their cause within the United Nations and since then the possibility of a permanent forum has been a topic of discussion at meetings and conferences all over the world.

Until now, indigenous peoples have only had a small input at the lowest level of the United Nations system in the Working Group on Indigenous Population (WGIP) which has been discussing indigenous rights questions since 1982. In spite of the Working Group's considerable achievements, indigenous peoples gain little attention and receive few resources in the UN system compared to other disadvantaged sectors. In recognition of this problem government representatives and concerned persons have listened with interest to the proposals of indigenous peoples for a more permanent institutional position in the United Nations.

A few months after the inauguration of the International Year of the World's Indigenous People, at the World Conference on Human Rights held in Vienna, June 1993, Ms. Henriette Rasmussen, Minister for Social Affairs and Employment of the Greenland Home Rule Government, emphasised the importance of a permanent body on indigenous peoples within the United Nations and advocated much greater access for them within its system. Her proposals were divided into two priorities:

"First of all, we ask the World Conference to support the notion of a Permanent Advisory Body on indigenous peoples, as well as the notion of a permanent office. In my view, such a permanent body may be a committee under the auspices of ECOSOC, and indigenous peoples, and furthermore carry out functions relating to the implementation of the emerging Universal Declaration on the Rights of Indigenous Peoples. Such a Committee shall have adequate resources and funding."

“As the second priority, the issue of access to the United Nations machinery in general, and to proper agencies, monitoring bodies, conferences and ad hoc meetings in particular, is an ardent wish by indigenous peoples. To give you an example, I can tell that, at the moment, a mere twelve indigenous peoples’ NGOs have obtained a consultative status with ECOSOC. The ongoing human rights violations against indigenous peoples around the world show the urgent need for concerted action, and one of the best ways to do so is to provide more access, participation and representation to the United Nations by indigenous peoples’ NGOs.”

This statement provides the inspiration for the present paper which reviews a number of questions relating to the establishment of a permanent forum.

2. Basic Considerations

The notion of partnership for indigenous peoples is complicated. In all areas of the world indigenous peoples are heavily disadvantaged and suffer violations of their human rights and fundamental freedoms. Indigenous peoples have expressed their desire for a permanent forum and if this is to succeed it must ensure protection and guarantees not only for their human rights, but in all matters essential for their survival. The forum must therefore be pro-indigenous and should in no way serve to weaken the recognition of their rights and freedoms. To achieve this it will be important that indigenous peoples have the opportunity to take part in all negotiations leading to the establishment of a permanent forum on equitable terms with other parties.

The purpose of a permanent forum for indigenous peoples should not be to undermine existing procedures and institutional structures of the United Nations system, including the Working Group on Indigenous Populations. The permanent forum for indigenous peoples could contain aspects which have precedents in other areas of the United Nations system, but these similarities will be based on partial analogies. The concept which is under discussion is something unique in the history of the UN and through the process of clarification currently under way will emerge *sui generis*. However the new permanent forum should be neither seen nor treated as a threat or alternative to any other of the bodies and fora within the UN system, particularly those dealing with the rights of indigenous peoples.

A forum whose recommendations are ignored and whose decisions are impossible to implement because of a lack of consensus among the different parties is in no one’s interest. Establishing a permanent forum for indigenous peoples is a gradual process which must be embarked

upon with care so that the different parties – indigenous peoples, the United Nations bodies and the member governments – all recognise that the initiative will produce fruitful and positive results, providing practical improvements to the well-being of indigenous peoples.

3. Overall Mandate of a Permanent Forum

The permanent forum should be open to address all matters which concern indigenous peoples and could undertake a multitude of different activities. Examples of the areas which could come under scrutiny have been included in discussions of the Decade of Indigenous People, including human rights, the environment, development, health and education as well as cultural integrity and conflict prevention. Indigenous peoples embrace a comprehensive and holistic view of the world which does not easily divide into mutually exclusive categories. In community life all of the areas mentioned above inter-relates in intricate and complicated patterns. A forum which genuinely reflects indigenous peoples’ understanding should try and incorporate as many factors within its mandate in as flexible a manner as possible.

However, to provide a forum with what could amount to an unstructured mandate could be impractical. The consequences of including everything within a permanent forum, at least in its early years, would lead to an enormous remit which for practical reasons would probably have to be drawn into a manageable framework. The result would need to tread a careful balance between reflecting indigenous holistic perspectives of the world and establishing a division of labour which would make effective indigenous participation and influence in the United Nations system possible.

4. Division of Labour with the Working Group on Indigenous Populations.

In order to approach this problem, it will be necessary to look closely at other bodies and fora within the United Nations which deal with indigenous affairs and in particular the Working Group on Indigenous Populations (WGIP). As the main forum within the United Nations system for reviewing and monitoring indigenous rights, it has accomplished important achievements throughout its years of activity not the least of which has been the drafting of a substantial Declaration on the Rights of Indigenous Peoples. Any discussion on the proposed permanent forum for indigenous peoples therefore has to raise the question whether its activities will have a deleterious effect on the Working Group on Indigenous Populations.

An initial question is whether the Working Group could be combined with the idea of a permanent forum. The advantage of such a combination might be tempting from the perspective of cost-cutting but it would not necessarily lead to a more efficient or even economical solution.

In the first place, the mandate of the Working Group operates from within the framework of the Commission on Human Rights whereas the idea of a permanent forum, if it is to reflect the goals of the Decade, will embrace broader concerns such as the environment, development, education, health and culture. To combine its own mandate as well as that of the permanent forum would considerably over-stretch the Working Group. Maybe in the distant future after a permanent forum is well-established it might be possible to review the relationship between the two bodies, but until then, any option to combine the idea of a permanent forum with the Working Group should be viewed with caution.

Another option, more logical than the first, is to look at the work which is not done by the WGIP and strive to ensure that the permanent forum and the Working Group co-exist within the United Nations system carrying out complementary and collaborative activities in different areas of indigenous affairs. The question then becomes not whether the Working Group should be affected by the permanent forum, but how both bodies can contribute complementarily to the well-being of indigenous peoples.

Rather than change the mandate of the Working Group, it should be perfectly possible to support and strengthen its continuing contribution to the recognition of indigenous rights while letting the permanent forum bring human rights questions from a legal into a practical framework based on constructive recognition and implementation, drawing together the social, economic and cultural implications of indigenous rights and their ramifications in development and environmental issues. The problems facing indigenous refugees and the particular perspectives of indigenous youth and indigenous women are all areas which would be appropriate topics of focus for the indigenous forum. There are many questions however, which would remain as to the details of the mandate of a permanent forum and broad consultation is necessary to draw them together into one framework.

5. Coordination within the United Nations System

Another aspect of the mandate of a permanent forum could be to provide co-ordination between indigenous peoples and other UN organs and specialised agencies which are connected with indigenous questions. Among these, within the UN are the Commission of Sustainable Development, the United Nations Environment Programme,

the United Nations Development Programme and the UNHCR, to name a few, WHO, UNESCO, the ILO and the World Bank are clearly important in this respect too.

All of these institutions carry out activities which affect indigenous peoples but provide limited means for indigenous voices to be heard. A permanent forum could develop channels of communication with and between these bodies and could play an important role in the coordination and evaluation of United Nations operational activities affecting indigenous peoples.

6. Methods of Work

The permanent forum should determine its own methods of work. The most important aspect of its function should be its capacity to welcome all indigenous representatives to its meetings. Its functions could range from seeking ways to promote conflict resolution, particularly regarding the difficult and practical problems facing indigenous peoples, to making decisions, recommendations, comments or proposals to appropriate bodies and agencies within the UN system. If the necessary funding was made available a permanent forum could also provide indigenous peoples with technical services to aid the solution of their problems by helping them use those bodies of the UN which are relatively neglected by indigenous peoples.

The extent of a forum's activities could cover areas as diverse as: its agenda, dissemination of information, establishing thematic or regional working groups, evaluation activities, urgent action procedures, country visits, the appointment of special rapporteurs, holding expert meetings, the elaboration of studies, small-scale projects and technical and expert important activity of consciousness-raising about the problem facing indigenous peoples, concentrating on the practical implications of human rights violations arising from the implementation of the Declaration on the Rights of Indigenous Peoples in order to reduce conflict in the world.

The procedures for decision-making in the permanent forum can be either through a system of voting or agreement by consensus which is usually the method favoured by indigenous peoples. Fairness in the proceedings and equity between the members will be important principles for the success of the forum.

7. Structure of the Permanent Forum

A forum can be considered as an open meeting where all participants can gather together to discuss matters of mutual concern. However, it is

important to clarify what is meant by a forum in the context of the United Nations in order to avoid proposing an ill-defined body which ignores the existing structural possibilities within the system. A permanent forum could theoretically be a loosely organised "meeting place", but without some direction or focus it could easily become a cumbersome body incapable of coming to any agreement.

One possibility would be to treat the forum as an assembly where different members such as indigenous people or NGOs and governments can meet, discuss and take decisions. However this might have the effect of curbing participation in the forum as there would have to be a large fixed membership while others in attendance could be relegated to observer status. This would prevent the forum being truly open. One way to avoid this would be to create a focal point in the forum who would direct the proceedings and receive representations from all the participants who wish to speak or present documentation.

There are several possible foci for directing the forum such as a council, commission, sub-commission, a committee or a working group on indigenous affairs. Within the United Nations system councils and commissions are substantial bodies consisting of a sizeable number of government representatives. An advantage of a council or commission is that as government members dominate the proceedings, decisions can take effect throughout the UN system. A possible direction for thought could be to widen the concept of council or commission so that indigenous representatives are members of the body.

A committee would also be an appropriate body to which the forum could coalesce. Of the terms discussed here, "*committee*" seems to be the most useful concept because it can take many forms within the United Nations, ranging from expert committees monitoring international treaties, to advisory bodies consisting of government representatives and/or independent experts. The flexibility of the term is definitely an attribute which makes it attractive when the discussion of a permanent forum is at such a preliminary stage.

The question which arises from here is how to combine the notion of a forum and a committee in a manner which will bring together in harmony indigenous peoples, the United Nations system and its member governments.

8. Participation in a Permanent Forum

A permanent forum consisting exclusively of indigenous peoples' organisations is unlikely to be acceptable to governments and, furthermore government presence in the forum is important to ensure that any

decisions or recommendations carry weight within the UN system. In the same way, a permanent forum on indigenous peoples consisting exclusively of government representatives is likely to be unacceptable to indigenous peoples whose active presence in a permanent forum clearly is a pre-requisite to its success.

The Working Group on Indigenous Populations is an already existing forum which contains governments, indigenous representatives, UN representatives, representatives of the specialized agencies of the UN, non-governmental organisations - both indigenous and non-indigenous - and people who attend in their capacity as experts on the subject of indigenous peoples. The experience of the Working Group is particularly pertinent in demonstrating the advantages of a forum which offers broad access to participants where the wide range of material has been presented and disseminated over the years. For this reason, it is important that a permanent forum should be as open as possible to enable the maximum opportunity for indigenous peoples to provide their input into its work.

9. Membership of the Focal Committee

There are several different possibilities for membership of the focal committee which will listen to the presentations of the participants of the permanent forum. As in the case of those with access to the forum, the exclusive presence of either governments or indigenous peoples on the committee is unlikely to be accepted by the other party. Furthermore, indigenous representatives picked by governments are an unsatisfactory solution because they may encounter conflicts of interest. The candidates should under all circumstances comprise people with extensive knowledge on indigenous affairs, and persons of high moral character with an understanding of indigenous rights.

There are existing mechanisms within the UN system that allow indigenous representatives to be nominated through the Secretariat to the Secretary General who would appoint them to a UN body. This is the procedure which takes place for appointing indigenous members to the Board of Trustees of the Voluntary Fund for Indigenous Populations according to General Assembly resolution 40/131 of 13 December 1985. This procedure indicates the possibility of a broad range of options for establishing indigenous members of a committee using precedents from the multifarious examples of committees throughout the United Nations system. The various options should be considered in light of the possibility of combining them with an indigenous-run procedure for nominating candidates to the Secretary-General.

The exclusive use of indigenous NGOs with Consultative Status with ECOSOC on the committee could be difficult for the problem of ensuring a broad regional spread, because of the twelve organisations in case, only one comes from the South. This complicates the question of finding a procedure for indigenous peoples and their organisations to choose candidates for the committee. It would be necessary to bring indigenous peoples together at regional and international conferences in order to discuss the possibilities for establishing a proper procedure.

Members of the committee representing governments could be appointed by the Secretary General basically in the same way as indigenous representatives. For these members governments could then be responsible for selecting candidates for nomination in parallel with the indigenous procedure. There would, however, also be other - and more direct - ways of electing government representatives according to well established procedures in the UN system.

The size of the committee should be neither too large nor too small. Twenty or more persons may create the false impression that this is a representative body and lead to cumbersome methods of reaching a consensus decision. On the other hand, too small a number would not reflect the range of expertise or the balance between government and indigenous nominated members of the same committee. An average of five government and five indigenous experts could provide a suitable solution. They could possibly be appointed for periods of three or four years.

The committee members should reflect a geographical spread throughout the world. This is already organised for member governments of the United Nations which constitute the five regions: Western European and Other States, Eastern European States, African States, Asian States and Latin American and Caribbean States. However for indigenous peoples, some discussion could be necessary before a regional structure is adopted which reflects an authentic indigenous voice particularly taking into account the indigenous peoples of the Arctic and Pacific.

10. The Institutional Status of the Permanent Forum

An important question concerns the body to which a permanent forum should report and where within the United Nations system it should be placed. There exist several options:

1. A permanent forum could be placed as *an advisory to the Secretary-General*. The advantage of this would be that the findings and recommendations of the forum could be spread widely throughout the United

Nations system and would find their way directly to the appropriate organ. On the other hand, a difficulty with this arrangement is that the forum would not be placed at a fixed point in the system and might find that its influence is spread too widely to be useful.

2. A permanent forum could be placed as *an advisory body to the General Assembly*. Not all committees under the General Assembly are treaty bodies dealing with specific conventions and even though there are currently no specific indigenous binding legal instruments, this need not necessarily preclude some direct relationship between indigenous people and the General Assembly. It might, however, be particularly difficult to secure a sufficiently broad participation in the forum at this level of the UN system. Nevertheless this option is not impossible and warrants further discussion. One aspect of the possible mandate of the forum that would benefit from a placement at this level would be that of conflict prevention.

3. The Economic and Social Council could provide a focus for a permanent forum. There are many subsidiary bodies of ECOSOC including committees and functional commissions such as the Commission on Human Rights and the Commission on Sustainable Development. There are expert advisory committees to ECOSOC such as the Committee on Economic, Social and Cultural Rights which monitors the Convention on Economic and Social rights but not as a treaty body. ECOSOC is the principal organ for supervising the economic and social activities of the UN system concerning human rights, the environment, development, health, education, cultural issues and other areas. Among its many activities is the task of overseeing and co-ordinating between different members of the UN family.

If placed at this level, a permanent forum would be in an appropriate position for carrying out the principle orientations of its work which were identified earlier as broadly connecting human rights questions to the environment, development, health, education and cultural matters while co-ordinating indigenous questions between the different UN organs and specialised agencies. Although its activities are much broader and not necessarily connected to any particular UN legislative instrument, a permanent forum would be in roughly the same possession as the Economic, Social and Cultural Rights Committee. If placed under ECOSOC it would be important to ensure that a permanent forum has as broad a mandate as possible and that the full gamut of activities of the forum are not limited to social and economic questions in the narrow sense, but to the full range of activities present within the ECOSOC.

4. Another possible place for a permanent forum would be *under one of the functional commissions, either the Commission on Human Rights or the Commission on Sustainable Development*. The Working Group on the Right to Development under the Commission on Human Rights is looking at ways of implementing the Declaration on the subject and a permanent forum might be a similar body. However the problem with the Commission on Human Rights is that it already has an indigenous forum in the Working Group on Indigenous Populations, and as was noted above, to expand the mandate of the Working Group into all of the other concerns facing ECOSOC and beyond could overload its work and affect its efficiency.

The Commission on Sustainable Development would be another possible position for a permanent forum. It would symmetrically balance the Working Group and could provide useful information to the Commission's deliberations. However, sustainable development is only one of the many important areas of concern to indigenous peoples, such as health, education, cultural matters and human rights. The difficulty of making the forum exclusively accountable to the Commission on Sustainable Development is that the comprehensive and holistic character of indigenous life will yet again be split into artificial categories.

The question which arises from this discussion is whether a permanent forum could not be accountable both to the Commission on Human Rights and the Commission on Sustainable Development. This reinforces the advantage of an advisory body under ECOSOC because as part of its co-ordinating activities a permanent forum would have to be in close contact with both functional commissions as well as the other UN bodies and specialised agencies. Furthermore, this position would enable a permanent forum, either through ECOSOC or directly to communicate aspects of its work to the Secretary-General and co-ordinate with the High Commissioner for Human Rights.

All of these options have advantages and disadvantages. The higher the permanent forum is placed within the United Nations system the higher would be the potential for influence. For this reason, the option of a position under ECOSOC, or possibly even a higher body of the UN, seems to provide the most reasonable solution. Anything lower will not provide the forum with the status to make it effective and would also overload the functional commissions with work outside of their usual remit.

A clear division of labour with the Working Group on Indigenous Populations would enable the monitoring and evaluation of the Decla-

ration on the Rights of Indigenous Peoples to continue within the framework of the Commission on Human rights. In the forum, more emphasis could be made on bringing indigenous rights policy into social and economic spheres and other areas of concern for the United Nations with an emphasis on promoting dialogue, constructive agreements and solving the practical problems facing indigenous peoples.

11. Location of the Permanent Forum and its Secretariat

In many ways a solution as to the location of the permanent forum and the organisation of the Secretariat will emerge as the other questions raised in this paper appear clearer. However, whatever is decided, the Secretariat of a permanent forum will probably need several people to deal with the office and possibly also some in different parts of the United Nations system to manage the co-ordination functions of the body. The additional presence of interns to carry out specific tasks will also be required. It should be considered how best to employ qualified indigenous persons for these functions.

Depending on the nature of the permanent forum, the Secretariat and location will vary. If it is placed under the Commission on Human Rights, the appropriate place would be the Human Rights Center in Geneva whereas if it comes directly under ECOSOC or a higher body of the UN, it might also be based in New York. However, the forum could gather either in Geneva or New York or both as does ECOSOC which has annual meetings in the two centres. In this way the forum would be placed within the physical presence of the United Nations system.

However, if the funding were available, there would be no reason why the Secretariat could not be placed elsewhere in the world and the permanent forum meet outside of the main UN centres of Geneva or New York. However it would be important to ensure that the forum does not become marginalised by being too far to the periphery of the other bodies and specialised agencies of the United Nations family with which it will co-ordinate. Another option to be considered is that the forum could be moveable and meet in parts of the world where indigenous representatives would be more numerous and enable the forum to gain access to a broader spectrum of indigenous options than in the cities of Europe or North America.

12. Financing of the Permanent Forum

Funding for the forum could come from three sources and probably a combination of each. The UN itself could pay for some of the activities

surrounding the meeting while voluntary contributions from governments will be necessary to ensure that the secretariat and servicing are well prepared. All of the conferences, translating, printing and interpretation will give rise to costs which should be identified and guaranteed at an early stage to ensure that the permanent forum functions efficiently. A further necessity will be a Voluntary Fund to contribute to the expenses of indigenous peoples coming to the forum and maybe also support small scale activities promoting indigenous peoples such as educational grants, self development projects and conflict resolution initiatives.

13. Decision on the Establishment of a Permanent Forum

This paper has not answered the many questions about the permanent forum, and has possibly raised even more. However, by evaluating the limitless number of questions which are available on the subject, it has been possible to build up a general idea of the features which a permanent form could adopt. Starting from the initial inspiration of Ms. Henriette Rasmussen and her idea of an advisory committee under ECOSOC in conjunction with greater presence of indigenous people within the UN system, it has been possible to suggest that of all the options, this provides a useful starting point to the discussion.

The importance of flexibility and patience in the formation of a permanent forum has been emphasised as has the concern that the initiative should not weaken or detract from the important activities of the Working Group on Indigenous Populations. On the basis of these comments, it should be possible to see a more detailed plan of a permanent form gradually emerge over the next few years.

A process of consultation could be organised by the Secretariat of the Decade of Indigenous People to discuss the forum and how indigenous candidates could be nominated for membership of the committee. A World Summit organised by indigenous peoples at some point in the next few years would provide the space for indigenous peoples to discuss a permanent forum and procedures for selection of candidates. A system of questionnaires could be sent to indigenous organisations asking their opinions on a permanent forum. Indigenous researchers in different parts of the world could be asked to submit orientation papers as how a permanent forum could best suit the needs of their region.

These are only a few suggestions for the consultation activities which could be carried out.

A brief look at the activities which will be necessary shows that the process will have to take some time. For example 1993-4 has seen the

first discussions of a permanent forum, primarily in the form of a series of questions and possibilities. 1995 will be taken up by consultation with indigenous peoples and governments as to the best models for a form and a discussion of the process of choosing members of the committee. 1996 will be the first opportunity for indigenous peoples themselves to respond to the consultation process. It will possibly not be until 1997 before the questions which are discussed here are anywhere near a definitive answer. Then the process of reaching the desired plan for the forum approved by the United Nations will take place, maybe not until 1998 or even later.

The debate on a permanent forum should be allowed to take as long as is necessary in order to provide indigenous peoples with a meaningful place within the UN system. A permanent forum must contribute constructively to the protection of their well-being and provide genuine solutions to the multitude of problems which they face.

INDIGENOUS PEOPLES AND THE WORLD SUMMIT FOR SOCIAL DEVELOPMENT

The World Summit for Social Development was held in Copenhagen from March 6 to 12, 1995. World state leaders came together to talk about global responsibilities for the eradication of poverty and unemployment and the fostering of social integration. The meeting resulted in a declaration of 10 commitments and a programme of action.

In the final declaration (Advance unedited text, 20 March 1995) direct reference to indigenous peoples is found under Principles and goals, 26(m):

“Recognize and support indigenous people in their pursuit of economic and social development with full respect for their identity, traditions, forms of social organization and cultural values.”

In the commitments, the indigenous issue is included under commitment 4, which deals with the promotion of social integration. Point (f) says

“Recognize and respect the right of indigenous people to maintain and develop their identity, culture and interests, support their aspirations for social justice and provide an environment that enables them to participate in the social, economic and political life of their country.”

Finally commitment 6 (g) deals with education and health care:

“Recognize and support the right of indigenous people to education in a manner that is responsive to their specific needs, aspirations and cultures, and ensure their full access to health care.”

As will be noticed, all references are to indigenous *people*, not peoples.

The programme of action again refers to people and not peoples in the following paragraphs:

12(i) “Supporting the economic activities of indigenous people, improving their conditions and development and securing their safe interaction with larger economies.”

32(f) “Protecting, within the national context, the traditional rights to land and other resources of pastoralists, fishery workers and nomadic and indigenous people, and strengthening land manage-

ment in the areas of pastoral or nomadic activity, building on traditional communal practices, controlling encroachment by others, and developing improved systems of range management and access to water, markets, credit, animal production, veterinary services, health including health services, education and information."

54(c) "Strongly considering ratification and full implementation of ILO conventions in these areas, as well as those relating to the employment rights of minors, women, youth, persons with disabilities and indigenous people;"

Finally in chapter IV "Social integration" indigenous people are referred to in 74(h)

"Expanding basic education by developing special measures to provide schooling the children and youth living in sparsely populated and remote areas, for children and youth of nomadic, pastoral, migrant or indigenous parents, and for street children, children and youth working or looking after younger siblings and disabled or aged parents, and disabled children and youth; establishing, in partnership with indigenous people, educational systems that will meet the unique needs of their cultures."

and

75(g) "Promoting and protecting the rights of indigenous people, and empowering them to make choices that enable them to retain their cultural identity while participating in national, economic and social life, with full respect for their cultural values, languages, traditions and forms of social organization;"

Criticisms

Much criticism was directed towards the summit, both before the meeting and after the completion of the declaration and programme of action. The whole framework of the summit received hard criticisms from among others a group of Indian social activists, who decided to boycott the conference, on the basis of a strong dissociation from the government of India's National Report, and with the arguments that the Draft Declaration intended all member states, and the developing countries in particular, to be committed to complete transformation into market economies through the Structural Adjustment Programmes (SAP). As it said in the press note, the whole Draft Declaration took as its basis the uncritical acceptance of the values of the free market, and sought to promote a new world order through the agency of the World Bank and the International Monetary Fund, carrying this out in the name of poverty alleviation and employment expansion in the developing nations,

Other criticisms came from human rights organisations, who argued that the Copenhagen Declaration was a step backward in relation to the Vienna Declaration. Also the member of the Greenland Home Rule Parliament, Henriette Rasmussen, expressed concerns about the summit's ability to transform the obligations in the human rights field into a programme of action. In some important aspects, the summit's declarations concerning indigenous peoples' rights were weaker than the Draft Declaration of the UN Working Group on Indigenous Populations, she said at the IWGIA conference.

The IWGIA Conference

During the summit, an IWGIA conference with the title *Indigenous peoples and self-determination as a means for combating social injustice* was held at the NGO-Forum. About twenty invited indigenous representatives and researchers gave speeches covering a wide range of subjects, from social injustice to land rights and the discussion of different models of self-government. The two-day conference was very well attended, and many important questions were brought up by the speakers as well as from the attentive audience. The proceedings of the whole conference will be published by IWGIA within the next year.

As a thorough introduction to the wide-ranging aspects of indigenous rights and the combating of social injustice within the global economic and political scheme, which were dealt with in the conference, *The Indigenous World* presents the conference paper given by Andrew Gray. This paper, which will appear in a more comprehensive version in the proceedings publication, deals with the central problems faced by indigenous peoples: social injustice, the fight for territorial rights, relations to state governments, and the impact of North-South relations, world economy and structural adjustment programs.

THE FIGHT FOR INDIGENOUS RIGHTS AND THE COMBATTING OF SOCIAL INJUSTICE IN THE LIGHT OF THE WORLD SUMMIT FOR SOCIAL DEVELOPMENT

by Andrew Gray

World state leaders arrived at the Copenhagen summit in March to ratify resolutions proclaiming a common intention to combat social injustice. These resolutions reflect the concerns of states and consist mainly of a bartering between countries of the North and South to which followers of international meetings have become accustomed. The countries of the South want alleviation of debt through the provision of development support from the North, while countries of the North want free trade and open access to resources of the South.

Whereas the main emphasis of the Summit concerns the needs and desires of states, scattered through the resolutions are several references to the rights of 'indigenous people'. The provisions are couched in terms of recognition and respect for their 'identity, culture and interests' (Commitment 4(f)), advocacy of 'cultural diversity' and the 'protection of traditional rights to land and other resources' 32(f). However these rights are expressed in terms which reflect state-oriented priorities rather than those of indigenous peoples themselves. In the resolution, the states support indigenous peoples' 'aspirations for social justice' (Commitment 4 (f)), but do not commit themselves to helping them bring these desires into fruition.

The injustice facing indigenous peoples which should have been addressed at the social summit takes many forms. Throughout the world, indigenous territories are plundered and laid waste by a process of colonisation ranging from land invasions to imposed programmes of development extracting resources under state sponsorship, frequently with financial backing from multi-national development banks. Mass killings, torture, rape and military occupation are a threat to indigenous peoples in countries as far apart as the Chittagong Hill Tracts of Bangladesh and Guatemala.

Many indigenous peoples are forcibly relocated to make way for large scale projects and have been expelled from their territories for the creation of protected conservation areas. All of this takes place in a context of cultural and racial discrimination, a lack of appropriately

organised public services such as health and education facilities and a lack of recognition of indigenous peoples' own institutions.

Social Injustice: Indigenous Peoples and the State

Since 1982, indigenous representatives have been attending the UN Working group on Indigenous Populations where consistently and patiently they have denounced violations of their rights and explained their desires for the future. As a result of this process, a Draft Declaration of the Rights of Indigenous Peoples has been drawn up and is currently under scrutiny by the Commission on Human Rights. The expert bodies of the UN recognise the importance of a strong unequivocal assertion of indigenous rights and the Declaration is currently in the hands of the governments on the Commission on Human Rights. Whereas some governments oppose the recognition of indigenous rights (preferring the Declaration to be an expression of rights of states) there are several governments from both North and South which are taking a principled position in support of indigenous peoples.

It would have been hoped that in a summit which was dedicated to social injustice, state governments would have supported the Draft Declaration with similar wording. Unfortunately the resolution of the social summit is substantially weaker than the UN Draft Declaration. The weakness in the references to indigenous peoples in the World Summit's documentation reflects the lack of indigenous participation in the process and a cavalier attitude by many of the governments who support the Draft text to the needs and desires of over 300 million indigenous people throughout the world.

The resolutions refer to 'indigenous people' whereas consistently the indigenous approach is to refer to 'peoples'. This has become a strange semantic clash of perspectives where an 's' distinguishes indigenous people (a collection of individuals) from indigenous peoples (a series of social collectivities).

The summit resolution, as with many other recent international statements such as Agenda 21 and the Convention on Biodiversity, insists on using the term 'indigenous people' where society is defined by states as consisting of individuals. In the context of the summit, social justice is ultimately justice for individuals, not for social collectivities. In this way, justice, as defined by the state is projected ethnocentrically on indigenous peoples in order to see them as collections of individuals not collectivities in their own right.

A political reason for refusing to accept an 's' for indigenous peoples is that according to the human rights conventions, all peoples

have the right to self-determination. This word encapsulates the connection between the self-identification of indigenous peoples as a people, control over their territory, recognition of their institutions, respect for their culture and means, in general terms, the right of an indigenous people to decide for itself its own destiny without interference. This is bound up with the indigenous concept of 'self-development' which is seen as self-determination practised over time.

The lack of recognition of an 's' on peoples seems particularly ironic in the context of a summit which is looking at social injustice. Indeed because of this lacuna in the World Summit, IWGIA organised a conference to explore how the concept of self-determination is the prime means of combatting the social injustice which faces indigenous peoples. These injustices arise from a process of colonisation consisting of the invasion and occupation of their territories and the exploitation of their material and cultural resources. Self-determination is a concept which, throughout this century, has provided a challenge to colonisation. Whereas in the years 1940 to 1960, most decolonisation resulted in the formation of independent nation states, since then, the concept has broadened to include not only independence but also those indigenous peoples who want control over their own lives within states.

The denial of the 's' on peoples is a statist perception of social injustice as something which can be solved through economic and cultural development benefiting exclusively individuals. This avoids analyzing the problems facing indigenous peoples as colonial problems and consequently avoids the main issue which faces them, namely, how to re-establish constructive agreements between states and indigenous peoples which stop discrimination and oppression.

Of particular relevance here is the notion of territorial rights to resources. The strongest provision in the summit resolutions refers to the protection of indigenous lands. This is sufficient in terms of access to resources, but, the reference is limited because it does not distinguish an individual land owner from a people with ancestral ties to an area. The difference is that indigenous peoples have a multi-dimensional view of their environment which encompasses several aspects of their lives. This is collective and whatever individual rights exist within the community are embedded in social acceptance. The indigenous approach differs from state perspectives which see collective rights as arising from the individual.

Indigenous peoples challenge the exclusive right of the state to eminent domain and propose their perspectives of concepts such as

sovereignty. Indigenous peoples use the term 'territory' which, as with the term 'peoples', refers to the redressing of the social injustices which stem from invasion and colonisation. Social justice for indigenous peoples means controlling what takes place on their territories and thus exercising their right to self-determination.

For too many states, indigenous identity and culture is frequently a folkloric window dressing designed to enrich and exoticise synthetic national culture. A state separates different features of existence into specific institutions such as economy, politics, history and religion. For indigenous peoples, however, cultural identity permeates all aspects of social life, inter-connecting features which are separated by state centred ideology. For example, the spiritual aspects of territory, the historical reverberations which sound through landscape, the access of resources of the land as well as the political control of territory are all bound together to varying degrees according to the cultural perspective of each indigenous people.

Social Injustice: Peoples Face the Debt Fall-Out

Indigenous peoples suffer in countries from both the North and the South, but the divisions which take place between these blocks frequently have severe consequences for their survival.

The distinction between the North and the South is clearly expressed through debt. The countries of the developing world suffer from enormous debt problems. The debt crisis which has arisen over the last 15 years consists of a cycle where developing countries have borrowed too much from the richer northern creditors. With sudden rises in interest rates they are unable to pay and their countries run enormous deficits.

The only way in which they can approach the problem is when northern institutions such as the World Bank and the International Monetary Fund allow them to redress the imbalance through rigorous and stringent programmes of structural adjustment (George and Sabelli, 1994: 80). Structural adjustment involves reliance on market forces, promotion of the private sector, principles of free trade, avoidance of price controls and subsidies, concentration on production for export and a stringent austerity programme affecting social services (Hayter and Watson, 1985).

The social effects of structural adjustment on all sectors in developing countries have been enormous and the policies on which it is based have increased impoverishment in both the North and South. In the South, the sharp rise in unemployment and lack of social services has increased

poverty and a desperate scramble for resources to sell to the North. This has put even more pressure on indigenous peoples' territories which are, for many indebted countries, the last resort for the extraction of resources. In this way the social injustice between North and South creates injustices within countries of increasing poverty and this puts pressure on the territories and resources of indigenous peoples. Examples from South America alone range from oil exploration throughout Ecuador and Peru to massive logging concessions in Guyana and Surinam.

The beneficiaries of structural adjustment campaigns are usually the wealthy elites in the South and those in the countries of the North. Many governments of northern industrialised countries are eager to gain access to the resources of the South and to take advantage of low prices by advocating free trade principles. Connected to this is the fact that northern countries have the capacity to convert raw materials and knowledge from the South into commodities which can be sold at great profit. For this reason the promotion of increased access to the South's resources is combined with a tightening of the patenting law and the strengthening of rights to intellectual property. However, these rights pertain to large companies and industrial developers, not to the poor of the North or South and particularly not to indigenous peoples, where much of the knowledge and material originated.

Many governments would never dream to contemplate equal distribution within their own territories. The injustice which takes place internationally is usually mirrored in the internal relations within countries. In both cases indigenous peoples are left deprived, both nationally and internationally.

Indigenous peoples suffer from this in a two-fold manner. Not only do they suffer the effects of structural adjustment along with the other members of the country, but they are also targeted for gathering resources to pay off the debt or satisfy the industrial greed of the North.

Social Injustice: Indigenous Peoples and Other Deprived People

This article has looked at injustice between indigenous peoples and the state, and between states in the North and South. In both cases territorial rights of indigenous peoples are affected either through lack of state recognition or through the despoliation of their resources by invasion. The other area where social injustice affects indigenous peoples takes place within a country. Whereas one might imagine that the greatest deprivation takes place in developing countries, the indigenous peoples of the North also encounter similar predicaments.

Debt is only one aspect of the injustice which can be found in the

deprived areas of a country. Areas of both North and South suffer from unemployment and destitution of thousands of rural peasants and urban workers. With no other option, the poor set out to improve their lot on indigenous territories. Sometimes these are encouraged through transmigration schemes such as in Indonesia or Bangladesh, and sometimes, as in the Amazon, where waves of desperate people seek an unattainable fortune in the rivers mining gold, working as loggers or as agricultural labourers. The result is a conflict between the poor who are struggling against all odds to alleviate their suffering by moving onto indigenous lands and the indigenous peoples whose vulnerable territories and livelihoods risk devastation.

The causes of these problems are usually assumed to be internal matters for national states where the most common explanations are under-development and over-population. In fact it is both wealth and poverty which underlie the unequal access to resources. Deforestation and environmental degradation, along with the plundering of indigenous resources by poor colonists, are expressions of social injustice (Colchester and Lohmann, 1993). Indeed the long term security of indigenous peoples and their environments cannot be guaranteed unless the quality of life of all poor people can be secured.

This means not only guaranteeing the rights of indigenous peoples to free their territories from invasion but also doing something to improve the dreadful conditions from which so many people of the world suffer. In 1979 the Food and Agriculture Organization (FAO) produced a 'Peasants' Charter' at the World Conference on Agrarian Reform and Rural Development (WCARRD). According to this document, agrarian reform is an essential component of development for many countries. It advocates an increase in the access of rural poor to productive assets and taking part in decision-making through their own organizations. This should include a '*substantial reorganization of land tenure and land redistribution to landless peasants and small holders*'. It calls for an increased security of tenancy for rural poor and '*broad-based community control and management of land and water rights*'.

The Charter argues that frontier settlement should not be undertaken if it is environmentally inappropriate and should not take place as a substitute for agrarian reform. Agrarian reform should be undertaken by setting ceilings for landholding to ensure an '*equitable distribution and efficient use of land, water and other productive assets, with due regard for ecological balance and environmental protection*', while measures should be set in place to prevent the reconcentration of land and the evasions of ceilings through land transfer.

Clearly agrarian reform should not be seen as an alternative to indigenous rights but as a parallel process to ensure that the conflicts between indigenous peoples and poor peasant farmers over resources can be alleviated and that both sets of people can have justice. In this way the Peasant's Charter, which has its weaknesses, should be seen as a complementary document to the Draft Declaration on the Rights of Indigenous Peoples. Unfortunately the FAO never refers to the Charter which until now has remained a dead letter.

Justice and Rights

This paper has tried to show that the problems facing indigenous peoples cannot be seen in isolation. Injustices of the international system and within the nation state affect indigenous peoples and to some extent all these elements have to be taken into account when combatting social injustice. However, to conclude, it is necessary to tie these threads together by looking at the relationship between justice and rights. The way of redressing social injustice consists of recognising indigenous rights, but this recognition is not simply something written and drafted, but something which is carried out in practice.

Not all state governments are opposed to indigenous rights and, through constant lobbying, countries from both North and South should begin to recognise that it suits their own interests to have the rights of indigenous peoples respected. The reason for this is that, as with the process of decolonisation, a peaceful and just state is more stable and healthy than one full of conflict and injustice. By utilising these opportunities, a strong and viable declaration of indigenous rights will be the greatest way to establish principles for combatting social injustice.

Unfortunately, the Social Summit's declarations are a disappointment and the question arises as to whether governments will ever be able to deliver a consistent and progressive recognition of indigenous rights. If the work of the United Nations moves in this negative direction, the rights of indigenous peoples will not reflect their actual needs. However, even if international institutions provide no real solution, there are other ways of combatting social injustice – through direct action. Practical experience gives rise to rights, and practical experience is the way of using rights to combat injustice. This involves putting the concept of self-determination into practice through indigenous peoples' action. Positive examples range from Greenland's Home Rule and the Kuna's Comarca to land-titling in the Amazon and indigenous controlled community development in Australia.

IWGIA's work over the last twenty five-years has demonstrated that the first stage in any practical recognition of self-determination lies in the mutual acknowledgement of indigenous territorial rights. Only when indigenous peoples' territorial rights are secure can they take part and control their own development. This means not only that they should be able to give their consent before allowing outsiders access to their resources, but that through constructive agreements they can build up a solid basis for their economy. Indigenous development is based on securing their means of subsistence so that a community is self-sustaining; but this cannot take place without the full control of their territories. For this reason, when we look at the notion of self-determination as the means of combatting injustice, the first step which it is necessary to achieve is to secure indigenous territorial control.

This paper has shown that the social injustice threatening indigenous peoples is not only something which affects them from within the state but is bound up with social injustice on a broader level. Both the exploitation of the South by the North and the exploitation of the poor by the rich have dire consequences for bringing to fruition the rights of indigenous peoples in practice. In the future, it is likely that, to overcome social injustice, indigenous peoples will need not only their own strength but strong alliances with solidarity organisations and with oppressed peoples from all over the world.

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ADDRESS TO THE WORLD SUMMIT FOR SOCIAL DEVELOPMENT, COPENHAGEN MARCH 1995

From the indigenous point of view, the main criticism towards the World Social Summit was directed towards the lack of "s" in people, and the whole idea of social integration as the basis for the declaration on indigenous peoples' rights. These criticisms were reflected in the address to the World Summit made by the indigenous representatives of the IWGIA conference.

As a result of the IWGIA conference, the indigenous visitors, many of whom had worked closely with other non-governmental organisations at the NGO-Forum and with the IWGIA-Denmark group, which launched a campaign on the Lubicon Cree case, came up with the following resolution. It was taken to the official conference by one of the guest speakers of the IWGIA conference, the former Greenland Minister of Social Affairs, Henriette Rasmussen, who has recently been appointed advisor on indigenous issues to the UN High Commissioner for Human Rights.

RESOLUTION

Copenhagen. March, 1995.

1. The use of the term "indigenous people" rather than "indigenous peoples" in the Declaration and the Programme of Action is a denial of our identity and a negation of the principle of the equality of peoples which is fundamental to social justice. Indigenous peoples are peoples within the meaning of Article 1 of the International Human Rights Covenants.
2. We reject the assumption of the World Summit for Social Development that indigenous peoples can achieve social justice through a process of social integration. Integration has always been a destructive process for indigenous peoples. Without effective recognition of our right to self-determination in its political, economic, social, and cultural dimensions, expressions of respect for justice and cultural diversity are without substance.
3. The Declaration and Programme of Action fails to recognize the inherent rights of indigenous peoples to own and control our territories and natural resources, including marine and energy resources, and to determine for ourselves whether and how these resources should be developed.
4. The documents also fail to recognize that marginalization of indigenous peoples results from the dispossession of our territories. Dispossession in turn is caused by resource extraction, deforestation, hydroelectric development, and colonization – threats that are increasing under pressure from structural adjustment programs.
5. We have grave concern over the recent decision of the Commission on Human Rights to restrict participation in the future work on the Draft Declaration on the Rights of Indigenous Peoples adopted by the Subcommission on the Prevention of Discrimination and Protection of Minorities. We affirm that all consideration of the rights of indigenous peoples within the United Nations system must take place with the full participation of indigenous peoples without restriction.

The indigenous representatives present at the NGO Forum of the World Summit for Social Development - Copenhagen.

IWGIA PUBLICATIONS

IWGIA DOCUMENTS

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- No. 6:** René Fuerst: Bibliography of the Indigenous Problems and Policy of the Brazilian Amazon Region. 1957-1972. (1972) US\$ 3,60
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