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INTERNATIONAL
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THE INDIGENOUS WORLD 1997-98

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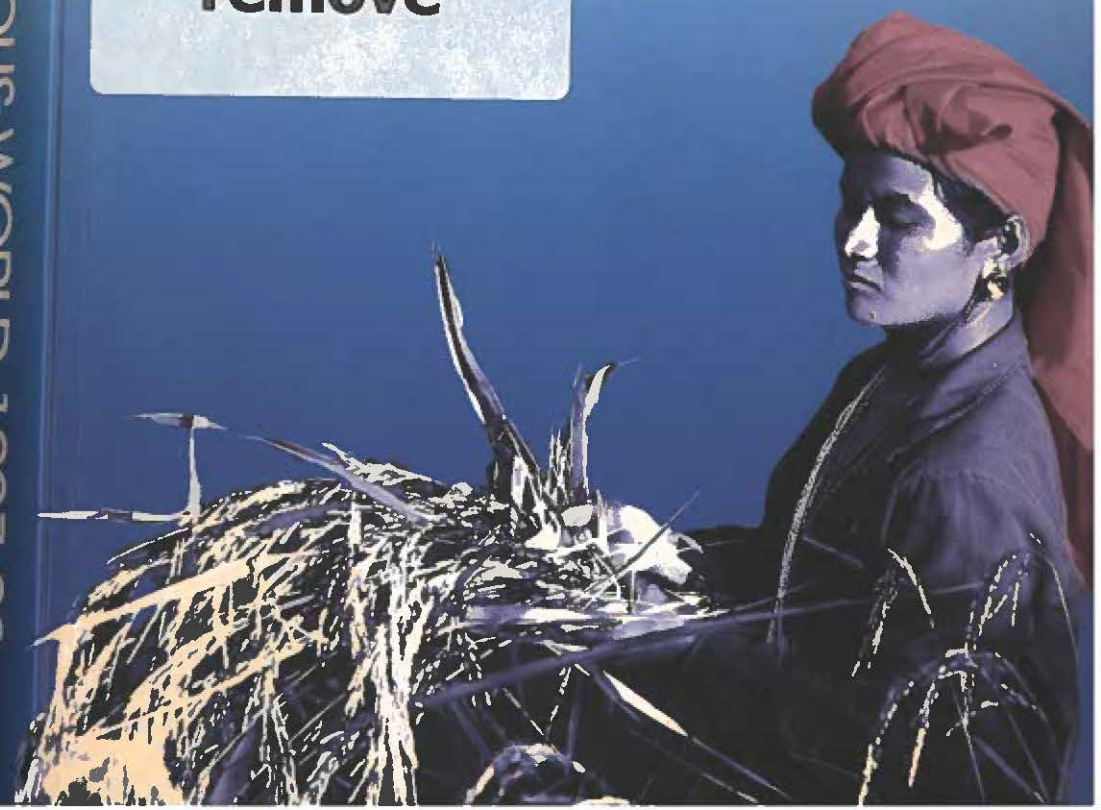

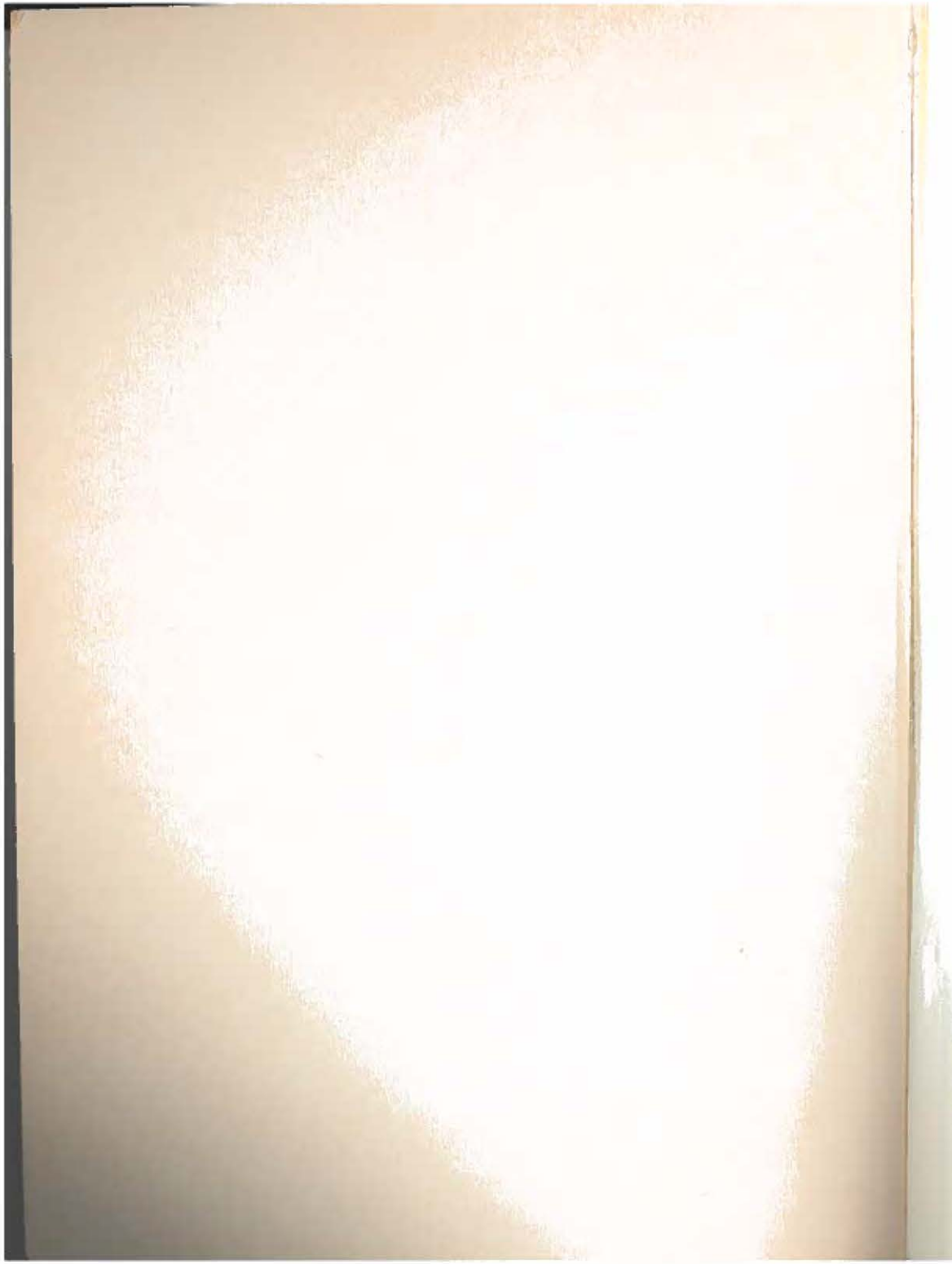

THE INDIGENOUS WORLD

1997-98

IWGIA
Copenhagen 1998

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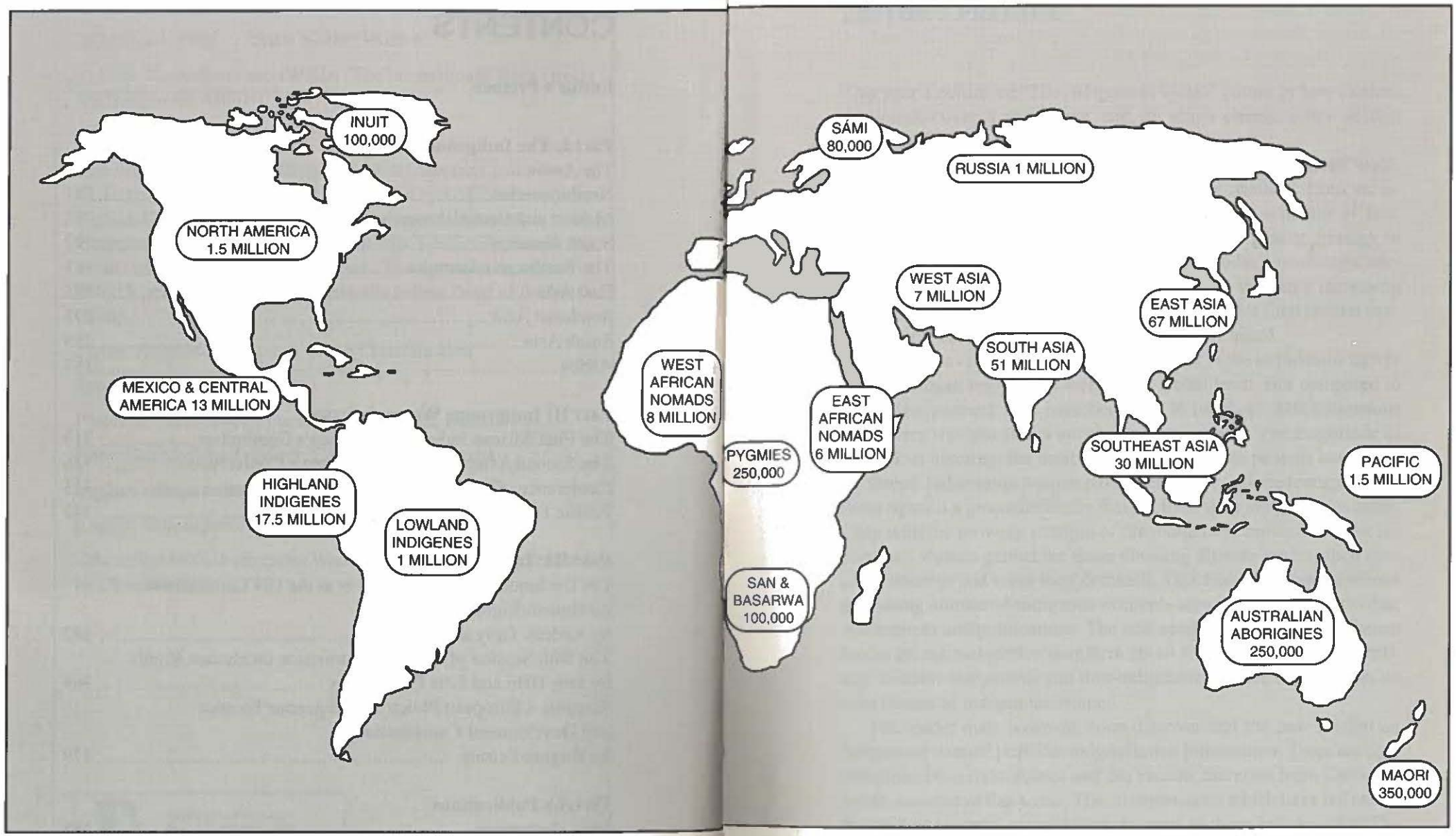
CONTENTS


INUIT
100,000
NORTH AMERICA
1.5 MILLION
MEXICO & CENTRAL
AMERICA 13 MILLION
HIGHLAND
INDIGENES
17.5 MILLION
LOWLAND
INDIGENES
1 MILLION
SÁMI
80,000
RUSSIA 1 MILLION
WEST ASIA
7 MILLION
EAST ASIA
67 MILLION
SOUTH ASIA
51 MILLION
WEST
AFRICAN
NOMADS
8 MILLION
EAST
AFRICAN
NOMADS
6 MILLION
PYGMIES
250,000
SOUTHEAST ASIA
30 MILLION
PACIFIC
1.5 MILLION
SAN &
BASARWA
100,000
AUSTRALIAN
ABORIGINES
250,000
MAORI
350,000

EDITOR'S PREFACE

This year's edition of "The Indigenous World" comes in new clothes: a coloured cover, a new layout, and, the major change, a new section titled "Indigenous Women's Issues".

The adoption of a special section dealing with indigenous women's issues may - correctly - be interpreted as resulting from an increased gender consciousness within IWGIA. As a matter of fact, IWGIA has just embarked on drafting a specific gender strategy to guide its work in the future. Ultimately, the introduction of a new section on women's issues reflects the indigenous women's increasing claim for space within the indigenous movement, for their special concerns to be taken into account, their voice to be heard.

Women have always been at the forefront of the indigenous movement, on local, regional as well as the global level. But compared to their male partners they have been few in numbers. The indigenous movement was and still is largely male dominated. The magnitude of the task of asserting the basic rights of indigenous peoples has bound all forces. Indigenous women have been aware that the recognition of these rights is a precondition for their well being as indigenous women. Only with the growing strength of the indigenous movement have indigenous women gained the space allowing them to express their specific concerns and voice their demands. This finds its expression in an increasing number of indigeous women's organisations and networks, conferences and publications. The new section on indigenous women has as its main objective to inform about such initiatives and events, and to allow indigenous and non-indigenous writers to reflect on issues related to indigenous women.

The reader may, however, soon discover that the new section on indigenous women provides only selective information. There are contributions from Asia, Africa and the Pacific, but none from Latin and North America or the Arctic. The circumstances which have led to this incomplete regional coverage are the same as those which make "The Indigenous World" fall short of providing a complete global overview.

Although the editors and contributors have tried hard, it was impossible to get all the necessary articles together. To provide a comprehensive and exhaustive coverage of the past year's developments among the world's indigenous peoples will most likely always have to remain an ideal, and not so much an aim which can be achieved. The nature of the authorship, a large number of indigenous and non-indigenous people working in indigenous organisations, support groups, academic institutes etc., makes "The Indigenous World" a unique, but in some respect also more "vulnerable" publication. Only the large number of specialized contributors can guarantee the qualitative standard of the publication. But related to that large number is the publication's vulnerability, i.e. the probablility that some authors will, due to unforeseen circumstances and events - such as this year, for example, the dramatic political changes in Indonesia - be prevented from sending in their contribution.

Just like "The Indigenous World" as a whole so far, the new section on Indigenous Women's Issues is and will be the result of the indigenous and non-indigenous authors' voluntary contributions and IWGIA's facilitation and coordination. And as we now stand at the beginning of this new "project", IWGIA would like to encourage indigenous and non-indigenous women to come up with ideas, suggestions and contributions. It should at this point be stressed that the direction the "project" takes and what the original idea develops into will largely depend on the response IWGIA gets from indigenous women.

IWGIA's increased committment to working on indigenous women's issues is also reflected in the recent publication of a book on indigenous women. Edited by IWGIA staff member Diana Vinding, the book entitled "Indigenous Women: The Right to a Voice" was published as IWGIA Document No. 88 in June this year. But it would be not correct to conclude that this year marks a new era in IWGIA with respect to gender issues. IWGIA published a document on indigenous women already in 1990 (Document No. 66: "Indigenous Women on the Move"; still available), and "Indigenous Affairs" 2/95 (unfortunately out of print) had indigenous women as a thematic focus.

But in another respect this year is a special year for IWGIA. In October IWGIA will celebrate its 30th anniversary. From a small group of concerned anthropologists committed to doing voluntary support and lobbying work for indigenous peoples, it has grown into a still rather small, but fully professional organisation. Even though the somewhat special focus on women's issues this year only coincides with the anniversary by accident, it is hoped that the momentum gained in this respect will be sustained in IWGIA's work in the decades to come.

Contributions

IWGIA would like to extend warm thanks to the following people and organisations for having contributed to *The Indigenous World*:

The Arctic

Jack Hicks has lived and worked in the Canadian Arctic since 1981, and was Director of Research for the Nunavut Implementation Commission. He can be reached in Iqaluit, Nunavut's capital-to-be, at jhicks@nunanet.com. *(Nunavut)*

Marianne Lykke-Thomsen, has been associated with IWGIA for many years. She has worked for the Inuit Circumpolar Conference and is now working for the Greenland Home Rule Government, the Office of International Relations. (*Greenland*)

Olga Murashko, anthropologist, active member of the IWGIA Russian National Group. (*Russia*)

Claus Oreskov, anthropologist, has been active in the IWGIA Danish National Group for many years. He organised the IWGIA conference held in connection with the UN Social Summit in Copenhagen. (*Sápmi*)

Gordon L. Pullar, a Kodiak Island Alutiiq, is the Director of the Department of Alaska Native and Rural Development at the University of Alaska Fairbanks. He is currently the President of the Koniag Educational Foundation and the former President of the Kodiak Area Na-

tive Association and the national Keepers of the Treasures: Cultural Council of American Indians, Alaska Natives and Native Hawaiians. *(Alaska)*

North America

Andreas Knudsen, Bachelor of Business Languages in Russian and English. Freelance journalist. He has been interested in North American Indians since his childhood. Active in the IWGIA Danish National Group since 1993. *(North America: Blackfeet, Chippewa, Hopi-Dineh, Apache, Western Shoshone, Timbisha, Lubicon, Leonard Peltier, AFN, Canadian elections)*

Jack Hicks (for CV see Arctic; *Canada).*

Mexico, Central and South America

This section has been compiled and edited by Alejandro Parellada, IWGIA project coordinator and editor of *Indigenous Affairs*

Hans Aalborg, a Danish historian and Marcela Tovar, a Mexican anthropologist. Both live in Guatemala. *(Guatemala)*

Gonzalo Abella, has an M.A. in history. He works as lecturer at the Universidad de la República in Montevideo, the San Simón de Bolivia University and the University la Católica de Paraguay. (Uruguay)

Oscar Ayala Amarilla, a lawyer and member of the Executive Board of the NGO "Tierraviva". *(Paraguay)*

Ann-Catherine Bajard, Annie Oehlerich and Bettina Ringsing, staff members of IBIS-Bolivia and advisors to CIDOB. *(Bolivia)*

Edgardo Benitez, an indigenous Tawahka and Executive Coordinator of the NGO "Asang Launa". *(Honduras)*

Morita Carrasco, an anthropologist and lecturer at the University of Buenos Aires. Author of the IWGIA Document "La Tierra que nos Quitaron" ("The Land They Took Away From Us"). *(Argentina)*

Luis Fernandez is a musician interested in ethnomusicology. Has has worked in Mato Grosso and Rondônia in Brazil since 1980. *(Brazil)*

Pedro García Hierro, a jurist, advisor to AIDESEP and President of the NGO "Racimos" in Unrurahui. He's the author of IWGIA Document "Territorios Indígenas y la Nueva legislación Agraria en el Peru". *(Peru)*

Marcos Guevara, an anthropologist working in the NGO "Centro Skoki". *(Costa Rica)*

René Kuppe, a lawyer and lecturer in the Department of Legal Anthropology of Vienna, Austria. *(Venezuela)*

Atencio López, a Kuna lawyer and President of the NGO "Napguana". *(Panama)*

Roberto Morale, anthropologist who has worked for many years with the Mapuche. *(Chile)*

Max Ooft, an indigenous leader in Surinam, currently working within the International Technical Secretariat of the International Alliance of the Indigenous and Tribal Peoples of the Tropical Forests. *(Surinam)*

Márcio Santilli, is coordinator of the Programa Brasil Socioambiental de la ONG ISA. (Brasil)

Christian Scherrer is a Swiss anthropologist who has worked for many years with indigenous peoples in Nicaragua. *(Nicaragua)*

Natalia Wray, an anthropologist and advisor to various indigenous organizations. *(Ecuador).*

The Pacific and Australia

Peter Jull, a Canadian, has been a consultant to Aboriginal, Torres Strait Islander, and Arctic people's organisations; he is an Associate of the Australian National University's North Australia Research Unit. *(Australia)*

Martin Miriori is secretary and leader of the Bougainville Interim Government/Bougainville Revolutionary Army delegation, and par-

ticipated in the Burnham Talks in New Zealand which lead to the cease fire agreement - the so-called Lincoln Agreement - of April 30, 1998. *(Bougainville)*

East Asia

Harald Bøkman, Sinologist, Research Fellow at the International Institute of Peace Research in Oslo, Norway. His main field of research are the historical emergence of Chineseness and the relation between China and her neighbours in a historical perspective. (*China*)

Southeast Asia

Anthropology Watch (AnthroWatch) is a research and advocay group on Philippine indigenous peoples established 1994. (*Philippines*)

Minnie Degawan presently works with DINTEG, an indingenous legal rights organisation based in Baguio in the Cordilleras of Northern Luzon in the Philippines. She was the former Secretary General of the Cordillera Peoples Alliance (CPA). (Philippines*: Cordillera)*

For the chapter on *Indonesia* we are grateful to the London based *DOWN TO EARTH,* International Campaign for Ecological Justice in Indonesia, for allowing us to reprint parts of their articles.

Christophe Horvath graduated in law and holds a post-graduate degree in Political Science and International Relations. He has worked for more than two years in Cambodia and is at present doing research on the link between environmental and human rights issues with special focus on indigenous peoples in Cambodia. *(Cambodia)*

Jannie Lasimbang, a Kadazan-Dusun from Sabah. She works as a trainer in PACOS (Partners of Community Organisations), a Trust set up for indigenous communities in Sabah. Since 1984, she has been active in building indigenous network both locally and internationally and is currently the President of the Asia Indigenous Peoples Pact (AIPP). (*Malaysia: Sabah*)

Neil Makinuddin is Executive Director of PLASMA, an NGO wjich is working on environmental and indigenous issues and is based in Samarinda, East Kalimantan. *(Bentian people, East Kalimantan)*

Colin Nicolas is the coordinator for the Center for Orang Asli Concerns (COAC), Kuala Lumpur, Malaysia. (*Malaysia: Orang Asli*)

Torben Retbøll teaches History and Latin at Aarhus Katedralskole, Denmark. He has written or edited several books on mass media and international affairs, including East Timor, Indonesia and the Western Democracies (1980), East Timor: The Struggle Continues (1984) and East Timor: Occupation and Resistance (forthcoming, 1998). *(East Timor)*

South Asia

Ratnaker Bhengra is a lawyer and member of the Jharkandis Organisation for Human Rights which works for autonomy within the Indian state. He is a legal advisor for the human rights organisation Joha-Ranchi and active in the movement against forced resettlement. *(Jharkand)*

C. R. Bijoy, a human rights activist. During the last sixteen years he has been involved or associated with indigenous issues and organisation in India and written about these and associated matters. (*South India*)

Jumma Peoples Network (JUPNET), an organisation established and administered by indigenous Jummas based in various countries of Europe and elsewhere. JUPNET seeks to promote the rights of the indigenous Jummas by dialogue, negotiation and other peaceful means. (*Chittagong Hill Tracts*)

Avdhash Kaushal, former faculty member of the Lal Bahadur Shastri National Academy of Administration (LBSNAA), and recepient of the Padma Shree award from the President of India for environment protection and working with the indigenous peoples in the hill areas of North India. He is currently the chairperson of the Rural Litigation &

Entitlement Kendra (RLEK), Dehra Dun, working for the empowernment of the Van Gujjar and Jaunsari indigenous people. *(India: Uttar Pradesh)*

Luingam Luithui a Tangkhul Naga from Manipur, is the Secretary of the Asia Indigenous Peoples Pact (AIPP). *(Nagaland)*

Prof. C. Nunthara, a Mizo from Mizoram in Northeastern India, holds an M.A. and Ph.F. from the Department of Sociology, Delhi School of Economics, Delhi University. He is currently Professor of Sociology at the Northeastern Hill University in Shillong, Meghalaya, India. He dos research in the field of political sociology, especially on social change and ethnicity in Northeastern India. *(India: Northeast)*

Afrika

Dorothy Jackson holds a Ph.D. in Tropical Forest Ecology (Oxford University) and has conducted field research in tropical forest and entomology in northern Thailand, Columbia and Cameroon. She is presently working as Project Officer in the Forest Peoples Programme (FPP) of the World Rainforest Movement in. (*Equatorial Africa, Rwanda*)

Charles Lane is trained as a lawyer, agriculturalist and social scientist in Australia and the UK. He has worked in Africa for over ten years and done extensive research with pastoralist. He currently acts as an independent consultant and is advising Survival International on a three year programme of support for pastoral land rights in East Africa. He is also a Director of Pilotlight, a new British charity dealing with issues related to people's dispossession from their means of survival. (*Tanzania, Kenya*)

Ann Maymann holds a Master Degree from Roskilde University Center in French and International Development Studies, and a Master Degree from Copenhagen University in International Law of Armed Conflict. She has done five months of internship at UNHCR Senegal and Burkina Faso, has been a JPO from November 1996 for UNHCR Burkina Faso and since April 1998 for UNHCR Angola. *(Mali)*

Kapupu Diwa Mutimanwa works with the Programme d'Integration et de Développement du Peuple Pygmée au Kivu (PIDP-Kivu) in South Kivu province in the East of the Democratic Republic of Congo. *(Kahuzi-Biega National Park)*

Kxai Moses =Oma was born in Nyae Nyae and has since eight years been Manager of the Nyae Nyae Farmers' Co-operative (NNFC); *Wendy Viall* is Support Co-ordinator at the Nyae Nyae Development Foundation of Namibia (NNDFN), and has been employed by NNDFN/NNFC for the past eight years; *Shebby Mate* is NNDFN Programme Manager and Agricultural Advisor, and has been employed by NNDFN/NNFC for the past five years. *(Namibia, Ju/'hoansi of Nyae Nyae)*

Sidsel Saugestad is an Associate Professor at the Institute of Social Anthropology at the University of Tromsø in Norway. Her research interests include ethnic group relations, indigenous peoples, human rights and cultural change. She has done fieldwork in southern Africa, and worked for two years as a NORAD expert in Botswana. *(Botswana)*

Terese Sveijer studies Social anthropology and Human Rights in sociology of Law at the University of Lund, Sweden. She conducted a minor field study amongst the Himba people in 1996 and are a member of the board in IWGIA, Lund. *(Namibia: Himba)*

Louis P. Vorster, anthropologist, professor at the University of South Africa teaching African customary law. 'Chairperson of the !XU and Khwe Trust. (*South Africa*)

Part II: Indigenous Women's Issues

Angeline van Achterberg received her M.A. in Social Anthropology from the University of Amsterdam. Her main areas of study and interest are gender issues and the North-West Region of Africa, specifically the southern Sahara. In 1984, she went to Tamanrasset, Algeria to conduct her fieldwork among the Kel Ahaggar Tuareg. In 1992, she returned to the Netherlands and joined the Netherlands Centre for In-

digenous Peoples where she is the Regional Coordinator for Africa. *(Report on First African Indigenous Women's Conference)*

Rural Litigation & Entitlement Kendra (RLEK), is an NGO based in Dehra Dun, Uttar Pradesh, India. RLEK is working for the empowernment of the Van Gujjar and Jaunsari indigenous peoples. *(Report on Indigenous Women's Conference in India)*

Diana Vinding is an anthropologist and is currently working in IWGIA. She attended the *Asian Indigenous Women's Conference* in Kanchanaburi, Thailand.

Part III: Indigenous Rights

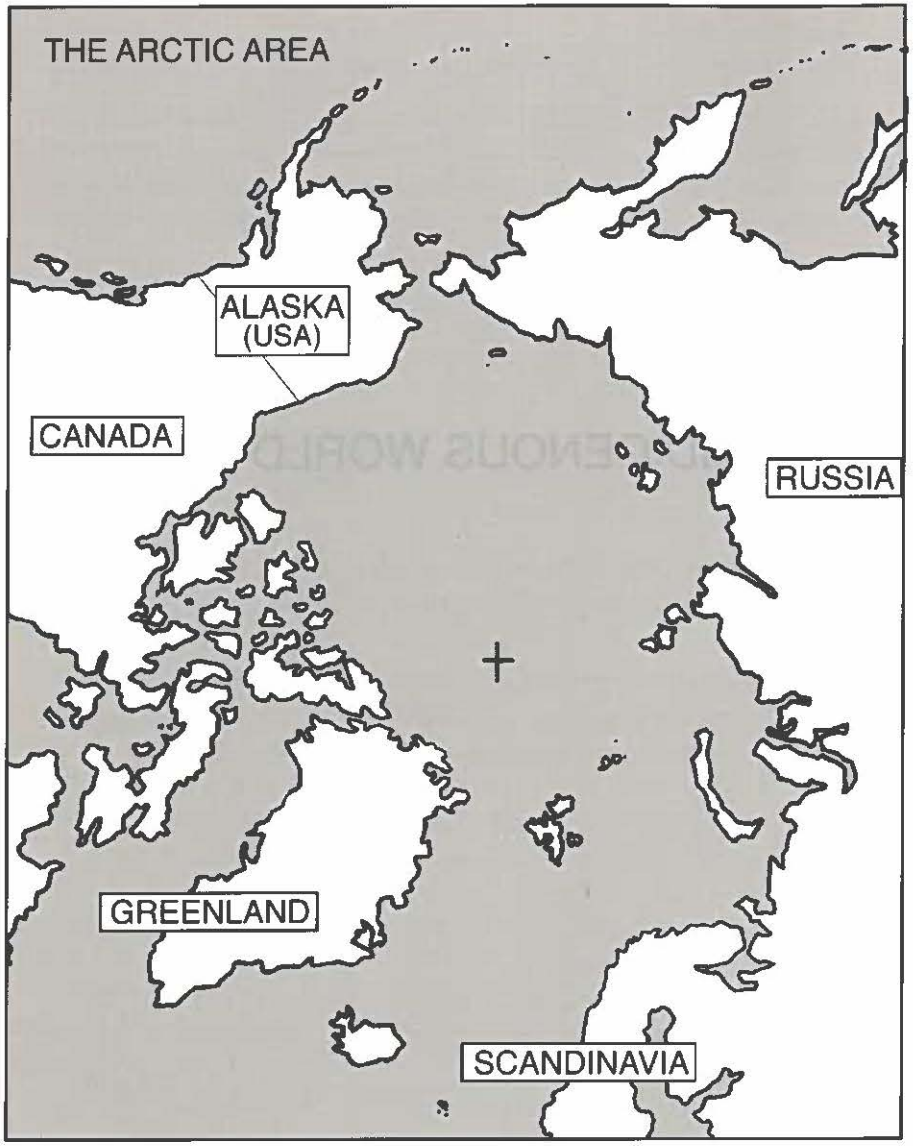
Andrew Gray, anthropologist, is former director and at present board member of IWGIA.

Jens Dahl, anthropologist, is the director of IWGIA. Before that he was a lecturer at the University of Copenhagen, Department of Eskimology.

Lola García-Alix is a sociologist and is working as Coodinator of the Human Rights Programme at the IWGIA International Secretariat. She is also the administrator of the Human Rights Fund for Indigeous Peoples.

PART I

THE INDIGENOUS WORLD



Countries/regions covered in this issue:
Alaska, Nunavut (Canada), Greenland, Russia, Sápmi

ARCTIC

ALASKA

The Venetie Case

In 1997, the most important event impacting Alaska Natives was the U.S. Supreme Court hearing of the Venetie Case on December 11. At stake in the case was whether or not the land owned by the *Neets'aii Gwich'in* Athabascan Indian villages of Venetie and Arctic Village were 'Indian Country' under American law. 'Indian Country' is a term used in the American legal system designating the geographical area an Indian tribe has jurisdiction over. The Ninth Circuit court of Appeals ruled in late 1996 that the Venetie tribal lands were indeed Indian Country and that the tribal government had jurisdiction over their 1.8 million acres of land. The broad implications of this ruling were that other Native villages in Alaska also had jurisdiction over their homelands. That ruling prompted the Alaska State Legislature to appropriate one million dollars to be used for legal expenses to attempt to get the Supreme Court to hear the case. This move prompted an outcry from the Alaska Native community because of the legislative budget cutting for programs essential to rural Alaska and Alaska Natives that was taking place at the same time the legislature appropriated money to fight the Indian Country case.

Twenty other states, as well as the Territory of Guam and the Commonwealth of the Mariana Islands, supported the State of Alaska by filing amicus curiae ("friends of the court") briefs with the Supreme Court. Many Native tribes and organizations from across the U.S., including the Navajo Nation, the largest Indian tribe in the U.S., filed briefs in support of Venetie. Two Alaska Native corporations formed under ANCSA filed briefs saying that the Venetie lands should be considered 'Indian Country' but that the status should not apply to ANCSA corporation-owned land. Those corporations were Koniag, Inc., the regional corporation for the Kodiak Island area, and Shee Atika, Inc., the village corporation for Sitka.

There are 226 federally recognized indigenous village tribes in Alaska who have believed that they have the same jurisdictional authorities as Indian tribes in the contiguous forty-eight states. The State of Alaska has maintained the Alaska Native Claims Settlement Act of 1971 (ANCSA) powers. Under ANCSA, twelve regional Alaska Native-controlled for-profit business corporations and over 200 village

Venetie Village Council Meeting - circa 1939. Left to right: Ginnis Golon, Jimmy Robert, Jonas Robert, Elijah John, Andrew Robert, Peter Robert, John Fredson. (Courtesy Alaska State Library)

business corporations were established to receive legal title to aboriginal homelands. The Gwitch'in had a 1.8 million acre reserve set aside by the U.S. government in 1943. The reserve was abolished by ANCSA but the Gwitch'in were able to opt out of ANCSA by a vote of their people and transfer title to the former reserve to the combined tribal

governments of Venetie and Arctic Village. An attempt by the tribal government to impose a business tax on a contractor hired by the State of Alaska to build a new school in the village of Venetie began the case in 1986. The State of Alaska maintained that the tribal government had no authority to impose taxes on its land claiming that authority had been relinquished in ANCSA.

The U.S. Supreme Court hearing marked a first for Alaska Natives. Heather Kendall-Miller, a Harvard-educated Athabascan Indian attorney, argued the case for Venetie in the Supreme Court. She thus became the first Alaska Native to ever argue a case in the United States Supreme Court. Kendall-Miller, who is employed by Boulder, Colorado-based Native American Rights Fund's Alaska office, also presented the case to the Ninth Circuit Court of Appeals. Just six years out of law school, she faced the State of Alaska's powerful Washington, D.C.-based attorney who had been before the Supreme Court 25 times before. She became a hero and role model for thousands of Alaska Natives, many of whom found their way to Washington, D.C. to observe the Supreme Court hearing. Among the other supporters were tribal members from Venetie and Arctic Village. Ernest Erick, a former chief of the village of Venetie, beat a traditional drum on the steps of the Supreme Court building prior to the hearing. Legal experts and supporters alike agreed that Kendall-Miller presented the case very well on behalf of Venetie.

On February 25, 1998 the U.S. Supreme Court issued its ruling in the Venetie case. In a unanimous ruling the court overturned the Ninth Circuit decision and ruled that Indian Country does not exist in Alaska. In a ruling written by Justice Clarence Thomas, a justice who did not to ask a single question during the December court hearing, the court said that the Venetie lands were not 'Indian Country' and that any such status had been revoked in ANCSA. Soon after the Supreme Court ruling, the governor of Alaska announced the appointment of the State Commission on Rural Alaska Governance and Empowerment, made up of a combination of Alaska Natives and non-Natives, and charged with making recommendations for improving self-reliance and self-government in Native villages in light of the Supreme Court decision.

Subsistence

The decades old issue of Alaska Native subsistence rights was approaching a new milestone in 1997. A December 1998 federal take-over of fisheries management in Alaska is scheduled if the State does not come into compliance with the Alaska National Interest Lands Act of 1980 (ANILCA). Under ANILCA, rural residents of Alaska, who include most Alaska Natives, have a preference for subsistence purposes for the taking of fish and game.

Aboriginal hunting and fishing rights were extinguished in Alaska by the Alaska Native Claims Settlement Act of 1971. They were partially restored in the Marine Mammal Protection Act of 1972 which provides Alaska Natives with the right to harvest sea mammals. In ANILCA rural residents were given a preference for fish and game for subsistence purposes. An Alaska state law was passed that agreed with ANILCA but that law was struck down by the Alaska Supreme Court in 1990 as being contrary to the Alaska State Constitution which guaranteed equal access to fish and game by all citizens of Alaska regardless of where they lived. As the state was then in opposition to federal law the federal government took over management of game on federal lands in 1991. The management of fish has been pending with several extensions being given, postponing the federal take-over of fish. The final extension expires December 1, 1998. In 1997 Governor Tony Knowles appointed a Subsistence Task Force to recommend a solution. The task force recommended that the Alaska Constitution be amended to provide for the rural subsistence preference and thus in compliance with ANILCA. Such an amendment would have to be put to all citizens of Alaska for a vote. That election would have to be approved by the Alaska State Legislature in order for it to take place. The Legislature has been unwilling to call such a vote leaving the possibility of a complete take-over of fish and game management increasingly likely.

Alaska Native Medical Center Opens

On June 2, 1997, the new $168 million Alaska Native Medical Center opened in Anchorage. It is expected to serve all of the 100,000 Natives living throughout Alaska. The new facility is the largest and most advanced of any in the United States controlled by the U.S. Indian Health Service. The hospital replaces the outdated hospital built in 1953 as a tuberculosis sanatorium. The old hospital was damaged during the Great Alaska Earthquake of 1964 and efforts have been underway since that time to get a new hospital built. The new hospital occupies more than 370,000 square feet, more than twice the size of the old one. State-of-the-art medical technology is found throughout the new facility.

A consortium of Alaska Native tribes are currently negotiating details with the U.S. government for the take-over of management of the new hospital as authorized under the Indian Self-Determination Act of 1975. The hospital may come under Native control as of 1999.

CANADA

Northwest Territories and Nunavut

The Northwest Territories experienced difficult economic times in 1997, as budget cuts from the federal government to the territorial government were passed on to the municipalities and to individuals and families. The NWT's budget was cut more deeply, in percentage terms, than that of any other provincial/territorial jurisdiction in Canada – despite the region having a very high level of social problems.

The Government of the Northwest Territories (GNWT) cut its budget by $100 million, or almost 10 per cent. Priests in the Anglican Church later scolded the GNWT for its obsession with deficit reduction, blaming cuts to social assistance, health care and education for the general feeling of insecurity and despair in the north. The government admitted that, among other problems, 25 per cent of NWT residents are without adequate shelter and there's a need for at least 4,000 new housing units.

The tempo of planning for the creation of the Nunavut Government and Territory on April 1, 1999 increased as the year went by. The 3 parties to the Nunavut Political Accord – the Government of Canada, the GNWT and the Inuit land claim corporation Nunavut Tunngavik Incorporated (NTI) - reached agreement on the design of the Nunavut Government recommended by the Nunavut Implementation Commis-

sion (NIC). The NIC's reports 'Footprints in New Snow' and 'Footprints 2' had called for the creation of a streamlined, decentralized government, with at least 50% Inuit employment at all levels during the start-up period and representative levels (85%) in the future.

The task of implementing the NIC's plan had become a political football during 1996, and the tension between the 3 parties persisted until April. Almost a year behind schedule, Jack Anawak – the member of the federal parliament for the governing Liberal Party – was appointed Interim Commissioner and given a $10 million budget to establish the Nunavut Government. Anawak resigned his seat in the House of Commons just before a federal election was called (in which he was replaced by fellow Liberal Nancy Karetak-Lindell.) Critics noted that while Anawak was a high-profile Inuit politician, he had no management training or experience.

Discussions began between the federal government, the Office of the Interim Commissioner, the GNWT and NTI with respect to the amount of the Nunavut Government's first budget.

The design of Nunavut's political system was decided upon over the course of the year. In May the residents of Nunavut participated in the world's first public vote on the principle of having equal numbers of men and women in a legislature. The NWT has the lowest percentage of women legislators of any jurisdiction in Canada, and the NIC had proposed a system of two-member constituencies where each adult would vote for both a man from a list of male candidates and a woman from a list of female candidates. The proposal was defeated, for reasons elaborated on in an article in *Indigenous World* 3/4/97. It was later decided by the three parties to the Nunavut Political Accord that Nunavut's legislature will consist of 19 single-member constituencies.

The Inuit land claim corporation NTI took two important actions to safeguard Inuit rights during 1997.

In September NTI filed an application with Federal Court of Canada to challenge the 1997 turbot quotas allocated to Davis Strait fisheries by the federal Department of Fisheries and Oceans. NTI said the fisheries ministry ignored the provisions of the Nunavut Land Claim Agreement in allocating those quotas, and the court agreed – and overturned the federal Minister's decision with respect to the quotas.

NTI's frustration with the members of the Legislative Assembly of the NWT, especially with respect to issues to do with the creation of Nunavut, came to a head and NTI cited "failing by the ordinary members" when it set up a 'shadow cabinet' to monitor the actions of the GNWT.

The most important story in the western NWT in 1997 was the ongoing attempt to find a resolution to the region's constitutional deadlock. Once Nunavut is created the remaining part of the NWT will have a majority of non-aboriginal residents, with the aboriginal population divided between different First Nations, Metis, and Inuvialuit (the Inuit of the Mackenzie Delta region). Finding a constitutional formula which both satisfies the different aboriginal groups and yet doesn't upset the non-aboriginal residents – some of whom are openly hostile to aboriginal self-government aspirations – has so far proved impossible. It is not yet clear whether the western NWT will have a new constitution – or even a new name – by the time Nunavut is created on April 1, 1999.

GREENLAND

On September 19, at the opening of the fall session of the Greenland Parliament, the Premier of Greenland, Mr. Lars Emil Johansen, resigned after 25 years in politics. Mr. Johansen, who is known for his important initiatives in re-structuring the major Home Rule owned corporate companies (discussed in previous issues of The Indigenous World), left politics in order to assume the responsibility as Vice-Managing Director of the major Greenland fish processing company, Royal Greenland Ltd..

Following the resignations, Mr. Johansen was immediately replaced by the Chairman of the Greenland Parliament, Mr. Jonathan Motzfeldt, who was elected Premier by an unanimous Parliament. Mr. Motzfeldt held the position as Premier of Greenland through the first 12 years of Greenland's 18 years of Home Rule. It was a former minister in the

very first Home Rule government, Mr. Anders Andreassen, who replaced Mr. Motzfeldt as the Chairman of the Greenland Parliament.

The government shuffle did not call for any changes to the constitution of the government which is based on a coalition between the social democratic Siumut Party and the more liberal Atassut Party. The political accord between Siumut and Atassut was re-negotiated, however, and the shuffle also resulted in the internal replacement of one Siumut minister as well as a few changes with respect to the portfolios.

Mineral Resources

Premier Johansen left the political arena only after successfully negotiating an agreement with the Danish government which gives Greenland the responsibility for the administration of the mineral resources in Greenland. A mile stone in Mr. Johansen's political career and a long term goal of the Greenland Home Rule Government, the agreement provides for the transfer of the mineral resources administration from Denmark to Greenland.

The question of the right to oil and mineral resources in Greenland has been an issue of debate since the very preparation for Home Rule in Greenland. The Home Rule Act states (cf. Section 8 (1)) that the resident population of Greenland has the fundamental rights to the natural resources of Greenland. Nonetheless, Danish politicians have - over time - felt obliged to underline that the subsurface rights belong to the Kingdom of Denmark or the Unity of the Realm.

In Greenland, the new agreement is seen to provide for a much clearer understanding that the minerals and subsurface rights belong to Greenland, even though the construction of a Joint Commission on Mineral Resources, in which Greenland and Denmark hold a so-called double veto-right, is maintained.

The implementation of the agreement, which has now been prepared by Premier Motzfeldt, is only awaiting an amendment to the Danish Mineral Resources Act to be effectuated by the Danish Parliament in the spring of 1998.

Conservation of Living Resources

The sustainable use of the living resources in and around Greenland and the conservation and management of the natural environment and biodiversity is of highest priority.

In order to provide the scientific basis necessary to ensure a high quality of monitoring and assessment of the resource base, the Greenland Home Rule Government established the Greenland Institute for Natural Resources, Pinngortitaleriffik, in 1995.

Pinngortitaleriffik, which is based on the former Greenland Fisheries and Environmental Research Institute, is responsible for the provision of research-based expertise and advice to the Department of Fisheries, Hunting, Industry and Agriculture, to the public and to those international organizations and fora that Greenland is associated with.

In February 1998, the institute moved to brand new facilities donated by a private Danish charity foundation sympathizing with the overall objective and responsibility of Pinngortitaleriffik. The physical framework of the Institute is now in the form of a beautiful building designed specifically to suit its purposes. It houses both the administration, laboratories and a variety of other research facilities and plans are underway to build accommodation for researchers who are in Greenland on a temporary basis next to the institute.

The Research Institute has approximately 40 staff members, half of which are academically trained. The organizational structure is such that one department is engaged in research concerning fish and prawns and one department deals with marine mammals and birds. The Institute is directed from the Department of Administration which has an affiliated public relations secretariat. Funding for administration and research stems from the Home Rule fiscal budget and from external project funds. With the purpose of carrying out research in the marine environment, Pinngortitaleriffik additionally runs a trawler and a research vessel, both designed to suit the particular research purposes at all times.

Sustainable Use of Resources

Greenland has a long tradition of applying different management regimes based on scientific research as well as expertise of the hunters

to the management of the most important resources such as fish and marine mammals. Research is typically carried out in close cooperation with the hunters and fishermen, who are both knowledgeable about and highly dependent upon the resources.

A large part of the Greenland population bases its livelihood on the harvest of living or renewable resources. However, there are limits, in the biological sense, as to the capacity of the individual species. The main objective of the work carried out at Pinngortitaleriffik is therefore through scientific research to establish a realistic and sustainable harvest level for the socio-economically or culturally important species. This is particularly important where national or international interests are at stake - and where immediate as well as long-term concerns in relation to the sustainable management of a particular resource becomes an issue.

International Obligations

Many resource and environmental issues have to be dealt with at a regional or global level and most of the stocks that are harvested in Greenland are shared with neighbouring countries. To comply with international standards and in the interest of Greenland with respect to the sharing of the resources, Pinngortitaleriffik therefore has to join international research cooperation and to participate in international scientific working groups aiming at joint management.

As Greenland is extremely dependent on a sound management of its living resources a lot of effort and funding is put into scientific research and the development of management schemes.

Arctic Council

Greenland is actively taking part in the newly established Arctic Council which has as one of its main objectives - the cooperation among the Arctic states on projects which will broaden the scope of sustainable development.

The importance and value of the Arctic Council from a Greenland perspective is indeed measured in the fact that indigenous peoples in the Declaration and in practice have been granted a special status as Permanent Participants. A status which goes far beyond observer status in terms of active participation in the work and decision-making of the Council.

One of the major problems that the Arctic Council has had to deal with before it can actually begin its work on substantive issues is precisely which non-governmental organizations may become observers to the Arctic Council and what role they may play. After a lengthy process of negotiation, the Arctic States only recently adopted a set of provisional rules of procedure for the Council to be approved by the Arctic states' foreign ministers at the next Ministerial Conference of the Arctic Council to be held in Canada in September.

Whereas the Council's predecessor, the Arctic Environmental Protection Strategy, which has been incorporated into the Arctic Council, has had only minor discussions of the observer issue, it has taken up a fair amount of energy and space in the Council. At the same time, the number of organizations interested in becoming observers to the Council work is steadily increasing.

The problem is that on the one hand some countries, including Greenland, fear - for valid reasons - that organizations engaging in activities or flagging opinions which may be harmful to the Arctic peoples and their particular culture and livelihood, may suddenly appear as observers to the Arctic Council. The experience in Greenland is simply that some organizations cannot be trusted.

On the other hand, some states are very dependent on a good relationship with non-governmental organizations and the publicly founded constituencies and therefore are prepared to support them.

The observer issue has basically been blocking the Council's ability to do any substantive work before the Rules of Procedure were in place. Therefore the actual work of the Arctic Council under the chairmanship of Canada will barely have been commenced before the first actual ministerial meeting under the Council which will take place in September. At the ministerial meeting Canada will pass on the chairmanship to another Arctic state.

In order to gain time and momentum, Canada therefore decided to kick-start the planning of a sustainable development programme, to be directed and facilitated by the Arctic Council, by arranging a Conference on Sustainable Development in Whitehorse. The conference

will have participants from all the Arctic States plus other interested parties.

KNI Education and Development Project

One of the projects that Greenland will be presenting at Whitehorse is the KNI Pilersuisoq project entitled "Time to act and do business". The project deals with education and training as well as development as its major components and is designed to have an international dimension aside from the very community founded image.

One of the first initiatives with respect to education and training was the recent gathering of 54 of the store-managers from the coastal communities in Nuuk to discuss the implications of the project and future prospects for the KNI Pilersuisoq with politicians and business organizations. What characterizes the project is namely that the communities are at the core of the project. In addition, KNI Pilersuisoq aims to ensure a better quality of work of the company though the personal involvement and influence of the employees, which in the long-term should also provide for a higher quality of life.

KNI Pilersuisoq has ambitions to ensure their project an international dimension in the sense that the company sees an opportunity to export some of the ideas and concepts through development agencies such as the Danish Danida. Danida already has a strategy for support to indigenous peoples which was developed in cooperation with the Greenland Home Rule Government and which has as one of its objectives at the national level to include, when possible, Greenland companies in the provision of development assistance.

The presentation of the project at the Whitehorse conference underlines the new trend of the company which has to do with the fact that the company is becoming more self-reliant and is generating surplus energy to do experiments. The company has also been invited as the first organization to participate in the Greenland - Canada exchange arrangement which is a pilot project in which one or two students, company workers or civil servants will travel first to Canada to study equivalent facilities. The second phase of the project will evolve around the visit to Greenland of one or two persons from northern Canada.

Increasing International Orientation

One example of the increasing international orientation is the fact that Greenland has now established a Trade Council to coordinate and facilitate development within the area of international trade. The Trade Council consists of a group of business leaders and experts appointed by the Greenland Home Rule Government. The first task of the Trade Council is to prepare a business delegation to participate in an official visit by the Premier of Greenland to China and Japan.

An important implication of Greenland's desire to participate in international affairs in a general sense is the need for language training. To accommodate the need for an improved standard primarily in terms of the international common negotiation and trading language, English, Greenland has established and re-established its both new and former arrangement with Canadian Universities to which Greenland is sending an increasing number of students for shorter or longer stays.

Internally, Greenland is preparing the public language-wise for an increased international engagement through the newly established 'Language Centre' - Oqaatsinik Pikkorissarfik which deals with the development and provision of a variety of language training facilities. Very importantly, the centre is also engaged in the development of facilities to provide language training in Kalaallisut or Greenlandic.

In the course of an increasing need and desire for cooperation between Greenland and Canada not to mention Alaska and Chukotka, The Greenland Home Rule Government has decided to open a representation in conjunction with the Danish Embassy in Ottawa to facilitate the contact and information dissemination between Canada and Greenland which is becoming more and more important. The actual decision was sparked by a visit by a Canadian federal minister to Greenland, which was also the source of inspiration to establish an exchange arrangement between the two countries.

ICC to Realize Inuit Spirit for Global Partnership

At the NGO-level the Inuit Circumpolar Conference also aims at increasing the level of international awareness and cooperation - particularly among Inuit of the four Arctic nations in which Inuit cur-

rently live. ICC is seeking a broad and high level international participation at the General Assembly this summer under the slogan: Inuit Spirit - for Global Partnership.

ICC together with the Greenland Home Rule, IWGIA and other organizations based in Copenhagen as well as Members of Parliament and other individuals have been instrumental in organizing public hearings on the living conditions in Chukotka and northern Russia. The Danish Ministry for the Environment is providing financial support for projects concerning capacity-building in Russia. In Greenland, a local ICC affiliated network collected clothing and money to Chukotka in solidarity and respect for the indigenous peoples in the region faced with extremely harsh living conditions of.

ICC is currently working with indigenous peoples of Belize to establish Belize Indigenous Training Institute (BITI) a centre for training and capacity-building in Belize. The project is co-sponsored by Danida and one of the long-term goals is to open the facility to the indigenous peoples of neighbouring countries.

General Election to the Danish Parliament

The recent general elections (March 11) to the Danish Parliament did not provide for any major changes in terms of the Greenland parties' political representation. Greenland's two seats have traditionally been divided between the Siumut and the Atassut parties that are now in coalition and continue to be so after the election. The big surprise, however, was the tremendous personal victory of the fairly unknown young woman politician representing the Atassut party. From a very recent career in the municipal council of Nuuk, the capital of Greenland, the 26 year old Ellen Kristensen managed to get the highest number and more than 4000 personal votes. She thereby defeated the Atassut member of the Danish Parliament since 1977, Otto Steenholdt. Ellen Kristensen is the first Greenland woman elected a member of the Danish Parliament - and very symbolically in the very year which marks the 50th anniversary of women's voting rights and eligibility in Greenland. The Member of Parliament for Siumut for the past 11 years, Hans-Pavia Rosing, was reelected.

Cautious Talk of Independence

An interesting aspect of the election campaign has been the left wing party Inuit Ataqatigiit (IA) party's flagging of independence as one of their major goals. IA has never fully approved of the Greenland Home Rule Act of 1979, and during the recent campaign the party questioned the very concept of Unity of the Danish Realm, claiming it realistic and necessary to gain total independence within the next 15 years at the latest. In the mean time, IA promised to strive for a renewal of the partnership with Denmark which is believed to be outdated and a reminiscence of colonial times. One of the arguments being that Greenland has already gained more space to manoeuvre nationally and internationally, but that this has not yet been formalized - or formally recognized.

Independence has been an issue of debate in different fora during the past year. Its supporters are found among individuals devoted to both Siumut and IA, whereas Atassut continues to support the Unity with Denmark. The debate so far has been characterized by being more emotional and populist than serious and factual in nature even though there have been attempts to establish an ongoing debate founded in a working group. Independence is often talked about as a long-term or an eventual goal and often considered to depend on Denmark's treatment of Greenland in general terms. It should be underlined that talks on independence never involve the separation from the Danish monarchy and the beloved Royal family. Finally, it should be mentioned that the Premier effectively rejected the idea of pushing for changes to the Unity of the Realm in his opening-speech to the Greenland Parliament. The Premier stressed that the Greenland Home Rule Act provides for sufficient flexibility in the partnership between Denmark and Greenland, a view which is fully shared by the coalition partner Atassut.

One of the motivations for as well as problems with the discussion concerning independence is that the very meaning and possible consequences of independence does not appear to be very widely understood. For example, independence is rarely considered to include economic independence and thus the discontinuation of the Danish core funding (block grant). In this connection it should be mentioned that Denmark has generally reacted positively to the idea of Greenland

eventually becoming independent from Denmark. During the recent election campaign one of the Danish opposition leaders suggested the establishment of a new permanent body consisting of representatives from the Danish, Greenland and Faeroese governments and parliaments to facilitate the discussion of current issues and concerns between Denmark, Greenland and the Faeroe Islands. This is notwithstanding that such a Royal Council in effect already exists inasmuch as the three government leaders who met in Faeroe Islands in spring plan to meet in Greenland in July.

Greenland is currently negotiating the level of the core funding for the next three years. All parties and all candidates to the general election expressed interest in maintaining the current level or increasing the funding at the same time as most candidates from left to right felt that Greenland should have more influence and weight with respect to international affairs of interest and importance to Greenland. A demand which is directly linked to the United States military air base in Thule, and the rather unfortunate handling by Denmark of recent years' disclosures by the media and individual experts concerning the presence of American military in Greenland.

More Greenlanders, Fewer Foreigners

Interestingly, the talk of independence (which for some participants has sometimes had a tinge of racism against Danes working and living in Greenland, although the majority of others engaging in the discussions have distanced themselves from any racist views) takes place at a time where there are generally fewer foreigners - primarily Danes and Faeroese - living in Greenland. The figures from January 1, 1998 released by Statistics Greenland reveal that the number of persons born outside Greenland has dropped from a high of 9,572 in 1988 to a low of 6,959 in 1998. The total population in Greenland was 56,076 persons and the highest ever. With respect to the number of persons born outside of Greenland one has to go back to 1967 to find a lower figure, namely 6,420.

RUSSIA

The current processes among the indigenous peoples are not unequivocal. 30 peoples of the North, Siberia and the Far East enjoy official status as 'small indigenous peoples of Russia'. Their total number is - according to official statistics - 200,000. Russian ethnographers consider that a higher number of peoples have preserved a traditional way of life on the land of their ancestors. They have listed 49 peoples of the North numbering a total of 1 million. Furthermore, the law on 'the fundamental legal status of the small peoples of Russia' drafted in 1992 lists additional 17 small indigenous peoples of the North Caucasus, adding up to another 100,000.

The listing of these peoples of the North Caucasus as beneficiaries of federal law on the rights of indigenous peoples brought about a strong protest from the leaders of the North Caucasian subjects of the Russian Federation. Laws being drafted at present concern only 'small indigenous peoples of the North, Siberia and the Far East'.

Worsening Living Conditions and Weak Protection of Rights to Natural Resources

Hard facts indicate a worsening of the demographic and the socio-economic situation of the peoples of the North. At a parliament hearing in December 1997, A. B. Nazarov, head of the Federation Council Committee on Northern Affairs and Small Peoples, in his official report noted that the average life expectancy and the birth rate keep dropping whereas infant mortality and mortality due to accidents, unemployment and alcoholism keep going up. At the same time only 3% of the Federal Programme 'Economic and Social Development of the Small Indigenous Peoples of the North' was financed on the 1997 state budget.

The laws on the right of the peoples of the North to natural resources should - according to a presidential decree - be passed "before the end of 1992". But so far nothing has happened. Some specialists believe that in spite of the fact that no special laws on the rights of the peoples of the North have been passed on a federal level, the "existing

Russian legislation" nevertheless "constitutes a certain basis for traditional land ownership and land use" (V. A. Kryazhkov).
Special rights to resources in traditional areas by the small indigenous peoples of the North are guaranteed in the Constitution (art. 69, 72). Certain articles in existing legislation of the Russian federation 'On

Kanthy family, Western Siberia. (Photo Alexander Pika)

Nature Protection', 'Fundamental Forest Legislation', 'Law on Specially Protected Territories', 'Law on Wildlife', 'On the Underground' vest the indigenous peoples with special rights concerning the use of traditional renewable natural resources. They provide for compensation for damage inflicted and - in case of complex use - allow access to

several types of resources for traditional use by representatives of territorial communities of indigenous peoples. Recently some regions have drafted and even passed their own laws on the rights of indigenous peoples. But as the regional laws are full of inconsistent terminology and are open to interpretation they do not really enable the practical use of these rights. Unfortunately such laws mean very little for the implementation of indigenous rights. Indigenous organisations in Russia have limited legal experience and little money and do not turn to courts with disputes over interpretation and use of the laws. Only when federal laws on the rights of the peoples of the North have been passed will it be possible that their conceptual system can be unambiguously interpreted, and not until then will branch and regional laws on indigenous rights take full effect.

Meanwhile, traditional employment is dropping and areas fit for traditional land use are shrinking. These indicators are hard to assess, since they have hidden roots. The first indicator is blurred by the fact that the official number of people engaged in traditional activity has dropped over the last five years. Parallel with unemployment, however, the number of indigenous people whose livelihood rests solely on the direct use of natural resources is growing.

Areas fit for traditional activity is also shrinking invisibly. Shrinking is not only explained by growing industrial activity but also by the fact that fishing waters and reindeer pastures are being handed over to companies for commercial use. Industrialisation on a large scale is threatening areas of traditional land use, for example the opening of oil and gas deposits on the Northern and North eastern sea-shelf of Russia. A licensing programmes is already in progress in spite of the fact that nature protection agencies spoke out against it in 1996. The large oil and gas companies have launched a more aggressive attack on the areas of the peoples of the North.

The exodus of educated people and specialists from the North is continuing. In many indigenous communities, hospitals and clinics are no longer functional. TB and infectious diseases now take their frightening toll. All of this makes us pessimistic about the future of the peoples of the North.

Political Mobilisation and External Support

The political activities of the peoples of the North are, however, growing and so is the help from the international community. The new leadership of AIPON (Association of Indigenous Peoples of the North) has reorganised the structure of the organisation. AIPON is now working as a partner on two international programmes: a Canadian programme and the 'Danish-Greenlandic Initiative' (DGI). Both envisage a capacity building in the AIPON organisation and an expansion of its information network. Under the Canadian project, the State Committee of the North (GOSKOMSEVER) and AIPON will exchange experience with indigenous Canadian leaders and civil servants of GOSKOMSEVER with their Canadian colleagues. The DGI co-operates directly with AIPON on the preparation of a project on investigation into the environmental problems of the territories of the indigenous peoples of the Russian North. And with funding provided by the European Commission's TACIS, the Moscow Information Centre for Indigenous Peoples continues with training young indigenous leaders.

The Moscow National Group of IWGIA continues its close co-operation with central and regional organisations of AIPON and helps to organise seminars and prepare legislation for the State Duma and regional legislative bodies. Three IWGIA activists are permanently working as experts of the State Duma on legislation on the rights of indigenous peoples and nature conservation. Furthermore, IWGIA Moscow has established working relations with the WWF. Preparatory work is carried out on a programme for the creation of ethno-ecological refuges for conservation of the traditional lifestyle and habitat of the indigenous peoples of the North. 'Living Arctic' continues to be published for spreading information on the problems of indigenous peoples and the environment in order to create an information platform for harmonising the interests of the indigenous peoples and nature protection agencies in Russia.

SÁPMI

Norway

In South Trøndelag, almost in the middle of Norway, is the southern Sámi area. It is also the reindeer-herding area farthest to the south, and the Sámi way of life in this area is intimately connected to reindeer herding. The southern Sámi people constitute only a small minority in relation to the Norwegian majority and the relations between the two groups have often been characterized by conflicts and hostilities. Apparently the recurrent conflict is about the right and access to resources but it can not be excluded that other hidden factors play a role. It was peculiar to see how the old conflict reproduced itself in a new sentence passed by the supreme court on the 24th of October 1997. Here the Riast-Hylling herding administration lost a case which 27 private landowners brought against them. The herding administration no longer has right to any form of reindeer pastures on the plaintiffs' property north of Aursund in Røros municipality. The supreme court based the verdict on a similar supreme court verdict of 1897 in which the reindeer owners were deprived of parts of the area in question now. The supreme court pointed out that the recent conflict between the landowners and the reindeer owners is connected with the reindeer herds roving and pasturing within the landowners' area towards Aursund. The Riast-Hyllinge herding administration pointed out that the Sámi reindeer owners had acquired the right to pasturing in the area before the verdict of 1897. Further they pointed out that the material which the verdict in 1897 was based on was produced by the Lapp commission in 1892. This commission was not very friendly to the Sámi, its references were characterized by the social darwinistic tendency of the time and there was no Sámi in the commission. The supreme court however considered that the verdict of 1897 ought to be very central in a similar dispute today. The Riast-Hyllinge herding administration thereby lost the case and was ordered to pay the costs amounting to 255,307 Norwegian crowns. The Sámi Parliament condemn the verdict and emphasise the frightening implications of an apparent reversion to the earlier days of colonisation of the Sámi areas. At the same time they fear that this verdict can be the beginning of the final exter-

mination of south-Sámi culture in Norway. In continuation of the 'Aursund-case', the Sámi Parliament and the Cooperation of Norwegian Reindeer herding Sámi (NSR) have asked the Norwegian minister of justice to appoint a special reindeer herding legal committee. There are obvious parallels between the 'Aursund-case' and a similar law suit in the southern Sámiland on the Swedish side (see *The Indigenous World* 1995-96, p. 42 and *Indigenous Affairs* 2/1997, p. 20).

Sámi Parliament

On the 7th of October the new Sámi Parliament opened in Norway. The former president of the Sámi Parliament, Ole Henrik Magga, was not a candidate. The new president of the Sámi Parliament is Svend-Roald Nyestø from the Norwegian Sámi League (NSR) and the new vice-president is Ragnhild L. Nystad also from NSR. NSR got 19 out of 39 seats in the new Sámi Parliament. By this NSR lost its earlier majority but kept its leading position by entering a coalition with Moving Sámi list, Settled Sámi list and Middle-Nordland Sijda. The leading party in opposition is the Labour Party who increased their group from 9 to 12.

Svend-Roald Nystø comes from Tysfjord and not from a Sámi core-area as did his predecessor. Tysfjord is a society where the Sámi are a minority and where ethnicity contributes to the organization of many things in everyday life. Here, reindeer herding is not very prominent, instead a mixed economy is prevalent. Nystø says that he has grown up with one leg in a fishing boat and the other in a stable. On the other hand, the vice-president Ragnhild L Nystad comes from Karasjok which is both a Sámi core-area and dominated by reindeer herding.

Sweden

Sámi Parliament

As in Norway, the Sámi in Sweden held elections for the Sámi Parliament. The constituents elected among eleven parties, which meant that there were many possible combinations to obtain a majority. The final grouping, with 16 out of 31 mandates, consists of the Reindeer owners League, Mii Sámit, Sámi Solidarity, The Sámi, The League of Swedish Sámi and the Hunting- and Fishing Sámi. Per Mikael Utsi from the

Reindeer Owners League was elected president of the Sámi Parliament.

The Sámi Parliament is an independent, elected body. Its fundamental duty is to promote a vital Sámi culture. Culture should be seen in a wider perspective which includes Sámi economic activity. This means that the Parliament will also contribute towards social planning.

One of the important subjects that the new parliament has worked out is a manifesto concerning the Parliament's work from 1997 to 2001. The main issues covered are: Legal Affairs, Information, the Sámi Language, Culture, Education and Research, Trade, Environmental Affairs, the European Union, and Sámi Affairs, International and Nordic Affairs.

It was a very dramatic opening for the new Sámi Parliament on the 28th of August 1997. The Swedish king who was supposed to open the Sámi Parliament but at the last minute the king refused to do so although he was at the opening meeting. The reason for this is the conflict about the small-game hunting in the Sámi areas. In connection with a revision of the Reindeer Law in 1993, the Swedish state decided to take over the right to administrate small-game hunting within the Sámi areas. According to custom, Sámi villages have always had the right to administrate the small-game hunting within their own areas. Disputes have been the result. The Sámi Parliament, the Sámi villages and the main Sámi organisations have protested against the regulation through the years. When it was known that the day after the opening the king had planned to participate in the small-game hunt within the area of Saarivuoma, Sámi village, Olaf Johansson, member of the Sámi Parliament, wrote to the king and asked him not to join this small-game hunt. The king's reaction was that he did not want to open the Sámi Parliament. On the other hand, the king participated in the red grouse hunt. This was an untraditional thing to do for a Scandinavian king as there is a tradition that the crown does not interfere in politics at all.

In Jämtland it has been obvious that there has been a commercialising of the small-game hunt. This is maintained by both the reindeer owners and the civil servants in the county. There have even been

reports about sea-planes landing on mountain lakes where it was forbidden to land. As the hunters' interests have increased the red grouse market has also got more interesting. This year two of the major airlines, Heliflyg and Polarflyg, will fly red grouse hunters to the mountains. Earlier years they had not done this because of protests from the Sámi villages. The Sámi villages were big customers.

Russia

A cooperation between the Norwegian owned Reinprodukter AS and reindeer traders on Kola Peninsula is in danger of being destroyed. There is a big lack of reindeer meat at the reindeer slaughteries in Finnmark in Norway. This has opened the possibility of exporting reindeer from Kola to Norway. Reinprodukt AS pays three times as much as the price on the Russian market, so this trade has improved the situation for the reindeer herding Sámi on the Kola peninsula whose situation is very desperate. The economic situation in the area is disastrous. The unemployment rate is more than 60% and housing conditions are very bad. In 1997 the Kola Sámi sent 904 living reindeer to Norway. This was a small lot but enough to make it possible for the reindeer-trade company Voskhod to pay a salary to 150 workers. This positive development has been stopped by the Norwegian authorities who have raised the tax on reindeer meat. The president of the Norwegian Sámi Parliament Sven-Roald Nystø has asked the minister of foreign affairs to abolish the tax on Russian reindeer meat.

Finland

The reindeer herding Sámi Anni Äärela and Jouni Näkkäläjärvi from Sálleváre lost a law suit against the Finnish state in the district court to have all logging in Kariselkä stopped. This meant that they were compelled to pay the costs amounting to 70,000 Finnish Mark. The amount can be raised to 100,000 mark if the supreme court maintain the verdict. There have also been lawsuits about mining and forestry in other Sámi areas. Lawsuits which the Sámi have initiated to protect Sámi culture and way of life. The Sámi in Finland are supported by the Sámi Parliament in their struggle to strengthen their traditional economic rights. In a note of the Sámi Parliament to the Finnish government it says for instance: "It is preposterous that some Sámi in Finland have been forced to act against state authorities and large international companies because the Finnish government has been passive concerning the clearing up of Finnish Sámi rights to land and water. The juridical process has not been acceptable in an international juridical perspective. Especially not as the Sámi adversary in the case has been the Finnish authorities. The land and water rights in the Sámi areas in Finland must be cleared up as soon as possible".

Sources:
Ságat
Samefolket
Reindriftsnyt
Sámi Parliament in Norway
Sámi Parliament in Sweden

Countries covered in this issue: Canada, USA

NORTH AMERICA

CANADA

Impact of the Federal Elections on Aboriginal Policy

The election of 2 June 1997 turned out to be a moral defeat of the Liberal Party. Though the party still governs Canada, it lost many seats and now governs with only a slim majority in the House of Commons. The opposition is, however, badly divided among itself. The right-wing Reform Party is strong in the western provinces of Canada but has been unable to build support in the central and eastern parts of the country, while the separatist Bloc Quebecois dominates opposition in Quebec. The rise of the Reform Party has helped pull the Liberal Party to the right, and Reform's vocal opposition to 'special rights' for aboriginal peoples will not likely increase the government's willingness to develop and implement a strong aboriginal agenda.

That agenda will have to address the 1996 report of the Royal Commission on Aboriginal People (RCAP), which documented a wide range of aboriginal issues including the fact that Canada's aboriginal peoples have the worst living conditions of any groups in Canadian society. The RCAP, which began its work in 1990 after the 11 week long armed confrontation between the Mohawks Warrior Society and Canadian military and police (see *IWGIA Yearbook* 1990 and *The Indigenous World* 1994-95), made sweeping recommendations on how the various levels of government could improve the economic, social and cultural situation of Canada's First Nations.

Supreme Court Rules on 'Aboriginal Title' Term

Indian treaties have always been an important aspect of the relationship between the First Nations of Canada and the Crown, which is now represented by the Federal government. The Canadian law distinguishes between pre- and post-Confederation Treaties and 'modern-day comprehensive land claims settlements'.

Historic Indian treaties are referred to as belonging to the pre-Confederation era from 1725 to 1867 or to the post-Confederation era be-

tween 1867 and 1923 (which are numbered from 1 to 11). In a few instances, Métis were involved in historic Indian treaties, but no such treaties were made with Inuit. In all, 67 Indian treaties were made between the Crown and the First Nations of Canada. They are protected by section 35 of the Constitution Act of 1982. Both the Government and the courts share the view that Indian treaties in Canada are *sui generis* ('of its own kind'). This means that they are neither created nor terminated according to the rules of international law, and they are a different form of contract.

Since the 1960s, an increasing amount of treaty-related cases have developed a number of principles of interpretation by the courts in order to guide them in their considerations of treaties and treaty rights. According to the Department of Indian and Northern Affairs (DIAND), these principles are summarized as follows:

- 1. The treaty should be given a fair, large, and liberal interpretation in favour of the Indians.
- 2. Treaties must be read not according to the technical meaning of their words, but in the sense that they would be naturally understood by the Indians.
- 3. As the honour of the Crown is always involved, no appearance of 'sharp dealings' should be sanctioned.
- 4. Any ambiguity in the wording should be interpreted as against the drafters and should not be interpreted to the prejudice of the Indians if another interpretation is reasonably possible.
- 5. Evidence by conduct or otherwise as to how the parties understood the treaty is of assistance in giving it content.

The comprehensive land claims settlements are recognized as treaties by Section 35(3) of the Constitution Act of 1982. The above mentioned rules do not apply to them as the courts found that the conditions under which these land claims are negotiated stipulate that the involved First Nations are well advised and informed. Therefore, the general principle of neutrality in interpretation should apply. The first of these treaties was the James Bay and Northern Quebec Agreement of 1975. Regardless of the fine principles, many legal and political

disputes between aboriginal peoples and both levels of the Canadian government exist on how to interpret treaties and treaty rights (see reports in *The Indigenous World* since its first issue). A ruling of the Supreme Court in December 1997 in the Delgamuukw case made important clarifications on some of these issues, largely in favour of aboriginal people (paragraph below).

The part of Canada where this ruling will have the greatest impact is British Columbia, where no treaties were ever signed. The British Columbia Treaty Process, which involves the Federal government, the province of British Columbia and the First Nations of British Columbia, was thrown into chaos by the impact of the decision. "First Nations in this province require certainty just as much as business and government. The historic Delgamuukw decision gives us a unique opportunity to resolve how aboriginal title and rights co-exist with the rights of others in British Columbia", said Grand Chief Edward John, a member of the First Nations Summit Task Group. The specific form which that co-existance will take remains to be determined.

Delgamuukw and 'The Rule of Law'

In December 1997 a decision of the Supreme Court of Canada ended the longest running First Nation land claim court case in Canadian history. More than 20 years ago the roughly 8,000 *Gitxsan* and *Wet'suet'en* declared their intention to negotiate recognition of their ownership of, and jurisdiction and self-government over, 58,000 square kilometres in northwestern British Columbia (BC) which is their traditional territory. Years of talks went nowhere, so they opted for legal action. Gitxsan hereditary chief Delgamuukw was the main plaintiff, along with 50 other hereditary chiefs, so the action was named after him.

In a 1987 trial before the BC Supreme Court, the Gitxsan and Wet'suet'en presented a huge body of evidence about their culture, their history, and their relationship to their lands and each other. This evidence was unique in that it was presented by the First Nations people themselves, in their own languages. The richness and power of the

testimony was recorded in Don Monet and Skanu'u's book 'Colonialism on Trial' (New Society Publishers, 1992).

In a decision which could have been written 100 years ago, Chief Justice McEachern ruled that any aboriginal rights which the Gitxsan and Wet'suet'en may have held had been extinguished by the colonial government of BC. Aboriginal rights exist at the pleasure of the Crown, he wrote, and can be extinguished by the Crown if it choose to do so, therefore "The reality of Crown ownership of the soil of all land of the province is not open to question... "

While the First Nations were "eking out an aboriginal life" which "was, at best, nasty, brutish and short", McEachern wrote, Europeans were engaged in "discovery, exploration, settlement and development". The economic imperatives of European colonisation had given rise to legal imperatives in which the rights of First Nations could be extinguished without their knowledge or consent, and without compensation. Moreover, McEachern wrote that the chiefs and elders had presented mere "beliefs" and "matters of faith", rather than "real" evidence. He even volunteered the opinion that First Nations are to blame for their oppression because they have "failed to adapt" to the modern world.

It was the racist tone of the judgement that stunned both the Gitxsan and Wet'suet'en and many non-natives. University of Alberta anthropologist Michael Asch wrote that the decision treated the First Nations "something like wolves", while University of British Columbia anthropologist Robin Ridington wrote that the province "consciously laid on every bit of racist claptrap that they could think of, and he bought the whole package". If a student had written the judgement as an essay, Ridington said, "not only would you write a lot of red ink over it, you would say, 'Look, please come in and talk to me... you have real problems'". Ridington described McEachern as "singularly blind to the unstated assumptions of his own culture" and possessed of "a world view and an ideology appropriate to a culture of colonial expansion and domination".

For precisely these reasons, McEachern became an instant hero to racists right across Canada, and especially in BC. Mel Smith's book

'Our home or native land?', the bible of the anti-aboriginal movement in Canada, lionized the judge and his judgement.

After an inconclusive review by the BC Court of Appeal and another failed round of negotiations, the Gitxsan and Wet'suet'en moved on to the Supreme Court of Canada. There, a slim majority of the court overturned McEachern's judgement - finding instead that aboriginal peoples who have not signed treaties have a constitutional right to own their ancestral lands and to use them almost entirely as they wish, insisting that courts must seriously consider aboriginal evidence presented in the form of oral history, and concluding that a new trial is necessary if a negotiated settlement can't be reached. The Gitxsan declared 'Complete Victory'.

The right wing Fraser Institute took out a full page ad in the *Vancouver Sun* to blast the Supreme Court justices for being unduly influenced by "radical utopian law professors". The ruling "practically gives control of 95 per cent of the BC land mass to about 5 per cent of the population", the institute exaggerated. Gordon Gibson, the voice of the BC right in the op-ed pages of the *Globe* and *Mail,* wrote that the decision "reaffirms that the treatment of natives on the basis of race is not only permitted, but required", and called the ruling "a breathtaking mistake"; the worst example yet of "the pestilence of judge-made law". Mel Smith mourned the demise of "long-established rules of evidence" and "the rule of law grounded on common law principles".

Reviewing these howls of outrage, one observer commented that "[a]n entire dialect of political phraseology that built the careers of most [right-wing politicians] was dismissed outright, laughed out of court".

What impact will the decision have? Prominent BC Chief Joe Mathias has said that "the decision restores a measure of [our] faith in the rule of law". But it should be noted that the Delgamuukw decision passed by the thinnest of margins: the tie breaking vote agreed at different points with both the majority and the minority views, meaning that the bets are being hedged for next time and the reliably predictive value of this ruling is limited. Still, the Supreme Court's ruling on the

Delgamuukw case should prove to be one of the most prominent - and progressive - judgements in modern Canadian history.

The text of the ruling can be found at http://kafka.uvic.ca/~vipirg/SISIS/Clark/97delrul.html

AFN Elected New Chief

The Assembly of First Nations (AFN), the largest Indian organisation in Canada, which covers 623 bands and nations with about 400,000 'Status Indians', elected a new Chief on 1 August 1997. Phil Fontaine of Manitoba defeated incumbent Ovide Mercredi to become National Chief.

The tenure of Ovide Mercredi can be characterized as cautious tactics in order to achieve improvements through negotiations, with periods of militant rhetoric when protected negotiations produced little in the way of results. This lack of progress and perceived lack of consistency on Mercredi's part resulted in the selection of a National Chief who is seen as being close to the ruling Liberal Party, and particularly close to DIAND Minister Jane Stewart.

Lubicon Lake Indian Nation

Considering the situation of the Lubicon Lake Indian Nation, one is forced to say that nothing new has happened under their sun. Both the Federal government and the government of the province of Alberta kept the Lubicon leadership under Chief Bernard Ominayak busy with empty talks – when talks happened at all. When Ominayak tried to come in direct contact with the new-appointed Minister of Indian and Northern Affairs, her staff could find neither a date for a personal talk nor time for a telephone conversation.

At the same time, the Lubicon are forced to fight on the rumours front. The Japanese-Canadian Daishowa timber company, which holds extensive logging rights in and around the traditional Lubicon area were able to spread the rumour that members of the Lubicon band or some of their relatives from the nearby living Woodland Cree Band or from the Loon Lake Band were willing to work for the company dur-

ing the coming timber cutting season. True or not, the Lubicon have to make an extra effort in order to convince the public and the authorities that they still stand up for their rights. (For more details concerning the history of the conflict please see *The Indigenous World* since 1988 and *Indigenous Affairs* 2/95 and 1/96.)

The Woodland Cree Band is not a historical band, having been founded by the Canadian government in 1989 under the special clause of the Indian Act. The foundation of this band was widely regarded as an attempt to split the Lubicon and to grant the smallest possible reservation and financial compensation. As the economic base of the band is very tiny, it is for the time being more or less bankrupt. The same can be said about the Loon Band. It would not be a surprise if and when desperate members of these bands catch at any straw in order to improve their own situation.

Indigenous Affairs reported last year about the suit against the Friends of Lubicon (FOL). As the court at second instance, in granting Daishowa's injunction, forbade the FOL to continue with the successful consumer boycott in 1996, the company used the last year trying to finally break the FOL by suing them for damages. Daishowa states that the FOL's boycott caused damages of 9 million Canadian $. A negative judgement could ruin FOL members financially as well as seriously damage the ability of support groups to publicize the misdeeds of large companies.

Another big question mark in the ongoing case against the FOL is the work of the Daishowa lawyer John Hunter. He was employed by the law office Davis & Company, which worked for the Lubicon from 1986 to 1988. The court denied an application from the FOL for his suspension from the case due to possible conflict of interest.

Sad as the trial is in general, it has the positive implication that Daishowa does not dare to start the clear-cutting process on the traditional Lubicon territory to avoid even more bad publicity. In order to limit the information of the public regarding its legal efforts, Daishowa tried the role as a censor. The company intervened when the Canadian Broadcast Company (CBC) wanted to re-transmit an interview with some Lubicons that used the word 'genocide'.

In addition, an American Internet company was asked to censor the Lubicon's material and to add 'complementary' information.

While the extensive – and, for the Lubicon, exhausting — legal battles continue, a couple of oil companies are seeking to exploit the large tar sand deposits in Alberta including those in the traditional Lubicon territory and the area which is earmarked for their reservation. A problem of particular concern is that the production of a barrel of syncrude oil demands the ninefold quantity of water, and after processing this water is both warm and sterile. It is planned to use an aquifer, flowing at 700 metres depth, to support the oil production. Both pumping up huge amounts of ground water and returning water which is warmer than is common for the region can cause unforeseeable environmental damage.

As mentioned in *The Indigenous World* 1996-97, various diamond mining companies have gained prospecting rights in Alberta and the Northwest Territories. With both levels of the Canadian government apparently uninterested in settling the Lubicon's land claim, and with the courts firmly on the side of Daishowa, last year's statement (that the finding of kimberlite might be a chance for the Lubicon to achieve a solution for their problems because the mining companies seek clear legal circumstances) was perhaps too optimistic. The Lubicon are too far away from where diamonds have actually been found for the socio-economic agreements made in the NWT to benefit them. Fortunately, the Lubicon are still fighting. Chief Ominayak's powerful testimony during the FOL court case is evidence of this.

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USA

National American Indian Heritage Month

November 1997 was proclaimed by President Clinton as National American Indian Heritage Month. He stated that "The framers of our Constitution incorporated Indian nations into the political and legal framework of this country, forever joining the destiny of the tribal nations with that of the American people. By this action, our founders charged themselves and future generations with the moral obligation to guard the rights and fundamental liberties of our country's tribal peoples as zealously as we protect the rights of all Americans. As we enter the next millennium, we have an exciting opportunity to open a new era of understanding, cooperation, and respect among all of America's people. ... In recognition of America's moral and legal obligations to American Indians and Alaska Natives, and in light of the special trust relationship between tribal governments and the Government of the United States, we celebrate National American Indian Heritage Month."

Despite those noble words, the results of current conflicts between Indian nations on one side and U.S. American authorities and companies are often quite different from high-minded statements.

Blackfeet Nation

After having got prolonged the drilling stop in the Badger-Two Medicine Area three times by the federal authorities, the Blackfeet Nation has reasons to look optimistically into the future (see also *The Indigenous World* since 1994-95). This area is not only a sacred one for the Blackfeet Nation, where they hold special rights according to the treaties between them and the United States of 1855 and 1895, but also one of the last untouched wildernesses in Northern America and a retreat for many threatened plants and animals.

Nevertheless, backed by an insufficient Environmental Impact statement (EIS) of the U.S.Forest Service (USFS) of 1993, two oil companies, Chevron (American) and PetroFina (Belgian-American), obtained drilling permission for nearly the whole area, though the chances of finding oil were estimated at about 0.5 per cent. Their attempts to drill

here against all odds was widely regarded as a Trojan horse in order to create a precedent for the opening of mines in other parts of the northern U.S. and Alaska.

After several years of protests from the Blackfeet Nation and environmental organisations, which gained the support of various European indigenous rights and environmental groups, the federal authorities offered the mentioned oil companies compensation for the disclaimer of the drilling rights. This was the only possible legal way for the authorities to nullify the drilling rights when the USFS declared in the Final Environmental Impact Statement that no drilling permission will be issued for the whole Northern Rocky Mountain Front in future. Chevron has already accepted 8 million US$ in September 1997 and the final approval by Congress is regarded as certain.

The authorities are in contact with PetroFina in order to reach a similar agreement. If PetroFina lives up to the statement of Mr Jean Castelein, Senior Vice President Health-Safety-Environment-Quality of 5 May 1997 that "... Fina Inc (the American subsidiary - the author) and a fortiori PetroFina were in no position to start any activity in the region. Moreover, our company did nor deem itself entitled to intervene in a political debate...", the company is expected to follow Chevron's example.

A withdrawal of the oil companies from the huge Northern Rocky Mountain Front area without resistance cannot be expected. Three associations of local oil companies filed a claim against the mentioned decision of the USFS. But all in all, the situation right now looks better than ever for the Blackfeet Nation. For the keeping of their cultural heritage and the practice of their religion, the final creation of a so-called Blackfeet Traditional Cultural District (BTCD) within the boundaries of the Badger-Two Medicine Area according to the National Historic Preservation Act (NHPA) will be decisive. The creation of the BTCD was announced by US Secretary Bruce Babbitt in 1996.

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http://conbio.bio.uci.edu/nae/knudsen2.html

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Teltower Str. 17, D-13597 Berlin
Germany

Chippewa

After having given up its plans to open a 350 ha large copper-zinc mine in 1986, the multinational EXXON mining company turned back to the area of the potential Crandon Mine in the northern part of Wisconsin in 1994. This large area is still covered with nearly virgin woods and is the homeland for various native peoples such as the Menominee, Potawatomi, Oneida, Stockbridge and Munsee. Their basis of life is still partly hunting, fishing and harvesting the wild rice.

The proposed Crandon Mine could produce copper, zinc and especially poison metals such as mercury, lead, arsenic and cadmium and would be placed in the headwaters of the Wolfe River which is a huge wetland. Even leading EXXON people had to admit that "... it would be hard to find a worse place for a mine." During the planned operation time of 20 to 25 years, the mine would produce about 44 million tons of waste. According to the Environmental Protection Agency (EPA), the necessary dump of 150 hectare and 30 metres depth is hard to control and leaks cannot be avoided. Dumps such as Crandon Mine should be observed for approximately 9,000 years while EXXON only plans to do so for another 40 years after the operation time.

The proposed mine would not only threaten the nearly untouched environment but also destroy the traditional way of life of the mentioned tribes. The promised new jobs in the mine could not be filled up with tribe members to any noteworthy extent as it demands specialized skills to work in a modern, high-tech mine.

On the other side, about 90 per cent of the Chippewa of the nearby Mole Lake Reservation still depend on wild rice harvesting, fishing and hunting. The Tribal Council marked its position regarding the Crandon Mine project by tearing a cheque to pieces. This "dirty money"

was intended to secure EXXON the exploitation rights on the reservation.

The Menominee Elder Hilary J. "Sparky" Waukau commented EXXON's exploitation intention as follows: "As long as those valuable metals are in the ground, we as humans can never rest because the beast of greed and exploitation will be over our heads and over generations who inhabit this part of the country to the end of eternity."

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http://www.menominee.com/treaty/hom.thml

Big Mountain Hopi-Dineh controversy finally 'solved'?

When Congress enacted the Public Law 93-531 (PL 93-531), it was meant to solve a conflict between the Big Mountain Dineh (Navajo) and the Hopi (Moqui) Tribe. For the public and the legislator, the law seems to be the solution for a century-old conflict between the two tribes regarding pasture rights settling it by dividing the land in question into two parts. About 25 Hopi families and 12,000 Dineh should be relocated into their own parts and both peoples should live divided from each other in future. This was regulated under the so-called "Navajo-Hopi Land Dispute Settlement Act of 1996 (PL 104-301). This PL includes the Accommodation Agreement (AA) of 1988, which leases the Dineh's homeland to themselves for 75 years without the guarantee to prolong the lease indefinitely. The Dineh might stay on their homeland provided they are willing to live under Hopi jurisdiction and under limited economic conditions. The children of the affected Dineh families have not the right to found their own residence, though it is already now obvious that the planned 112 Dineh residences on the Hopi Partition Land (HPL) are inadequate. Further, the Dineh

would have to ask for permission to hold sacred ceremonies. Provided the Dineh would agree to these terms, they might remain on their homeland and the 20 year old construction freeze, that forbids even the smallest repairs of Dineh homes, would be lifted. The Hopi Tribal Council (HTC) preserves all rights to terminate the lease at any time.

What might be regarded by the legislature as a fair solution was rejected by the Dineh from the beginning due to the necessary eviction from their homeland What was widely unknown or perhaps kept secret was the fact that the Hopi and Dineh had been living peacefully together for some centuries. In fact, the so-called "pasture war" was staged by some Hopis eager to earn money on the exploitation rights and, in the background, by Peabody Coal Company (PCC).

Though the Hopi and their ancestors had been the first inhabitants while the Dineh invaded their country many generations ago, they were able to share the land due to their different economic bases. While the Hopi practised extensive horticulture, the Dineh lived as hunters and gatherers and later, after the approach of the Spaniards and their domestic animals, especially as shepherds. In this way, it had not been a problem to live together within the large Navajo reservation that was created in 1882. This fact was often confirmed by both Dineh and Hopi elders and traditionalists. A part of this reservation was the so-called Joint Use Area (JUA) which has caused the conflict between the Hopi and Dineh for about 25 years.

But instead of calling the conflict a controversy between two indigenous peoples, one should call it by its genuine name: A conflict concerning the exploitation rights of huge coal resources in the area and who should profit by them. The HTC was and still is keen on selling the exploitation rights to PCC while the majority of the affected Dineh wants to follow the traditional way of life and opposes the destruction of a large part of their homeland. As their homeland is largely characterized as arid and semi-arid, the Dineh need huge pasture areas in order to avoid overgrazing. On the other hand, PCC exploits the coal deposits strip mining under provisional terms without being bothered with environmental injunctions. As the HTC, which has the formal legislation over the JUA, claimed that the fragile environment had to be protected against overgrazing, it used all methods

to evict the Dineh. Their livestock was often confiscated, most recently in August 1997. The remaining Dineh are frequently accused of violating the terms of the lease by rebuilding ceremonial structures, burying relatives, gathering green boughs and herbs and, as mentioned, the size of their livestock.

The long-standing pressure secured that the majority of the Dineh reluctantly accepted the "generous" re-location benefits and left their homeland within the deadline of 31 December 1996, which was prolonged until 31 March 1997. Many of them live now outside the Navajo reservation and are faced with tremendous social problems. Everybody who refused to sign the AA of 1988 loses all claims to benefits and rights. Despite these bad odds, a small fraction of traditional Dineh families still live scattered over their homeland. Their last hope of finding a fair solution by legal means was a "Fairness Hearing", held in Phoenix from 11 to 14 February 1997. About 150 Dineh representatives attended the hearing and most of them submitted written testimonies. Unfortunately, the procedures were not as fair as the name could imply due to the clear favouritism that the backers of the relocation process enjoyed. But the last hope of fairness was disappointed when Judge Caroll ruled several weeks later that the AA is satisfying the Dineh's needs.

All Dineh families, who still remain on the HPL, will receive a 90 day notice issued by The Office of Navajo and Hopi Indian Relocation Commission (ONHIR). After this period, ONHIR will categorize Dineh individuals and families as those who will "voluntarily" relocate and those who will not. The last group will waive all their rights where to move and what type of house to live in.

During the period of conflict, the Navajo Nation Council (NNC) did not back the Big Mountain Dineh in a desirable manner. On 26 March 1997, NNC released a resolution that "... the NNC has already stated that it is a matter of individual choice whether to sign the AA." The NNC did not participate in the final negotiations of the PL 104-301 either.

If neither the U.S. American authorities nor the HTC think better of it, it must be feared that Peabody Coal Company will reach its goal thanks to its willing Hopi helpers. But as sign of hope and resistance,

a coalition of Dineh and environmentalists was found since the effective date of the AA. The Dineh Kee Watchman was elected chairman.

The Indigenous World also reported in the issue 1993-94 about the Big Mountain case.

The remaining persistent 2,000 Dineh can by supported by protest letters to:
Hopi Tribal Police Chief
Keith Sekacucu
Fax: +1 520 734 9939

Hopi Tribal Council
Chairman Ferrel Sekacucu
Fax: +1 520 734 6665

http://www.primenet.com/~dineh

San Carlos Apache

Since 1989, the San Carlos Apache, the Apache Survival Coalition and the Apaches for Cultural Preservation have been opposing the Mount Graham International Observatory (MGIO), a telescope station on top of the mountain which is sacred to the Apaches.

While most people in the western world are disposed to speak openly and discursively about religious topics, others, as the Apache, are not. In accordance with their conception of religion, only little information is available to the broader public concerning their religion as a whole and especially the religious importance of 'Dzil nchaa si an', the Apache name of Mt Graham. Despite their traditional restraint, 15 medicine men confirmed in a common statement the mountain's place in the Apache religion.

The leading authority of Apache religion and culture of the 20th century, Keith Basso, who was able to use the late Greenville Goodwin's field notes, proved in a large-scale study that Mt Graham is one of the four holy mountains of the Apache religion. Goodwin was a highly skilled ethnographer who lived on the San Carlos Reservation during the 1930s and 40s.

Many sacred and burial places are located on Mt Graham, which is regarded as a pathway for prayers to the heavens. Therefore, medicine man still gather herbs and holy water on the mountain area for healing practices. But now, the Apaches need permission from outsiders to pray on this holy place. Many Apaches are asking whether Moses had to ask for permission to go to Mount Sinai to retrieve the ten commandments.

Permission to build the two already existing telescopes was given under circumvention of the National Historic Preservation Act (NHPA) and various environmental protection laws (see also *The Indigenous World* 1994-95 and 1995-96).

The coalition partners against the continuing construction of observatories organized the Mount Graham Sacred Run on 11 October 1997. The Apache participants run side by side with Indian runners from the Navajo, Yaqui, Lakota, Klamath, Modoc, Ojibwe, Pima, Gila River nations and the Yahoo Band of Snake as well as non-Indian runners. On 13 October 1997, the Student Environmental Action Coalition (SEAC) demonstrated on UA's campus against the project.

Already on 16 August 1996, the President's Advisory Council on Historic Preservation declared the entire Mount Graham observatory project to be in violation of the NHPA due to the project's harm to Apache culture and religious life. Even earlier, 16 July 1996, President Clinton expressed his opposition to the desecration of the sacred mountain: "... the Administration strongly urges the repeal of two riders passed earlier in this Congress that have ill-served the American people and their environment. (...) Second, the Mount Graham rider should be repealed. Mount Graham is a site of importance to native Americans."

Now, after many protest actions, parliamentary objections and series of court cases, the coalition of traditional Apache and environmentalists counted a real success. On 1 November 1997, President Clinton vetoed a congressional earmark of 10 million US$ for two astronomy projects, including funds the White House and NASA say were meant for the telescopes on Mount Graham. An important share would have gone into the University of Arizona's (UA) Large Binocular Telescope (LB), the centrepiece of the whole project.

Though technical reasons were given in order to prevent double structures as the similar Keck Observatory project already exists in Mauna Kea, Hawaii, the Presidential veto should be regarded as a first step in the right direction. San Carlos Apache Chairman Raymond Stanley and White Mountain Apache Cultural Resources Director Ramon Riley sent letters to President Clinton thanking him for his veto.

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Western Shoshone

"Gold mining today is happening right at my front door. I sit up in my bedroom in the morning and the first thing I see through the trees is drill rigs. It's not a pretty sight. I look at them as death to my people - death to my beliefs. The earth is sacred. The water is sacred. The air is sacred. Gold mining is destroying these things. It's wasting millions of gallons of water. Some companies put it in ponds. Some just release it down the Humboldt River, and it leaves the valleys forever. In ponds, maybe there's a possibility that the water might eventually find its way back to where it came from. But I don't see too much of that." (Carrie Dann, a Western Shoshone elder and indigenous land-rights and environmental activist in her article "Opening the Earth's Veins")

These few words from a woman, who has always lived on her ancestral homeland in Crescent Valley, Nevada, already sketches the Western Shoshone Nation's probably most momentous problem: The intrusion of gold mining companies into their traditional territory. Though both the companies and the Bureau of Land Management (BLM) state that the land in question is public, their arguments are based on very weak legal ground a the BLM has not been able to show how the U.S. had acquired Western Shoshone land titles.

In order to understand the complicated legal situation of the Western Shoshone, one must look into treaties and laws, which were written between the American Revolution and the 1860s. The Northwest Ordinance of 1787 states, talking about the Indians of that territory, (that) "The utmost good faith shall always be observed towards the Indians, their lands and liberty shall never be taken from them without consent; and in their property, rights, and liberty, they never shall be invaded or disturbed, ..." (Journals of the Continental Congress, 32:340-41). As the Western Shoshone National Council is opposing gold mining on the nation's traditional territory, the "outmost good faith" is hard to spot.

As the Ordinance was re-enacted by the first Congress that was convened under the present U.S. American Constitution and has been cited many times in the courts, it is still basic organic law of the U.S. Further, the "Act to organize the Territory of Nevada" of 1861, is worded consistently with the Northwest Ordinance of 13 July 1787 stating: "... nothing in this act shall be construed to impair the rights of person or property pertaining to the Indians in said territory, so long as such rights shall remain unextinguished by treaty between the U.S. and such Indians..." But such treaty does not exist as the Western Shoshone Nation never ceded or transferred its homeland to the U.S. The Western Shoshone lost their territory due to "gradual encroachment". Therefore, extinguishment is not permissible. The Treaty of Ruby Valley of 1863 is a treaty of "peace and friendship" and not of cession, and therefore still valid

Furthermore, both the United States Federal District Court for the State of Nevada and the 9th Federal Circuit Court of Appeals have affirmed that the treaty "is still in full force and effect." According to

Article six, section two of the Constitution of the United States, "a treaty once entered into by the United States, becomes the Supreme Law of the Land." According to international standards, the only way to terminate the Treaty of Ruby Valley would be a joint statement of Congress and the Western Shoshone Nation as the involved parties. But such statement does not exist.

Neither does the authorities' argument work that Western Shoshone land rights lost their rights to their liberty and territory based on "gradual encroachment." The BLM set the date of the claimed encroachment arbitrarily to 1872. But maps show that at this time the non-Western Shoshone population was still a minority. In addition, the Treaty of Ruby Valley gives no permission to cede land titles under such assumption.

As the Western Shoshone have never given up their status as a sovereign nation and never changed the terms of the Treaty of Ruby Valley and the question of extinguishment was not necessarily an issue during the litigation before the Indian Claims Commission (ICC), the legal land title rests with the Western Shoshone Nation and its government. The final award of the ICC of USD 26 million of 12 December 1979 placed the Government in a dual role of being both a judgement debtor and a trustee for the Western Shoshone; a role which is contradictory to the said treaty. Finally to this point, the Western Shoshone never accepted this payment.

In order to intensify the Western Shoshone's stand for their rights outside the U.S. American court system, the Indian law Resource Center filed a human rights complaint against the United States in the *Inter-American Commission on Human Rights* of the Organisation of American States (OAS) on behalf of Mary and Carrie Dann and the Traditional Dann Family. This complaint is believed to be the first one filed against the U.S. on behalf of American Indians in the Inter-American Commission.

The complaint's main points are that the circumstances of the ICC proceedings from 1951 were fraudulent and that the actions of the federal government violate universally recognized human rights as the right to due process, the right to equal protection of the law and the right to own property. Those actions prevent the Danns from hunting

and grazing livestock and the authorities have denied them basic constitutional rights.

The only response by the U.S. government has been a variety of legal tactics that include asking the Commission to declare the case inadmissible. The Commission has not the power to settle such claims but has the authority to hear and investigate human rights complaints against the member nations of the OAS. A public report will only be made if the Commission decides that a friendly settlement cannot be reached. Through its work, the Commission strengthens the international law of human rights as national law is often discriminatory and unfair.

As mentioned in *The Indigenous World 1996-97*, Oro Nevada Mining Company filed a Notice of Intent with the BLM to conduct exploratory drilling for gold in Crescent Valley. According to Oro's press release of 10 November 1997, the first phase of exploration is complete. As Oro Nevada claimed that the exploratory drillings would cover less than five acres, only a notice to the BLM had to be issued. In spite of the BLM's understanding, mining or exploration related surface disturbance occurred on the land in question. It is hard to find another word either for the carving of a 900 foot and a 3,000 foot road in April and May 1997 or for the drilling of 37 boreholes. It is amazing that the BLM's experts could not find mining or exploration related surface disturbance. All in all, so many boreholes, carved roads and the necessary movement of the rig, further equipment and lorries left traces and other disturbance that easily exceed the "Notice Level" activity of 5 acres. Last but not least, Oro's rig hit a geyser which sprayed hot water 60 ft into the air. It is known that owners' property with a hot spring miles down the valley noted that their flow was reduced for many hours.

Based on the results, Oro is now seeking a joint venture partner to continue drilling even deeper holes around the Dann Ranch and nearby hot springs. Carrie Dann's words in the beginning were meant for Oro's rig in the very vicinity of her home. Oro's so-called "Hand Me Down Project" arouses suspicion that the company is only a Trojan horse for the final invasion of multinational mining corporations into the heart of the Traditional Dann Family's territory.

A part of Oro's strategy is apparently the plan for a land swap. Oro wishes to swap 8,000 acres of its private property in the mountains in exchange for 22,000 acres of Western Shoshone land (so-called public lands) in the flats. This land includes many cultural sites such as the ceremonial area in Section 4 and the hot spring in Section 10.

If Oro Nevada comes through with its plans to exploit the deposits of microscopic gold, more environmental pollution could occur. Bad experience from Placer Dome's (another gold mining company) Pipeline project at Cortez prove that the long-term water quality is getting worse due to contamination by manganese, antimony and boron. The mine also drains the area as the system of pumps and ponds does not work as predicted. In addition, evaporation will be nearly tripled by the ponds, creating permanent ground water loss. Water saturating the ground around some of the facilities is drowning native vegetation in

Pipeline Pit, Cortez Gold Mines (Placer Dome), Crescent Valley, NU, May 97 (Photo: IWGIA Archive)

some locations and causing a salt crust to build up on the surface in others.

The BLM in Elko has several times tried to reduce the Western Shoshone's livestock by confiscation stating that this was necessary as the herds are too large for the fragile environment. The background is to destroy the nation's economic basis and sovereignty. Further, The Traditional Western Shoshone Cattle grazers have always refused to pay the BLM for grazing animals on Western Shoshone territory until the United States presents documentation on how and when the U.S. acquired Western Shoshone lands. A serious attempt to confiscate Western Shoshone livestock was undertaken by BLM Elko in February 1998. The targets were the livestock of Western Shoshone citizens of the communities of Wells, South Fork, Odgers Ranch and Dann Ranch. Due to massive Western Shoshone and international protests, the BLM Elko did not start the action.

The anti-nuclear Shundahai Network under the leadership of the Western Shoshone's spiritual leader, Corbin Harney, continues its protest campaigns against hazardous nuclear waste shipments through the land and subcritical nuclear weapons tests. Last year, two of those tests were undertaken on the Nevada Test Site (NTS). The NTS is located within the boundaries of the traditional Western Shoshone territory according to the Treaty of Ruby Valley.

13 Shundahai activists were convicted for a peaceful road blockade on 3 April 1997. Justice of the Peace Tony Abbatangelo sentenced each of them to make a two hundred dollar donation to Shundahai Network or provide forty hours of community service to it. As the justice stated: "It's common knowledge that radioactive materials threaten water, land and humans."

Both the Shundahai Network and the Western Shoshone strongly oppose nuclear tests and the dumping of nuclear waste at White Mesa or anywhere on indigenous lands. For further details about the "most bombed nation in the world", please also see the IWGIA documents 62 and 68 and the IWGIA Newsletter 3/95.

One of the goals of the Western Shoshone Defense Project (WSDP) is to build up sustainable projects. Current results are the completely "off-the-grid" straw bale office and base camp which uses solar panels and wind generators for the production of energy. As the camp is located on so-called public land about one mile from the Dann ranch, BLM Elko issued a "Notice of Intent" accusing the Western Shoshone and the supporting activists for trespassing. According to the notice, the camp shall be demolished within a short time.

Finally, the Pinyon Education Project for Western Shoshone youth made good progress. 450 trees were planted. During the two week course, about 20 Western Shoshone from various communities were educated about the pinyon tree's importance as traditional Shoshone food and the nation's religious and cultural practise.

For further information please contact:
Western Shoshone Defense Project
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fax: +1 (702) 468 0237
e-mail: wsdp@igc.org

http://www.alphacdc.com/wsdp
http://www.teleport.com/~amt.planetpeace/wsdp

Protest letters should be sent to:
Bureau of Land Management
District Manager Helen Hankins
Elko District Office
3900 E. Idaho Street
Fax: +1 (702) 753 0255

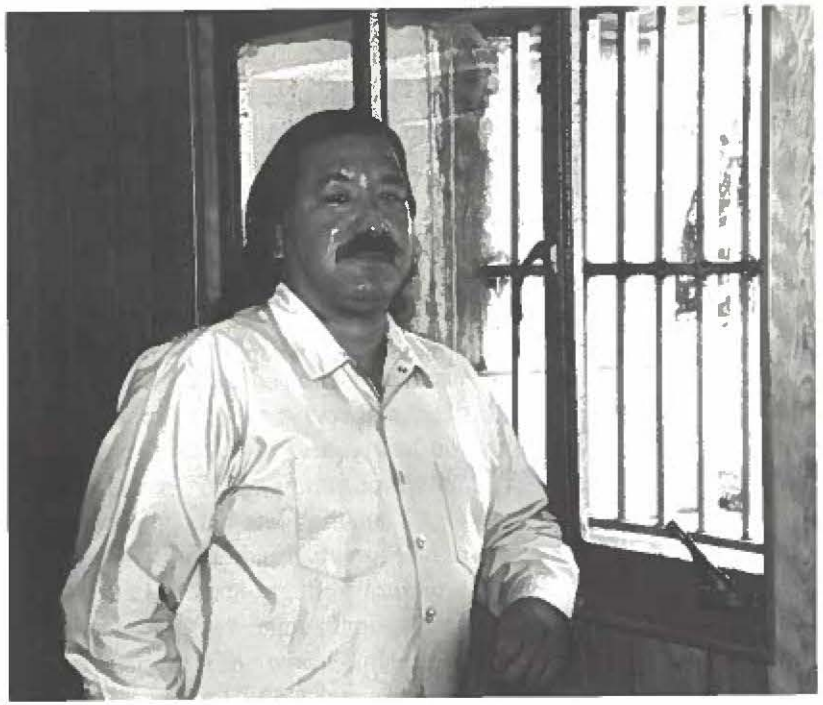
National BLM Director
Patrick Shea
1849 C St. NW
Washington DC 20240

Leonard Peltier

One of the founders of the American Indian Movement (AIM), Leonard Peltier, is still in prison since he was convicted the murder of two FBI agents after a gunfight on the Pine Ridge Reservation in South Dakota in 1975.

Leonard Peltier has been in prison since 1977. His physical condition has become worse since February 1996 when he had surgery on his jaw to correct an old problem. It turned out that the operation went wrong, complications occurred and several attempts had to be made in order to correct the mistakes.

After this life-threatening experience, Leonard Peltier is refusing treatment and surgery by prison-appointed medical staff and demands immediate medical treatment by an independent specialist. The Oglala



Leonard Peltier, Leavenworth Prison, Leavenworth, Kansas, 1995 (Photo: Worthington, Toronto Sun)

Sioux Tribe Council supports this demand as well as the request for an independent non-governmental second opinion regarding his immediate health condition. Leonard Peltier and his supporters as well as his family demand this examination especially due to the fact that he was misleadingly informed by prison-appointed medical staff that he is suffering from Hepatitis B disease. It was explained to him that this disease is uncurable and would kill him. This wrong information cannot be called anything other than mental torture. Another example of mental torture and violation of religious freedom is the fact that Leonard Peltier's ceremonial skirt towel has been confiscated and thrown away without explanation.

Leonard Peltier's supporters organized a "Knocking on the door" lobby action in Congress speaking to elected people.

Another powerful voice of conscience was heard on 20 June 1997 when former Attorney General spoke on behalf of Leonard Peltier along with his attorneys. He stated among other things that: "I think I can explain beyond serious doubt that Leonard Peltier has committed no crime whatsoever. But that if he had been guilty of firing a gun that killed a FBI Agent, it was in defence of not just his people but the integrity of humanity from domination and exploitation." Government official are keeping Peltier behind bars, "...because they have staked their reputation on it," as Mr Clark said. He added that Leonard Peltier should never have been sent to prison in the first place.

Though the investigation, which were started in 1994, concerning the investigation of the circumstances of Leonard Peltier's extradition from Canada to the U.S.A. in 1976 has now been completed, neither the former Canadian Minister of Justice nor the newly appointed one have taken any decision.

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P.O. Box 583
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http://www.unicom.net/peltier/index.htm

Support letters for a new parol hearing (see Indigenous World 1996/97) should be sent to:
U.S. Parol Commission
5550 Friendship Blvd #420
Chevy Chase, MD 20815
fax: +1 (301) 492 6941

Letters supporting the demand for medical and religious treatment should be sent to:
Ms Kathleen Hawk
Bureau of Prisons
320 First Street N.W.
Washington, D.C. 20534

Warden Page True
Leavenworth Federal Prison
P.O. Box 1000
Leavenworth, Kansas 66048

Sources
Leonard Peltier Defense Committee, Scarborough
Western Shoshone Defense Committee
Sundahai Network
Timbisha Shoshone Land Restoration Project
Apaches for Cultural Preservation
Blackfeet Support Group
Big Mountain Action Group
Association for the Support of North American Indians
Society for Threatened Peoples, Germany

Countries covered in this issue:
Mexico, Guatemala, Honduras, Nicaragua, Costa Rica, Panama

MEXICO & CENTRAL AMERICA

MEXICO

Chiapas continues to be the focus of the Mexican indigenous movement's attention. Since the Zapatista uprising on 1st January 1994, the conflict has undergone a complicated process of alliances, clashes and negotiations. The initial fighting was followed by peace agreements and proposals for constitutional reform only to see the dialogue break down once again. Now the Mexican government seems determined to isolate the Zapatistas, to deepen divisions between indigenous communities and to increase the presence of National Army troops in the area. The situation remains extremely tense and many people have the impression that all space for negotiation has now disappeared.

Throughout 1997, the issue of pacification of Chiapas centred around the initiative for constitutional reform formulated by COCOPA on 26th November 1996. This proposal was an initiative of legal reflection on the San Andrés agreements. COCOPA's proposal was accepted by the Zapatistas, whilst the government made an initial 27 observations which were subsequently reduced to 4.

The Zapatistas insisted that they would only accept the draft as presented by COCOPA and, given the government's refusal to accept it in its entirety, the possibility of arriving at an agreement between the two sides was fast disappearing. President Zedillo's government thus presented its own proposal in March 1998. At virtually the same time, the conservative PAN presented a similar proposal for constitutional reform.

Although the government insists that their initiative fulfils the San Andrés agreements and that the changes made to COCOPA's document were purely of a stylistic nature, there are basic issues, for example relating to land issues and autonomy, which have led to a rejection

of the initiative on the part of the parliamentary opposition, the Catholic church, the Zapatistas and a number of indigenous organizations.

Members of the Ejército Zapatista de la Liberación Nacional (EZLN) (Photo: Heriberto Rodriguez)

The Acteal Massacre

On 22nd December 1997, 45 indigenous *Txotxil* were massacred near Acteal, in the Altos de Chiapas mountain range. Twenty one women, nine men and fourteen children, who had been the object of constant and intimidating threats from pro-government (PRI) paramilitary groups, were praying in the local church. According to the many statements collected together by human rights organizations, the massacre had been organized several days previously. At least 60 heavily armed men were involved, who surrounded the church and fired from different angles. There are also strong indications that the attackers, which included indigenous Mayans, had the support of the President of the local Chenalhó community and direct participation on the part of the National Army through provision of arms and training to the aggressors.

In actual fact, the massacre was no surprise. The National Human Rights Committee had requested precautionary measures in Chenalhó. State officials played down the importance of initial information on events and later altered or destroyed the evidence.

Following the massacre, the French priest, Michel Chanteau, denounced the events, along with the lack of effort on the part of the authorities to clear up the issue, in a mass. In spite of having worked in the Chiapas region for 32 years, the priest was immediately thrown out of Mexico, as have been 8 other Catholic priests in Chiapas over the past few years.

As part of the government strategy to isolate the Zapatista movement and provide only whatever information it wishes, the Mexican government has, over the past few months, been intensifying its campaign in the media regarding foreign interference in Mexican affairs. At the same time, the issuing of visas has been heavily restricted, as has the free movement of observers within the state of Chiapas, and there has been direct intimidation on the part of paramilitary groups.

The Catholic church has also been the target of a number of criticisms in this respect. For example, on 17th February 1998, the President of the Chiapas State Congress, Jean Carlos Bonifaz Trujillo, accused Bishop Samuel Ruíz in Parliament of 'state treason' for encouraging foreign intervention in Mexican domestic politics.

In fact, the Church, along with a number of NGOs and indigenous organizations, have been requesting the constant presence of international observers. On repeated occasions, indigenous organizations have expressed a desire to see a Red Cross presence in the region, and a desire for work to be carried out in order to appoint a United Nations Special Rapporteur for the Chiapas problem.

The Mexican government's strategy seems very clearly defined in the Chiapas conflict, combining isolation, wearing down and division

of the Zapatista Front, without ruling out the possibility of military intervention in the near future.

Zedillo's proposal to introduce constitutional reform in the area of indigenous rights, which is contrary to the San Andrés agreements, makes the possibility of a negotiated peace even more unlikely.

GUATEMALA

After decades of civil war, the current most important issues for the indigenous movement in Guatemala are to establish itself in the space opened up by the Peace Accords of December 1996, to set national policies, to make the commitments contained in the Accords concrete through negotiations with the government and to develop communal and traditional authorities within the framework of a multiethnic, multicultural and multilingual nation.

One of the most outstanding of these issues over the last year has been the development of the commissions established by the government and the indigenous people's authority, COPMAGUA (the Coordination of Mayan Organizations in Guatemala). The five joint commissions agreed upon in the Agreement on Identity and Rights of Indigenous Peoples (AIDPI) have been set up between the government (represented by SEPAZ, the Ministry for Peace) and COPMAGUA. Within COPMAGUA itself, eight Permanent National Commissions (CNPs) have been set up, of which five deal with the same issues as the joint commissions. The Permanent National Commissions are both a factor of flexible dialogue with the government and also the most representative indigenous people's organizations in Guatemala to draw up common lines of policy, although the main difficulty they are facing is an insufficient lack of coordination between the commissions. In June 1997, a Political Negotiation Council was set up to try to establish better coordination of the work of the commissions. In an effort to overcome the distance between national and regional levels and to achieve better coordination with local organizations, COPMAGUA has begun to set up Regional Councils. This is still in an initial phase, with the first councils being established in Cobán, Huehuetenango, Sololá, Petén and Quetzaltenango.

In a declaration at the end of the year, COPMAGUA stated that, "individual civil servants, and the different State structures and bodies have had no intention of consulting the indigenous people with regard to 'legislative and administrative measures likely to affect the *Mayan, Garifuna* and *Xinca* peoples' " and gave as an example the Law of Protection of National Cultural Heritage and the integration and work of the Committee on the Strengthening of Justice. But it considered the work within the joint commissions to be positive.

COPMAGUA held its Seventh General Assembly on 29th August 1997 in Chimaltenango, in which it was decided to support the initiative for constitutional reform previously presented by the indigenous peoples, as well as to support the members of the different commissions in their negotiations with the Guatemalan government.

The Joint Commission for Recognition of the Official Status of the Indigenous Languages of Guatemala

The Commission for Recognition of the Official Status of the Indigenous Languages of Guatemala was created on 10th April 1997, on the basis of Government Agreement 308-97, and set up on 21st April in compliance with the Agreement on Identity and Rights of Indigenous Peoples. Its mandate was to study and present to the government ways of making the indigenous languages official, given linguistic and territorial criteria.

This commission was the first to complete its work and handed its report in to SEPAZ in March 1998. The report covers the historical background of the languages and includes a referential framework which comprises an analysis of the situation in other countries, up to date information on the situation and condition of each of the languages, as well as a proposal for making indigenous languages official, classifying them at the level of territorial languages, which are those spoken by more than 300,000 people and covering 20 or more municipalities (Q'eqchi, K'iche, Mam and Kaqchikel), community languages which are spoken by less than 300,000 people and in less than 20 municipalities and special languages which are in danger of extinction. A staged strategy was proposed, in the initial stages of which

services in different languages would be provided by translators and there would be training of human resources in the area of indigenous languages.

On the basis of this proposal, the government will have to propose a reform of Article 143 of the Constitution, so that other languages as well as Spanish may be made official, and will have to consider how to put the concrete proposals into practice.

The Joint Commission for Educational Reform

The Joint Commission for Educational Reform has the objective of drawing up a proposal for bringing the education system into line with the project for a multiethnic, multicultural and multilingual nation living within a fair and supportive society, thereby strengthening national unity. The commission must redefine the education system, define central themes and normative legislation in order to establish indigenous education institutionally. During its consultations, this commission has received 31 different proposals and on the basis of these they are now formulating a proposal which will aim to include local decentralization within the educational legislation.

The Joint Commission for Sacred Sites

This Commission was set up in April 1997 with the mandate of formulating regulations concerning the use, conservation and management of sacred sites.

In an initial definition of sacred sites, the Commission concluded that these are vital spaces for the practice of spirituality, where integral relationships between the cosmos, nature and ancestors are established.

They included Mayan and Xinca cities; sites with altars; hills, volcanoes, mountains and rocks; some cemeteries; caves, caverns and grottos; water sources; lakes, pools and wells. For the Garifuna: Atlantic coastal regions and hot water springs. This wide definition reflects a certain maximalist position and has led to the discussions becoming bogged down between the indigenous delegates and the government.

One initial complication in the work was the approval of the Law of National Heritage in 1997, which defines a system of conservation of national heritage. This law was approved with no consultation of indigenous sectors and the commission was, in particular, ignored. This has led to a sense of insecurity in the mandate of the work of this commission, which is why indigenous people have requested the repeal of this law.

The Joint Commission for Indigenous Land Rights

Once the commission was set up - through the Government Agreement - the inclusion in its mandate of, not only communal lands, but of the whole problematic of indigenous people's lands was achieved. The Commission is trying to define and promote a policy of transformation and rural development through viable and sustainable projects and thus hopes to have an impact on issues such as land funds, access to resources, national reserves and support structures for national agriculture.

The commission has come to an agreement with the government that the latter should consider all these proposals. Although there has been some conflict with the government, due to the existence of draft bills of land law regarding which there had been no consultation, the work has recently been progressing, albeit slowly, but in a good climate of negotiation between the indigenous delegates and the government.

The Joint Commission for Reform and Participation

This Commission's mandate was the formulation of proposals regarding the content of legal and institutional reforms guaranteeing and ensuring the full participation of indigenous people at all levels.

Nevertheless, few advances have yet to be made: the commission has not yet managed to come up with a specific definition of its work, nor of the issues to be dealt with, and both indigenous and government delegates have had less capacity for negotiation. The central issues with regard to the representation of indigenous rights are faced with

an unfavourable climate given that the country is embarking upon a period of elections.

The COPMAGUA Commissions

COPMAGUA has set up eight commissions. Five function in parallel with those set up jointly with the government and have the aim of supporting, and providing information to, the COPMAGUA representatives in those commissions. Their work includes the formulation of a consensus on the issues to be dealt with. Once the work of the joint commissions has come to an end, the aim of these five commissions will be to follow-up the commitments undertaken and to propose concrete mechanisms for their implementation (in the case of the recognition of indigenous languages, there is the Academy of Mayan Languages but for the other issues there are still no non-governmental institutions established which can carry out this follow-up work).

The Commission for Constitutional Reform

This commission drew up a proposal for constitutional reform which was presented to Congress in August 1997 as an initiative of law, with the backing of 5,000 signatures. This proposal is currently one of the issues being dealt with by the Cross-Party Committee of the Republican Congress, a body which brings together representatives of all parties to discuss a series of political issues of topical importance, amongst other things, other proposals for constitutional reform.

The Commission for Indigenous Women's Rights

The tasks which COPMAGUA have defined for this commission draw upon different parts of the Peace Accords and include topics such as: the promotion of legislation regarding sexual harassment, as this issue is considered to be of relevance to indigenous women in particular; the creation of an Ombudsman's Office for Defence of Indigenous Women's Rights, including advice services; the promotion of the agreement on the elimination of all forms of discrimination against women; the encouragement of the equal participation of women in development and education projects and credit funds, etc.

The commission has drawn up a draft bill of law to create the Ombudsman's Office for Defence of Indigenous Women's Rights. This proposes the establishment of an autonomous state institution, which will deal only with indigenous women and which will be situated at a communal level. It will also deal with education and awareness raising around rights and work on the defence of rights. Its tasks will include receiving complaints regarding violations of indigenous women's rights, channelling these complaints to the relevant bodies, providing necessary follow up to these cases and providing advice and legal assistance.

The commission has been participating in the National Women's Forum. This Forum was set up on the basis of the Peace Accords in order to provide the space for the formulation of proposals which will enable women to achieve an equitable and real participation at all levels. A coordinating body, attached to SEPAZ and with wide participation, worked throughout 1997 to prepare the work jointly with a number of organizations. As a result of this preparatory work, the First Assembly took place in December 1997 with the participation of 224 delegates (of which more than half were indigenous). The Forum's mandate is to formulate policies and proposals on gender equality. It must discuss and propose a national strategy for the fulfilment of the different aspects of the Peace Accords which concern women.

The Assembly defined four central themes around which to work: civic and political development, social and cultural development, economic development and the creation of new laws and legislative reforms.

The Commission for Indigenous Rights

This commission has not yet managed to define its area of responsibility clearly. Recognition of indigenous rights and communal authorities is one of the most sensitive areas of the AIDPI, because of its potential impact on the reformulation of the Guatemalan State institutions. Furthermore, proposals regarding indigenous rights are difficult to discuss with other sectors of society because of the practice of gaining support through promises of government posts on the part of the

parties. For them, the indigenous leaders form important 'links' between the western system and the indigenous peoples.

Within the framework of fulfilling this commitment, the government is encouraging the establishment of 'Community Peace Courts', with such courts being set up in five municipalities as a pilot project. The aim is to apply "the habits and customs of different communities in local conflict resolution". There was unfortunately no consultation with indigenous people regarding this initiative which means there is a danger that the traditional authorities will be weakened. Nevertheless, in the face of the many issues of justice, this initiative does offer the possibility of resolving local problems more rapidly, especially if relationships with the traditional authorities can be established at local level.

HONDURAS

In the heart of *Tawahka* country, in the region known as Pita, they are intending to commence one of the most ambitious hydro-electric projects in Central America, to be paid for by the Panda Patuca Power Company, with North American capital. The national government considers that this dam, known as Patuca II, will be an important contribution to the nation's energy requirements even opening up the possibility of exporting energy to neighbouring countries. The project will have a capacity of 270 MW and would generate some 1.3 Gwh per year. The dam would occupy an area of 45 square kilometres and would be situated only 12 kilometres from the Tawahka communities.

The Tawahka have a population of 950 people in 5 communities based along the tributaries of the River Patuca and the Moskitia. They fear that this project will have irreversible ecological consequences on a region of high biodiversity, in particular the area of the Biosphere Reserve 'Tawahka Asangni'. The project would also cause significant changes in the lifestyle of the indigenous communities and would negatively affect the basis of Tawahka subsistence.

Up until now, the consultation process for the construction of the dam, which is being carried out by a company called Bioconsult, has not been implemented with the necessary transparency. Meanwhile,

the Tawahka organizations continue their fight in defence of their lands.

NICARAGUA

The European colonization of the last 500 years resulted in widespread, coercive and rapid change. There were, however, a few exceptions. Unlike most parts of Latin America, much of the Caribbean coast of Central America was never really colonized. Eastern Nicaragua became a British Protectorate until the late 1800s. The Mosquitia protectorate was then incorporated rather late into Spanish dominated Nicaragua. The Treaty of Managua of 1860, drawn up between Nicaragua and Britain, provided for far-reaching autonomy of the eastern lowlands. Nicaragua agreed to accord self-rule to the indigenous peoples and Blacks but broke her promises. The situation we witness today is in line with the violation of the Treaty of Managua following the unilateral incorporation of the Mosquitia into the Nicaraguan State in 1894 - without the consent of the indigenous and black peoples.

Almost 100 years later, the costeños (coastal people) should finally have gained autonomy through a concession made by the Sandinista government to end six years of war with the indigenous guerrilla (1981-87). Measures to benefit indigenous peoples and communities included provisions for their land base, respect for their cultures and languages (including their own mass-media and access to higher education), and affirmative action. The division into two autonomous regions (designated by the former FSLN government) prevented Mestizo control of the Atlantic Coast and led to an indigenous-dominated autonomous region in north-eastern Nicaragua (RAAN) and Creole influence in the south-eastern autonomous region (RAAS).

Miskitu indigenous constitute the majority population in RAAN, despite the fact that they only represent a small minority (3%) of the population of Nicaragua. The indigenous are concentrated along the Wangki and the northern coast, as well as being scattered along other rivers, lagoons and the southern coast, interspersed with other communities. The region has major resources such as gold, which is exploited in several mines, forests and rich fisheries.

Today we know that the Atlantic Coast of Nicaragua missed the chance of developing one of the few advanced experiences of self-governance and autonomy in Latin America. The legal framework set up by the former FSLN regime would have allowed for such development, provided the necessary political will was there. Regional autonomy was combined with recognition of the indigenous settlement area and its land-base. On the other hand, the non-recognition of traditional indigenous political authorities and institutions by Autonomy Law 28 was problematic. However, this has so far only contributed to the enhancement of their respectability in the Mosquitia, as the increasingly important role of the indigenous Elder Council shows.

Regional pluri-ethnic autonomy as the long-term solution to the recognition of indigenous historic rights in the lowlands of Eastern Nicaragua seemed adequate to local conditions since the costeños are a multi-ethnic community of six ethnic groups covering half of the state's territory (accounting for 10% of the total population). The recognition of inherent aboriginal rights, such as the collective rights and communal property of Nicaragua's indigenous peoples became a constitutional law in 1987. It proved a limited attempt to eventually break with the euro-centrism which characterized the legal systems of Latin America. Ironically, from 1990 onwards, these achievements could only be defended through an alliance of former adversaries, the Sandinistas and the indigenous movement.

The effects of the armed ethno-nationalist conflict are still felt strongly in RAAN. The victims of the war were mostly civilians and great damage was done to the Eastern Nicaraguan economy. The once prosperous region is now one of the most underdeveloped. The autonomous status of the region did not prevent nearly all the economic resources of the region being held under central government control, nor did it prevent the massive plundering that took place nor the fact that the wealth of the region was sold off cheaply - with no benefit to the costeños. The Eastern regions were further impoverished. The successive autonomous governments of both regions failed to stand up to the sell-off and underdevelopment policy of Managua. On the contrary, some governors followed the lead of Managua's political class and tried to get rich quick.

The implementation of the autonomy law was of the highest priority for all parties who supported autonomy, in order to clarify the sphere of competence of central and regional bodies. But in spite of all the efforts, no progress was made. The autonomous regions urgently needed their own appropriate economic instruments (own budget, own taxes, profits from resources). The main bone of contention is the control of the coast's rich natural resources. The provisions of the statute for the Caribbean Coast were simply not implemented by successive central governments. Former president Barrios de Chamorro quickly forgot her 1990 election promises to honour autonomy.

The current president Alemán - who came to power in January 1997- is a populist right-wing leader who was accused of restoring a Somoza-type rule. Unfortunately, one faction of the indigenous movement made an alliance with Alemán's party during the 1994 regional elections. This alliance widened the divisions between the three main indigenous factions. Unholy political alliances are unlikely to produce sustainable and substantial concessions. In this case it was a question of the very nature of the alliance partner being fiercely opposed to the hard core of indigenous demands.

Tired of 10 years of false promises, political confusion and total neglect, the indigenous of Nicaragua took the initiative. Referring to the breach of the Treaty of Managua and outright non-implementation of the autonomy law, the indigenous Elder Council declared Eastern Nicaragua a sovereign territory in April 1998. Armed clashes resumed in the Mosquitia. Fighting between the Nicaraguan army and indigenous guerrillas caused the first causalities in May. If a just solution cannot be found then there is a serious threat of a new war.

What can be done to prevent this? How can the deplorable situation of a disrupted project for autonomy be unblocked? The provisions of the 1987 autonomy statute for the Caribbean coast should be implemented fully and without further delay. Regulations should clarify the sphere of competence of central and regional bodies. The autonomous regions need to develop their own appropriate economic instruments and strategies. As a principle, the indigenous movement should keep out of Managua politicking. There is nothing to gain there for them. indigenous and Afro-Americans must focus on their own plans

for future full autonomy rather than getting involved in dull party politics.

All the forces which support autonomy should cooperate in order to produce mutually beneficial results. As a stepping-stone, a firm agreement with regard to the aims and direction of the struggle has first to be reached amongst those defending autonomy. Then all forces must press for change. Unity is the key condition to successfully claiming legitimate rights. The costeños of Eastern Nicaragua need a fair solution, which is finally going to satisfy their demands. The struggle for autonomy needs solid foundations if it is to be successful. indigenous and Blacks can only win if they stop waiting for Managua to take decisions and start to empower themselves.

COSTA RICA

For the indigenous peoples of Costa Rica, the period covered by 1997 and early 1998 was characterized by their organizational consolidation, which was put to the test as a result of a bill of law going through the Legislative Assembly. These circumstances, and the particular dynamic that was generated, brought about the emergence of a national indigenous organization which promises to be truly representative and which marks a new direction of hope for the indigenous movement in this country.

The implementation of the PAPICA project (Project of Support to the Indigenous Peoples of Central America), which is funded by the European Union, has encouraged the creation throughout the region of national indigenous organizations which are capable of channelling the respective project funds. These organizations, known as "National Committees", have developed differently in each country. In some countries, such as Panama and Honduras, existing organizations have acted as their respective National Committees, whilst in others these organizations have had to be created from the base.

In Costa Rica, the PAPICA process led to the creation of the "Asociación Tekra" or "National Indigenous Committee of Costa Rica", which represents all of the indigenous communities of the country and their organizations. Given the collapse or decline of other national

indigenous organizations (Asociación Sejektö, the Association of Indian Peoples - API), Asociación Tekra has been able to fill a real vacuum and has become a vital mechanism of liaison between the indigenous peoples of Costa Rica, due in particular to the significant legal initiatives which have arisen over the last few years. Although this process was commenced in previous years, 1997 was the year which enabled Asociación Tekra to define a true and renewed national indigenous movement.

It all began at the beginning of the 1990s, with the consolidation of the *Ngobes'* demands, in the south of the country, that they should be considered Costa Ricans. The spontaneous movement which emerged, first amongst a few Ngobes in the south of the country, and later spreading to many more, even to other indigenous peoples, achieved its objective one year later, with the "Law of Indigenous Identification" (Ley de Cedulación Indígena), which recognized the citizenship of the Ngobe and all indigenous people, even though they were not recorded at the registry office.

In 1992, the adoption and ratification of Agreement 169 of the ILO encouraged the consolidation of the indigenous movement. The issue of indigenous identity cards had been before the Constitutional Court of the Supreme Court of Justice since 1990 and an historic decision which invoked the Agreement as the basic premise in this issue consolidated 1991's political victory. The adoption and ratification of Agreement 169 undoubtedly created new expectations on the part of the indigenous movement, which became clearly convinced of the importance of the struggle, not only on the streets but also in the Courts and corridors of Congress. These expectations thus resulted in demands on the State to bring national legislation up to date in order to adapt it to a number of different indigenous claims, claims which were now being made within the framework of the rights established in Agreement 169 and which, within the Costa Rican legal code, had supra legal status according to the Constitution of the Republic. In contrast to the ILO's Agreement 107, which in thirty years had only been invoked by the indigenous movement on a few occasions, and only once by jurisprudence, Agreement 169 has become an extraordinary incentive for the indigenous cause in Costa Rica.

It should be noted that, according to Costa Rican legislation, the Constitutional Court's judgements have the power of *erga omnes,* meaning that compliance is obligatory for all citizens. The legal cases invoking violation of Agreement 169, by virtue of the legal status which the legal code bestows on this agreement, means they are also interpreted as violations of the Constitution. Constitutional jurisprudence in Costa Rica has similar powers. The indigenous movement has thus understood the strength that the legal path can have and has thus searched for legal backing to substantiate its political demands. Whilst Agreement 169 has given them strength, the constitutional judgements have amended the legal code, which has led to indigenous people demanding that the laws which most closely affect them be updated.

Thus in 1995, a bill of law entitled, "The Law of Autonomous Development" was presented to the Legislative Assembly and Asociación Tekra was heavily involved in its defence. This bill of law envisaged substantial changes to the 1977 "Indigenous Law" in order to bring it up to date, particularly in the area of territorial rights. The old law had given legal status to the "Indigenous Reserves", describing them as nonseizable and imprescriptible. Nevertheless, although in place for twenty years, the law had virtually never been applied because adequate mechanisms for serving eviction notices (in the case of seizure) had never been identified. This lack of application of the law was also undoubtedly related to the adverse attitude of local authorities with regard to indigenous issues, at least in some areas of Costa Rica, like in Buenos Aires. The bill of law also aimed to bring together, under one law, significant reforms to other national laws in the fields of health, education, natural resource management and justice, to name but a few, in such a way as to draw together the Costa Rican legal code and make it more compatible with the text of Agreement 169.

The draft "Law of Autonomous Development", in response to the Agreement 169 guidelines, which establish an obligation on the part of the State to consult on initiatives which promote and affect indigenous peoples, had to be debated in the communities. With the support of Asociación Tekra, the Legislative Assembly organized the consultation process in two stages. During the first stage in July 1997, 40

workshops were held in different indigenous communities around the country in order to gather opinions on the text. This had been previously distributed and explained in detail. During this stage, delegates were also elected to attend the second stage, a "National Indigenous Forum". The Forum took place in August 1997, and the delegates elected from the communities spent one week working in the Legislative Assembly. The delegates worked alongside Members of Parliament, according to the rules of the Legislative Assembly. Work was carried out in committees and plenary sessions. Motions regarding removal or amendment of the different articles, or inclusion of new ones into the proposal, were submitted for debate. This genuine plebiscite was not only a masterly application of the principle of consultation enshrined in Agreement 169, it was also considered by many to be a completely new form of citizen participation in the legislative functions of the Costa Rican state.

The result of this process was a new draft bill of law which established an original and feasible system of territorial autonomy. Its aim was not only to encourage effective control by the indigenous communities but also to recover misappropriated lands, to recognize indigenous medicine, to recognize multi-cultural bilingual education, to recognize internal jurisdiction for conflict resolution based on Indigenous Law, as well as a number of other guarantees. The law also envisaged the permanent closure of the National Commission for Indigenous Affairs, a semi-autonomous state body which had been serious questioned regarding its paternalistic practices and its manipulation by the Indigenous Development Associations (local governments in indigenous territories).

The resulting text of the National Indigenous Forum was presented to the Parliamentary Social Affairs Committee and, after a number of amendments - largely of style - it was passed favourably and sent to the plenary Assembly. At the first reading (of three required to promulgate a law) on 23rd April 1998, a majority of the Assembly voted in favour of the draft bill. At the second reading on 29th of the same month, a group of M.P.s requested that the bill be sent before the Constitutional Court of the Supreme Court of Justice for a consultative ruling on its constitutionality. Some people doubt the good faith in this

act, since the draft had already been sufficiently examined and discussed by the Members of Parliament following the consultative process.

Unfortunately, on 1st May a new government came to power and a new parliamentary session was commenced, with new M.P.s. We have to hope that not only will the Constitutional Court's decision be a favourable one but that also the new Members of Parliament will agree to take up the bill of law at the stage where it was left rather than referring it back to committee for study, as this would virtually rule out the possibility of it being discussed again.

In spite of the uncertainty, it is important to state that Asociación Tekra has emerged from this process considerably strengthened and consolidated, as they have played an important role in the organization of the legislative consultation and in the mobilization around, and the discussion of, the draft bill. It is also important to note that the bill undoubtedly constitutes the first document ever to truly give written expression, clearly and in consensus with the base, to an indigenous political project and a structured demand for basic rights and genuine development of indigenous culture. It reflects the level of maturity which the indigenous movement in this country has achieved.

PANAMA

Ten percent of the population of Panama is indigenous and this country continues to be one of the Latin American countries where the government takes every opportunity to reiterate its supposedly broad indigenous policy and peaceful coexistence. But in reality it is a taboo subject to mention Agreement 169 of the ILO or the issue of the General Law of the Environment. The latter contained, in its draft form, a whole chapter on indigenous peoples which was later removed, leaving scarcely two articles on indigenous communities. The President of the Republic himself vetoed the draft version, arguing that it would discourage the private business and foreign investment which might be drawn to Panama. In any case, the draft law has just been sent back to the Legislative Assembly and it is not yet known whether indigenous demands will be taken into consideration or not. Nevertheless, lobbying by indigenous representatives in Parliament continues.

Following the creation of the *Ngobe-Buglé* region by means of Law 10 on 7th March 1997, the division between the indigenous people themselves has intensified. A large part of the community has shown its displeasure, maintaining the position that the law was imposed by national government and that instead of favouring the ngobes, it supports the mining companies desirous of investing in the area. On the other hand, another part of the community has maintained its support of the new law, since it considers it better to gain the territory now, despite the limitations, than to wait years for a different result.

In Cerro Colorado, in Ngobe-Buglé territory, copper extraction has diminished due to the sharp fall in the price of this metal. It is believed that the price may not recover until the year 2000. Meanwhile, Pancobre, the company working in the area, has the necessary time to convince some of the leaders to support mining activity, benefiting from the internal divisions. Likewise, it is considered that indigenous pressure will increase in order to neutralize the advance of mineral exploitation in the region.

In November 1997, a forgotten people once more made their voice heard at national level. It was the Bokotas who, in an historic meeting held on 30th November in Santa Catalina, Bocas del Toro province, demanded respect for their rights and the creation of their own territory before the end of this century.

The *Emberas-Wounan* people of Darién province are demanding the incorporation into their territory of a number of their communities which remained outside its boundaries when it was created by law in 1983. The Emberas-Wounan maintain that these communities are particularly threatened by pressure from non-indigenous peasants who are advancing dangerously onto their territory in order to burn it and transform it into cattle-raising ground.

The *Kuna,* for their part, have continued a hard struggle against the plans to install a North American naval base on indigenous territory, under the pretext of combating Colombian drug trafficking. The governments of Panama and the United States finally had to give up their endeavour, but not before describing those defending indigenous au-

tonomy as 'drug traffickers' collaborators" and taking subtle reprisals such as the suspension of some projects in support of the Kuna people (for more information see Indigenous Affairs 2/97).

The Kuna in Panama are still in the process of delineating their territory. (Photo: Alejandro Parellada)

The highest Kuna authority, the General Congress, unilaterally suspended the agreement signed with the Smithsonian Tropical Research Institute (STRI) when the latter refused to negotiate the demand for an increase in payments for use of their facilities in indigenous territory with the Kuna. The STRI had worked with the Kuna for more than 20 years on a marine laboratory which has been visited by biologists from all over the world. Neither the government nor the STRI imagined this reaction from the Kuna and reprisals are expected from the government.

On the other hand, during the first months of 1998, new invasions by non-indigenous settlers into Kuna Yala have been confirmed, which have put all the Kuna organizations on the alert. They have joined

forces to work in the areas of conflict, evicting the invaders and demarcating the region.

In Kuna Yala, the Second Indigenous Conference on the Permanent Forum of the United Nations was held with indigenous representatives from a number of Latin American countries. The aim of this event was to further discussions on the scope of the Permanent Forum and its mechanisms for indigenous participation.

Finally, 1998 is an electoral year in Panama and the traditional political parties are beginning to arrive in the indigenous communities with the same old promises.

Countries covered in this issue: Suriname, Venezuela, Colombia, Ecuador, Peru, Bolivia, Brazil, Paraguay, Chile, Argentina, Uruguay

SOUTH AMERICA

SURINAME

The indigenous peoples in Suriname, of which the main peoples are the *Kari'na, Lokono, Trio, Wayana* and *Akurio*, totalling approximately 22,000 people or 5% of the total population (of around 410,000) of Suriname, are currently intensifying their struggle, for land rights in particular.

After the legislative and presidential elections eighteen months ago, Suriname has been subjected to continuous political tension between the NDP (the revolutionary party of former military strongman Desi Bouterse) and the 'old' political parties which preceded the military regime. The NDP-led coalition governs with a minority backing in parliament, and all the government's energy is put into maintaining the fragile coalition at a time of worker strikes, a deteriorating economy, rumours of drug trafficking by top rank officials and threats against the press. Ties with the Netherlands, the biggest development aid donor, are being broken and President Wijdenbosch is searching for alternative income through South-South relations with Arab countries and countries such as Brazil, Cuba, China, Indonesia and Malaysia, through membership of the Organization of Islamic States and its Islamic Development Bank and, the most detrimental aspect for the indigenous peoples and Maroon peoples, also through the granting of vast concessions for logging and mining in the interior, the homeland of the indigenous and Maroon peoples.

In this environment it has been very difficult for us to gain much-needed attention for indigenous people's rights in Suriname, an issue which is still high on the agenda of the main indigenous organizations in the country: the Organization of Indigenous Peoples in Suriname (OIS) and the Vereniging an Inheemse Dorpshoofden in Suriname (the Association of Indigenous Village Chiefs in Suriname VIDS). The existence of indigenous peoples as such is still not recognized by the government of Suriname; the only reference made is to 'Amerindians'. Territorial rights are not legally recognized nd participation in

decision-making processes has not improved. One significant debilitating factor for the indigenous organizations is the government's refusing to give attention to the indigenous peoples, who are the smallest minority in the country. On the other hand, the indigenous organizations have only limited managerial and staffing capacity.

Moreover, a 'divide and rule' policy is used to divide the indigenous peoples and the Maroons, who are semi-indigenous black communities who have been living tribally in the interior of Suriname since the time of slavery in the 17th and 18th century and who live according to age-old African traditions. Efforts are maintained, however, especially on the part of the OIS, to keep the Maroons involved in the same basic struggle for recognition of territories, control over natural resources and autonomous development.

The indigenous movement has fortunately not been at all silent. In April 1997, a show with an indigenous pop-star well-known in the Netherlands, was performed in Paramaribo. One of the objectives, which was to raise funds, was not met. However the other goal, which was to draw positive attention to the indigenous identity, was certainly achieved. In May 1997, the OIS participated in the Fifth Congress of the COICA (Coordinating Body of Indigenous Organizations in the Amazon Basin) of which it has been a member since 1984. Acting on a proposal which the OIS had been making since 1995, the Congress decided to establish a Coordinating Area specifically for Education, Science and Culture within its structure. Nardo Aluman, until then President of the OIS, was elected unanimously as coordinator of this new area of the COICA. He subsequently stepped down as President of the OIS, and this post is now held by Ramses Kajoeramari, a Kari'na from Galibi, in East Suriname. Ramses Kajoeramari participated in a COICA workshop on biodiversity and indigenous people's rights in Puerto Ayacucho in Venezuela in October 1997, and Denis Kiba, a member of Stidunal, a base community organization, participated in a UN workshop for indigenous journalists in Madrid in January 1998. Efforts are currently underway to start a news bulletin for the communities.

With the financial support of IWGIA, the OIS was able to establish an office at Johannes Kingstraat 7, Rainville, Paramaribo, which now

functions as an indigenous centre, independent of membership of the OIS or VIDS. The centre is equipped with a computer, which was also bought with funding provided by IWGIA for the COICA, in order to establish e-mail/Internet connections for all COICA members. The connection has been made and the e-mail address of the OIS is: oisur@sr.net The office also has a photocopy machine, a printer and a fax machine.

Along with the VIDS, the organization became a member of the Steering Committee for the UNEP Small Grants Programme for environmental projects to be implemented at a local community level, administered in Suriname by the national UNDP office. The OIS and VIDS, along with another indigenous organization, FINOS (Federation of Indigenous Organizations in Suriname), had a meeting with President Wijdenbosch in October 1997, to discuss the establishment of a Council for the Development of the Interior (ROB) which was one of the points included in the 1992 Peace Agreements which put an end to the guerrilla war in which the Tucayana Amazones, an indigenous guerrilla group, fought for territorial recognition. This agreement has never been upheld by subsequent governments. Very recently, in May 1998, the Council was finally re-established by the government, now including indigenous representatives (the previous Council had only Maroon and governmental representatives in it and the way it functioned was very vague). One of the major tasks of the Council is to define developmental objectives for the interior as well as to give advice on funds available for the interior, including Dutch developmental aid. We consider such membership to be an important form of recognition that is necessary for the participation of indigenous representatives in policy and implementation decisions.

Legal recognition of territorial rights, however, remains a crucial issue. In December 1997, a legal case was filed against indigenous communities in the east of Suriname. A previous "land owner" whose plot within indigenous land was re-conquered by the communities during the guerrilla war but who holds the necessary legal papers for land ownership, took the indigenous village chiefs to court accusing them of illegal occupation of 'his' land. An action committee for the defence of indigenous land rights was established by the VIDS and

OIS, and the majority of indigenous organizations in Paramaribo participate in it. The OIS centre was nominated as action centre. The chiefs were brought to the city to appear in court and to speak to the lawyer who was appointed to this case. There has been much public attention around this issue. The case is still in court, but under the law there is the possibility that the villages will be forced to abandon the land in question, on the basis of existing, deficient laws on land ownership which do not recognize any indigenous people's claims. The indigenous communities are currently very concerned that such a ruling may create a negative precedent for future law suits.

Although it cannot be said that the indigenous movement in Suriname is optimistic about the future, there is confidence that these renewed efforts will bring benefits through the attention that is currently being paid to indigenous people's rights in Suriname.

VENEZUELA

Venezuela has one of the richest biodiversities in the world. Because the indigenous people have developed farming methods that work in harmony with their ecosystem, they are protecting and maintaining this biodiversity.

In spite of this, the Venezuelan state has never made use of these people's cultural experiences in order to truly protect the biodiversity within its borders. Instead, this diversity of resources has been put to use in the interest of the state, through the creation of a large number of different "Areas under Special Administration" ("Areas bajo Régimen de Administración Especial" - ABRAE's) over wide areas of the country.

By the beginning of the 1990s, a total of 39 National Parks, 17 Natural Monuments, 47 Protected Zones, 10 Forestry Reserves and 2 Biosphere Reserves had been established. The largest ABRAE's are found in the interior of the country, where also the indigenous ancestral territories are found. In spite of Convention 107 of the ILO, which is enforceable under Venezuelan National Law, the Venezuelan authorities consider the land and natural resources within the ABRAE's

as national property and thus the indigenous inhabitants of these areas have no right to aspire to land titles.

One of the largest ABRAE's is the Imataca Forestry Reserve, which was declared as such in 1961. It covers some 3,202,250 hectares and includes part of the ancestral lands of four indigenous peoples from the east of Venezuela: the *Pemón, Warao, Arawak* and *Kariña* peoples. On 14th May 1997, by means of Presidential Decree No. 1850, a Plan for the Organisation and Regulation of the Use of the Imataca Forestry Reserve was approved. This plan enables a large area of the Reserve to be used for mining and industrial purposes, and rural residences.

Even the Venezuelan Attorney-General was critical of the terms of this Regulation which was decreed by the government, arguing that mining activity was incompatible with the original aims behind the creation of the Imataca Forestry Reserve. The government justified the decree by arguing that it was necessary to regulate the prevailing situation of illegal mining activity in the region.

During 1997, Decree No. 1850 had a huge impact on Venezuelan society when public debate unexpectedly widened to include the area of economic and environmental policy. An open policy towards mining is considered one of the priorities of the current Venezuelan government and Imataca is the most dramatic symbol of this policy. Eighty companies have already received mining rights within the Reserve. In their search for gold, the mining companies are contaminating the soil and the water with mercury. The indigenous communities are witnessing the destruction of their means of existence. Faced with this situation, instead of encouraging the sustainable use of the Imataca Forestry Reserve's natural resources, the Venezuelan state has, on the contrary, managed to legalise the destruction of the ecosystem and of indigenous culture.

During 1997, several demands for nullification of Decree 1850, on the basis of inconstitutionality and illegality, were heard by the Venezuelan Supreme Court of Justice. One of the demands was put on behalf of 50 indigenous communities who were affected by the granting of mining rights. A final decision is still awaited from the Court regarding this. It is not only the future of the Imataca region which

will depend on this decision, for it will be taken as a precedent with regard to the future of other Venezuelan ABRAE's which are rich in minerals and which are also the traditional habitat of indigenous ethnic groups. Will the Supreme Court give a green light to the strong mining interests or will it put a stop to the path of destruction in which the indigenous people who live within the ABRAE's find themselves, by nullifying Decree 1850?

For all these reasons, the Imataca case was the most important and significant indigenous issue for the country in 1997.

An important issue in the most southerly Venezuelan state, Amazonas, is the political/territorial division of the state. As already stated in the *Indigenous World* 1996/97 report on Venezuela, the Venezuelan Supreme Court had nullified a Law of Political Division of the state. The aim of this law was to establish municipal authorities within the state. The Supreme Court's decision above all criticised the violation of the right of indigenous peoples to participate in the formulation of the contested law, and ordered the Parliamentary Assembly to draw up a new law which would guarantee the rights of these communities to participate politically.

During the first part of 1997, indigenous organisations within the state drew up a draft law which would guarantee the establishment of a state of exception for the indigenous people, as anticipated by Art. 77 of the national constitution. Amongst other things this was based on: respect for indigenous ancestral lands, decentralization of funding and the establishment of a special municipal government in the region inhabited by the Venezuelan yanomami people. Nevertheless, the Amazonas State Assembly decreed a new law in December 1997 which took no account of the indigenous proposals, thus defying the Supreme Court's ruling. The legal, political and public conflict regarding this issue is still continuing in Amazonas.

Over the whole country the process of dispossessing indigenous groups of their land continues. The indigenous people find themselves up against alliances of economic and political interests at both a national and a regional level. In the northern part of Amazonas state during

1997, members of the "DINACU producers' association" invaded traditional lands belonging to communities of the *Piaroa, Jivi* and *Ye'kuana* ethnic groups. The members of this association were taking advantage of an improper authorization on the part of the Ministry of the Environment and the National Agrarian Institute to occupy around 49 hectares of land in the Protected Area of the River Cataniapo Hydrographic Basin. This invasion led to the destruction of indigenous crops sown and the deforestation of parts of their ancestral habitat.

In the state of Zulia, some communities of the *Barí* people found themselves involved in a dangerous confrontation with petrol companies. According to Venezuelan press reports, some petrol companies have begun to set up paramilitary groups, a phenomenon which is linked to events in neighbouring areas of Colombia. Through this means the companies - above all the multinational MAICCA - are trying to break the strong resistance which large sections of barí society are showing to the petrol companies' activities on their lands.

Press campaigns to discredit this indigenous people increased, and still continue, with the full knowledge of the Venezuelan state. They are accused of having connections with Colombian guerrillas and drugs traffickers, yet they have been given no opportunity of defending themselves.

Another example of dispossession of indigenous lands is that of the "Jesus, Mary and Joseph" community of the *Kariña* people, whose members were evicted by order of the Mayor of Aguasay (Monagas state). According to information from the Venezuelan human rights organisation, "PROVEA", members of the "Jesus, Mary and Joseph" community have pointed out that the Venezuelan company, Corpoven, which is carrying out exploration and exploitation work in the area, has connections with the municipal authorities in Aguasay. The indigenous community is still awaiting the Venezuelan Supreme Court's decision on the illegality of the municipal order.

COLOMBIA

Widespread violence continues in Colombia, affecting many of the country's indigenous peoples. Such is the case of the *Koreguaje* people. At the end of June 1997, thirteen of their people were killed, whilst another sixty received death threats. These murders bring the number of violent deaths in recent years to twenty one.

The Koreguaje people live in the Caquetá region of Colombia, an area where there are continuing clashes between the National Army and rebel groups, along with a great deal of activity on the part of drugs barons. The 1,400 people of the Koreguaje have made repeated appeals to the national authorities and to international public opinion for peace to be restored in the region and for the rights of their people to be upheld.

On the other hand, the *U'wa* people continue to fight in defence of their territory. The main threat to them is the presence of the 'Oxy' oil company. They have announced their intention to commit collective suicide if their right over the land is not respected.

The oil company has been negotiating the exploration and drilling of oil in the U'wa region with the national authorities since 1992.

The company states that between 1993 and 1994 it held some thirty meetings with the U'wa to inform and consult them but the people themselves assert that the company met only with either isolated members of the community or with people living outside the community and that the project has never been explained to them.

In 1997, a delegation of indigenous U'wa travelled to Washington with the aim of requesting the Inter-American Court of Human Rights to compel the Colombian government to revoke the environmental license enabling the oil company to explore and drill in the U'wa lands.

With the aim of resolving the conflict, the Colombian government turned to the Organization of American States (OAS) for an opinion on the case. After visiting the indigenous territories, the OAS drew up a document whose conclusions asked Oxy to immediately suspend explorations, to obtain a reconciliation of views between both sides and to obtain the consent of the U'wa in the case of any eventuality.

Meanwhile, it is hoped that the International Court will decide whether it is correct or not for the oil company to have obtained such authorization and that Oxy will be reasonable and respect the integrity of this indigenous people. In recognition of their struggle, the U'wa have received two prestigious international awards, the Goldman Award in the United States and the Bartolomé de las Casas Award from the Spanish government. They maintain their decision to commit collective suicide if Oxy commences operations on their lands.

ECUADOR

This is possibly an historic year for the Ecuadorean indigenous movement, both in terms of its legal victories in the area of recognition of their existence as nationalities and peoples, and of their being considered the legal subjects of collective rights.

These victories have been made possible through the development of creative and innovative strategies by the indigenous movement from 1996 onwards, including participation in elections, the creation of their own political instrument (Pachakutik), using means of pressure such as demonstrations and uprisings, and calling for dialogue and national agreement in order to study proposals for constitutional reform. Within this context, the following events are worthy of mention:

Participation on the part of the indigenous movement in the rebellion of 5th February 1997, which ended with the overthrow of the government of Abdalá Bucaram, and enabled the incorporation of a number of their proposals into agreements established with the interim government, of which the most important were:

- Elimination of the Ethnic Ministry and its replacement with a National Council for Planning and the Development of Indigenous and Black Peoples (CONPLADEIN), made up of representatives from national indigenous and black organizations and a delegate of the President of the Republic as chairperson. The approach of the organizations in creating this Council responded to the need to overcome the clientilist and manipulative manner with which the

vast majority of government actions towards indigenous peoples had been characterized in the past and to move the formulation of a State policy based on indigenous proposals forward. This would constitute an institutional framework which would ensure representation on the part of the organizations.

- The organization of a Constituent National Assembly in order to draw up a new political constitution, which would be the legal basis for a reform of the State. This was to be with the participation of representatives from the different political and social sectors. From the indigenous organizations' point of view, this arena was vital if they were to achieve reforms which took account of the multinational and multicultural character of the State and recognition of their rights as peoples and nationalities.

In spite of the fact that the organization of the Constituent Assembly was part of the February political agreements and was ratified in a referendum organized by the interim government, this government itself, along with the majority political groupings in the National Congress, tried to hinder the organization of the Assembly. Along with other indigenous organizations, CONAIE led a week long uprising to force the organization of the Constituent Assembly and, in the face of a refusal on the part of the government, called a Popular Assembly made up of the different political and social sectors. Confronted with national approval of the indigenous approach, the government and Congress were obliged to organize a National Assembly, removing from it its constituent character.

CONAIE continued with the organization of the Popular Assembly, which took place from 13th to 18th October. There was great participation from all over the country and from different social sectors (indigenous, workers, women, environmentalists, artists, students, etc.) who worked together on a proposal for constitutional reform to be put to the National Assembly for its consideration.

The Popular Assembly worked on the basis of local assemblies, in which proposals for reform were made and candidates for election to the National Assembly were chosen. Fifteen days before the Popular Assembly, marches commenced from all over the country, organized

by indigenous women. Their numbers grew as they drew closer to Quito, where they met and inaugurated the Assembly on 13th. The marchers received great support in each town they passed through on the way.

On 30th November, elections were held to appoint the members of the National Assembly. The indigenous movement participated as "Pachakutik", an alliance with other social movements, and obtained 8 (indigenous) members in a 70 member Assembly, managing to form a block of 15 members with the other political forces participating in the alliance. Nina Pacari, (Quechua, north Andean region), ex-leader of CONAIE and ex-Executive Secretary of CONPLADEIN, was nominated President of the Committee for State Reform of the Constituent National Assembly.

Amongst the proposals for constitutional reform presented by the indigenous movement, the following are worthy of mention:

- Recognition of the multinational and multicultural nature of the State, whilst noting that its adoption means the building of a decentralized politico-administrative structure, culturally heterogeneous and open to participatory representation on the part of all social sectors.
- Organization of the State: to incorporate the category of indigenous peoples' and nationalities' territories, indigenous communities and black regions within the territorial organization of the State, within which forms of territorial autonomy are recognized and aspects relating to the authority and jurisdiction of the State territorial bodies are clarified, through two mechanisms: the Organic Law of Territorial Organization of the State and the Organic Law of Indigenous Peoples and Nationalities.
- Representation within State bodies: that a third of the members of the National Congress or Parliament should be representatives of indigenous nationalities, elected through their own electoral system established in an Organic Law of Indigenous Peoples and Nationalities. This would be similar to the representation the executive power has through collegial bodies.

- To overcome the way of looking exclusively at citizens' rights and to recognize indigenous and black peoples as legal subjects, with collective rights.

With the aim of getting these proposals for constitutional reform accepted in the National Assembly, the indigenous movement chose a strategy of dialoguing with all possible sectors (political parties, Church, army, the media, universities, business, etc.). Within this context, CONAIE and the Ecuadorean Episcopal Conference, with support from the IADB, Indigenous Fund and UNDP, organized a coordination meeting, in which representatives of the aforementioned sectors took part. Victor Hugo Cárdenas, ex Vice-President of Bolivia and President of the Indigenous Fund facilitated the event. CONAIE also organized meetings in order to dialogue with the leaders of each of the political parties.

The actions of the indigenous movement have been highlighted by the national press over the last few months, as an example of a distinct form of political negotiation strategy which favours dialogue and consensus in order to gain the necessary reforms of the State.

It is also striking that, with this strategy, the organizations have managed to overcome a somewhat generalized tendency in Ecuadorean politics, which consisted of transforming proposals into simple objects of negotiation in exchange for support on other issues. The indigenous movement set out the need to define its position on the basis of an analysis of each one of the issues on the constitutional reform agenda.

Although not all of the approaches of the indigenous movement were accepted in the coordination meeting and other fora, a fundamental space had been opened up within which to reach agreement on the basic issues relating to the collective rights of indigenous peoples. This served as a basis for incorporation of these points into the National Assembly's constitutional reforms.

The most important aspects of indigenous and black people's rights, which were approved by the Assembly on 24th April are: the right to retain ownership of community lands, which will be inalienable, unseizable and indivisible (the term territories was not accepted); to participate in the use, management and conservation of the renewable

natural resources of their lands; to be consulted with regard to plans and programmes for prospecting and exploitation of non-renewable resources situated on their lands; to be awarded a share of the profits arising from those projects; to receive compensation for the socio-environmental impacts they may cause; to grant the indigenous people's authorities the right to exercise duties and enforce their own norms and procedures for conflict resolution according to their customs and habitual law, as long as they are not in contradiction with the constitution and its laws; to hold the right to the collective intellectual property of their ancestral knowledge; to formulate priorities with regard to their development, to plans and projects for the improvement of their social and economic situation and to receive an adequate budget from the State for this purpose.

One extremely conflictive issue was that of the nature of health care. The proposal to privatize it, from one of the Assembly's committees, caused an immediate reaction from indigenous people and peasants, who paralysed the country for a whole week because they considered that this proposal would weaken peasant health care systems. Finally, the Assembly decided to keep the current principles of health care, creating a social security system within which private insurance also has a place.

One approach, considered central by the indigenous organizations but which was not accepted by the National Assembly was that of the definition of the nature of the State as multinational. This was because it was considered that the conditions were not yet appropriate within the country to take on board a change of such a nature. The Pachakutik members of the Assembly and the indigenous organizations accepted this decision out of respect for the democratic mechanism, indicating that they would continue working to achieve this objective. They also emphasized that the argument of those who opposed the multinational nature of the State was not that they denied the validity of the approach but simply that they questioned its appropriateness at the current time.

A great deal of concern currently exists in the country with regard to the future of the constitutional reforms, due to the decision of Congress and the government to disregard the reforms achieved by the

Assembly since 30th April. The indigenous movement has taken on the role of defender and custodian of the Assembly, which will work for one week more and it is hoped that the new constitution will come into effect with the new government, in August 1998.

Another issue which should be highlighted is the actions which have been developed within the National Congress, under the leadership of Miguel Lluco, Quechua member of the House from Chimborazo (South Andean region) who, through a significant campaign of conferences, debates and lobbying managed to get Congress to ratify Agreement 169 of the ILO on 14th April. As from that date, the agreement has the status of a constitutional regulation. This ratification will significantly support decisions on collective rights in the National Assembly.

Miguel Lluco has furthermore given an outstanding performance on the national political scene, developing a permanent action of denouncing corruption cases, together with the other Pachakutik members.

On 30th May, elections will take place for the Presidency, for National Congress and for a partial change of local dignitaries. The indigenous movement has decided to participate under the political banner of Pachakutik, in alliance with other political sectors. They hope to gain a significant presence in the National Congress, which will enable them to work on legal proposals to make the constitutional victories gained in the Assembly concrete, as well as broaden and deepen their presence at local government level.

Indigenous Participation in Local Authorities

Indigenous participation in local government and authorities has been another important aspect of this year. In 1996, the indigenous movement achieved the election of 10 mayors, various councillors in 33 municipalities and provincial councillors in 11 provinces. This issue of participation in and management of local government has become a new topic of reflection within the organizations. It is not always related to indigenous proposals for decentralization, autonomy and their own forms of management; there are cases where elected indigenous

authorities behave just like any other group of politicians. It also has to be noted that there are many limitations with regard to management capacity. Nevertheless, there are a number of experiences which can be used as reference points in the formulation of a clear policy on this issue. Thus, some indigenous authorities in the Andean region have strived to create the necessary space for consensus with the different social players at a local level. In areas of ethnic diversity, with a high mestizo presence, as is the case in Cotacachi (near to Otavalo), a local assembly was created and a participative process for drawing up a local development plan was initiated.

In areas which are largely indigenous, such as Guamote (90% of the population is Quechua, the mayor and 6 of the 7 local councillors are indigenous) in the South Andean region, they are facing up to the need to look, at a district level, at a plural approach, encompassing the right to representation and wide participation. There are three bodies organizing to this effect in Guamote: firstly, a district indigenous parliament, made up of the presidents of the councils of 118 communities. Regardless of the federation to which they belong, indigenous authorities of the municipality (Mayor and councillors) also form part of this. Its role is to define indigenous policy, establish criteria and priorities for development of the district and consider the actions of the authorities, who are understood to be their representatives but cannot act outside of parliamentary resolutions. Secondly, a Local Development Committee has been created, composed of representatives from all of the secondary local organizations, both indigenous and mestizo, and of governmental and non-governmental institutions working in the area. This is where local development is planned, through consensus and interinstitutional coordination. Thirdly, there is the Municipality, with its specific functions, but which is considered more as a body which executes plans and policies defined by the other two bodies.

Issues related to the Environment, Biodiversity and Defence of Collective Intellectual Property Rights

With the concessions granted by the government through the 8th round of bids for oil exploration and exploitation, these now cover virtually all of the Ecuadorean Amazonian region, consequently affecting the indigenous territories, including those in the south *(Shuar and Achuar)* where previously there was no oil exploitation. In this area, concessions for gold mining have also been granted to a number of large companies. In this context, the environmental impacts are becoming worrying, and also the organizational impacts caused by the way in which the negotiations are carried out with the companies. Some efforts at reflection have been initiated in order to draw up proposals aimed at facing up to three limitations, the first two with reference to the State and the third with reference to the organizations: the absence of clear legal guidelines for companies on organizational, socio-cultural and economic impacts related specifically to indigenous peoples; the lack of a body to deal with conflicts between companies and organizations; the lack of clear guidelines within organizations with regard to decision-taking in the face of the presence of these companies. The ratification of Agreement 169 of the ILO will certainly enable these proposals to be made concrete.

Issues related to bio-piracy and defence of the collective intellectual property of indigenous peoples were discussed in relation to the debate on the promulgation of the law on intellectual property in Congress. The approach of this law, which was to consider property rights from the exclusive perspective of private property, left a number of the complaints of indigenous Amazonian organizations regarding foreign patents achieved on the basis of their knowledge with no legal backing, such as is the case with the ayahuasca. This legal vacuum has been overcome with the incorporation into the new Constitution of the right of collective intellectual property with regard to the ancestral knowledge of indigenous peoples.

Representation as Peoples and Nationalities and the Limits of Current Organizational Forms

Does the current form of organization enable representation in terms of peoples and nationalities? This is the question which has been gaining strength within CONAIE throughout this year. Current organizational forms, although very useful over the past decades, are the result of union and even missionary perceptions which, on the one hand are superimposed on, and/or destroy traditional forms of organization and, on the other hand, are not representative of the socio-economic diversity which is now characteristic of the indigenous peoples. Furthermore, in many cases they are structured according to criteria which reproduce the current territorial organization of the State and not according to ethnic territoriality. These limitations have also been noted in other areas of the organizations, something which on a number of occasions has led to a loss of credibility in the leadership structures.

These reflections have led, in the last Ecuarunari Congress, to their transformation into the Confederation of Peoples of Quechua Nationality. Although this process is a step forward, it is clear that many changes are needed for its structure to truly correspond to such representation, and to avoid falling into the trap of merely changing its name.

An extremely important criterion of this process is the need to give back a fundamental role of representation to local groups - communal councils in the case of the quechua - on the basis of which representation would be organized from the bottom up (indications of this process are being noted in Guamote with the local indigenous parliament). Another important criterion is the need to develop the idea of ethnic citizenship, that is, the idea of individual rights within each people, forms of citizen participation within the group which, although they may be traditional forms, are confronted by current conditions and challenges.

Clearly this is an issue of great importance, both for the future development of each people and in order to adapt their structures to their own demands for autonomy and the forms of representation within the State. Perhaps over the next few years, with the support of the

legal and political victories of today, the internal stage will gain increasing relevance and the organizations may deepen their reflections related to the direction of their own development.

PERU

For the first time ever, the conclusions and recommendations presented by the Committee of the Economic and Social Council to the Peruvian government highlighted indigenous issues as presented by AIDESEP in its alternative report on civil society at the time of the agreements on the Pact on Economic, Social and Cultural Rights. Other multinational organizations, including the World Bank, have also recommended the need for consultation and for a consideration of the impact of development programmes on the indigenous peoples they affect. Nevertheless, only lukewarm signals have been received from the State.

With regard to new legislation, the period commenced with the promulgation of a package of laws relating to natural resources. These bore witness to a continuing intention to become involved in the Amazon within the context of the neo-liberal economic plan, through the Organic Law for the Exploitation of Natural Resources, whose social aspects constitute a clear attack on the rights of indigenous peoples.

In fact, the safety agreements endorsed by the State before the law came into effect have been excluded from its scope. Furthermore, it will not modify the guarantees contained within the legal agreements with respect to the oil contracts. The potential contamination which this activity causes (exacerbated by acts such as allowing heavy waters to be dumped in rivers and broken up there in order to save the company money, instead of being reinjected into the subsoil) has not been considered and this exclusion highlights the disinterest on the part of the State with regard to environmental issues.

This law has further blackened the already dark outlook for peasant and indigenous communities which had been outlined by previous laws (including the current Constitution). Articles 17% and 18% put in place measures of apparent benefit, but in reality they reduce recognized rights. This includes the Forestry Law (D.L. 21147), which guaranteed exclusive exploitation of existing flora and fauna on titled territories. Now indigenous peoples may only make use of that which is found within the immediate environment of their own lands, and then not exclusively, and only to meet their subsistence needs or for ritual use, and only if there are no exclusive rights on the part of third parties or the State. In respect of the resources of their own titled lands, they will only have preferential use if there are no previously mentioned exclusive rights.

Exploitation of natural resources in the Amazon: Oil exploration in Achuar territory, Peru (Photo: IWGIA Archive)

Another law in this package is the Law of Natural Protected Areas, which once again ignores the role indigenous people play in conservation *in situ*, thus diminishing the possibility for autonomous control even in the Areas of Communal Reserves. These were part of an original proposal which aimed to make conservation of the areas, and rec-

ognition of the capacity of indigenous peoples to manage them, compatible with each other.

As far as the indigenous organizations are concerned, in spite of official resistance, they have been able to bring about a series of land actions of great interest. Such is the case of the Murunahua Territorial Reserves - 481,560 hectares - and Mashco - 768,848 hectares - and the territories held by CORPI in a number of the basins of the high Amazon - at the moment more than a million hectares. Similarly, they have managed to renew the Agreement for indigenous land titling in Ucayali. In other regions, there have not been the same opportunities. In some cases, such as Madre de Dios and Alto Marañón, this has been for bureaucratic reasons. In others, such as the case of the central forest, the difficulties are far greater and forestry concessions (handed out in secret whilst the communities had left the area in order to protect themselves against terrorist groups) are hindering the titling process.

Indeed, in 1988, in the middle of the violence, with the communities abandoned and devastated and the region considered dangerous even by the army itself which could not, at that time, set up base in the area, APRA government politicians - in whose decisions the origin of many of the calamities of this time can be found - negotiated agreements with three large logging companies: NEMATSA, HURTADO and INDUSTRIAL SATIPO, to divide these war zones up commercially between them.

Thus with no possibility of the necessary procedures, tests and inspections that this type of contract requires being carried out, these companies became the beneficiaries of forestry concessions covering, on average, 15,000 hectares in lands where the *Asháninka* and the *Nomatsiguenga* had their sources of traditional subsistence. Through lack of adequate inspection regarding the measures, some of these contracts were handed out on lands titled to a number of different communities.

After such long suffering, the communities began to organize a return to their lands and to build the necessary conditions for normal survival. To this end, they signed agreements with the sectoral authorities in charge of agriculture and, with funding obtained from international agencies, they began the necessary processes and proceed-

ings to recover and normalize their rights to the lands they had occupied before the conflict.

Asháninka of Gran Pajonal, Peru (Photo: Alejandro Parellada)

Nevertheless, the agricultural authorities have paralysed the inquiries, ignoring indigenous rights and humanitarian justice, as well as common law itself, citing reasons of social pressure on the part of the logging companies. It is a question of protecting three logging companies which, whilst the owners of the land were fighting for peace, managed to obtain concessions which are now preventing the return of more than 300 indigenous families. It also has to be remembered that, inexplicably, these companies began to exploit the area at a time when the worst massacres were being perpetrated against the indig-

enous rebels in the region and at a time when the armed forces were still unable to enter the zone.

We also have to bear in mind that at this time, the Native Communities of the Valle de Pangoa were undergoing a process of reconstruction of their social fabric, and thus to deny them ownership of the land to which they had always had access in order to satisfy their basic needs (food, fruit and medicinal plant gathering and so on.) constituted a threat to the very existence of a whole people.

Once more, the period has been marked by the requirements of the oil companies. In all regions, this problem has focussed attention on the indigenous organizations and the government. There have been many innovations, but perhaps the most important has been the formulation of a proposal submitted to the government and companies by AIDESEP. The receptive attitude of the sectoral authorities, as well as of the Prime Minister himself, seems to herald a new era in which opportunities for the organizations may significantly increase.

However, whether for geopolitical or other reasons, the government has embarked on a new frontiers policy precisely where the indigenous people are developing the strongest positions against the oil companies. Great colonization projects have already commenced, in Yavarí and in the zones of Ucayali, within the ARCO and ANADARCO petrol companies' plots. Others, under the supervision of the Multi Sectoral Commission for Frontier Development, are being developed in the Pastaza frontier, where relationships with the petrol companies are very delicate. This is a government which had originally stated that they would abandon the promotion of Amazonian colonization.

However, the position of indigenous organizations such as AIDESEP and CORPI is that they have decided to participate in the Commission in order to be able to have a say in the planning and, in fact, they have managed to reach agreements which rationalize the frontier projects and avoid threatening the indigenous territorial positions.

Another interesting proposal to be presented to the government, besides that concerning oil activity, is a proposal for sustainable development which will be based on a process of consultation to be carried out in mid-1998. A proposal for indigenous law is also planned for this year and work has been ongoing on this for some time.

One further important aspect which must be mentioned is the fact that the country is entering an electoral period, with all the tensions that entails. Indigenous people have already set up the Indigenous Movement of the Peruvian Amazon (MIAP) and are preparing to participate in 22 Amazonian districts from where they may be able to work within the local government with proposals which identify their positions.

As can be seen, although it has been a year of great shocks, the Peruvian indigenous movement has embarked upon a phase of proposal which has had extremely constructive results, even though reception has been limited on the part of the State bodies. Nevertheless, the State has commenced a series of contacts which may prove to be positive.

On an organizational level, the year has been an important one. The setting up of parliaments in some regions, the progressive strengthening of regional confederations and the new attitude of constructive proposal on the part of the movement have all contributed to a continual process of reconstruction. This has been achieved within a restrictive socio-political context in which other popular sectors continue to suffer from the decline caused by the crisis of the last few years.

BOLIVIA

In June 1997, the indigenous movement of the Bolivian lowlands participated in national elections for the first time in history. But the measure of its strength in national politics left the movement greatly disappointed. Although they had entered into a coalition with a political party, they could do nothing to prevent their electoral defeat. Another challenge to the movement continues to be its main demands for land titling, which have continued in the face of the new government headed by ex-dictator, Hugo Banzer. Yet whilst the fight for land rights clearly

seems to be a long drawn-out process, the movement is making small steps forward with concrete achievements.

National Elections

The national elections planned for 1st June 1997 created a great sense of expectation within the indigenous movement: from the end of 1996 until the date of the elections in 1997 the movement, represented by the Confederation of Indigenous Peoples of the East, Chaco and Amazonia (Confederación de Pueblos Indígenas del Oriente, Chaco y Amazonía - CIDOB) gave a high priority to the discussion and search for a consensus on indigenous participation. The good results obtained in the municipal elections of December 1995, in which around 20 indigenous representatives were elected to local councils in the lowlands, were probably the driving force behind the movement's motivation to participate.

Due to the rules of electoral participation, the movement had to participate through an alliance with a political party. CIDOB came to an agreement with the Free Bolivia Movement (Movimiento Bolivia Libre - MBL), with the President of CIDOB, Marcial Fabricano, standing as candidate for the vice-presidency. MBL was the only party to agree to CIDOB's demands, including regarding the post of Vice-President.

But a consensus could not be achieved within the indigenous movement and after having entered into the agreement with MBL, internal discussions continued right up to the date of the elections. One opinion within the movement was that there was a need to present indigenous candidates through a number of different parties, thus standing a greater chance of winning in a local context. Therefore on a local level, other alliances were made (with the Movement of the Revolutionary Left - Movimiento Izquierda Revolucionario (MIR) and the Revolutionary Nationalist Movement - Movimiento Nacionalista Revolucionario (MNR)), which obviously had an impact on the results.

The results of the elections were poor for the indigenous movement: the alliance only gained 3% of the vote and MBL suffered an

overwhelming defeat at national level. Only one indigenous Member of Parliament was elected: Vicente Pessoa of the chiquitano people, through the MNR party. In spite of being a relatively small population, the indigenous movement of the lowlands would have been able to hold significant political and strategic strength at national level, and this collapse was thus a very severe blow for them. Nevertheless, it can be said that although the indigenous movement has clearly suffered an initial defeat, the door has opened a little on the need for recognition and acceptance of the heterogeneity of the indigenous movement and on the need to create alliances with other social sectors in similar situations, both at a local and national level.

The political climate under the previous government was by and large favourable to the indigenous movement and several indigenous aspirations were included in the programme of reforms. Contact between CIDOB and the Under-Secretary for Ethnic Affairs (Subsecretaria de Asuntos Etnicos - SAE) and other governmental institutions was frequent. The government accepted CIDOB as the direct spokesperson of the demands and claims of the indigenous peoples.

The new government, headed by ex-dictator (1971-1978) Hugo Banzer of Nationalist Democratic Action (Acción Democrática Nacionalista - AND), changed the status of the SAE to a Vice-Ministry: the Vice-Ministry for Indigenous Affairs and Native Peoples (VAIPO). Although this could be taken as an indication of greater importance for indigenous affairs, during the first nine months contact with CIDOB has been of an extremely sporadic nature. The government's plan makes virtually no reference to indigenous affairs, merely expressing an intention to promote "development with identity" for the indigenous population.

The Fight for Land

One of the greatest challenges facing the indigenous movement in the face of the current government is the obtention of land titles. This is also currently their greatest concern .

The National Land Law - the INRENA Law - of 1996 conceded the titles of eight territories to indigenous groups, all of whom had

been previously granted the land, but without title. A further 16 land titles were to be conceded by INRA over a period of ten months, but this has been impossible to achieve.

The process of titling is ongoing but the size of the areas which the indigenous people are laying claim to is still not clarified. Before titling takes place, a "cleaning up" of the area must occur, in which land ownership is clarified. In many cases, this ends up in complete chaos. A number of people may hold a title to the same piece of land: livestock farmers, settlers or speculators, the so-called "third parties". To prevent the state from revoking their land, the owners have to prove that the land is fulfilling a socio-economic role, that is, that the land is being used and not held onto for land speculation. If the "third parties" who remain after the clean up cause the size of the future territories to be reduced, the INRA Law obliges the government to compensate the indigenous people with land elsewhere.

Before the final titling process, needs assessments are undertaken for each one of the territories. These studies are to verify that the indigenous people need the land they are claiming.

This process of titling seems to be wrought with problems and prone to political manipulation. Sixteen months after approval of the law, the studies - which are an important condition of the whole process of "cleaning up" - have still not been carried out. With an apparently limited desire to benefit indigenous interests, this process may very easily end up consolidating the position of the large landowners, who often hold false documentation regarding the land. Some fear that the government's main interest is in legally assuring property rights in order to promote investment, whilst the potential redistribution of land according to the law may not take place.

Preservation of Traditional Knowledge

The fight for land and territories is the main priority for Bolivia's indigenous peoples. But hand in hand with the conquest of land goes the fight for legislation and the current debate on intellectual rights as part of this fight. There is growing pressure from the "gene hunters", the pharmaceutical and research companies, who are searching for biological resources in the indigenous territories. In order to avoid coming into direct conflict with state agencies and foreign companies on their lands, the indigenous people of the lowlands have decided to participate actively in the debate and in the formulation of guidelines on access to genetic resources and the protection of indigenous heritage.

CIDOB has participated actively in the formulation of a Bolivian regulation regarding access to genetic resources: plants, animals, micro-organisms and so on. The regulation guarantees recognition of the knowledge held by the indigenous peoples and peasant communities regarding these resources when someone - it could be a Bolivian or foreign company or institution - has an interest and wants to gain access to the biological resources on their land. The government has agreed to establish mechanisms which guarantee participation in the profits derived from genetic resources through their representative organisations. The idea of indigenous researchers jointly participating in the institutions' investigations is also being promoted. CIDOB has used these favourable circumstances to the benefit of indigenous demands, although not all of the indigenous movement's observations have been taken into account. Furthermore, the regulation remains to be seen in action. It was approved in July 1997 and there has still not been one case which has involved resources around which the indigenous people have knowledge. As part of the issue of access to genetic resources, CIDOB is currently carrying out a study at national level on the preservation of traditional knowledge. This not only includes knowledge of plants and other biological resources but also knowledge in all of its indigenous cultural manifestations: handicrafts, songs, legends etc. It is a question of establishing a particular way of effectively protecting the collective intellectual rights of indigenous peoples throughout the Bolivian territory. The study is going to be presented to the Andean Community with the objective of searching for a method at an Andean level.

Municipal Elections in 1999

The indigenous movement is already preparing for the last elections of the millennium: the municipal elections to be held in December 1999. Different indigenous organisations are preparing for their participation in the local political arena through training schemes for councillors and mayors. The opportunities are many, and at the same time the indigenous people are lobbying for an amendment to the law regarding municipal regulations which would avoid the current situation of the office of mayor changing virtually every year.

BRAZIL

1997 was not a good year for the indigenous peoples of Brazil. Of the 27 ratifications of indigenous areas which were signed with great formality by the government on 3rd November 1997, 17 had been awaiting signature for almost a year and a half, demonstrating a lack of commitment on the part of the authorities to keep to the established time frame. At the same time, no progress was being made with another 56 indigenous areas awaiting recognition, also through lack of political will.

The government also proved its lack of interest in the indigenous peoples by providing only 3 million dollars for the demarcation of lands and no funding at all for the task of land identification. It should be remembered that, according to FUNAI, the National Foundation for Indians, there still remain 179 areas to be identified and that the time frame established for the conclusion of all the demarcations of indigenous areas expired in October 1993.

According to complaints made to CIMI, the Indigenous Missionary Centre, decree 1775/96 has only served to invalidate new demarcations, to encourage invasions of indigenous lands and to put the already demarcated areas awaiting finalization of the process at risk. The 70 *Katitaurlú,* a *Nambiquara* group from the Guaporé Valley in Mato Grosso, saw their territory of 67,000 hectares invaded by 8,000 'garimpeiros' who brought in a thousand dredgers and countless lorries to prospect for and extract gold from the subsoil. Under pressure from international opinion, the government managed to remove the

invaders but this area, which was one of the best conserved in the region, had already become a lunar landscape with ravines and craters 20 metres deep. Meanwhile, the 'garimpeiros' still hope to return to the area.

Whilst a number of Asian companies invested 500 million dollars in the Brazilian timber industry in 1997, illegal logging of hard woods affected 80% of indigenous areas, causing violent conflicts between the logging companies and indigenous people. IBAMA, the Brazilian Institute for the Environment, made complaints against a number of companies. However, most of them had authorization from the federal government and the support of many local politicians.

Those indigenous people who entered into agreements with logging companies regarding the extraction of wood received ridiculous sums. In the case of the *Kayapó Gorotire* people, they received 4% of the value of the mahogany removed from their territory by the timber companies.

The huge fire in Roraima destroyed 37,000 square kilometres of savannah and forest lands. The *Yanomami* area was affected to the south of the river Catrimani, causing a great deal of damage to this indigenous territory.

There are also a number of large hydroelectric projects threatening both ecosystems and indigenous peoples in Brazil. The sluice gates of the Serra da Mesa dam in Goiás are going to be closed and the area where the indigenous *Ava-Canoeiro* live will be flooded, endangering their very existence. Furthermore, both indigenous and environmental groups denounced the Paraná-Paraguay waterway, which will cause great upheaval in the fragile Pantanal complex and in the tributary rivers, especially for all the indigenous peoples of the region who depend heavily on the rivers' resources.

Various deaths were caused through negligence and a lack of resources for, and interest in, the provision of medical care during 1997. Cases of AIDS have begun to appear in some indigenous areas and in the State of Pará, 95% of the 127 *Arara* indigenous people, who have been in contact with the outside world for scarcely 12 years, are infected with blenhorragia, which has been transmitted by sexual contact with the local mestizo population. Although the CIMI requested

urgent medical assistance, the Coordinator for Indian Health sent only one doctor in six days.

The 20th April 1997, the Day of the Indian, was tarnished by murder and violence. Such was the case, for example, of Galindo, a member of the *Pataxó* people, who was burnt alive whilst sleeping at a bus stop in Brasilia. The five youths who committed the crime were from the local elite and said they did it "for fun".

Some indigenous groups managed to largely avoid the violence and aggression. Such was the case of the *Enauené-Naué* in Mato

Yanomami men, Brazil (Photo: Alejandro Parellada)

Grosso. This indigenous people of 260 managed, albeit with some difficulty, to consolidate their territory of 752,000 hectares, which was recognized in 1996, and to restrict the problems of invasions of their lands.

PARAGUAY

1997 has been no exception to the last few years, which have involved a process of democratic transition following the political opening-up in 1989 after almost 35 years of military dictatorship. Government priorities have continued to be focussed around the electoral process and the renovation of the whole bureaucratic state apparatus. This process, aggravated in political circles by conflicting sectors of the Colorado Party, is developing within the framework of a deep crisis in the dependent capitalist model, shaken by the bankruptcy of many banks and financial companies, the closure of existing small industry and the excessive rise in the dollar.

Within this context, social demands have gradually increased. This has included indigenous demands, which essentially continue to be the reinstatement of their traditional territories, along with greater support in the areas of health and education. There have also been demands for greater transparency in the handling of public funds by INDI, an institution which has been the object of serious corruption complaints, even in court.

Because of the repeated complaints of irregularities made both by indigenous people as well as their supporters, the President of the Republic, Ing. Wasmosy, was obliged to dismiss Valentín Gamarra, head of INDI, and replace him with an eminent leader from the pro-government party, Mr Julio Colmán. Lacking in training on the subject, he was, however, loyal to the interests of the governing group in Paraguay.

In spite of this difficult panorama, some indigenous peoples have been leading very worthwhile sectoral struggles which set an example to the rest of the native peoples (for example, the *Enxet-Angaité* of Coraí, the *Enxet-Lengu* of Sawhoyamaxa and the *Enxet-Sanapaná* of Keyleyphapopyet and Lamenxay). They have thus been able to exert

new forms of pressure on the government to try to speed up solutions to particular issues.

One of these was the occupation of a central public square in Asunción for three days by some 70 indigenous members of the Corai community of the *Enxet-Angaité* people. At the same time, apart from occupying the aforementioned council land, these people have carried out many demonstrations in the centre of the capital, demanding the payment of compensation for the 15,000 hectares of land restored to its owners so that they could recover full control over the assets in question. The objective of the protest was achieved and this action has become an important milestone in the historic aspirations of the indigenous people.

Another event which has had enormous repercussions was that organized by the Enxet-Lengua indigenous people of Sawhoyamaxa. After many years of subjugation on a cattle ranch, they decided to abandon 'en masse' their poor village, where they were tolerated with very little goodwill from the owners of the area, in order to go to the lands they claimed and occupy a strip of land just opposite their ancient habitat, right on the public highway, whilst a possible project of expropriation, which it was hoped would benefit this indigenous people in their desire to gain restitution of some 14,000 hectares of land currently under discussion in the Chamber of Deputies of Congress, was debated.

On the surface such means of exerting pressure are nothing out of the ordinary, but if they are seen within a context in which such practices are virtually the exclusive domain of Paraguayan peasants and other social groups and not something undertaken by the indigenous who, for a long time have restricted themselves to patiently awaiting recognition of their claims, it can be seen that it perhaps represents the commencement of new forms of struggle on their part, as they begin to become true protagonists in the search for recognition of their rights by the Paraguayan government, which presides over a multi-cultural and multi-ethnic state

Continuing on the issue of land claims, another case of particular significance was that of the Enxet-Sanapaná from the Keyleyphapopy and Lamenxay communities who, for the first time in their capacity as

indigenous peoples, sent representatives of Tierraviva CEJIL on their behalf to the Inter-American Committee for Human Rights of the O.A.S. to ask for their intervention before the Paraguayan government for failing to comply with the international treaties on indigenous peoples which had been signed by the country.

Fortunately, the processing of this case within such a high international body culminated in a commitment on the part of the Paraguayan government to acquire around 21,000 hectares of the land claimed by these communities for subsequent restitution to them - that is, the people of the enxet-sanapaná - at no cost, at the beginning of 1998.

Land Restitution

One of the most important cases of land restitution carried out during 1997 was the return of some 100,000 hectares of 600,000 hectares claimed for a number of years by an *Ayoreo Totobiegosode* community. This community, which is made up of a completely forest living sub-group (the last in Paraguay), is the centre of one of the largest land claims in the country, through its leaders and supporting institutions.

Indigenous Situation in the Eastern Region

Problems caused by scarcity of land in this region also affect the indigenous population, but with an even more subtle angle on the problem: subjugation by Paraguayan peasants who also suffer from a lack of land and who, on many occasions, have occupied indigenous lands.

Thus, the pressing issue of landless peasants, to which must be added the indiscriminate felling of forest due to lack of control of the paper trade with Brazil, has affected a number of indigenous peoples, in particular the *Mbya, Guaraní Ñandeva* and the *Pai Tavytera.*

The government, in its desire to find a "solution" to the conflicts between peasant and indigenous populations and, in some cases, between the indigenous peoples themselves - as in a case in Acaray-mí, in the district of Hernandarias, department of Alto Paraná - sent in the so-called Rural and Ecological Police, who on each occasion, rather than finding a solution, have caused anxiety and uncertainty for a number of indigenous communities. Their presence in the villages, in

uniform, causes distortion and disintegration of indigenous culture and the very status of these indigenous communities, which protects these people in their fight for government under their own laws and ancestral guidelines, is put at risk.

CHILE

In order to gain a better understanding of events in Chile of concern to indigenous people during 1997, at least two related issues need to be considered. The first is concerned with the variety and number of indigenous associations, both in urban and rural areas. The second is related to the way in which the discussion, promulgation and application of the Indigenous Law has influenced the relations established between indigenous peoples and the Chilean state.

A difference can be noted between those indigenous associations which define themselves as "institutions", that is, those which organize development activities with support from "organizations", and those organizations themselves, which represent the interests and demands of indigenous people, be they students, men, women, peasants or city workers.

Background

Under the military regime, particularly from 1979 to 1989, indigenous organizations appealed for the "communities" to be united, with the majority against continuity of the regime. The organizations had varying degrees of mobilization capacity and they could not prevent government measures from being implemented. Nevertheless, they came together to establish an agreement with the Coordination, which was later to form a government. Since 1990, most have coordinated around discussions concerning the draft Indigenous Law and they have had relative success in mobilizing their members and influential sectors to participate in this process, which is under the control of the Special Commission for Indigenous Peoples (CEPI).

Since the promulgation of the Indigenous Law at the end of 1993 and up until the beginning of 1997, that is, for almost four years, indigenous leaders came together in a number of ways to put the Chilean government's indigenous policy into practice, through the National Council for Indigenous Development (CONADI).

From 1993 onwards, the organizations did not generally mobilize around anti-establishment actions or actions of protest, and when they did these were very low key. Direct action that was not in line with government action came to a virtual standstill. However, socialization and stimulation of different "territorial" conflicts, along with dissatisfaction with regard to CONADI's actions, led to an increase in coordination amongst the "institutions", as well as the voicing of open and public criticism on the part of the leaders of the "organizations", which gained strength during 1997.

The Situation in 1997

Of the southern peoples, the *Kawaskar (Alacalufe), Aonikenk (Tehuelche)* and *Selknam (Ona)* - of whom there remain no more than one hundred families - were the first to sustain a certain level of organization in order to request CONADI's support for initiatives of cultural rehabilitation and small-scale economic investment.

They *Aymara* people, (approximately 48,000 people in total), began to move from the Andean communities to towns in the valleys and along the northern coast. Enforcement of the 1981 Water Law (Código de Aguas) enabled mining companies to take control of these people's water sources and tributaries. Although a crisis situation halfway through 1997 caused the small and medium sized mining companies to drastically reduce their staff, the Aymara's water rights have not been reinstated.

The political and economic rights of the *Rapa Nui* people, (approximately 21,000 people on the island and mainland), have been curtailed because recognition of the authority of their Council of Elders is being refused and they are not being permitted direct control of the flow of tourists into the area.

The *Mapuche* people, (numbering more than a million), have been active in many areas over the last year. Between April and July 1997, the different associations organized three Extraordinary General Assemblies of the Mapuche People with the central theme of "land con-

flict". During the same period, the government changed the directors of CONADI, and CONAMA came down in favour of ENDESA's "Ralco Project". These were actions which mobilized the coordination of Mapuche participating from the associations with those of public bodies, students and teachers. It provided the conditions for an increase in mobilization: assemblies of 100 or 200 delegates, meetings of community associations, organization for the support of Mapuche affected by the consequences of the projects and so on.

For its part, CONADI has been supporting and promoting the achievement of a National Mapuche Congress, which will enable dialogue and negotiations to be maintained with the different sectors of the mapuche movement. However, during the last months of the year, a number of conflictive situations between communities and companies led to a hardening of the national and regional governments' position, which have consequently applied restrictive laws in order to prevent an increase in such actions.

Support from certain sectors of the government for ENDESA's "Ralco Project", construction of a coastal highway, extension of the Central Highway (Temuco by-pass), appropriation of land by forestry companies and control of water by mining companies are all just some of the situations which are giving rise to profound problems, problems which are not being resolved democratically or fairly and which are bringing about discussions around land rights and the rights of indigenous groups as peoples.

ARGENTINA

In spite of the persistence of indigenous rights violations in Argentina, some important events took place during 1997. Firstly, the development of the programme of Indigenous People's Participation (IPP) went through a number of stages and forms. Arising from the need to give substance to the indigenous rights recognized in the constitutional reforms of 1994, this programme encompassed a massive mobilization of virtually all indigenous peoples, their organizations and communities. In successive meetings, indigenous participants gave a detailed analysis of a situation which, despite some differences, they share

through the historic reason of their subjugation to a foreign economic, political and cultural system.

Taking these analyses as a starting point, a list of demands to be made upon the State was drawn up, with a view to building the foundations of a new relationship between the State and indigenous peoples. These activities culminated in an Indigenous National Forum, which was attended by more than one hundred community and organization representatives who spent a week working on the formulation of a document to be presented to the members of the National Congress.

In spite of the diversity of cultures and peoples who came together for the first time to discuss issues relating exclusively to them, it was considered that, albeit tentatively, a common platform of demands was achieved around three basic concepts: indigenous people, territory and organization.

The distinct processes of conquest and colonization between the different regions brought about unique situations for the various indigenous peoples and this was demonstrated in the forum by the existence of differing opinions. In some provincial states, the lack of sufficient state or privately owned land forced the participants to think imaginatively in order to come up with a proposal capable of satisfying indigenous families living in urban and rural areas whilst at the same time not infringing upon their claim for territorial lands.

From now on, one of the greatest challenges facing the indigenous peoples will be that of maintaining a common organizational front based on these demands, given such diversity amongst them. Any form of organization must be able to exercise control over the actions of the State in relation to issues affecting the lives and futures of indigenous peoples.

Given that laws must be promulgated in order to put into effect the rights established within the National Constitution, special care will have to be taken to avoid non-indigenous legislators from modifying - be it partially or fully - the opinion of the indigenous people contained in the document which arose from the National Forum.

Meanwhile, the leadership will have to remain in permanent dialogue with the State authorities in an attempt to encourage them to

change their attitude from one of protective supervision and political clientilism to one of mutual respect and recognition of full indigenous participation.

There clearly remain many things to be discussed. Amongst these, a key issue is the danger of manipulation which may hide behind the providential face of the development programmes which international funding agencies are increasingly making available to the national and provincial states through their indigenous agencies. A thorough cost benefit evaluation in relation to indigenous people's demands has yet to be carried out by the Argentinean indigenous movement.

Given that their complaints and demands have gone unheard for centuries and that they have been excluded from all the decision-making processes affecting them, the material needs of the indigenous communities are clearly enormous. Nevertheless, recognition of their ethnic and cultural identity will not be achieved by idealizing their folklore or commercializing their material characteristics but through taking concrete and definite actions around demands for justice and for equality in the face of the law, whilst recognizing that they lead a different way of life and wish to continue to be different. In this sense, there remains much ground to be covered by both sides. On the part of the indigenous leadership, the main challenge now is to be able to create organizational forms which are capable of building unity within diversity in order to achieve the objectives which have been set. On the part of the State, the challenge will be to truly open up political spaces where indigenous people can express themselves as culturally and politically autonomous peoples, and to plan, manage and control future forms of development according to their principles and wishes.

More or less alongside development of the IPP, a programme was carried out with funding from the World Bank via the Institutional Development Fund (the IDF grant for indigenous people in Argentina), implemented locally by the National Centre for Community Organizations (Centro Nacional de Organizaciones Comunitarias - CENOC) of the Ministry for Social Development of the Nation. The aim of this programme was training in order to "strengthen indigenous institutions and communities so that they can improve their participation in

the decision-making processes of self-managed and governmental projects, as well as those funded by the World Bank". It was specifically dedicated to "training in the planning and implementation of projects of ethnic development, strengthening the network of representative indigenous organizations and strengthening relations between this network, the government and the World Bank with regard to development projects".

Because of the amount of funding allocated to the programme and because the focus of attention was placed on development, the programme necessarily could not reach members of the indigenous communities, except via the training of a few leaders. In practice, its simultaneous implementation alongside the IPP caused confusion amongst, and fragmentation of, the indigenous movement. This was undoubtedly a brief example of the problems outlined above.

Furthermore, despite the dangers already noted, the National Institute for Indigenous Affairs (NIIA), whilst carrying out concrete actions to counter the confusion and fragmentation in the indigenous movement, institutionalized the legal status of the indigenous community through an administrative facility of the Ministry for Social Development of the Nation.

It becomes very difficult to believe in the innocence of the nation's executive powers when, through three of its agencies, it simultaneously implements three programmes/projects which increase confusion and, possibly, delay the opportunity of making indigenous expectations with regard to their claims concrete. Through the NIIA, the Ministry for Social Development of the Nation financed the IPP. Without waiting for the results of indigenous deliberations within the IPP, the NIIA decided to go ahead with carrying out the legalization of the indigenous communities according to a model designed by technicians of the State body. They are now in the process of issuing this legal status throughout the country. Lastly, CENOC - also dependent upon the Ministry for Social Development of the Nation - implemented the World Bank's training programme.

Thus, in order to try to evaluate the events of the year with regard to indigenous rights in Argentina, we must look at what has become of

some of the concrete examples of conflict within the indigenous struggle.

In Chaco Salteño, the governor of Salta province still refuses to meet with the Lhaka Honhat Association of Indigenous Communities, which encompasses five different peoples *(Komlek, Iyojwaja, Nivacklé, Wichi* and *Tapy)* in order to search for a solution to their claim for land title to their territory. A year after the peaceful occupation of the international bridge between Misión La Paz (Argentina) and Pozo Hondo (Paraguay), along with a written commitment on the part of local government to hand the land over to the indigenous and Creole populations, this commitment has still not been fulfilled by the authorities. Not without surprise, the nearly 6,000 indigenous people living on State Plot 55 received notice that the National Supreme Court of Justice had rejected their appeal regarding the recourse to protection denied them by the Salteña Court of Justice. It remains therefore to continue the legal fight by making representation to the Inter-American Court of Human Rights.

Meanwhile, environmental degradation in these territories is increasing, both for the indigenous and for the Creole populations. The water supply is becoming increasingly limited for indigenous families, who have to compete for it with the creoles' cattle. The fencing put up by the creoles to close off their "claimed lands" also fence off the water supplies. Women are denied free passage to harvest the fruits of the carob tree by the use of threats and weapons. The Pilcomayo river, which is a source of abundant fish, is suffering repeated threats of contamination because of toxic waste spillages from mines in neighbouring Bolivia. The level of undernourishment amongst indigenous children seems not to worry the authorities. The imminent urbanization of the bridge zone, private property development plans, the planning of roads across indigenous territory, of Mercosur development projects, are all talked about and indigenous people are asking, "How long do we have to wait?" In November, Survival International published, in European newspapers, an international campaign in support of indigenous claims in countries such as Argentina, where it said the government had hoped to avoid fulfilling the law through spurious arguments. This annoyed the national authorities greatly, who initially

had appeared interested in mediating in the conflict. Nevertheless, the governor of Salta province persists in refusing to listen. Or is it perhaps that the national authorities are not shouting loudly enough?

Given this state of affairs, the Lhaka Honhat Association's hopes are centred around maintaining organizational unity, that is, a united front in the fight to resist the perverse desire of the provincial state to "wait until they get tired" whilst trying to divide the communities, buying their leaders' silence with bribes and personal favours. In the same province of Salta, another conflict regarding territorial land seizures continues to be the motive of protest and complaint on the part of the *Kolla* people, based in four communities, San Andrés, los Naranjos, Rio Blanquito and Angosto de junio de 1997. Leaders of the Kolla Tinkunacu people were arrested by provincial police at the very door of their headquarters, accused of causing a disturbance on the lands of the El Tabacal and Seaboard Corporation refinery. The conflict dates back to 1986 when, through a governmental decree, the province accepted the donation of 79,000 hectares from the San Martín tobacco plantation for the indigenous communities, leaving a strip of land free which would become the property of the multinational Seaboard when the refinery sold its shares to them. This took no consideration of the territorial rights of the kolla people which cover this area.

Not satisfied with the repression carried out on the part of specially trained representatives of the Seaboard Corporation, the provincial state's reply was, as in other cases, to resort to legal means. However, the persecution and imprisonment of their leaders has not stopped the community of more than 350 Kolla families from continuing to hold protest marches, both in Buenos Aires and in Salta to demand their legitimate rights. Direct intervention on the part of the National Institute for Indigenous Affairs managed to get Seaboard to withdraw their staff from the zone, but it has not been able to put a stop to their colonialist plans which continue to be fulfilled through the indiscriminate felling of trees, with consequent erosion of soil and loss of essential pasture for the livestock of these people who rely primarily on livestock and cultivation.

Further to the south of the country, the *Mapuche* people is also being prosecuted by the Neuquén state justice system, for the crime of having their own lands seized. After agreeing to the formation of a "committee for dialogue" between the Ministry for Social Development of the Nation, the State Governor and the Mapuche authorities from the communities of Salazar, Norkinko, Ruka Choroy, Puel, Catanlán and Currunul, these latter were excluded from the discussions. As expressed in a communication from the Coordination of Mapuche Organizations, this committee which will "define the future of the Mapuche and its lands in Pulmarí... is a committee.....without Mapuche representation!", since Mapuche representatives would only be later summoned to be informed of the decisions taken by the national and provincial authorities on their behalf. Meanwhile, the document continues, "the incessant parade of Mapuche members of the communities of Salazar, Aigo, Norkinko and Puel before the Zapala Court of First Instance continues". Paradoxically, the Mapuche complaint of "corruption and enrichment" made against the board of directors of the Pulmarí Interstate Corporation two years ago, is getting nowhere. Standards of living amongst Mapuche families are deteriorating; the families are prohibited from using their lands for winter or summer pasturing; there are delays, limits and restrictions on the availability of guides for the collection of firewood, something which is crucial in this area of the country which has long and intensely cold winters.

At the end of the year, the committee called a meeting in the area and summoned the communities together to inform them of their future plans. This was to include a total substitution of the land area and, in relation to the territorial distribution, it proposed as a solution the revision of concessions granted to the Mapuche (sic) and not those granted to foreign businesses and mining companies. The situation is currently one of frustration and skepticism. Many Mapuche have been prosecuted and there are more than twenty cases outstanding. There has been serious ecological damage to the 110,000 hectares in Pulmarí through irrational and uncontrolled management; the Pulmarí lake has been handed over to a foreign businessman, where investment has not stopped despite the mapuche claims that this is a sacred site, the cemetery of their forefathers and of notable figures from their history as a native people.

There is now skepticism with regard to the law and state justice because of the actions of the authorities and proof that "dialogue" has been an instrument employed to wear down "the wishes of the people and...demobilize them".

Finally, in this, as in previous cases, the international community has intervened on the side of the indigenous community in a number of ways, requesting the State to comply with its obligations, but realizing that there was an absence of any determined will on the part of the latter to support the territorial rights of indigenous peoples.

URUGUAY

Officially, there are no longer any organized indigenous communities in Uruguay, nor memory of indigenous ancestry. It is stated that Uruguay's population is largely made up of descendants of European immigrants. The reality is more complex.

The Afro race in Montevideo is very difficult to hide. It is acutely noticeable that African features are more frequent amongst inhabitants of the poorer districts. Uruguay hesitated for decades before abolishing slavery, and now does not provide equal opportunities for the Afro-Uruguayan population. The presence of this people alone shows that a 'population made up solely of European immigrants' is nothing but a racist fiction. Fortunately, popular Uruguayan music has African roots which are impossible to conceal.

The children of the original native population of Uruguay found it easier than the Africans to blend into a population of predominantly dark-haired and dark-eyed people.

Blending in was essential if the indigenous people were to survive, as the State commenced a policy of genocide in 1831. Yet even today, research into genetic indicators proves that overall, the Uruguayan population, both urban and rural, demonstrates an ancestry which is 18% African and 16% indigenous.

With regard to current culture, many of the economic, technological and ritual practices of the popular sectors of today's society are

clearly tinged with African and native traditions. Elements of combined spirituality are alive throughout the country, although to simplify, it can be said that a syncretism of Afro-European culture is predominant in the cities whilst Euro-indigenous syncretism predominates in the rural areas and smaller towns of the interior.

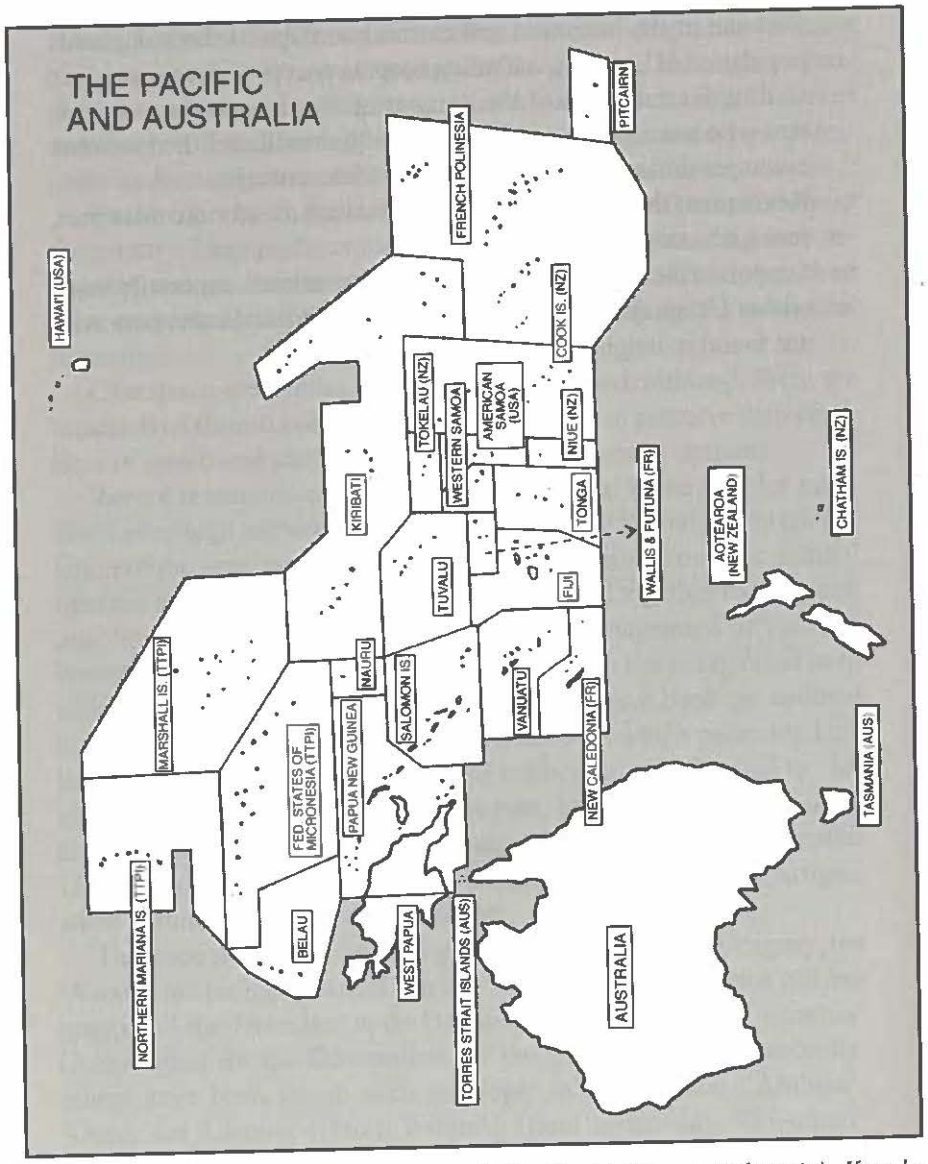
On the other hand, there are small *Guaraní* refugee communities in the country. They prefer not to reveal their presence, blending in to the popular sectors, but their shanty towns on the outskirts of the urban areas preserve their productive and ritual traditions with a great deal of purity.

Charrúa communities have not been detected, although there are hundreds of Charrúa descendants who continue to preserve their practices of traditional medicine and associated religious customs.

Recent research work has discovered conical stone temples up to two metres high and new pictography reveals that the indigenous population of the grasslands had developed a much more complex cultural life than had previously been thought. If you add together the research into 'invisible' agriculture (no ploughing), management of the ecosystem and medicinal herb gardens, the question has to be raised as to why none of this has ever been mentioned in any book on national history. The obvious conclusion is that the State, which persecuted the indigenous population to the point of extinction, also decided to 'devalue' its culture. Survivors, for their part, endeavoured to keep quiet about the situation. There was only one brief point in history, up until 1820 during the rule of the popular independence leader, José Artigas, when cultural diversity was respected.

There are two 'historical' indigenous organizations in Uruguay, the 'Asociación Indigenista del Uruguay' (Indigenous Association of Uruguay) and the 'Asociación de Descendientes de la Nación Charrúa' (Association for the Descendants of the Charrúa Nation). Recently, others have been set up such as 'Sepé' in Montevideo, 'Ahijuna', 'Desde del Adentro' ('From Within'), 'Berá', 'Inchalá', 'Guyunusa' and 'Piri' in the interior of the country. Several of them make up the 'Federación Indigenista Artiguista Multiétnica' (Multiethnic Indigenous Federation of Artigas) which works in the following areas:

- Defence of the historical and cultural heritage of the indigenous population of Uruguay, including keeping ancestral memories alive.
- Calling for the return of the remains of Charrúa brothers and sisters who were taken prisoner against their will and died in other countries during the genocide of the 19th century.
- Revision of the official history books which are, for the most part, racist in content.
- Support to the indigenous peoples of the continent, especially those within Uruguayan territory or those of the Charrúa diaspora who are found in neighbouring countries.



Countries/regions covered in this issue: Te Ao Maohi (French Polynesia), Kanaky (New Caledonia), Bougainville, Kiribati, Aotearoa (New Zealand), Ka'Pae'aina (Hawai'i), Belau, Marshall Islands, Kiribati, Kirimati, Tuvalu, West Papua

THE PACIFIC & AUSTRALIA

AUSTRALIA

Australia's New Race Politics

Australia will have two race elections in 1998. The national government and Queensland state government both expect that anti-Aboriginal feeling and their plans to abolish the content of Aboriginal and Torres Strait Islander rights recently recognised by the highest court will win them re-election. These campaigns will further inflame racial tension and do great harm to Australian society, of course. They will also set a bad example, e.g., in Asia where many minority peoples are already under intense pressure in the name of 'national development' or 'national unity'. If one developed and well-educated European country can do this to its indigenous peoples despite the many developments in human rights since 1945, more will follow.

Asia is an important audience for Australian policy. When the Howard government refused to sign a trade treaty with the European Union in 1997 because of a standard clause respecting human rights, it was done to win support in Chinese and South-East Asian governments. Not surprisingly, Aborigines in Australia feared it was also a signal of how the government intended to treat them at home. Australia has received much negative publicity over the issue in Europe. When Aboriginal leaders visited Europe on a speaking tour in 1997, the Prime Minister condemned it as a 'stunt', as unpatriotic. Meanwhile his own government and the major resource industries avidly collect information internationally to help defeat or pre-empt indigenous agendas in Australia.

In fact, 'stunts' is not a bad way to describe the Howard government's style. Australia may be setting the standard for use of low political theatre on indigenous issues (and much else) to keep polls and the daily TV news and 'talkback' radio attentive and friendly while the government gets on quietly with the business of redirecting national wealth to its powerful political friends. Howard's government

uses popular complaint not as one indicator among many but as a major source of policy advice. In part this reflects John Howard's lack of comfort with any but narrowly economic issues, i.e., he doesn't know any better. Also, his party's trauma of long years out of office has unified their many fractures and fractures on one principle: to stay in office. However, in Australia where complaint and expectation of failure are the verbiage or humour of daily life, to see this as national purpose is mad. With such guidance the human race would not have discovered fire or the wheel.

Niceties have been thrown out the window by many leading Australian politicians in the past two years. They have used the sanctimony of respected public office to engage in cheap and divisive rhetoric; feeding rednecks and racists shamelessly while feigning personal respectability. At times the mask slips. It slipped so many times in late 1997 that the Prime Minister was slipping in polls and had the churches publicly lined up against his blatant misrepresentation of Aboriginal rights and motivations. However, he seems to have regained composure and is back to his Honest John persona. The Queensland premier, reportedly a thoroughly decent and progressive man in private, wears one mask for his rural conservative heartland to show how gruff and tough he can be towards Aborigines, and quite another for his Coalition partners' urban and more liberal districts where he is, perhaps, more like his true self.

The national government has so embroiled itself in indigenous issues since its successful election campaign of February 1996 that its fate is now tied up with the subject. This is most unfortunate because most experts expect the government to win its 1998 election, if only because Australians rarely throw out a government after only one term. The Prime Minister and his inner circle would view such a win as vindication for their anti-indigenous policies and get even nastier. Despite the fact that Australians – presumably including Prime Minister John Howard and his government – deplore cultural or ethno-racial policies carried out by majorities in parts of Bosnia, Rwanda, Kosovo, or Mexico, they comfortably assume that election majorities at home constitute moral approval. The national government's standard defence against foreign criticism now is that Australia has an ad-

mired human rights record in the world. However, indigenous rights and socio-economic needs are the biggest area of failure and lack of political will in the national record, a fact also widely known abroad.

The Howard government has nobody to blame but itself. It came into office dismissing the importance of indigenous and environmental issues. Its failures and the resulting non-stop headlines have resulted directly from stupidity and ill will in these matters. The Office of Indigenous Affairs in his own prime minister's department has been caught and confessed to spending time and money drawing up political campaign posters to undermine opposition to his policies. A national poster campaign was stopped when polling groups found the prime ministerial posters reinforced people's existing positive or negative views rather than won new supporters.

The supposed indigenous affairs minister, Senator John Herron, is a happy fellow who, in recent days – early April 1998 – has been gleefully leaping about in Parliament rejoicing at a High Court decision which rejects Aboriginal rights. Herron visits indigenous communities and is little seen or heard, after an early career of gaffes. A popular theory of political observers is that Prime Minister Howard retains him precisely in order to enrage liberal opinion and the Labor party in the style of Howard's model and mentor, Margaret Thatcher. Meanwhile, Howard has promoted his *éminence grise,* Senator Nick Minchin, to formal status as a special minister for indigenous and electoral policy.

A great deal of public feeling against the Howard government has resulted from its attempt to use race prejudice to win political debates. In any other 'first world' country this might be decisive in an election – and one hopes it may be here, too – but perhaps no other such country has the vehement xenophobia, outright racism, and disdain for indigenous cultures found in another large section of the Australian public. Australia has as many or more decent people as other countries, but it is the passion of the rest who make the country unique. Governments and oppositions alike have failed for decades to educate that

public, fearing voter backlash. And so today a national race problem of a type which many countries have overcome is recurring here.

The *Wik* Debate

The *Wik* land rights decision of the High Court in December 1996 has continued to be the main daily indigenous political issue (see *The Indigenous World, 1996-97,* pp 122-124). Prime Minister Howard threatened to call an election if the Senate, the upper house of parliament which the Howard government does not control, rejected his legislation to reduce the impact of the *Mabo* and *Wik* decisions recognising Aboriginal and Torres Strait Islander rights. By rejecting his proposals twice, the Senate opens the way for Howard to have a special election after which he can pass his legislation in a joint sitting of both houses of parliament, if he then has the numbers to win the matter. It is expected that he will have this possibility after early April, and that he will use it later. Queensland, whose graziers and farmers are the hardest hard core of national opposition to native title rights, is expected to have an election early in the year on the subject.

The issues have never been properly discussed, but only in narrow and hysterical tones led by the Liberal and National parties and by extreme groups including outright racists. It has been sad to see two Queensland senators from the National party, normally eloquent and noble on racial issues, desperately showing how hard they are prepared to fight against native title and how much they will do to demonise Aboriginal claims. The president of the National party, the junior partner in the Howard government coalition, is the largest pastoral landholder in Australia, as it happens!

Meanwhile, the 'constitution' of English-speaking countries relies heavily on traditions of common law and of the way that law is respected by governments. If governments suddenly begin to abolish rights and titles recognised by the highest courts, as is happening to Aborigines and Islanders, they are putting much more at risk. The whole legal foundation and culture of respect for law are in danger. Today we abolish the property rights of blacks. Whose rights may we take away tomorrow? Asians, or Jews, or graziers? For a foreign observer the

strangest thing about the debates since *Mabo* (1992) and *Wik* (1996) has been the blindness of conservative elements in Australian society to such basic principles, the very principles on which they have proudly based their political and social outlooks.

In 1997 the National Farmers Federation, the most publicly vigorous interest group opposing native title, made TV ads showing a black child cheating to beat a white child in a game. These ads, and others like them, were shown in 'prime time', e.g., mixed with the evening news. Later in the year the Prime Minister went on TV holding a little map showing 80% of Australia in one colour and saying that Aborigines would now hold the power over development of all that if he did not act to stop it. When the churches spoke out strongly at this tactic, Howard was surprised and called them 'bullies'. This brought laughs of derision from church leaders on the TV news, some of them pointing out that this was the first time in Australia's history of white settlement that the churches had all agreed on something.

Indigenous, opposition, church, and other groups have called for a halt to the native title furore. They have proposed that a discussion forum be set up at which the various interested parties could have studies done and work out a reasonable arrangement for the government to enact. Of course, this does not suit the Prime Minister or the National party, the latter being said to be preparing not only to take over all native title rights but to transfer their huge leases of land into private ownership. That is the whole secret of the issue: native title rights only apply to leases, and indigenous people must not interfere with the activities of the lease-holders. In other words, the whole public uproar is largely a misunderstanding of the issue. Furthermore, the 'certainty' and 'finality' promised by the government will not result; on the contrary, Howard's legislation raises as many questions as answers, so the courts will be busy for years sorting out the mess and perhaps causing further acrimonious public debates.

The fact that there is no process in place to prevent multiple claims to an area by different groups or factions, however, has played into the hands of trouble-makers. Most claims have no chance of success is, but this is forgotten. One might claim the Moon or Tivoli as one's own, but nobody would be very worried; however, in Australia politi-

cians are pretending that Aborigines are posing a real threat to mining, grazing, farming, swimming beaches, etc. For a while the national government was even trying to frighten people in city suburbs that Aborigines could take their homes or backyards, but this caused so much angry rebuttal from churches, lawyers, surveyors, and others that it badly damaged public support for the government and was dropped as a tactic.

The government, meanwhile, has shown its hyper-sensitivity to accusations of racism in relation to its *Wik* policies. When the deputy Labor leader matter-of-factly commented to the media that the Prime Minister "is never so happy as when bashing blackfellas" (April 1998), Howard and his ministers went into shrieks of feigned outrage for several days. The question has two aspects. The first is that 'blackfella' and 'whitefella' are terms in daily use by Aborigines and by whites who work with them. These words have no pejorative sense in such context. Labor's Gareth Evans, Australia's outstanding former foreign minister, was saying no more than what anyone white or black tuned in to the Aboriginal scene would say (and would certainly believe). Howard and his ministers have little understanding or contact in that sphere, however, apart from Senator Herron's old-fashioned community visits. Secondly, the government, like many Australians, believe that if one utters pious comments about blacks on public occasions, or at least avoids making nasty ones, this is sufficient proof of goodwill. As indigenous people everywhere know too well, actions of a racially punitive government 'speak' more clearly than a prime minister's pretended offence at the use of inoffensive colloquial language.

In 1998 Australia may become one great carnival of countless evil or crazy spirits and ideas competing for public attention on the subject of race, drowning out rationality and responsible politics. It will not be accidental, but the calculated policy of a political leadership detached from the structures of knowledge, thought, tradition, and cumulative values which are the essence of any society. It will sadly set back a great country whose energy, creativity, and verve in virtually

every area of human achievement – and not only winning sports medals – have recently promised so great a contribution to the world.

Stolen Children

The *Wik* debate was at one of its periodic heights when another issue eclipsed it briefly. As two thousand delegates to the Australian Reconciliation Convention began gathering in Melbourne in late May 1997, the report on Stolen Children, or "the Stolen Generations", reached the media. This report concerned the tens of thousands of Aboriginal and Islander children taken from their families during much of the 20th century for no reason other than their Aboriginality. The purpose of the policy was to hasten the expected extinction of the Aboriginal race as a whole, and to assimilate indigenous youth into the lower classes of white society. The report was full of personal accounts of the brutality with which white officials separated children from their mothers and the emotionally deprived and often physically abusive lives they led in private homes or public institutions afterwards. Indeed, these accounts are the reason for the report's great impact, and for the strong support of white persons who have read it.

Despite posing as a government of 'family values', Howard, Herron, and some of their colleagues managed to appear utterly unable and unwilling to understand the human suffering involved. Herron claimed that Aborigines were fortunate to have been taken away, that they received better education and job prospects as a result. That claim is especially startling because the report specifically studies and disproves such beliefs. However, like so much in Australian Aboriginal policy, the government has no interest in facts, only in using black people for white political advantage.

A particular concern of the report, and of indigenous people in general, is the long-term effect of the Stolen Children policy. That is, the damage done by the policy to generations of Aboriginal youth is being passed on to the families those individuals create when they become adults. The vast array of social problems of Aborigines today are a result. The inquiry studies found that although general employment and education levels were not improved for persons removed from

their families in the past, their chances of going to jail or having a range of other serious problems greatly increased.

The government tried a number of excuses to avoid the report's recommendation for a national apology, thereby adding insult to injury for the many Aborigines affected. A great many indigenous leaders were Stolen Children themselves, so they now have a more visceral and well-deserved loathing of the Howard government than before. Health minister Michael Woodridge, probably the best informed minister on indigenous issues, was put on the spot in an interview about the report. After a significant pause he said that Australians were not yet ready for a real apology because they did not yet understand what Aborigines and Islanders had suffered in this country. One could not help but think he was speaking about his cabinet colleagues.

The Convention in Melbourne had been planned for years but inevitably provided a focus for the Stolen Children issue no less than the overall issue of black-white relations. On the first morning the Prime Minister gave a speech which began well. His apparent attempt to sympathise with Stolen Children was well received, even though it fell short of a government apology. However, he suddenly began shouting at the audience about the *Wik* native title issue, infuriating most people present, many Aborigines standing and turning their backs to him, a strong cultural protest. Of course, the speech was probably calculated to offend, to rile the crowd, in order to win favour with mining companies and the rural sector. It also deepened an urban non-indigenous view that the Prime Minister is insensitive and out of touch with social and cultural realities.

Of course, the Prime Minister had plenty of redneck support. There was also public confusion and dismay at the report's conclusion that Australia had violated the international genocide convention it had signed after World War II. To most people, of course, genocide means mass slaughter, and although there has been plenty of that in white-black relations in Australia in the past, that was not the subject of the report. The report said, simply:

The policy of forcible removal of children from Indigenous Australians to other groups for the purpose of raising them separately from and ignorant of their culture and people could properly be labelled

'genocidal' in breach of binding international law from at least 11 December 1946. The practice continued for almost another quarter of a century.

For most people, however, the personal tragedies were the real story. Children were taken away, their families often prevented from ever finding them again, or were told they had died. They were separated permanently. Indeed, the whole point of the policy was to break down the family and community dynamics of indigenous peoples.

Although the report is large, expensive to purchase, and not well organised for readers, it is very powerful, especially the personal accounts. A slim paperback containing the essence of the report has now been published at an affordable price and in readable format.

State and Nation

An issue related to *Wik* remains the Northern Territory's future. Both the federal and NT governments continue to make moves towards statehood, a statehood in which the majority of the permanent NT population – Aborigines – would lose their federal land rights protection and much else to a populist development-mad government in Darwin long determined to "put them in their place". The NT government is virtually a one-party system and Aborigines, who mostly vote for the Labor opposition which has never won power, have no influence within it. In other words, the Howard government is about to transfer the lands and lives of Aboriginal people from the federal jurisdiction where they have some safeguards to a hostile government they distrust. Unlike the persistent and determined work of Alaska Natives, Canada's northern peoples, and Greenlanders to avoid assimilation to white development interests and to win substantial land and sea rights and self-government, NT Aborigines have only occasionally focused on the issue of their political future. There is no question that lack of political confidence among some Aborigines is sometimes a factor.

The co-ordinator of the National Indigenous Working Group (NIWG), Australia's national indigenous political lobby group, Olga Havnen, recently gave a thoughtful paper to a high-powered gathering of leading New Zealand and Australian policy officials. She placed

the NT and other issues into a constitutional context, attempting to break out of the black-white slanging which has poisoned the country in the past two years. She concluded with four "propositions for progress":

1. Indigenous peoples have already survived the worst that history on this continent will throw at them. We are here to stay.

2. Indigenous peoples and their traditional territories are ethnic communities or nations which are not mere collections of unfortunate people needing a hand to join the white man's world. They are cultural and political communities with memory, history, and rights.

3. There is no threat to national unity in the recognition of such peoples and homelands. On the other hand, only the strengthening of such institutions of self-help shows promise to resolve long-standing socio-economic ills.

4.The strengthening of the rural and remote regions around Australia where many indigenous people live strengthens Australia as a whole. The paranoia of Australians in World War II about the 'loyalty' of Northern Aborigines and Islanders was no slur on us – rather, it was a recognition by whites of their own often savage treatment of indigenous peoples over 150 years. The way to have one Australia is to include indigenous people, not target them for the winning of racist elections.

The Australian scene has also attracted the attention of the world's leading political philosopher of the indigenous future within nation-states, James Tully. During a lengthy stay in Australian in 1997, Tully researched and lectured on the politico-constitutional situation of indigenous peoples and usefully introduced the country to the important precedents and thinking contained in Canada's massive 1996 Royal Commission on Aboriginal Peoples report. Canada and Australia are so much alike in geography, history, political structure, etc. that there are obvious reasons for comparing them. Australia for some years was overflowing with an open and inclusive national self-assertion, and with naive hopes that a republic would symbolise a new post-British Empire order. That has now given way to the dark, isolationist, and

xenophobic side of nationalism in Canberra, however, and even in academic circles ideas or information from abroad are no longer so welcome. Petty nationalism was evident even before the 1996 change of government among many officials and scholars. If nothing else the change of government and the racist movements which have tagged along with it have reminded everyone that assertive nationalism is by no means always kind to minorities.

Government policy in Australia relies heavily on the cruel past. That is, indigenous peoples are so used to getting nothing, or being crushed when they show any spirit, and living in vile conditions, that governments can count on their despair as a national political resource. The handing out of a few dollars here and there is all that need be done to keep them divided and relatively quiet. The trouble with that approach from a white man's viewpoint is that those days are already over in the more mature parts of the country, and will soon end – probably with a bang – elsewhere. The young indigenous people and the seasoned older people with the necessary guts, savvy, or education are already on the scene; once the indigenous community follows their lead in rejecting white paternalism and "welfare colonialism" once and for all, their fury at being so long fobbed off and manipulated will more than make up for any quiet times in the white man's political hegemony today.

Some Hope for Torres Strait

The Howard government may be less negative about the future of Torres Strait than about Aborigines. The reasons for this are traditionally cordial relations between Islanders and the National and Liberal parties, a belief that their Melanesian culture make Islanders "easier to deal with" than Aborigines; a view that their offshore islands have a different moral and political status *vis-à-vis* Australia; and the less confrontational style of Islander approaches to government relations. In some ways this is reminiscent of Canadian Inuit who have been very successful politically by "not being Indians" in Ottawa's eyes. Like Inuit, too, however, Islanders have the same basic aspirations as other contemporary indigenous peoples at home and abroad. They want better

public services (especially health care); more income possibilities; recognition of their customary rights to marine areas, marine resources, and marine livelihoods; a comprehensive resource and environment management régime to protect their seas from Australian, Papua New Guinean, Indonesian, and ship-borne pollution dangers; a stronger role in the region's international relations; and local and regional self-government within, or in association with, Australia. They see all around them Melanesian and Polynesian peoples governing their own island countries or running their own self-governing island regions, e.g., within New Zealand (i.e., Cook Islands and Niue).

Islanders also have some special needs. Their region is the only border area of Australia with another country. Disease and insects, gun and drug running, and illegal immigration are all endemic in Torres Strait. Islanders already have a local health crisis, and each summer new insect pests and diseases are identified moving south through their region as squads of scientists disperse around the Strait daily in helicopters trying to seek, identify, and destroy them. For whites living in Queensland, Northern Territory, or Western Australia life has a biblical quality as we daily watch the skies and TV news for tempests, plagues, locusts, etc.

Islanders constantly demand more quarantine and enforcement powers and personnel to protect themselves. The Prime Minister visited them in 1997, as much to pose with welcoming Islanders in order to attack enemies of his indigenous policies outside the region as to show concern for quarantine enforcement. However, his government has shown some positive interest in proposals for Torres Strait regional autonomy since the release of a parliament report on the subject in mid-1997. The report was unable to go very far for lack of clear Queensland or federal government views. Also, Islanders have a lot of work to do in political mobilisation and developing their own proposals. However, the Committee report usefully cleared the way for a single elected assembly to represent everyone living in the region, the vast majority of whom are Islanders, and called for both federal and state governments to devolve their powers to such a body.

Islander leaders have begun holding public consultation meetings on autonomy. Long-time Island Coordinating Council leader, Getano

Lui, Jr., is quoted as saying: "We must have stated where we want to be and have our position set down on paper before there is any constitutional change", i.e., before the year 2000 which has become a target date for national Australian constitutional change such as replacing the Queen as elected head of state. Indeed, at the special Constitutional Convention in February 1998 called by a reluctant Prime Minister Howard to discuss this latter issue, the sole Torres Strait representative, former leader George Mye, told the Convention: "The debate about the Australian Constitution which has led to this Convention has not addressed the considerations of a range of diverse groups such as my own within the Australian community. Norfolk Island, Cocos (Keeling) and Christmas Island territories have their own tailor-made constitutional arrangements within the national framework of Australia, as does Lord Howe Island within New South Wales. ... It is time, therefore, to consider what sort of Torres Strait regional administration and political arrangements will best meet the needs of Islanders and all Australians in the 21st century. The new report on greater autonomy for Torres Strait Islander by the House of Representatives... should focus positive thinking."

That parliamentary report also repudiated the attempt of the government to punish Aborigines by denying them similar consideration. "The Minister for Aboriginal and Torres Strait Islander Affairs has suggested that the Committee consider whether the granting of greater autonomy for Torres Strait Islanders would be seen as a precedent for a similar approach to indigenous autonomy on the mainland", it notes, but replies that "the Committee does not believe that reforms for Torres Strait Islanders should be compromised for fear of creating a precedent for others groups." "In fact", it continues, "the Committee believes that more effort should be made to help Aboriginals and Torres Strait Islanders become more self reliant and manage their own affairs." The Committee is dominated by Coalition members, but like any fair-minded people who look closely at indigenous affairs, they see obvious and uncontroversial answers.

Decline and Fall?

Australia is not the only 'first world' country where the cutting of government roles and budgets varies inversely with the volume of bombast from politicians. It is as if the lack of official work gave leaders more time to chat on 'talkback' radio shows and TV. The content of this talk is usually small-time moralising and urgings of self-help, as if we had elected prime ministers, premiers, and presidents to act as small-town Victorian daddies. No wonder the American Presidency is endangered by Clinton's private behaviour, or that John Howard's party worries about threats to his 'honest John' image. If they cannot be judged by positive actions, they must at least sound like they mean well.

It may be that all the books, documentaries and seminars for the Millennium focusing on long-term and even eternal issues make leaders look even more inadequate. A thousand years ago Europe and the 'New World' of other continents met on the east coasts of North America when Erik the Red's family and friends tried unsuccessfully to settle among or displace Algonquian Indians and Dorset and Thule Inuit. They established rights in their own eyes to call a parliament and they brought along their new Christian religion. They did not include the indigenous peoples in their plans. Only in the last few decades have some European peoples in North America and Europe appeared to learn how to do things differently, how to accommodate or reconcile indigenous and non-indigenous peoples. Australia was the last to join this movement, but in the words of the former prime minister, was trying to make up ground quickly. Now all that has been discarded. We are told by Howard and his government that Aborigines and Islanders are not people to meet and work with as equals but people to join the end of the queue for the white man's health, education, and social services.

This is especially unfortunate because Australia is the only country to date where indigenous leaders have conducted a comprehensive review and developed a national policy by means of community meetings, policy workshops, expert seminars, and lengthy heated debates over fundamental issues. These were independent of governments,

although the leaders were persons with plenty of political savvy and contacts in Canberra and the states. They published three reports in early 1995. The first looked for broad consensus between black and other Australians, the second had a precise series of recommendations outlining the next steps for both long-term and immediate reforms, and the third provided a 'virtual tour' of landscapes and seascapes of future racial reconciliation in Australia. Despite the difficult and often angry relations between indigenous leaders and the Labor governments of 1983-96, it is part of Howard government mythology that they were cosy and that he, John Howard, is now restoring 'balance'.

Howard seems to regard indigenous ethno-politics and black-white relations as subjects he can define or re-define anytime and in any manner to suit his political rhetoric. Like most Australians, he does not understand that indigenous peoples are not a unique Australian problem to be assimilated to white Australian convenience. Rather, they are part of the international experience of subjugated peoples struggling to secure equality, collective survival, and a decent future within frameworks imposed by governments and peoples who have annexed their territories. The dynamics and possibilities – and the limitations – of such relations are well known and available for study around the world. Australia might not only consult the experience of fellow British Empire countries like New Zealand, USA, and Canada, but the Nordic countries where indigenous peoples enjoy high social and economic standards even in difficult terrain like Greenland and North Norway. There is no reason why a peaceful and harmonious outcome cannot be achieved in Australia, but nothing on the horizon suggests that will happen.

Conclusion

Australian policy towards indigenous peoples is now drifting dangerously. Political parties see it either as a useful target for directing white insecurities away from themselves, or as a passive issue they can safely ignore or postpone. It is neither. Indigenous peoples are increasingly well informed, restless, and self-aware political communities through the cities, towns, rural, and remote areas of Australia. They have strong

support in the white public, although they have even stronger opposition there, especially from lower-income whites (both rural and urban) and comfortable old-timers. The social and political dynamics of indigenous peoples' movements are only incidentally related to white whims, however, and will have their own season, willy-nilly.

Instead of playing with crayons to design new advertisements for manipulating white political opinion, the Prime Minister's advisers might better inform him of the eternal dynamics of territorially-based peoples who are actively controlled, discriminated against, and denigrated by official bodies in the interests of settlers and resource companies. Their colleagues in the Department of Foreign Affairs who study international politics could give them much insight. It may be a simple matter now for prime ministers to overrule the courts when they defend Aborigines and Torres Strait Islanders, but it will be less easy to stop political violence once that phase in the inevitable phases of ethno-politics begins. It may be easy for government leaders in Brisbane, Perth, or Darwin to lock up black children and adults to make whites feel more secure in their suburban comfort – a security threatened more by sensational commercial television news reports than by reality – and to show voters they are "acting on your behalf". However, when more blacks break out from the disadvantage and despair behind which the whites of northern and western Australia have tried to corral them, they may do much more than merely destroy the tourism industries on which governments there place such high hopes.

One would almost think Australian politicians were trying to create a race relations explosion. When it comes, as it certainly will unless governments change course and change attitudes very dramatically over the next few years, it may be more painful than Ulster or the Basque country. The tragedy is that now governments have the opportunity to act intelligently and work with willing indigenous leaders to reconcile their peoples. Australia's present self-absorption may only end, ironically, when the most local and isolated of its people make the continent unpleasant daily news abroad.

THE PACIFIC

The past year of strengthened regional and international indigenous cooperation on behalf of Pacific Islanders has also been marked by the ecological catastrophes of typhoons and droughts. Furthermore, the indigenous peoples of the Pacific continue to face the harsh realities of military colonialism, economic globalization and environmental racism, which intensify a neo-colonial exploitation of the peoples of the Pacific region. The everyday life of Pacific Islanders is to a great extent determined by forces beyond their control. Prompted by the location, size and nature of their region, they continue to suffer damaging technological experiments, resource extraction and intrusion on their right to self-determination.

1998 was supposed to be the year of the referendum of the Kanak of Kanaky/New Caledonia determining their future political status. However, this vote on independence has in effect been postponed for fifteen to twenty years by the so-called Noumea Accords, an agreement which was signed by FNLKS (Front de Libération Nationale Kanak Socialiste) president Roch Wamytan, French prime minister Lionel Jospin, and Jacques Lafleur, president of RPCR (Réassemblement pour la Calédonie dans la République) on May 5, 1998 (see below).

In other respects as well, 1998 is an important year for Pacific Islanders. A cease-fire agreement between PNG and Bougainville is beginning to change the living conditions of the Bougainvilleans. At the centennial of the onset of US open imperialism in the Pacific, the indigenous peoples of Guam and Ka Pae'aina (Hawai'i) are educating themselves, the public and their governments about the significance of 1898 for the present Pacific conditions. The United States took Guam and the Philippines in connection with the Spanish-American war in 1898. That same year, the US also annexed Hawai'i and the following year Amerika Samoa was added to their possessions. In the Caribbean, the US seized Puerto Rico and Cuba. Today, one-third of Guam's small land area is reserved for military use.

Neo-Colonization and Decolonization

Today, the Pacific is home to a disproportionate share of the world's colonized peoples - reckoning traditional as well as new forms of colonialism. After fifty years of international condemnation of colonization, we still find two United States (Guam and Amerika Samoa), one Indonesian (East Timor), one British (Pitcairn), one New Zealand (Tokelau) and one French possession (Kanaky) on the United Nations List of Non-Self-Governing Territories eligible for decolonization. Add to this the indigenous peoples of Te Ao Maohi (French-occupied Polynesia), Ka Pae'aina (Hawai'i), Aotearoa (New Zealand), West Papua (Irian Jaya), Rapanui (Easter Island), Wallis and Futuna and various Micronesian peoples and nations. Social and political movements among these peoples seek UN acknowledgement of their status as peoples in the context of international law to secure their rights to reinscription on the UN list and thereby to decolonization.

However, the United Nations are under relentless pressure from especially the United States and France - the two largest traditional colonial powers in the Pacific today - to declare colonialism 'eradicated' (by the year 2000) and close down the UN 'Committee of 24'/ 'Decolonization Committee'/'Special Committee on the Situation with Regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples'.

Indigenous peoples are concerned with this pressure on the Committee and call for an extension of its work. The peoples of the Pacific, especially, do not consider the job of the Committee done. Recent developments in Bougainville (see below) point to a peace process modelled on the UN requirements for decolonization including removal of occupying colonial forces and free elections on the future status of the nation in question. Chamorro, disappointed with the US government's unwillingness to take their quest for Commonwealth status seriously, is looking into activating the UN process of decolonization, which they are entitled to according to international law. The Kanaks, likewise, now will have a need for the decolonization committee, way into the next century (see Morín in *Indigenous Affairs* 98:1).

A communiqué from the 3rd NGO Parallel Forum to the September 1997 South Pacific Forum, endorsed by the two largest regional indigenous non-governmental organizations of the Pacific, the Nuclear Free and Independent Pacific (NFIP) and Pacific Islands Association of NGOs (PIANGO), supports reinscription of **Te Ao Maohi** (French-occupied Polynesia) and other indigenous nations on the UN list of non-self-governing territories:

> "We, the delegates to the 3rd NGO Parallel Forum [...] note that the 1997 South Pacific Forum communiqué does not address the right to self-determination and independence for colonised peoples. Together with our delegates from East Timor, West Papua, Te Ao Maohi (French Polynesia), Bougainville, the Kanaka Maoli of Ka Pae 'Aina (Hawai'i), Aotearoa and Aboriginal Australia, we reaffirm our right to self-determination.
>
> [1998] is the anniversary of the annexation of Ka Pae'aina (Hawai'i), and the Kanak people of Kanaky (New Caledonia) will determine their future. People in Wallis and Futuna, Rapanui and the South Moluccas have also been colonised by foreign powers. We call for more action by the governments of the South Pacific. We call for extension of the mandate of the UN Decolonisation Committee beyond 2000, and the reinscription of colonised peoples with the Committee's list of non-self-governing territories (NGO Parallel Forum Communiqué, 3rd NGO Parallel Forum, Rarotonga, Cook Islands, 19-26 September 1997)."

Indigenous people will bring this communiqué and their reasons for it before the Pacific regional seminar held by the UN Special Committee under the Plan of Action for the International Decade for the Eradication of Colonialism, at Nadi, Fiji, June 16-18, 1998. The stated purpose of the seminar is to assess the situation in the non-self-governing territories, particularly their 'political evolution' towards self-determination by the year 2000.

The nuclear test site installations at Moruroa should be completely dismantled by July 1998 after thirty years of use. Only a small group of men would be left to control the radioactivity levels in the area for five to ten years - a very short time span, considering the time span of uranium's half life A petition is circulating in the Pacific supporting the *Maohi* people of Te Ao Maohi:

> "We seek the dignity of our people to live freely in our own land. [and] call for our governments to support the Maohi people's right to self-determination and independence, to discuss this issue at the South Pacific Forum, and call for a re-inscription of French Polynesia on the list of non-self governing territories, with the United Nations Decolonization Committee."

In order to be reinscribed on the list, the Maohi are seeking the support of the South Pacific Forum at their upcoming meeting, August 1998, at Pohnpei, Federated States of Micronesia. At the Forum's previous meeting in Rarotonga, Cook Islands, September 1997, the topic of reinscription of the Maohi nation on the UN List of Non-Self-Governing Territories, was not even on the agenda, in spite of assurances prior to the meeting. Support by the Forum (led by the Melanesian Spearhead Group) was instrumental in securing the reinscription of Kanaky ten years ago. Instead of addressing the question of self-determination for the indigenous people of Te Ao Maohi, SPF readmitted its colonizer, France, as a Post-Forum Dialogue Partner with the SPF, in good company with other former colonial powers. France had been expelled when it started its last nuclear test series in 1995 at Moruroa in Tahiti. Since the testing ended in 1996, France has actively reinforced its status in the Pacific through generous economic aid to governments in the Pacific and funding of strategically important events such as regional meetings. In this way the French government's strengthening its continued colonial position in the Pacific. The people of Marquesas fear being colonized by the Tahitians, whom they expect to gain independence from France within the next twenty years, and are therefore asking to become a direct colony of Paris - according to Lucience Kimitete, the Marquesan mayor.

The *Kanak* people's road to self-determination has taken a new direction with the signing of the Noumea Accord which has had a somewhat mixed reception in the Pacific and in **Kanaky**. The efforts to resolve the question of control over nickel complicated the implementation of the Matignon Accord of 1988, but now a joint venture between the Canadian mining company Falconbridge and New Caledonia's South Pacific Mining Company to build a nickel processing plant in the northern part of Kanaky has been agreed upon. This development is expected to strengthen the pro-independence FLNKS. Since the Matignon Accords in 1988, which set the framework for Kanaky's decolonization process, Kanaky's European population has grown by over ten thousand people, out of a total population of two hundred thousand. The Kanaks now make up only 44% of the population (according to the Matignon Accords, all those resident in Kanaky in 1988 and their children can vote in the 1998 referendum). In line with UN's process of decolonization, the 1988 UN Resolution on New Caledonia requires that "an act of self-determination, in which all options should be made available, should be preceded by a comprehensive program of political education in which all options are impartially presented and consequences fully explained." During the fifteen to twenty years, the Noumea Accords extends the decolonization process, the Kanaks will need the oversight option and support of the UN Committee of 24. The preamble of the Noumea Accord states that the

> "[ ]moment has come to acknowledge the shadows of the colonial period. [...] Kanaks were pushed to the geographic, economic, and political margins of their own country. [...] Decolonization is the means to create a lasting social bond between the communities who live today in New Caledonia. [...] At the end of a period of twenty years, the transfer of the sovereign powers to New Caledonia, accession to an international status of full responsibility and the transformation from citizenship to nationality will be put to a referendum of the affected populations (not official translation)."

The people in New Caledonia will vote on the Accord in December 1998. If it is accepted, labour legislation, foreign trade regulations, mining rights, social services and other powers will gradually be transferred to a restructured government, to be elected in mid-1999. France will retain control of defence, foreign relations, justice system and currency. In order for this process of increased self-governance to take place, the French government is now amending its constitution, which

up until this time only has allowed for the two options of New Caledonia either being independent or remaining an overseas territory. The people of another France's 'overseas territories', Wallis and Futuna, are worried about this development, fearing that they will lose connections and privileges because they are governed through Noumea, the capital of Kanaky. However, in recent years, the people of Wallis and Futuna have to a higher degree moved towards supporting independence for Kanaky.

Bougainville

A cease-fire agreement between Bougainville Interim Government (BIG), the Bougainville Revolutionary Army (BRA), the Bougainville Transition Government (BTG) and the Papua New Guinea (PNG) government ending almost ten years of war between the Bougainville and PNG was signed April 30, 1998, in Bougainville's capital, Arawa. The war has cost almost twenty thousand lives. The cease-fire agreement was signed in the presence of a crowd of two thousand, including the foreign ministers of Fiji, Vanuatu, New Zealand and Australia as well as a United Nations representative. The crowd has been described by the media as being everything from enthusiastic to consisting of "some of the poorest people on the planet" who "watched without smiles or laughter or tears": "You could only see their tiredness, their weariness at war and how they had been cut off from the world for so long" (Michael Field in Pacific Islands Report 5/2/98).

The cease-fire is the first step in the so-called Lincoln Agreement on Peace, Security and Development, completed January 23, 1998, in Christchurch, New Zealand, and later endorsed by the UN Security Council. In a statement on May 13, 1998, BIG secretary and international representative, Miriori made it clear that the cease-fire agreement had come about because BRA had won the war and forced PNG to the negotiation table. The cease-fire took effect at midnight April 30, 1998. The peace will be followed by substantial economic aid from New Zealand and Australia. The European Union, the International Red Cross and the United Nations will also 'aid' Bougainville in its future development.

The question of a reopening of the Anglo-Australian Rio Tinto-owned Panguna mine (operating on lands leased from Bougainvillean landowners), which ten years ago provided almost half of the total export income for PNG, has not been made a part of the peace process. The mine operations have been protested by the indigenous landowners since its opening in 1969. It has caused tremendous environmental damage. Ultimately, the dissatisfaction with the mine sparked the war. As many other indigenous peoples, the Bougainvilleans realized that only through self-determination could they freely determine how and when they wanted to use their own resources.

Delegates at the Bougainville peace talks at Burnham Military Camp (Foto Dean Kozanic)

BIG president, Francis Ona, however, believes that the reopening of the mine is on the hidden agenda of the Australians, about whose motives for participation in the peace process he is very sceptical. (It is well known that Australia was arming and training the PNG military forces during the war). Ona has for this and other reasons not endorsed

the cease-fire agreement which he reportedly considers a sell-out. He calls for a referendum on independence. The Solomon Islands government has been asked to mediate between Ona and the leaders who support the cease-fire, including BIG vice-president Joseph Kabui, BRA Commander Sam Kauona and the two international representatives for the BIG, Martin Miriori, based in the Netherlands, and Moses Havini, based in Australia. According to the Lincoln Agreement, the question of independence ("the political question") must be addressed in another round of talks before the end of June 1998 - on the condition that PNG at that time will have started withdrawing its armed forces. Furthermore, all PNG Defense Forces must have left Bougainville by September 1998 as a prerequisite for a free and democratic election before December 31, 1998, of a new "Bougainville Reconciliation Government" (BRG).

Some observers contend that the Lincoln Agreement clearly implies that PNG's control over Bougainville has ended, and that BRG without a doubt will press for political independence. However, PNG's prime minister Bill Skate, has repeatedly proclaimed that independence for Bougainville is "non-negotiable". The peace process is not going to be easy...

The island of Bougainville (North Solomon Province), now devastated by the war and mining, was once the richest of Papua New Guinea's nineteen provinces. While the majority of the people of Bougainville reportedly want independence, others want Bougainville to become part of the independent nation state of Solomon Islands to which Bougainville traditionally has strong economic and cultural ties. It is not known how many Bougainvilleans want to remain part of PNG.

To further complicate the situation, PNG's prime minister has a friendly relationship with the Indonesian government, which in effect is colonizing the western part of New Guinea island, the Melanesian population of West Papua. Bill Skate supported former President Suharto and still has plans to discuss cooperation between the armed forces of the two countries. Indonesia is suppressing the peoples of West Papua and East Timor under a terrible regime. Indonesia has strong interests in holding on to Irian Jaya because of the Freeport

mine which the government has a share in and receives substantial income from. As a parallel to the situation of the Panguna mine in Bougainville, Freeport is causing major environmental destruction and displacement of the local people.

The phosphate mining of Nauru and Banaba island in **Kiribati** are other extreme examples of the magnitude of environmental destruction created by mining projects. Banaba, or Ocean Island, was exploited by the British Phosphate Corporation (BPC; owned by Britain, Australia and New Zealand) until independence in 1979. Banabans today live on the Fijian island of Rabi, which the BPC bought in 1942 for mining royalties in order to settle the Banabans somewhere out of the way of the mining project. Rabi's 4,500 inhabitants form an I-Kiribati enclave in Fiji with their own language, culture and social institutions. While the island of Banaba is to undergo a rehabilitation program funded by the three colonial powers involved in BPC, gold deposits have been found on Rabi. Will history repeat itself?

Agreements between multinational companies, first world countries and Pacific island nations regarding sea-bed mining are spreading. In September 1997, the Cook Islands signed a $430 million agreement regarding mining of cobalt, nickel and copper. Rich deposits have been found off the coast of PNG.

Artificially created borders from the partitioning up of the Pacific by the colonial powers have created problems for other nations than Bougainville. In 1997, Western Samoa changed its name to Samoa, or the Independent Nation State of Samoa. American Samoa did not take this lightly and threatened to reject peoples with 'Samoa' passport at the border. This was a major threat, since the majority of the population in American Samoa actually are from Samoa.

Backlash

With the strengthening of the indigenous peoples demands for respect for their human rights through international and regional cooperation and self-education in recent years, has followed a hostile reaction from the establishment. This is especially obvious in 'first world countries'.

While progressive groups outside the indigenous communities in fact support the indigenous struggle, significant persons and major groups of people feel threatened by the claims, and even use the indigenous peoples as scape goats for unsuccessful economic policies.

Within the *Maori* rights movement, some groups want a Maori Nation recognized by the international community. They are petitioning the United Nations for inclusion on the list of non-self-governing territories, but the New Zealand government is trying to control the self-determination that the indigenous peoples are striving for. The Crown defines self-determination as 'governance', or 'limited authority'. Some Maori accept this as the final *tino rangatiratanga,* sovereignty or self-determination, whereas others see it only as a first step towards self-determination, and a dangerous one as such, because the process is designed by the colonial government. The Maori comprise 15% of the unemployed, more than double of any other ethnic group.

The Waitangi Tribunal and the courts of **Aotearoa** continue to support Maori rights. But legislative implementation and funding of these rights is lacking along with public support. The Muriwhenua Land Report of 1997 recognized for the first time in recent history the Maori interpretation of early land transactions, but the government has not followed up on this.

This pattern and debate resembles the situation of *Kanaka Maoli* in **Ka Pae'aina** (Hawai'i). A range of groups, including some supported and basically funded by the state and federal governments, seek self-determination in various forms. The strong movement with its well-educated and articulate members has managed to create a markedly different discourse in the public, in the legislature as well as in the court rooms over the last twenty-five years. Unfortunately, public awareness and judicial acknowledgement of indigenous rights have also made the rights vulnerable to public attacks. An uproar in the establishment has been caused by a supreme court ruling of 1995 which affirmed native right to standing in a contested case regarding development of an area used for traditional and customary purposes. Affirmation of the standing also affirmed the ancient access and gathering rights which have been codified in law since 1850. The present laws of Hawai'i include the relevant section in the 1850 law in its original

form, almost word for word. Awareness in the public and business circles of the existence of these rights however has caused repeated attempts in recent legislative sessions to change the law and restrict the indigenous rights. It is, furthermore, probably one of the important reasons for suggesting a constitutional convention on the 1998 election ballot. State and federal legislative bills for creation of some kind of Hawaiian 'autonomy' abound. As with the New Zealand government, the US also has a narrow definition of self-determination as internal self-governance, as witnessed by the UN interventions at the latest meeting at the UN Intersessional Working Group on the Draft Declaration of the Rights of Indigenous Peoples in Geneva in 1997.

Micronesians and Samoans in Hawai'i have lately experienced various attempts to limit their rights. Recently the Hawai'i Housing Authority declared that the Islanders from the US Pacific possessions were 'aliens' and therefore not eligible for housing assistance. In an economy like Hawai'i's with skyrocketing land prices, homes are very expensive because of foreign investment and land speculation. A measure such as the one mentioned above, will effectively evict thousand of peoples from their homes.

Similar public sentiments and consistent backlash against indigenous rights are found in Australia, where the open racism of the white majority is a matter of serious concern with the coming elections and attempts with the Wik ten-point plan to revert and restrict the gains in recognition of native title affirmed by the Mabo case of 1992 (see article on Australia).

Nuclear and Military Colonialism

For more than fifty years the Pacific has been the "nuclear playground" of primarily France and the US, but also of the UK. Since 1975 the Pacific Islanders have presented a united front against the testing and dumping of waste and since 1985, through the Rarotonga Treaty, the South Pacific has been a declared Nuclear Free Zone. In April 1998, Richard Salvador of Belau, representing indigenous peoples, gave a speech to the Plenary of the 2nd Preparatory Committee of the Nuclear Proliferation Treaty in Geneva. The celebrated speech has been

widely broadcasted through electronic networks and we will quote from it here. Salvador said:

> "For a dozen millennia, the vast Pacific has been our home. As island peoples, we have lived in our mother's keeping and she in ours. But with the dawning of imperialism, our islands have been overrun by Europeans, by Americans and by Asians. The power and might of these colonial powers were crucial in exploiting and maintaining the Pacific as the nuclear arena, testing ground and dumpsite of nuclear materials (Salvador, speech at the NPT PrepCom, Geneva, April 1998)."

The initial strategic military importance of Pacific islands as coaling stations and harbours have now dwindled, but post-WWII nuclear colonialism has led to dispossession of peoples, to disease and to death of peoples as well as islands.

As witnessed by a nuclear free provision in **Belau**'s 1979 constitution as well as by the regional NGO Nuclear Free and Independent Pacific established with support of most indigenous governed nations and the independence movements, the Pacific Islanders are generally in strong and outspoken opposition to the nuclear testing, shipment, dumping and storage.

> "In my island nation of Belau, we determined to create a nuclear-free island nation. That seemed like a noble idea, but as soon as we began to set in motion the building of our nation, our UN Administering Authority made a mockery of our genuine practice of democracy. We conducted more than ten referenda to deny the American Pentagon's plans to strike down our nuclear-free Constitution. We soon found out that the promotion of democracy was a mere rhetorical ploy. We said 'NO' each time we had a referendum on the question of allowing nuclear weapons in our territory. Our first president was assassinated, and the results of each subsequent referendum were thrown out, the reason being that military imperatives took precedence over the democratic wishes and aspirations of a nation and people (ibid.)."

All aspects of the nuclear cycle involves indigenous peoples' land (seventy percent of the plutonium resources of the world is estimated to be

located on indigenous land): from infrastructure needed for mining and testing facilities and the actual mining of uranium to testing of nuclear weapons, and dumping, storage and transport of plutonium and nuclear wastes. According to Salvador, indigenous peoples believe that uranium should be left in the hands of Mother Earth, because "no other force is capable of containing the toxic menace of radioactivity" (ibid.).

The basic understanding in the Pacific indigenous communities of the seriousness of the situation is the reason for massive regional support of the protests by the traditional land owners of Jabiluka, the Mirrar people, against a proposed uranium mine on their lands located in the Kakadu region of Northern Territory of Australia.

Quoting the 1997 Moorea Declaration by Abolition 2000, "colonized and indigenous people have [...] borne the brunt of this nuclear devastation". Salvador concludes that indigenous peoples are victims of the nuclear age, but that they

> "[ ]seek to transcend mere victimization in demanding and calling for a final cessation to these genocidal acts of nuclear colonialism. [...] Genuine peace can only begin to emerge when the nations of the world start to dismantle military and nuclear installations now dominating the entire Pacific from Guam to Hawaii to French Polynesia (ibid.)."

Nuclear tests have now stopped in the Pacific, but dumping and storage of nuclear and other toxic waste on already polluted atolls are seriously discussed by Pacific leaders (see below), Furthermore, in spite of the declaration of the South Pacific Nuclear Free Zone, shipment of nuclear materials through the Pacific continues, such as the journey of *Pacific Teal* from France to Japan carrying plutonium and high-level radioactive waste.

The serious consequences of the testing and work with nuclear materials has only gradually been made known to the world and are still being denied by the French authorities. Only recently has reliable information been publicized on the situation in **French Polynesia** on the basis of thorough investigations of the consequences of nuclear testing. In cooperation with various churches and European support

organizations, Hititau ("Time to Act", a network of NGO's of the Maohi nation) in 1996 performed a sociological inquiry into the consequences of nuclear testing on the lives and health of the Maohi people of French-occupied Polynesia. 737 workers of ten to fifteen thousand who had been working for the Centre D'Expérimentations du Pacifique (CEP) were interviewed. The study is documented in the comprehensive report *'Moruroa and us - Polynesians' Experiences during Thirty Years of Nuclear Testing in the French Pacific'* (Pieter de Vries & Han Sur (eds) Centre de Documentation et de Recherche sur la Paix et le Conflits. Lyons 1997; see *Indigenous Affairs* 1997:3/4).

This is a very important study because the French authorities have destroyed or prohibited access to health records and continue to issue deliberately misleading and partial information which distorts the picture of the test consequences. As recently as June 1998, the International Atomic Energy Agency reported that nuclear testing in Moruroa in 1995-96 had not caused any health or environmental problems... Hititau is also developing alternative economic avenues to the 'get away' image of conventional tourism.

Likewise, the islands of the former Micronesian Trust Territories have been and are being used for military strategic purposes and military testing. They are heavily dependent on the United States and are struggling with diminishing compact payments.

The **Marshall Islands** has under the Compact of Free Association with the United States been allotted almost five hundred million dollars in damage compensation, medical programs and environmental monitoring, thereby settling future claims and denying the Marshallese the privilege of a court procedure. But since the agreement was made it has been discovered that nuclear fall-out from the 67 tests affects many more islands than first anticipated and covered by the compact agreement of the early 1980s, which settled all future claims and denied Marshallese options of US court process.

The proposal by the Marshall Islands' government to store "low-level nuclear waste" in the islands reflects the republic's desperate economy, It has been met with vehement opposition from the people, the nuclear victims. After overwhelming popular opposition, prime minister Imata Kabua declared a 'freeze' on the plans, but in September 1997, a secret agreement between the government and the US B & W Nuclear Environmental Services for exploring the possibilities of storage of nuclear waste on Wotho Atoll was disclosed.

While the government are planning for storing nuclear waste, the leaders of Rongelap, whose island has been uninhabited since 1985 after evacuation for fear of continued radiation from the 1954 Bravo hydrogen bomb's fallout, are planning to rehabilitate their island, so they can return home. The people of Bikini also want to go home. The Bikinians were evacuated prior to the nuclear tests in 1946 and again in 1978 after returning in the 1960s to a supposedly safe island. The US has now agreed to provide funds for cleaning up Rongelap as well as Bikini and Eneu, the two main islands in the Bikini Atoll. The clean-up program was initiated in February 1997, when eighty Bikinians returned home for the first time in over fifty years to commemorate 'Bikini Day'.

Supported by the World Bank, a consortium of Norwegian, Russian and Ukrainian companies, Sea Launch Ltd., plans to launch commercial satellites from an old Norwegian oil platform placed in international waters near **Kiribati**. Sea Launch of April 1997 is 40% owned by Boeing, 25% by a Russian, 20% by a Norwegian and 15% by a Ukrainian company. The fewer than 200 commercial satellites in orbit are expected to expand to a thousand by the year 2000, so this is big business - especially considering that the launches are in the order of fifty million dollars a piece...

While Kiribati is trying to develop **Kiritimati** (Christmas Island) as a spaceport, the US missile tracking station and impact zone in the Kwajalein Missile Range for ballistic missiles shot off from Vandenberg in California is going commercial and also offers launching facilities to shoot satellites into space, aside from possibilities for "operational and developmental testing of theatre missiles interceptors" etc. Japan follows the example of the US. Japan's National Space Development Agency is buying into the Pacific for satellite tracking and landing of rockets by Christmas Island in the eastern Kiribati. The multi-billion project includes a 200-room hotel and support facilities.

The US Army claims that it needs another ten years to incinerate the remaining stockpile of chemical weapons and nerve and mustard

gasses stored on Kalama Island (Johnston Atoll). A South Pacific Forum Communiqué from the September 1997 meeting called for a permanent closure of the Johnston Atoll Chemical Agent Disposal System (JACADS) when the current program of chemical weapons and agent destruction is completed. And the US Senate has banned further transport of chemical weapons to Kalama. The original permit was issued in 1985 for ten years beginning in 1990.

The environmental challenges in the Pacific today are enormous as a consequence of economic globalization and militarization. To hazardous waste dumping, chemical burn-offs, nuclear shipments, bio-piracy, nuclear testing, add infrastructure development, mono-cropping, mining, dam building, logging, and establishment of grazing areas and agroforestry. There is degradation and taking of lands for development of tourist resorts, malls, golf-courses and condominiums. The ocean is over-exploited from deep sea mining and over-fishing with long-liners and deep sea boats, often belonging to foreign companies who have leased the fishing rights from the people who cannot afford the equipment themselves. Even nations which are trying to keep control over the fisheries have difficulty enforcing the regulations for others to either stay away or pay. A small nation state like **Tuvalu**, simply neither has the resources to patrol their extensive waters in the Exclusive Economic Zone nor the power to expel violators like the US. There has recently been a round up there of fishermen breaking the international moratorium on driftnet fishing in the North Pacific.

The issue of climate change is especially important to small island states - as a consequence of logging, but also as a consequence of global warming. It is a real impact already threatening the very survival and existence of the islanders. Will their children and grandchildren have a place to stay? At the Third Session of the Parties to the UN Framework Convention on Climate Change in Kyoto in Japan in December 1997, Pacific representatives made it clear that their islands already suffer from the result of climate change: increased frequency of cyclones, tornadoes, flooding, and tide surges. In 1997 alone, Tuvalu for instance was hit by three devastating cyclones. The costs hereof increase the dependency on foreign aid. Also Guam and Tahiti have

been badly hit by natural catastrophes. The representative of FSM said in a statement:

> "The Preamble to the Constitution of the Federated States of Micronesia states that the oceans do not separate us, rather, they bind us together. That statement applies not only to islanders but to the world as a whole. It has particular relevance to our common objective of protecting the global climate. We are all islanders, bonded together by the seas. [...] As I stand here today, the nations of the world luxuriate in a mixed scientific and intellectual debate over climatic change, which sounds all-too-much like the never-ending North-South economic discussion [...] but from the viewpoint of ourselves in Micronesia [...] we must deal with the challenge of global climate change in a much more urgent sense, that is, in terms of our cultural and geographic mortality."

On behalf of AOSIS, the Samoan representative at the same meeting stressed that sea-level rise poses the most profound danger for small island countries, eroding already scarce land territory, threatening the reefs and invading the ground water resources. The Nauru representatives who had come at great expense for their little nation criticized the reluctance to agree on significant reductions in the emission of greenhouse gasses: "We are running out of time." The result of the conference was that in the end, the industrialized nations committed to a reduction that adds up to less than twenty percent of what the 35 AOSIS nations had been promoting.

The practice of producing and storing hazardous waste in poor communities is today called "environmental racism".

Globalization and Economic Dependency

The peoples and resources of the Pacific are further threatened by the new and intensified forms of colonialism and exploitation through globalization. Many Pacific Island nation states today are multiethnic societies which are part of a global economy controlled by international trade networks and transnational corporations. Economic initiatives seem to be locked into the well established tourism-development paradigm with very little room for visions and alternatives.

The suggested Multilateral Agreement on Investment is scaring even World Bank economists and if it comes true, it will remove all impediments to the free flow of money. This will become "the biggest typhoon that ever hit the Pacific". In the first round, however, international opposition from "a global band of grassroots organizations" conveyed via the Internet killed the proposal. This is probably the first time in history something like this has happened. Trade agreements and other international agreements are still in force and must be monitored carefully by the indigenous peoples.

Aid is still a significant factor in Pacific economies. The involvement of the former colonial powers in the contemporary peace process in Bougainville could lead down the well known path of control via dependency if the involved nation states and international organizations do not step back from controlling positions. Aid continues the exploitation and control over not only land and ocean resources, but also over how Pacific Islanders govern themselves and shape cultural, social and economic development. It not only reinforces the material dependency but also strengthens the psychological dependency. This is the exact opposite of self-determination, according to international standards.

Pacific Island nations and peoples are facing deep economic crises. Attempts are made to alleviate them through the western economic framework of privatization of land and water, tourism (which in spite of the discouraging examples of Hawai'i, Guam and FSM continues to be a focus for hopes), land registration, ship registration, duty free shipping, tax havens, and even animal quarantine stations.

Major factors in the economies are - besides the former colonial powers and new 'trade partners' of US, Australia, New Zealand and UK, respectively Japan, Taiwan, Korea and China - the development banks, which impose specific political and economic agendas on the receiving peoples.

Urbanization creates serious problems with loss of livelihood, self-sufficiency and self-confidence, contributing to a growth of violence and use of alcohol and drugs.

Countries such as especially the Polynesian island nations are characterized by an extremely high rate of migration which has created

global families and an economy based on remittances. The economy and traditional life style at home become dependent on foreign aid and remittances.

Indigenous Networking and Policies

Many peoples of the Pacific are in situations which force them to continuously struggle for basic human rights such as rights of self-determination, rights to control over the land, ocean and other resources and the rights to determine their political, economic, social and cultural integrity and development.

Islanders are identifying with sub-regional Melanesian, Polynesian and Micronesian concepts, at the same time as Pacific solidarity increasingly is becoming a focus for identity, created and maintained in opposition to (neo)colonial powers. This regional awareness, supported by voyaging traditions and modern means of communication, electronically as well as physically, makes it clear that Oceania is indeed bonded by the sea.

In September 1997 delegates from 18 Pacific Islands peoples and nations established the Indigenous Rights Working Group (IRWG) under the regional NGO umbrella organization, PIANGO. IRWG works with PIANGO as well as PCRC/NFIP and other Pacific NGOs to inform, educate and enhance awareness of Indigenous peoples' rights. PIANGO was formed in 1990 in Pago Pago, Samoa, to facilitate communication, provide a common voice at regional and international fora and to develop Pacific identities, unify cultures and social action to improve the well-being of the island communities.

Regional and international indigenous cooperation are breaking down the colonial mind set through a strategy for decolonization, beginning with education, use of native languages and increased importance attached to sustainable living - for which the Pacific Islanders have models readily at hand. In these community rebuilding processes, land bases are crucial for sustaining a living. Struggles for land are therefore paramount in the Pacific movements for indigenous rights today.

Self-determination and decolonization are seen as the most basic rights of indigenous peoples, preconditioning the fulfillment of all their other human rights (see article by Trask in *Indigenous Affairs* 98:1). Without self-determination, the environmental degradation and exploitation of land and peoples will not stop, and the Pacific Islanders will not be able to protect their environment and culture for their own good as well as for the future of mankind, as Kanaka Maoli sovereignty leader Kawaipuna Prejean said at the UN Human Rights Commission meeting in 1991. To again quote Richard Salvador:

> "We wish to assert our right to preserve the nature of our relations with the earth, as we have for generations as Indigenous peoples. The fate of the earth rests on the proper care of the lands and waters, not by threatening to destroy the earth and its inhabitants in order to maintain dominance and hegemony. The wisdom of Indigenous peoples' relationship to the earth is the reciprocal obligation to care for the land, as it will in turn care for us. The voices of Native peoples, much popularized in these frightening times, speak a different language than old world nationalism. Our claims to uniqueness, to cultural integrity, should not be misidentified. We are stewards not of weapons stockpiles but of the earth, our mother, and we offer an ancient, umbilical wisdom about how to protect and ensure her life. [Our lands are] not the dumpsite of the world. [...] We will return to our homes to press for an end to the trans-shipment, storage and dumping of nuclear wastes in the Pacific, the clean up and ongoing monitoring of contaminated areas and support for test site workers affected by nuclear testing."

Sources:
Communications from the United Nations, Disarmament and Decolonization Organs Servicing Branch and other UN bodies. Resolutions, communiqués and statements from international and regional meetings and organizations; journals and newsletters such as the *Pacific News Bulletin* published by the Pacific Concerns Resource Centre, *Contemporary Pacific, Indigenous Affairs,* numerous websites and e-mail messages and discussion list, including 'Pacific Islands Reports'. Personal communication.

West Papua

West Papua has been experiencing the worst drought "in living memory" since September 1997. This has caused malnutrition, famine and an explosion in malaria. Tuberculosis is widespread. The death toll from famine and waterborne diseases had amounted to over 140 by September 20, rising to over 275 a week later and a staggering 413 by the 7th of October, according to newspaper reports. In the meantime, numbers may have reached the thousands. Fires in nearby areas were said to be hampering flights with relief supplies to the isolated starving villages. On September 26, the Jakarta Post reported that 80,000 hectares had been affected by fires, including part of the Lorentz National Park. Antara News Agency reported that the fires had swept into neighbouring Papua New Guinea, destroying a border camp inhabited by 600 West Papuan political refugees.
In the drought affected areas, people have no food and nothing to grow food from next year. Frost has compounded the drought in higher altitude areas, but it has also destroyed the staple crop of cassava. According to the charity World Vision, an estimated 200,000 people are being affected by the shortages and the situation will get worse over the next two months as the crop failures take their toll. The International Red Cross has tried to help from October last year, but has since February this year been denied access to areas in need. There is a glaring discrepancy between the emergency help in the eastern and western parts of New Guinea Island! Lately, Australia has decided to spend a large amount of money on aid distributed by their Defence Force in collaboration with ABRI, the Indonesian armed forces, which are the main human rights violators in West Papua. Stories of their torturing and murders abound. And they work closely together with the mining administration.

It is suspected that the unwillingness of the Indonesian government to help the drought ridden people is a deliberate policy. The Indonesian government owns ten percent of the Freeport mine (not to mention taxes and other benefits - estimated at $US480 mio. in 1998) - the world's largest gold mine and third largest copper mine owned mostly by the US company Freeport McMoran. The Australian

RioTinto, well known from the Panguna mine in Bougainville, is also a shareholder of the mine. Some of the people hit hardest by the drought are the Amungme who live in the mining area and have been protesting the mine's operations and environmental destruction for decades. The mine is in the process of expanding its production (a planned 60 percent expansion). The military is already in place, and expanding as well, paid for by Freeport. 350 families are expected to be 'displaced'. Huge amounts of 'tailings' (waste material from mining operations) are already being dumped into the river system. Ok Tedi mine had to pay the indigenous people living downstream from their dumpings in the Fly River system 150 million dollars in compensation for the destruction and for clean up costs after a law suit ending in 1996. They 'only' dumped 80,000 tonnes tailings *per day*. Freeport dumps (before expansion) 200,000 tonnes in the Ajkwa river system per day.

West Papua is recognized by the indigenous peoples of the Pacific in their various organizations as colonized and should be reinscribed on the UN list of non-self-governing territories. West Papua officially became part of Indonesia in 1969 after a mockery of a UN Process of decolonization, including an "act of free choice" where the required referendum was replaced by a vote of 1022 representatives for the 720,000 Papuans for inclusion in Indonesia. The protest of the Papuans gave the Indonesian army a good excuse for cracking down on the indigenous population. Dislocation, transmigration, torture, rape, etc. have been taking place ever since, but the OPM (Organisasi Papua Merdeka - Free Papua Movement) is still fighting for self-determination and independence for their Melanesian peoples.

There are indications that the famine in the highlands is not entirely due to the drought. It may be a man-made disaster too, linked to the high number of troops in the region. Since members of the West Papuan guerrilla army, or OPM, took European scientists hostage early 1996, the highlands have been crawling with Indonesian troops. They have been requisitioning food and preventing villagers suspected of siding

with the OPM, from tending their gardens, and so denying them their means of growing food.

A recently conducted fact finding mission by the Christian Missionary Association (GKII) Mimika Region, the Catholic Church Paroki Tiga Raja Timika and the Christian Evangelical Churches in Irian Jaya (GKI) Klasis Mimika has again brought to light the close interconnection between the Indonesian government's mining interests, militarization and the continued human rights violations against the people of West Papua. Part of the report on the fact finding mission is printed below.

From the end of the hostage rescue drama in the hamlet of Nggeselema in the Central Highlands of Irian Jaya on May 15, 1996 until now, there have been disturbing reports about abuses experienced by civilian occupants of Jila, Bela, Alama, Nggeselema, Jigi, Mugi, Mapnduma and other hamlets in connection with the presence of troops from the Armed Forces of Indonesia (ABRI) to crush the OPM as well as to protect the 'vital national project' of PT Freeport Indonesia.

That presence was marked by the number of military posts built from the time the hostage crisis broke out in January 1996 until the sentative council of the Amungme people known as LEMASA (Lembaga Musyawarah Adat Suku Amungme).

From Bela and Alama, located some 150 kilometers to the east of Tembagapura, officials and members of the GKII report that between December 1996 and October 1997, sixteen people became victims of human rights violations during military operations. Thirteen of the victims were from Bela and Alama, two were from Jila and the others were from Mapnduma. Eleven of the victims were shot and killed; two 'disappeared'; and three sustained injuries. In the same military operations, in which military forces were not only tasked with crushing the Free Papua Movement (Organisasi Papua Merdeka or OPM) but with securing the 'vital project' of PT Freeport Indonesia Inc. (PTFI), the troop burned 13 church buildings in 13 different hamlets, 166 homes, and 29 rumah bujang or 'men's houses', a traditional structure.

The human rights violations occurred after an operation to free a group of researchers from the World Wildlife Fund (Team Lorentz '95) who were taken hostage by a group of OPM led by Kelly Kwalik and Daniel Yudak Kogoya. The operation, led by units of the army special forces (Kopassus); Infantry Battalion 753 from Paniai; Infantry Battalion 752 from Sorong; and Infantry Battalion 751 from Jayapura, resulted in the flight of people living in the Bela and Alama valley. They fled out of fear to caves and to the forests surrounding Bela and Alama, as well as Ilaga. They felt they had to flee to protect themselves because in the course of the military operation, the troops had shot both people and their animals (pigs, chickens, and dogs), burned their homes, and burned the churches of the GKII.

In the course of this operation, a man was shot in Wajitagala in December 1996; another in March 1997 on the banks of the river Mokogom; and another in April 1997 on the banks of the river Tomogong. Six people were shot dead in May 1997, and another was killed in Mapnduma in October 1997. With respect to the bodies of these victims, six were simply covered with leaves and later found by their families and buried, while four others were buried by the military. In addition to these shooting victims, two civilians were declared missing, and two others were wounded.

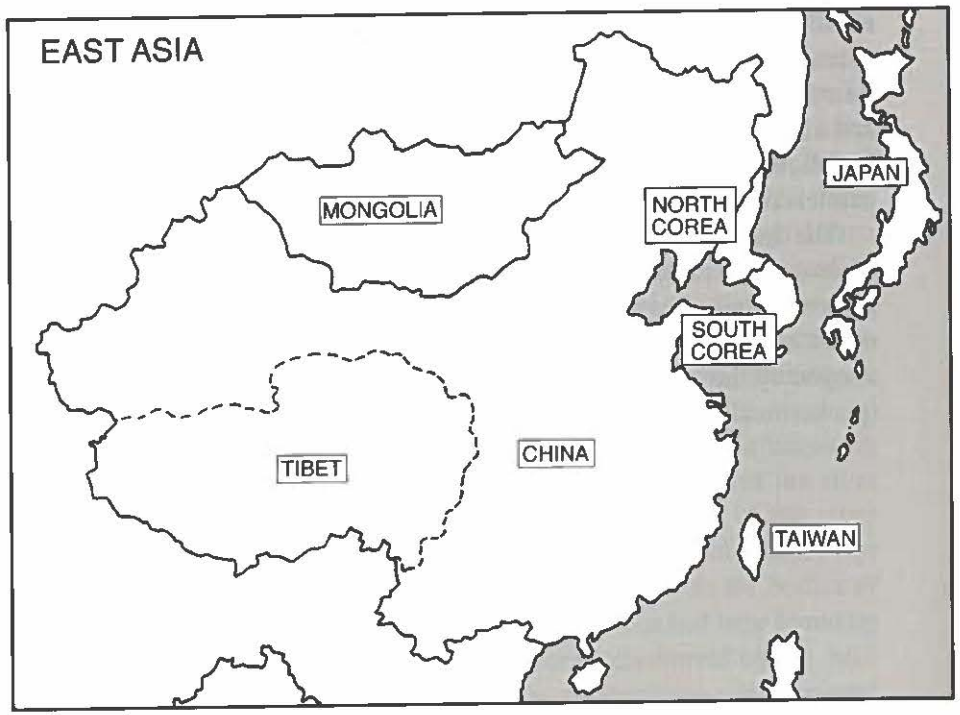
The people who were shot were civilians returning to their gardens near their hamlets to gather food, such as yams and corn, since they had run out of food in the places where they had sought refuge. The lack of food had made them weak and vulnerable to disease, with the result that 15 people died while displaced. The physical weakness of this population was still visible after they had left their hiding places and returned home. Eighteen more people died of illness after returning around December 1997.

Local people whom army troops managed to gather in hamlets were tightly guarded. No matter where they went, they had to obtain a travel permit signed by security officials, making it difficult for them to go to their gardens or hunt.

The rate of death has tended to rise over the last three months. Between January and March 1998, 28 people died in three hamlets, Tagalarema (19); Ningimtagalao (6); and Onimogom (3). The total

number of those who died in five other hamlets in Bela and four in Alama is not known. The last report received from Bela in April 1988 stated that 65 others had died. The deaths of those who died during and after their flight were caused by general weakness as a result of insufficient food and hunger linked to the military operations in the hamlets of Bela, Alama, and Jila.

The Indonesian armed forces also burned thirteen buildings, including eight churches in Bela and five in Alama, while of the 166 homes burned, 66 were in Bela and 100 were in Alama. Of the 29 men's houses destroyed, 17 were in Bela and 12 in Alama. Also destroyed by the military were one traditional house, two health clinics (puskesmas) and one SSB (single side band) radio.



Countries covered in this issue: China

EAST ASIA

CHINA

Overview

1997 was a year of great events for China. The two most important ones were of course the death of Deng Xiaoping in February and the return of Hong Kong to China on July 1. These two events, each in their own way, influenced the relation between the majority Han Chinese and the non-Chinese nationalities.

The death of Deng brought the age of terrorist bombings to the Chinese capital. On February 25, the day when the funeral rites for Deng took place in Beijing, bombs went off within minutes of each other in three buses in Ürümqi, the capital city of the Uighur Autonomous Region of Xinjiang. According to news dispatches, the attack killed nine people and wounded 74. Then, on March 7, a bomb went off in a bus in the Xidan shopping district in Beijing during rush hour. Unofficial sources say that at least two persons were killed and about 30 wounded. Uighurs in exile in neighbouring Kazakhstan claimed responsibility for both attacks, but attention was also directed towards resistance groups in the Hotan-Kashgar region in Southern Xinjiang who have good contacts with Islamistic movements in Afghanistan and Pakistan.

These events came shortly after the biggest exploding device ever blew up in front of one of the main government offices in the centre of Lhasa early in the morning of December 25, 1996. Nobody is said to have been hurt, but the explosion caused great material damage. The exiled Tibetan government in Dharamsala disclaimed responsibility for the act, and it was speculated that perhaps the Chinese authorities themselves had staged the event, but it is more likely that it was an example of the new and more militant forms of resistance from younger and more impatient Tibetans. The date of the bombing was most likely not a coincidence: it seems to have been a rather special way of marking the anniversary of Mao Zedong's birth.

The return of Hong Kong was accompanied by a strong wave of patriotic sentiments among the Han Chinese. For once, the official propaganda seems to have been received well among the people, as this writer could observe by first-hand observation. The unanimous opinion among the elderly seemed to be that China should never again let itself be bullied by imperialism. The mood among the younger part of the population, however, was more diversified, from outright joy and pride to resignation over the fact that the Hong Kong event would most likely not change their life situation, perhaps even make it look more grim.

However, the return of Hong Kong probably also led to a heightened awareness about the vulnerability of the Chinese border regions, as seen from Beijing. The rhetoric of the CCP has swung markedly towards appeals for 'patriotism' (the term 'nationalism' is still regarded as a bourgeois term, but the term patriotism does the job well). That means that those in the vast border regions who may want to air discontent about the Chinese dominance over their homelands are more likely than before to be branded as 'separatists'. This is likely to feed into an increasing spiral of discontent, as events in Xinjiang in 1997 (see below) clearly illustrate.

In connection with the return of Hong Kong to China, the propaganda-department of the Central Committee of the Chinese communist party announced in the middle of June 1997 that one hundred geographical sites throughout China had been selected for so-called patriotic education. The purpose was primarily, according to the *People's Daily* of June 11, to teach the youth of China to "hold high the banner of patriotism". (One hundred patriotic films and one hundred patriotic books were also selected). Whereas a number of the sites in the Han-dominated regions were historical sites (like the alleged grave of the Yellow Emperor, who is actually a rather late Taoist-inspired culture hero), the only site in the major ethnic regions that has connotations to earlier history was the museum in the Hui Autonomous Region of Ningxia. All the other sites in the major ethnic regions were either related to the history of the communist party or to events in the twentieth century. For example, in Tibet, one would think that the Potala palace would have the same significance as the Imperial palace in

Beijing and thus be marked as an example of the 'contributions' (a term usually used in contexts like this) of the indigenous Tibetans to the alleged Chinese heritage, but the Potala is not on the list. The sites selected for Tibet is rather a mausoleum for revolutionary martyrs and a memorial site of the defeat of the Tibetan army by a British-Indian expeditionary force in 1904. The message of present-day Chinese patriotism is thus clearly illustrated: put stress on the events that concern the nation as a whole and particularly so the events in the Han Chinese regions, and play down the local or regional identities.

Xinjiang

The worst ethnic unrest in many years broke out in the city of Yining (Khulje) in the Yili prefecture about 70 km from the border to Kazakhstan. As always, the reports from such events are partly contradictory and vary greatly in terms of assessment of scope, so the information provided below should be taken as highly provisional.

According to Chinese sources, the unrest started on February 5, when local Uighurs protested against the attempt by the police to arrest a young Uighur, Abdul Halil, aged 29, who had earlier taken part in demonstrations. But there had already for some time been attempts by the police to round up militant supporters of the Muslim sect called Talips (cf. Taliban in Afghanistan), whose missionaries had come from the Hotan area in Southern Xinjiang. The members of the Talips refuse to cooperate with the government, and a number of them are said to have resigned from their government jobs. Some even refuse to go to the mosque, as they dislike the fact that the imams are appointed and paid by the government. Other sources claim that 30 young Uighurs had been executed on January 31, 1997, as a part of the so-called 'strike hard' campaign, which the Chinese government initiated in 1996 as a measure against the steadily eroding social order in China. (The last officially reported executions in Xinjiang before the Yining unrest took place in Ürümqi on January 30, 1997, when 16 men, among them an Uighur accused of terrorist activities, were executed).

Back in Yining, after having fasted through the night of February 4, which this year was a special day in the Ramadan month, a group of

Talips marched through the streets on February 5. They were joined by a crowd, and the local police were completely taken by surprise. When the police finally acted, they forced the demonstration towards a park, where they were rounded up, beaten and in some cases killed, according to some sources. More rioting spread immediately, and a strong popular outrage erupted the next day, when thousands of townspeople burnt cars, smashed stores and killed Han Chinese. Estimates of how many were killed vary greatly, from 10 to 300, as well as the assessment of how many of them were Chinese and how many of them were Uighurs and other indigenous persons. Unofficial sources assess the number of detained people to over one thousand.

The retaliation from the Chinese authorities was swift and merciless. Some reports say that about one hundred Uighurs were executed between February 6 and 12, but the numbers are impossible to verify. The first open trials started just before the Kurban festival, about seven weeks after the incident, but these were quickly cancelled, because the prisoners used their nail-less hands to testify about the treatment they had been given. A series of public trials were held at the city stadium from April 24 and onwards. In the first round, 30 prisoners were paraded in front of the public. Three of them, who were considered to have been the instigators of the demonstrations, were given death sentences and executed the same day. The only woman among the thirty, a 21 year old, was given a sentence of 14 years for having taken part in the February 5 demonstrations and for having advocated that Uighurs should not follow the official birth control policies of the government.

How many were imprisoned and executed is very hard to estimate, but the campaign went on all through the summer of 1997. In May, a so-called hundred days cleaning-up campaign was launched. Already on April 13, Qiao Shi, the then president of the National People's Congress and a man with lifelong connections to the internal security services, made a sudden appearance in Ürümqi, where he stated: "We must firmly oppose national separatism and religious extremist forces and safeguard the dignity of laws and the fundamental interests of the people of various ethnic groups". Eight Uighurs are reported to have been executed on May 30, and another nine on July 22.

But the wrath of the Uighurs is not just directed against the Han Chinese. One night in late June, six people were knifed to death in different places around Yining in a well-coordinated action, four of them being Uighur policemen.

The spiral of violence and repression is steadily being escalated in Xinjiang. On March 13, Mukhiddin Mukhlisi, spokesman of the United National Revolutionary Front of East Turkestan, announced at a press conference in Almaty, the capital of Kazakhstan, that a bomb had been exploded in an arms factory between Ürümqi and Kashgar on March 10. On May 29, eight persons were executed in Ürümqi, the regional capital, for the bomb attacks mentioned in the in Overview part of this article.

It seems that the Chinese political leadership regard Xinjiang as a much more volatile and difficult region to control than both Tibet and Inner Mongolia, where they are able to keep tighter reins. Xinjiang has for a long time been plagued by a Northern Ireland-type of conflict. It will however be infinitely more difficult to find an acceptable settlement to the Xinjiang tangle, because of the complex regional and ethnic issues involved.

Inner Mongolia

As mentioned in the last year's edition of The Indigenous World, the Mongolian Hada, 42 years old, was sentenced to 15 years of imprisonment in December 1996. Hada is a native of the Khorchin Right Wing Front Banner of Inner Mongolia (the term 'banner' refers to a traditional Mongol socio-political organization, but is today used to denote administrative entities on the county level). Hada had been a member of an underground Mongol organization whose aim was to preserve the religious and cultural heritage of the Mongols. The Chinese colonization of Inner Mongolia has much earlier historical origins than in the case of Tibet and even Xinjiang. As of today, Mongolians comprise only a small minority of the population of The Autonomous Region of Inner Mongolia, and many young urban Mongols no longer speak Mongolian, but Chinese.

In May 1992, Hada and others founded the Southern Mongolian Democracy Alliance (SMDA), an organization of which he served as the chairman. Towards the end of 1995, the SMDA staged a series of demonstrations in Hohhot demanding rights that are guaranteed by the Chinese Constitution but which have not been honoured. In December 1995, Hada was arrested, his bookstore, Mongolian Academic Bookstore, was closed down and its inventory confiscated.

Also sentenced in December 1996 was Tegexi, a 30 year old Mongol from the Khorchin Left Wing Rear Banner, who was sentenced to ten years of imprisonment, allegedly for trying to split the country. Tegexi had earlier been employed by the Inner Mongolian Bureau of Foreign Affairs.

Both Tegexi and Hada were held in solitary confinement for a full year after their arrest. Eight others who were also detained in December 1995 and accused of 'nationalist separatist activities', were subsequently released. Both Hada and Tegexi appealed their sentences, but the appeals were rejected on January 24, 1997, and their sentences upheld. Amnesty International considers both Hada and Tegexi as prisoners of conscience.

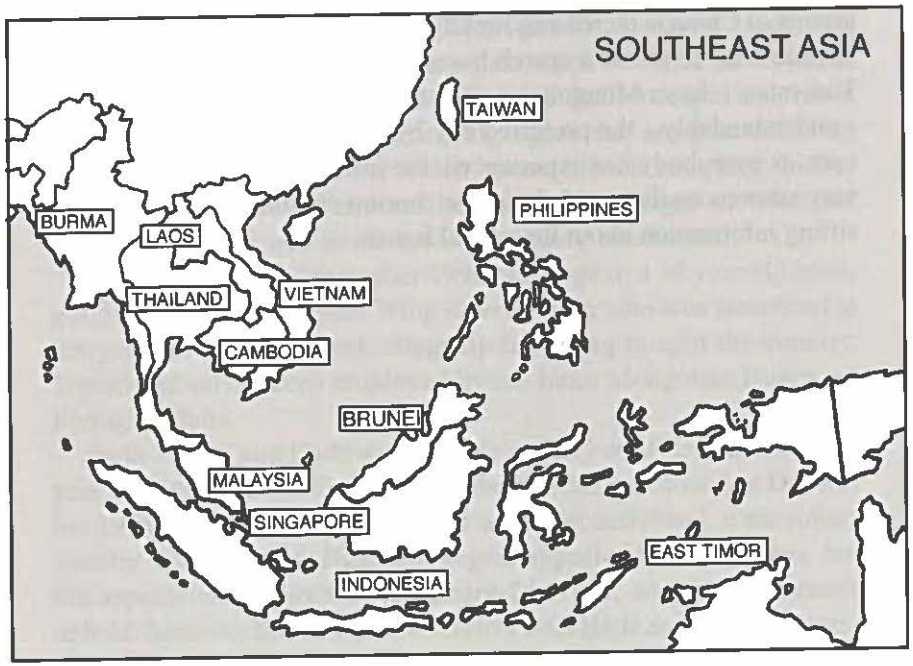
Several well-known Western historians and social scientists are involved in the study of the recent history of Inner Mongolia. This is especially the case of the period of the Cultural Revolution, when the Mongolians suffered perhaps more than any other minority people in China.

Final Remarks

The increasing interest in indigenous rights was illustrated by the annual conference of the Association of Asian Studies in Washington D.C. in April 1998. The president of the AAS, Jim Scott, organized a Presidential Roundtable entitled simply 'Indigenous Rights'. The participants of the roundtable were Uradyn Bulag, Dru Gladney, Richard Kagan, La Raw Maran, and Lobsang Sangay. See http://www.aasianst.org/98Hghlts.htm

When mentioning web-addresses, we may note that the amount of information available on the web concerning the major indigenous

groups of China is increasing rapidly. This will quickly be realized by anyone who conducts a search based on terms like 'Xinjiang', 'East Turkestan', 'Inner Mongolia' or 'Southern Mongolia'. The last term is - understandably - the preferred one by Mongolian dissidents. However, as everybody has experienced, the information on the web is of very uneven quality, and the same caution should be applied when sifting information about these vital issues.



Countries/Regions covered in this issue: Philippines, East Timor, Indonesia, Malaysia, Thailand, Laos, Cambodia, Nagaland

SOUTHEAST ASIA

PHILIPPINES

Indigenous Peoples Rights Act Passed

After more than a decade of legislative lobbying, the Philippine government finally enacted a legislation that accommodates and tries to address the indigenous peoples' concerns with Republic Act (RA) 8371, otherwise known as the Indigenous Peoples Rights Act (IPRA) of 1997. President Fidel Ramos incorporated it in his administration's poverty alleviation program within the Social Reform Agenda. By far this is the law that would deal principally with the concerns and demands of indigenous peoples. However, both the various indigenous peoples' organizations and advocates are well aware of its limitations and dangers, just as there are opportunities and potentials within the context of the present political and economic milieu. How this law will fare from hereon is indicative of its strengths and weaknesses, as well as the continuing efforts of the indigenous peoples and their supporters toward genuine self-determination.

The Constitutional Basis

RA 8371, or the Indigenous Peoples Rights Act, was signed in 29 October 1997 and took effect a month later, 22 November 1997. The law is the legislature's interpretation of the constitutional provisions governing indigenous peoples' rights. IPRA of 1997 implements these provisions by enumerating the civil and political rights of the indigenous peoples, as well as their social and cultural rights, and by recognizing the indigenous peoples' property rights. It provides for the creation of the office of the National Commission on Indigenous Peoples (NCIP) as implementing agency.

Indigenous Peoples' Rights as Defined in the Law

Provisions on *civil and political rights* are found in Chapter 4: Right to Self-Governance and Empowerment, and Chapter 5: Social Justice and Human Rights of the law.

Chapter 4, Sections 13 to 20 provide for the indigenous peoples' right to self-governance, self-determination and empowerment. This includes the indigenous peoples' right to use their justice systems, conflict resolution institutions, peace-building processes, and other customary laws and practices as may be compatible with the national legal system and internationally recognized human rights. The right to participate in decision-making at all levels is specified in Section 16.

What may be foremost in IPRA of 1997 is found in Chapter 5, Section 21 where it provides for equal protection and non-discrimination of indigenous cultural communities or indigenous peoples. Equal opportunity is specified in the areas of employment and delivery of basic services. This goes further by recognizing the rights of indigenous women. Sections 27 & 28 recognize the rights of children and youth and require that the educational system be relevant to the needs of indigenous children and young people.

Social and cultural rights are enumerated in Chapter 6: Cultural Integrity. Here the law defines the state policy on indigenous culture. It states in Section 29: "The State shall respect, recognize and protect the right of ICCs/IPs to preserve and protect their culture, traditions and institutions. It shall consider these rights in the formulation and application of national plans and policies."

Included in this chapter are the following: recognition of cultural diversity; equal access to cultural opportunities in education; community intellectual rights; rights to religious, cultural sites and ceremonies that also specifies the right to repatriate human remains; right to indigenous knowledge systems and practices and to develop their own sciences and technologies; protection of the right to their biological and genetic resources; right to a sustainable agro-technological development; and, protection and preservation of archaeological and historical sites within ancestral domains that also provides for the right to

receive from the national government all funds earmarked for this purpose.

Property Rights: IPRA emphasizes the communal nature of property right. Chapter 3 of the law describes this indigenous concept of right. Here, the tenurial rights of ancestral domains and ancestral lands (two separate categories) are indicated.

The right to ancestral domains is defined as a form of ownership. Thus, ancestral domain holders may claim ownership over the resources within the territory, develop land and natural resources, stay in the territory, have rights against involuntary displacement and in case of displacement, the right to return to the same territory, may regulate entry of migrants, have rights to safe and clean air and water, right to claim parts of reservations except those reserved for common and public welfare and service, and may use customary laws to resolve their conflicts.

The right to ancestral lands, on the other hand, include redemption of land/property rights acquired by non-indigenous peoples through a vitiated consent or an unconscionable price within a period not exceeding 15 years from date of transfer, and the right to transfer the property to/among members of the same indigenous peoples' community.

Another form of right to ownership is the recognition of ancestral lands that have been held for not less than thirty years prior to the effectivity of RA 8371. This expands the definition of ancestral lands that is not just held since time immemorial. Given this situation, the law provides the option for indigenous peoples to secure a Certificate of Title under Commonwealth Act No. 141, or the Land Registration Act 496. This provision includes areas with a slope of eighteen per cent (18%) or more as alienable and disposable. Applicability of this option is granted only within twenty (20) years from the approval of the law. Furthermore, only individual applications are accepted. This is a form of ownership of ancestral lands that veers from the traditional group or communal rights.

Chapter 8 of the law gives the procedures in the delineation and recognition of ancestral domains and ancestral lands. The procedures

are identical to those provided under DENR Administrative Order No. 02, Series of 1992. Through its implementing agency, the National Commission on Indigenous Peoples, the law provides for the issuance of certificates of ancestral domains titles, or CADT and certificates of ancestral lands titles, or CALT. Certificates of ancestral domain claim, or CADC prior to the enactment of IPRA may be converted into CADT without going through the process under the said law.

Sections 56, 57 and 58 however, are provisions that need to be further qualified. Section 56 subjects the indigenous peoples' property rights to other existing rights. More of this will be discussed below. Section 57 recognizes the right of indigenous peoples to ownership and development of natural resources only as *priority rights*. This gives way to the inclusion of right of non-indigenous peoples to claim right to use, exploit or develop the resources up to fifty (50) years. Section 58 provides environmental considerations and allows the use of ancestral domains as critical watersheds, mangroves, wildlife sanctuaries, wilderness, protected areas, and forest cover when deemed appropriate with the "full participation of the ICCs/IPs." A different term would have been more acceptable to advocates of indigenous peoples' rights, that is, the "free and informed consent" of indigenous peoples.

NCIP – The Implementing Arm

The National Commission on Indigenous Peoples, or NCIP is created as the implementing agency of the IPRA. It shall be an independent office under the office of the President and composed of seven Commissioners representing the seven ethnographic areas identified (three regions in Luzon, three regions in Mindanao, and the island groups, including Palawan, Mindoro, Romblon, Panay and the Visayas). It further provided that at least two of the seven Commissioners shall be women. It is unclear if this clause is a design to counteract the tendency for male leaders or elders to be appointed. Also, at least two of the Commissioners are members of the Philippine Bar.

NCIP has quasi-judicial powers. It includes the power and authority to promulgate rules and regulations governing the hearing and disposition of cases filed before it; to administer oaths, summon the parties to a controversy, issue subpoenas; to hold any person in contempt and impose appropriate penalties; and to enjoin any or all acts involving or arising from any case pending before it.

NCIP is authorized to issue certificates of ancestral domains and ancestral lands titles.

Will the new Indigenous Peoples Rights Act protect their right to their ancestral land? Buhid family in their field, Mindoro island, Philippines (Photo: Christian Erni)

Meanwhile, its predecessors, the Office for Northern Cultural Communities (ONCC) and the Office of Southern Cultural Communities (OSCC) are given six months from the effectivity of the law for them to be fully abolished. Five Commissioners out of seven have been appointed as of this writing, among them highly questionable persons like Mai Tuan as representative of southern and western Mindanao. He is the former Mayor of Lake Sebu, a known Marcos supporter, and closely identified with Manda Elizalde's Panamin and the Tasaday controversy .

Inconsistencies of the IPRA

Crucial to the understanding of indigenous peoples' rights is the definition of terms and the concepts that entails. Section 3 of the law provides the definition of terms. However, all is not well with the definitions when the root of conflict is traced also in the constitutional provision on the public domain, a framework that has been adapted from the Regalian doctrine. Sections 2 and 3, Article XII (National Economy and Patrimony) provide that all lands of the public domain and other natural resources are owned by the state and are inalienable with the exception of agricultural lands. Furthermore, nowhere does the law state the right of indigenous peoples to deny the state from using and exploiting the ancestral domains and ancestral lands by the power of eminent domain. In Section 7 paragraph C, IPRA indicates, "No ICCs/IPs will be relocated without their free and prior informed consent, nor through any means other than eminent domain."

Whereas it may be said that the Indigenous Peoples Rights Act includes ancestral domains and ancestral lands as legitimate ways of acquiring ownership, and that it supplements the private vested rights recognized in the constitution through the Carino Doctrine and the rights provided by Section 48 of the Public Land Act, all these rights are overruled by Section 56 of the law. This section provides: "Property rights within the ancestral domains already existing and/or vested upon effectivity of this act, shall be recognized and respected."

This section restricts the definition of ancestral domains and ancestral lands. This means that "all rights inherent in private titles and

various kinds of land leases, contracts and permits as granted to big mining speculators, loggers, ranch operators, etc. are automatically retained" (Belisario 1998).

IPRA is considered too general to address the diversity of the indigenous communities and therefore deemed inadequate in meeting local problems (Leonen 1998). This goes as well with dealing with indigenous populations, as in the case of the Cordillera communities that settle and live together in a common territory. A critic says that the IPRA approach has resulted in the outright exclusion of heavily-populated melting-pot communities and therefore reduced the concept of ancestral domain to that of specific territories of specific indigenous communities (Belisario 1998).

The conceptual divide, that is, the private and the public that essentially operates in IPRA, provides the dangers in this law. The privatization of communal lands now becomes a legal concept – a new definition of what ancestral land is.

The certificates of ancestral domains and of ancestral land titles may offer a pragmatic approach towards protection of a community's territory. IPRA on the other hand, does not guarantee immunity to the indigenous peoples' ancestral domains or ancestral lands from being used or exploited by other interests, whether by the state or business groups. The "free and informed consent" of an individual, a family, or a clan is all that it takes to lose the indigenous peoples' power over their territory.

While the use of law in many situations of indigenous peoples is marginalized, and while law, per se, is seen as a transient definition of society's interest articulated through imperfect and dominated human structures, IPRA also provides the condition for change (Leonen 1998). This remains a challenge for indigenous peoples and advocates who

will have to know how to use the law to gain leverage in effecting a just and fundamental change in the given social context.

Another Arena, Another Battle

The general fear with regard to the NCIP that as it is now formulated, it appears to be another structure that simply replaced the ONCC and OSCC. The principle being espoused by indigenous peoples' advocates is that there should be more efforts to strengthen or genuinely empower the indigenous communities, and the NCIP should therefore be a structure that serves as a support mechanism, instead of the other way around.

Indeed, the dynamics of indigenous peoples' culture, their demands and needs, expectedly, cannot be fully nor effectively responded to by a law that carries with it concepts and practices which are sometimes alien to them. Setting conditions that limit the indigenous peoples' right to ancestral domain and ancestral land reduces the very meaning of cultural identity, integrity and survival.

The words of Datu Vic Saway, a Talaandig and head of PANAGTAGBO (an alliance of Lumad peoples in Mindanao), and newly appointed Commissioner of the NCIP, expresses well both the hopes and fears associated with the IPRA: "It will not solve the indigenous peoples' problems. But it is another arena where the battle can continue to be fought".

Sources:

Marvic M.V.F. Leonen, "Human Rights and Indigenous Peoples: An Overview of Recent Developments in Policy and Some Tentative Proposals for an Action Program", February 1998

Art Belisario, in "Talk Politics on the Critique of IPRA" 1998

Regional Autonomy Act Rejected by the Cordillera Peoples

R.A.8438 otherwise known as the Act to Create an Autonomous Cordillera Region was presented to the peoples of the Cordillera, Philippines for approval in a plebiscite held last March 7, 1998. This is the second attempt of the Philippine government to enact a law for the creation of an autonomous region after the 1987 Constitution recognized the right of the Cordillera people for it. The indigenous peoples of the Cordillera struggled hard for such Constitutional provision.

In 1990, the Aquino government presented for plebiscite RA6766, but it was overwhelmingly rejected by the people due to many factors, among which was a level of misinformation on the concept of autonomy. After eight years, the Ramos government through the urgings of traditional politicians decided to revive the issue and created RA8438.

RA8438 was not an improvement on RA6766, in fact for many it was even worse. Clearly, RA8438 was meant to accommodate the interests of certain politicians in the region who were constitutionally barred from seeking re-election in their respective posts. There was a need to create new government positions to accommodate these politicians. This was supposed to be the autonomous region, where they could be either the regional governor or one of the regional legislators. Aside from this obvious bias, RA8438 did not even recognize the ancestral land rights of the indigenous peoples - one of the foundations for the call for regional autonomy. Further, the law was so severely flawed that a group of cause-oriented lawyers even filed a case with the Supreme Court questioning its legality.

For the indigenous peoples' movement in the Cordillera it was clear that RA8438 had to be rejected. It was seen as another political ploy to subvert and co-opt the peoples' struggles. It was also seen as an effort to facilitate the extraction of the region's resources as seen in its provisions regarding natural resources.

Months prior to March 7, the government was busy campaigning for a "YES" vote using the issue of "FUNDS" as the main reason for accepting the organic act. Millions of pesos were being promised for the region, local officials were warned that should a "NO" vote pre-

vail in their areas they were to receive no allocation at all in terms of projects. In the so-called information campaign handled by the government the flaws of the law were disregarded and instead the issue of more funds was used as an argument for voting "YES". Meanwhile, the case with the Supreme Court did not move at all.

Finally, last March 7 a large number (67%) of voters turned out and at the end of the counting 35% voted "YES" while the rest 65% voted "NO". RA8438 was resoundingly rejected. The rejection of RA8438 by the peoples of the Cordillera was not a rejection of the idea or causes of autonomy, in fact it was a re-affirmation that the people want genuine autonomy and not the sham autonomy being peddled by government. There was a higher level of understanding on the issues involved, people voted "NO" because they rejected the politicians who actively campaigned for the law. The people also rejected the idea that they could be bought by promises of funds. It was also a rejection of government policies and programs.

The Cordillera people are still very much for regional autonomy but this must be worked out on the community level and not legislated from above. In consultations after the plebiscite peoples' organizations affirmed that the fight for genuine autonomy continues.

EAST TIMOR

East Timor 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. But Indonesia's annexation of the former Portuguese colony has never been recognised *de jure* by the international community.

It is in violation of 12 United Nations resolutions: two by the Security Council, eight by the General Assembly and two by the Human Rights Commission in Geneva. The UN still regards Portugal as the administering authority of the territory. In June 1995, the International Court of Justice at the Hague (known as the World Court) confirmed that the people of East Timor still have the right to self-determination in accordance with international law and the UN Charter.

In July 1997, South African President Nelson Mandela travelled to the Indonesian capital Jakarta where he met with President Suharto. Mandela also met with Xanana Gusmao, the commander of the East Timorese resistance movement, who is serving a 20-year sentence in Jakarta's Cipinang Prison, some 2,000 kilometres from his homeland, and who has been described as 'Asia's Nelson Mandela'.

Following his visit to Indonesia, the South African president called for the release of Xanana, saying this was essential to resolve the conflict, and offered to host peace talks between Indonesia and East Timor. The Indonesian government politely declined on both counts, and thus another diplomatic effort failed to achieve a breakthrough.

East Timor is often described as a hopeless cause. Many pragmatists and realists advise the people of East Timor to give up their struggle: Indonesia is there, the argument runs, and is going to stay there. It is a *fait accompli*. Other observers, among them many East Timorese, take a different and more honest approach: if history teaches us anything, they say, it is that no state and no border will endure for eternity.

Sometimes, when international circumstances change, it becomes possible to fulfil dreams and hopes which were long considered futile. President Suharto's 'New Order' regime was weakened by a serious political crisis in July 1996 and by a dramatic economic crisis which began in mid-1997. Suharto himself was forced to resign in May 1998. A future democratic government of Indonesia may well recognise East Timor's right to self-determination and independence.

Several Parallels

If we look at recent world history, we find several parallels to the case of East Timor. Some of them give grounds for optimism, while others send a more mixed message:

- Cyprus, for many years a British colony, became independent in 1960. In July 1974 it was invaded by Turkey which still occupies the northern part of the island. In theory, Cyprus enjoys the protection of three NATO members, Greece, Turkey and the United Kingdom, of which the latter still has two military bases in the

southern part of the island. Since August 1974 there has been no war in Cyprus. The green line dividing Greek-Cypriots from Turkish-Cypriots is guarded by UN peacekeeping troops, but there is still no solution in sight.

- The Western Sahara, for many years a Spanish colony, was invaded in November 1975 by Morocco from the north and Mauritania from the south. A resistance movement, Frente Polisario, had been fighting for freedom since May 1973. In 1979 Mauritania gave up, but this merely made Morocco claim the whole territory. In 1991 the UN Security Council endorsed a peace agreement which included a truce and a referendum. Six years later there has still not been a referendum because of bureaucratic obstructions from the Moroccan side.
- Namibia, for many years a German colony, was invaded in 1915 by South Africa. In 1988 Angola, Cuba, South Africa and the United States signed an agreement which included a withdrawal of Cuban and South African troops from Angola. The first free elections in Namibia were held in November 1989. The territory became independent on 21 March 1990, and the former liberation movement SWAPO, which had been fighting for freedom for many years, formed the first government of the new Namibia.
- Eritrea, for many years an Italian colony, was forced in 1952 by the UN to enter into a federation with Ethiopia. Ten years later Ethiopia annexed the territory. By then an Eritrean liberation movement had already begun the struggle for freedom. The war went on for 30 years. It ended in 1991 when the government in Addis Ababa collapsed. The new Ethiopian government recognised Eritrea's right to self-determination, and independence was confirmed in a referendum held in April 1993.
- The Baltic countries (Estonia, Latvia and Lithuania), for many years part of Imperial Russia, achieved independence for a brief period between World Wars One and Two. But at the end of World War Two they became a part of the Soviet Union. When the Berlin Wall fell and the Soviet empire collapsed, the Baltic countries proclaimed their independence once again. The USSR was formally dissolved on 31 December 1991, and the next day the former Soviet republics were transformed into 15 independent states, which now form part of the C.I.S, the Confederation of Independent States.

Violations of Human Rights

President Mandela's meeting with Xanana in July 1997 and his subsequent offer to host peace talks between Indonesia and East Timor was a significant event on the diplomatic front, but it did not lead to any immediate breakthrough or change in the situation. The conflict remained as deadlocked as ever. Human rights violations continued all through 1997.

According to some independent observers the situation was even getting worse. In August 1997 the Melbourne-based East Timor Human Rights Centre issued a report covering the period from January to July 1997 entitled *Human Rights Deteriorate in East Timor*. The following month the New York based Human Rights Watch/Asia issued a report focusing on the period from May to July 1997 entitled *Deteriorating Human Rights in East Timor*. Both organisations supported their claim with a wealth of information based on many different sources.

In its report of August 1997, the East Timor Human Rights Centre stated that:

> 1997 has been characterised by grinding guerrilla warfare and a continuation of the strong movement of urban resistance and East Timorese nationalism which is directed against what the East Timorese perceive as Indonesian colonialism. During the election period, there was a notable increase in the activities of the armed East Timorese guerrillas (Falintil) who launched a number of bold attacks on Indonesian military and police targets. There were repercussions for the civilian population when the Indonesian military responded by launching an intensive military operation throughout East Timor. According to ETHRC sources, the operation is called *Operasi Gerakan Tuntas* (Operation Extermination) and is targeted at East Timorese people who are allegedly involved in the Clandes-

tine Front or the armed East Timorese Resistance. The crackdown has so far resulted in hundreds of arbitrary arrests, and at least forty people being killed.

In its report of September 1997, Human Rights Watch/Asia pointed out that:

> The months of May, June and July 1997 seemed to mark an intensification of the conflict in East Timor, with guerrilla attacks on both Indonesian military targets and civilians in Dili, Baucau, Ermera, and Los Palos, and intensive operations by the Indonesian army to find and punish those responsible. The timing of the attacks was linked to the 29 May national elections in Indonesia in which Foreign Minister Ali Alatas ran representing East Timor on the list of the ruling party, GOLKAR. Both Alatas and Transmigration Minister Siswono Yudohusodo made highly publicized campaign visits to East Timor in mid-May, with Alatas [being] challenged by students at the University of East Timor on Indonesia's refusal to hold a referendum on the territory and Siswono's presence serving to underscore the highly sensitive issue of how government-sponsored migration is changing the demographics of East Timor.
>
> The outcome of the election was never in doubt — GOLKAR won in East Timor by more than 80 percent of the vote as opposed to its 74 percent overall victory in Indonesia — but guerrillas targeted polling places, election officials, and, in some cases, voters to highlight their rejection of Indonesian rule. Some thirty people died in the attacks, including at least ten civilians, whose deaths Human Rights Watch condemned as a clear violation of international humanitarian law.

The Death of David Alex

Both reports mentioned the case of guerrilla commander David Alex who died in June 1997. The guerrilla commander was captured on 25 June with five other men in a village near Baucau by Indonesian armed forces. According to Indonesian sources David Alex died later that day as a result of bullet wounds which he sustained during an armed conflict with Indonesian troops at the time of his arrest.

The East Timorese opposition and many solidarity groups around the world suspected that David Alex was murdered by the Indonesian

security forces in his hospital bed in Dili. The Indonesians denied this, but so far there has been no independent investigation into the circumstances of his death and it is doubtful that the Indonesian authorities will ever allow a post-mortem.

Another controversy arose over David Alex's burial. The Indonesians said he was buried in Dili on 26 June in a ceremony attended by family members and at which a Catholic priest officiated. But the body was not made available for autopsy before burial, and the family denied that they attended.

Later it was reported that the family was now satisfied that David Alex was in fact dead, but his family may have been under pressure to accept the military's version of events rather than demand that the authorities exhume the body for the purposes of an identification and an autopsy.

The Mahkota Hotel Demonstration

The London-based human rights organisation Amnesty International follows developments in East Timor very closely and publishes a large number of documents on this conflict. A case in point is the Mahkota Hotel demonstration.

On the morning of 23 March 1997 about 200 East Timorese, mainly young people, gathered outside the Mahkota Hotel in East Timor's capital Dili where the Pakistani diplomat Jamsheed Marker was staying. He had recently been appointed as the Personal Representative of the UN Secretary General Kofi Annan. It was a peaceful demonstration. The Timorese just wanted to hand over some documents about life in East Timor to the UN official. Police monitored the event, but took no action at first. After a while the demonstrators moved into the hotel lobby. They did not meet Mr. Marker, but handed their material to a member of his staff. Then police and military troops intervened brutally, at the same time blocking the exit to the street.

The security forces fired warning shots into the air and rubber bullets into the demonstrators. Some managed to escape, but many were arrested after which they faced serious charges for taking part in the

peaceful demonstration. In a review, issued in June 1997, just before the trials began, Amnesty International described how:

> A total of 17 people are facing charges under the 'Hate-sowing' Articles. Three people, Marito Brafas Soares, Cancio A. Henrique Guterres and Alberto da Costa (alias Bareto), are facing trial under Article 154 of the Criminal Code which punishes the 'public expression of feelings of hostility, hatred or contempt toward the government' with up to seven years' imprisonment. A further 14 people are facing a primary charge under Article 154 and a subsidiary charge under Article 155 which prohibits the expression of feelings of hostility, hatred or contempt toward the government through the public media, with a maximum penalty of four and a half years' imprisonment...
>
> Sixteen other people are facing charges of assault under Article 354 of Indonesia's Criminal Code... At least four of those now awaiting trial, including two women and one man who are facing charges of assault, were among the 11 taken to hospital for treatment after being injured by the police. The two women who were wounded, Olga Amaral and Celina Pires da Costa, are believed to have been beaten.

Amnesty International pointed out that even Indonesia's National Commission on Human Rights (*Komisi Nasional Hak Azasi Manusia* or *Komnas HAM*) criticised the security forces for their handling of the Mahkota demonstration. Clementino Dos Reis Amaral, a member of *Komnas HAM*, was quoted as saying "[p]olice attacked the protestors with sticks and also kicked and punched them." *Komnas HAM* claimed that the 24 people detained in Becora Prison had all received injuries which "suggest they were beaten up". Confirming that a total of 37 protesters had been beaten, Clementino Amaral said that "[t]hey have swollen eyes, mouths, backs and chests. Some haven't eaten for four days because they can't do it as a result of the beating." Another member of *Komnas HAM*, Albert Hasibuan, was quoted as saying that: "Law enforcers in East Timor should put the law above anything else in handling any affairs; the law has not been enforced as people expect."

The fact that Indonesia established a National Commission on Human Rights in 1993 means that some cases are being investigated

more thoroughly than before, but the commission has no authority over the Indonesian military, let alone the Indonesian policy of annexation.

The trials against the demonstrators began in July 1997. By the end of the year they were still in progress. Experience shows that if one is charged with crimes against the state or the head of state in an Indonesian court, it is very difficult to be acquitted, especially if the defendant happens to be an East Timorese youth who dares to defy Indonesia's occupation of the territory.

Photos of Torture and Other Abuse

Since the Indonesian invasion of East Timor in 1975, most evidence about human rights violations have come in the form of written accounts smuggled out of the country or oral statements by refugees living in exile. There have been very few images available. The reason is obvious: for many years the Indonesians kept the territory isolated from the outside world. In 1989 it was officially opened up to tourists and others, but it is still difficult or impossible for members of the press to do any sort of meaningful work there. However, some photographs and films have become available during recent years.

In 1997 the Darwin-based East Timor International Support Center (ETISC) published a booklet with many disturbing images of torture and other abuse by Indonesian troops. The booklet, *Violations of Human Rights in East Timor,* contains a total of 69 photographs of the dark side of life in East Timor: 26 in colour and 43 in black-and-white. Most are photos, but a few are still pictures taken from a videotape. Some are taken by a foreign reporter whose name is known, but most of them are taken by anonymous persons.

The oldest photos are from 1979, taken by the Australian reporter Peter Rodgers, who had to smuggle his pictures out of the country to avoid Indonesian censorship. The most recent ones are presumed to be from 1997. The oldest selection shows the famine from 1979 to 1982; the rest show torture and other kinds of physical abuse.

The authenticity of a photo taken by a reporter whose name is known is not in doubt. But what about photos taken by an anonymous per-

son? Can they really be genuine? Obviously, ETISC believes in them. That is why the group decided to publish them. The Indonesians, on the other hand, have regularly denied the authenticity of these and similar photos, claiming they are fakes or staged in order to discredit the government of Indonesia.

What are we to think? Obviously, the Indonesians do not invite members of the resistance to take pictures of torture and then send them abroad for publication. So how does it happen? Human Rights Watch/Asia offered an explanation in its report of September 1997:

> Torture has even apparently become a source of income for individual officers in East Timor who are selling photographs and even videotapes of interrogation sessions to the highest bidder, with the price rising as more details (such as where and when the interrogation took place) are included.

Some Indonesian soldiers take pictures or videotapes of torture in progress. They do this for military documentation purposes or just to have a personal and macabre souvenir. Later some soldiers sell this evidence to make some extra money. The images published in the Australian booklet may very well be genuine. But this does not mean that every disturbing image purporting to show torture in East Timor is authentic.

In its report of September 1997 Human Rights Watch/Asia states: "In July 1997, we saw one set of photographs that had been purchased in this way and spoke with the buyer who requested that we not use his name or that of the officer who sold him the prints." But in the report they do not publish any of them, suggesting that they question their authenticity.

East Timorese Women

The people of East Timor has suffered for more than 20 years under Indonesian occupation. Maybe one group has suffered more than the rest: East Timorese women have been subjected to a fate that is particularly harsh. They make up half the population, but their problems and concerns are often ignored when the conflict is being discussed.

Over the years many observers have mentioned Indonesia's oppression of East Timorese women, but the topic has never been fully explored. Amnesty International issued a document about women in Indonesia and East Timor in 1995, but apparently nobody had made a detailed investigation of this topic until the end of 1997 when the East Timor Human Rights Centre published two reports. The first was written by the American scholar Miranda E. Sissons of Yale University, the second by the Indonesian dissident George Aditjondro who currently lives in exile in Australia where he teaches at Newcastle University.

Miranda Sissons focuses on coercive sterilisation of women and coercive family planning under the Indonesian family planning program known as *Keluarga Berencana Nasional*, whereas George Aditjondro covers rape and other forms of sexual abuse; sexual harassment; forced 'marriage'; the use of women as 'sex slaves' or 'comfort women'; and prostitution.

Why should it take 20 years or more for a serious study about East Timorese women to appear? The first and obvious explanation is that it is difficult to conduct fieldwork about violence against women, or against anybody for that matter, in East Timor because of the Indonesian military presence. A second explanation is that East Timorese women are extremely reluctant to talk about these matters. There is hardly anyone they can turn to in this sensitive area. A third explanation is that the people who talk and write about East Timor have not paid enough attention to this aspect of the conflict. This criticism also applies to the East Timorese themselves. At least one female member of the resistance movement (Milena Pires) has complained that there are too few women in the leadership of the organisation.

Some men dominate and abuse women. It happens all over the world. But in most places it is an exception and not a part of government policy. In East Timor the situation is quite different. Here domination is built into the system because of Indonesia's brutal occupation: on one side we have Indonesian men in authority (military, police or bureaucracy); on the other we have East Timorese women. How can they defend themselves? And, in case their rights are violated,

how can they hope for justice from a system which violated them in the first place?

Sad as Well as Uplifting

East Timor's recent history is sad as well as uplifting: it is a sad story of a crime against a people conducted by Indonesia's military regime and supported by many Western countries. At the same time it is an uplifting story of a people who continue to fight for peace and justice against overwhelming odds.

Indonesia tries to buy the East Timorese with so-called 'development', i.e. large investments in roads and other public facilities, and to beat them into obedience with violence and destruction, with prisons and torture. Western countries try to ignore them. But East Timor refuses to surrender, and the truth refuses to go away.

The conflict over East Timor was originally a product of the Cold War. Indonesia's crimes against the tiny territory were condoned and justified by Western governments because the anti-Communist dictatorship in Jakarta was considered an important and necessary ally in the ideological struggle between East and West. This argument was always in doubt, and now, with the Cold War long gone, it has absolutely no value.

The 'New World Order' which was proclaimed by U.S. President George Bush during the Gulf War against Iraq in 1991 was supposed to be a world where international law would be respected and where human rights would not have to yield to cynical economic interests. But so far this beautiful vision has failed to materialise in East Timor.

Even though Indonesia's annexation of East Timor has never been recognised *de jure* by the international community, there has been a *de facto* recognition. Many Western governments have given extensive diplomatic, economic and military support to the Suharto regime and its illegal action against its neighbour.

One country, Australia, has gone even further, giving not only *de facto* but also *de jure* recognition of the annexation (1978). In 1989 Australia and Indonesia signed a formal treaty for the exploitation of oil resources in the sea south of East Timor, known as the Timor Gap,

which the resistance movement considers as East Timorese territorial waters.

Pointing to these and similar facts some observers say that Indonesia's occupation of East Timor continues largely because of Western connivance and hypocrisy.

There is no legal or moral justification for Indonesia's presence in East Timor, and the examples of Eritrea, Namibia and the Baltic countries demonstrate that even a long-standing occupation of a foreign territory is no guarantee of permanent possession: in the end the aggressor had to withdraw and bow to the people's wish for essential democratic rights.

Sources

George Aditjondro, *Violence by the State Against Women in East Timor: A Report to the UN Rapporteur on Violence Against Women, Including its Causes and Consequences*, East Timor Human Rights Centre: Melbourne, Australia, 1997; this report is also available on the Internet: http://www.gn.apc/ethrc

Amnesty International, *Women in Indonesia & East Timor: Standing against repression*, AI Index ASA 21/51/95, 13 December 1995.

Amnesty International, *East Timor: The Mahkota Hotel Demonstration Trials*, AI Index ASA 21/37/97, June 1997.

Amnesty International, *East Timor: Xanana Gusmao - A Briefing*, AI Index ASA 21/58/97, August 1997.

Amnesty International, *East Timor: Truth, justice and redress*, AI Index ASA 21/81/97, November 1997.

Peter Carey, *East Timor: Third World Colonialism and the Struggle for National Identity*, Research Institute for the Study of Conflict and Terrorism: London, 1996.

Noam Chomsky, *Powers and Prospects: Reflections on Human Nature and the Social Order*, South End Press: Boston, 1996.

East Timor Human Rights Centre, *Human Rights Deteriorate in East Timor: Bi-Annual Report of Human Rights Violations in East Timor, January to July 1997*, East Timor Human Rights Centre: Melbourne, Australia, August 1997.

East Timor International Support Center, *Human Rights Violations in East Timor*, ETISC: Darwin, Australia, 1997.
Human Rights Watch/Asia, *Indonesia/East Timor: Deteriorating Human Rights in East Timor*, Human Rights Watch: New York, September 1997.
Gudmund Janissa, *The Crocodile's Tears: The Making of East Timor*, University of Lund, Department of Sociology: Lund, Sweden, 1997.
Constâncio Pinto & Matthew Jardine, *East Timor's Unfinished Struggle: Inside the Timorese Resistance*, South End Press: Boston, 1997.
The Progressive, Madison, Wisconsin, USA, May 1997; a special issue with seven articles about East Timor, Indonesia and the Suharto lobby.
Sharon Scharfe, *Complicity: Human Rights and Canadian Foreign Policy: The Case of East Timor*, Black Rose Books: Montreal, 1996.
Miranda E. Sissons, *From One Day to Another: Violations of Women's Reproductive and Sexual Rights in East Timor*, East Timor Human Rights Centre: Melbourne, 1997.
Keith Suter, *East Timor, West Papua/Irian and Indonesia*, Minority Rights Group: London, 1997; preface by José Ramos-Horta.

Organisations

ETAN, East Timor Action Network, Post Office Box 1182, White Plains, NY 10602, USA; phone (+1) 914-428-7299; fax (+1) 914-428-7383; e-mail: etan-us@igc.apc.org. Much material on East Timor is available from ETAN, including a comprehensive list of solidarity groups around the world.

ETISC, East Timor International Support Center, P.O. Box 651 Nightcliff, Darwin 0814, Australia; phone (+61) 8 8948 4458; fax (+61) 8 8948 4498; e-mail: etio@ozemail.com.au. Homepage on the Internet with much information and many useful links to other web sites: http://www.easttimor.com

INDONESIA

Forest Fires Caused Unprecedented Destruction

An estimated 2 mio. hectares of forest and non-forest were destroyed last year by the worst forest fires ever seen in Indonesia. The Indonesian environmental NGO WALHI however is predicting that this year's fires may be bigger even than last year's disaster. According to Klaus Töpfer, executive director of the United Nations Environment Programme (UNEP), the fires "may turn out to be one of the greatest ecological disasters of the millennium" *(Reuter* 2/4/98). Due to the prolonged and unusual drought this year the fires are destroying large areas of mature rain forest, normally too wet to burn up completely. Not only have these fires devastated vast swathes of forests and farmland, they have endangered the health of tens of millions of people across at least six countries. Smog and smoke have choked the cities and countryside for millions of square kilometres, from Indonesia as far north as Thailand and the Philippines.

For the indigenous forest-dwellers of Indonesia the price is doubly high: they have suffered the effects of breathing the poisoned air, and their lands and resources, taken by the plantation and timber estate companies, have literally gone up in smoke.

This year, satellite imagery has been able to show what most people knew all along: that big business and not small-holders or indigenous farmers are responsible for the fires. What was new this time around is that government ministers, notably Environment Minister Sarwono, spoke out against the greed and short termism of the plantation and timber companies. "They have a high level of education, but a primitive way of thinking. They only seek the biggest profit, without thinking of the national interest", said an emotional Sarwono at a press conference last September.

Forestry Minister Djamaludin has backed Sarwono, publishing lists of companies identified by satellite pictures as being responsible for starting fires. The most comprehensive of these, which names 176 companies, includes companies owned by Indonesia's most powerful tycoons - Bob Hasan, Pangestu Prayogo (Barito Pacific Group), Anthony Salim (Salim Group) and Eka Tjipta Wijaya (Sinar Mas) - as

well as members of the Suharto family itself. Some of the 176 companies had started clearing land without waiting for their applications for land clearing licences to be approved. Djamaludin announced that these companies had fifteen days to submit reports to prove they had not started the fires, or would have their licences withdrawn. In early October he duly announced that 151 licences had been withdrawn from 29 companies, including three belonging to Bob Hasan in East Kalimantan. One plantation company on the list of 29 is PT Musi Rindang Wahana, in South Sumatra, a part of the Citra Lamtoro Group, controlled by recently austed president Suharto's eldest daughter, Tutut *(Forum Keadilan* 23/6/94). It remains to be seen how far Bob Hasan and friends will allow Djamaludin to oppose his authority (Bob Hasan is sometimes referred to as the "real" forestry minister). On previous occasions when ministers have challenged the tycoons, they have usually been forced to back down.

The industry attempts to defend itself, but their arguments ring especially hollow when the likes of Bob Hasan admit they see nothing wrong with burning to clear land, even though it has been officially outlawed by the government. The fact that deliberate burning is still continuing shows instead how confident the tycoons are that they are above the law. Such is the culture of cronyism that has pervaded Indonesian economic life.

Logging and Plantations

The massive and permanent loss of natural forests in Indonesia is a direct result of the loggers' rush to make the greatest possible profit in the short term, at the expense of the forests themselves and the indigenous and non-indigenous forest-dwelling communities who traditionally own them.

This emphasis on "mining" the forests makes fires and smog inevitable. Logging involves extracting the most valuable commercial trees, but the heavy machinery used brings down many more smaller or non-commercial trees at the same time, leaving behind large amounts of waste wood. As it is dried by sun, which can now penetrate the broken forest canopy, it is turned into a natural tinderbox, igniting with the

smallest spark. At the same time, many forests grow on peat and coal deposits, which burn deep underground and can become impossible to put out. Long after the surface fires have been put out in Kalimantan and Sumatra, these unseen, underground fires may smoulder on for years.

But the conversion of huge tracts of forests into plantations has emerged as the policy which is most directly to blame for the fires and their life-threatening smoke. The drive to plant high-earning export crops is part of government economic strategy to reduce dependence on oil and gas for foreign currency earnings. The current craze is to plant as much land as possible with oil palm and topple Malaysia from its position as the world's biggest producer of palm oil.

Jakarta plans to double its area under oil palm to 5.5 million hectares by the year 2000. This year alone, 300,000 hectares of forest was approved for conversion to the crop, which is used to make soap, margarine and cooking oil. Meanwhile, Jakarta has similar ambitions for pulp production, aiming to become the world's biggest producer at some undefined point next century. The target for timber estates to produce pulpwood is 4.4 million hectares by 2004 (*Guardian*14/10/97).

To make way for plantations natural forests, which have usually been logged for commercial timber, are cleared by burning because it is the cheapest and quickest method of preparing the land. According to Forestry Minister Djamaludin, around 550,000 hectares of natural forests are cleared each year for plantations alone.

In September last year Djamaludin said that 650 companies were lining up for government permits to convert forests into plantations. If all permits are granted, up to 6 million hectares of forests would be converted *(Jakarta Post* 25/9/96). How unscrupulously the indigenous communities are treated by these companies, and how little protection they can get from the utterly corrupt juridical system of the Indonesian state is illustrated in the case of the Bentian people in East Kalimantan.

In 1993, an Industrial Tree Plantation (HTI, Hutan Tanaman Industri) operated by the Kalhold Utama Logging Concession Holder (Kalimanis

Group), began without consultation or consent of the *Bentian* indigenous people to clearcut, bulldoze, and burn their rattan forest gardens. The horrified Bentian pleaded with the company not to destroy their rattan groves, which represented the basis of cash income of the community. They reiterated their support for the HTI and offered to make land available in a location that was not in the heart of their most valuable forest. The company, unfortunately, refused to listen or negotiate and continued to bulldoze and burn Bentian groves. On the contrary, in response to the community's pleas, they initiated a campaign of terror and intimidation. They had the local police chief set up a police office inside the company's base camp and conduct frightening interrogations of the local farmers at the base camp. Pak Dingit, Bentian *adat* leader and a well known indigenous environmental activist, and others documented the destruction and took photographs of the burnt gardens and the ruined grave sites where the Bentian ancestors' bones were scattered on the ground after the company bulldozed the burial sites.

Pak Dingit also assisted the grieving families to make lists of the destroyed rattan groves and fruit trees owned by each family. Over 10,000 rattan groves and 2,000 fruit trees (including endangered species of Koompasia, prohibited for logging both by Bentian *adat* law and national forestry law) had been destroyed.

After Pak Dingit helped the affected families to make lists of their destroyed fruit trees, he presented the lists to the responsible government officials and reported on the activities of the Logging Concession (HPH, Hak Pengusahaan Hutan) and the Industrial Tree Plantation (HTI) holder. The only result was that Pak Dingit was repeatedly ordered to come in for interrogation at the Balikpapan Police hadquarters. For every interrogation he had to travel at his own expense over 500 kilometers each way from the Middle Mahakam region to Balikpapan. The purpose of the interrogations (other than pure intimidation) was never made clear.

Finally, he was told that he was going to be brought to trial on charges of forgery because some of the names on the list he had helped to make were (in accordance with Bentian *adat* concerning the identification of parcels of land) the names of dead people or of the new husband of a divorced woman.

The fact that the company illegally felled endangered species of trees and destroyed the livelihoods of the families has never been properly addressed at the Provincial level. In Jakarta, however, the Ministry of Forestry (Director General Pak Titus) has been instrumental in working with the Bentian to help them carve out a portion of their lands from the HTI. Pak Siswono declared in 1994 that no transmigration would take place for the planned HTI-Trans (an HTI held by a company but worked by transmigrant labourers) until the problems had been worked out. But the company ignored his request and placed hundreds of transmigrants on Bentian lands in the middle of the conflict.

On February this year Pak Dingit was brought before the State Court at Kutai district capital Tenggrong to face bizarre and fraudulent charges of forgery and a possible six-year prison sentence. The Public Prosecutor (Penuntut Umum), Pak Mohammad Imam, has, in confidentiality, told friends that he was forced 'by unnamed parties' to bring the case against Pak Dingit and to ensure that he is punished. During the two hearings, the Judge has been seen to be on the telephone, apparently to 'Jakarta'. A few years ago, there was a similar case in Tenggarong involving local Dayak farmers who had problems with with an HPH and a gold mine. One of their leaders, a man of about the same age as Pak Dingit (59), was detained in Tenggarong prison. He soon died 'mysteriously' in jail and his body was returned to his family in a sealed coffin, along with a payment of 1 million rupiah.

So far, Pak Dingit's trial has not yet drawn the attention of the international news media which is currently focused on Indonesia. It is only a matter of time before this case becomes widely known and becomes an additional source of tremendous embarrassment for Indonesia as a whole. Pak Dingit is one of Indonesia's leading environmental activists, one who has demonstrated an ingenious Indonesian method of conservation and development. The Indonesian Embassy newspaper published a glowing article on him and his conservation efforts have been used by the Indonesian government in their lobbying attempts in the U.S. Congress. It is assumed that the East

Kalimantan Provincial level officials, used to carrying out their operations in relative obscurity, do not understand the national and international implications of their bizarre and misguided attempts to persecute Pak Dingit.

Mega-Transmigration Project in Central Kalimantan

In September 1997 the Transmigration Minister Siswono confirmed that fires had burned down at least 100 unoccupied houses built for transmigrants brought in to work on the megalomaniac land conversion and transmigration project in central Kalimantan. Only a month before that, Minister of Agriculture Sjarifuddin Baharsjah said the drought was not affecting the project and that 20,000 more families would be brought in as planned to join 2,500 already settled there. Scarcely a week later, another local newspaper reported that transmigrants at the project, unable to grow crops in the drought conditions, were returning home or resorting to illegal logging to make a living (*Media* 22/8/97).

The project, launched in 1996, aims to convert around 1.45 million hectares of peat swamp forests - an area about the size of Northern Ireland - into rice-fields, plantations and transmigration sites. Scientists say the project cannot succeed because the peatlands will not support this kind of agriculture. Nevertheless, on the instructions of Suharto, the project blunders on and the forests are burned to the ground in what one journalist recently termed an act of government-sponsored "hooliganism" rather than of development. The lives of indigenous Dayak people living in the project area have been devastated by the project.

Starvation in East Kalimantan

The economic crisis, which has hit Indonesia hard, is making matters worse. Villagers cannot afford the inflated prices of rice and other necessities they now must rely on as they run out of food produced themselves. Future prospects look bleak. Almost all this year's rice crop has failed in East Kalimantan and many of the rattan and fruit gardens which normally generate extra income have been consumed by fire.

No substantial rains are expected before July or August, meaning no rice harvest until February 1999.

Twenty five thousand people were facing severe food shortages as early as February, according to a report in *The Age* (22/2/98) as no significant rainfall had fallen in the usual wet season. Around the same time Dayak villagers from Kutai, representing 8,000 people, went to the vice-governor of East Kalimantan, requesting a free supply of rice to affected villages. By April this year, the official figure for people suffering food shortages had risen to 55,529 (*Kompas* 2/3/98, 3/4/98, *Kompas* OnLine 9/3/98).

Water shortages are becoming severe owing to the drought and as fire-fighting efforts and communities rely on the same meagre resources. Dried up rivers cannot be fished and make transport of food supplies more difficult. In some areas high acidity levels may make fresh water unfit for drinking.

There is evidence that the fires and famine are reinforcing the marginalisation of indigenous Dayak communities. One report tells how companies are using the fires to try and force local people off their land. Dayaks in Lempunah village who have refused to exchange their land for places on an oil palm project have seen their village stricken by mysterious fires (*Independent* 9/2/98). In other places Dayaks who have been coerced or forced into exchanging land for food have no option but to work for minimal wages as labourers on the plantations. Some believe that the companies are burning local fruit and rattan gardens on purpose to force a settlement on resisting communities. At the same time, some villagers are settling old scores and setting fire to plantations developed by large companies.

As in West Papua (see article in Chapter on The Pacific and Australia), the government appears reluctant to admit the seriousness of the famine threat. One forestry department official suggested that the fires and food shortages were following a fifteen year cycle - an attempt to put the problems down to natural forces. But this is contradicted by a Kenyah Dayak leader from Muara Anclong in Kutai district who says his community has not experienced food shortages due to forest fires since the Japanese occupation (*Kompas* OnLine 12/3/98). Local people are said to be forced by hunger to sell their land to

the local oil palm plantation company at the rate of one hectare for 10 kg of rice.

Thus far the government's response has been woefully inadequate. Some rice has been shipped upriver, but there are reports that relief supplies are being sold by corrupt officials instead of being handed out free of charge. It remains to be seen how committed the new government will be to alleviating poverty among remote indigenous communities: "isolated tribes" as they are officially called.

Ironically, among the very few sources of assistance have been the companies that are exploiting the province's natural wealth most intensively. The Indonesian loggers' association, the MPI, has handed out rice, instant noodles, sugar, salt and medicines - little repayment indeed compared to the massive profits extracted from forests traditionally owned by communities now facing starvation. The gold mining company PT Kelian Equatorial Mining (PT KEM), part-owned by Britain's Rio Tinto, said in March it was planning a four-month operation to bring aid to 67,000 people in four subdistricts (*Guardian* 23/3/98).

Sources

Down To Earth No. 35, November 1997 Special Supplement. The 1997 Fires: Responsibility Rests with Suharto

Down to Earth No. 37, May 1998

MALAYSIA

Sabah

Economic and Smog Crisis

The economic crisis which began in early 1997 dominated the scene in Sabah. As a result of the crisis there has been a reorientation of development programs in the state. The emphasis has been on the consumption of locally produced goods and the revival of the agricultural sector to increase exports and food production. In a way this shift in policy is good news for indigenous communities. Those communities residing near town areas enjoyed a more responsive market for their agricultural produce, apart from being given more attention and support from the agricultural department and other relevant government

agencies. The shelving of some development projects, like hotels, resorts and golf courses has spared some communities from being displaced from their customary land. However, since the industrial and manufacturing sector, which still relies heavily on imported contents, is not doing well, more investment has gone into enlarging existing oil palm and tree plantations, and this has threatened ownership of customary land. The drop in the value of the Ringgit by more than half has also resulted in price hikes for essential goods like sugar, flour and cooking oil.

The smog crisis which resulted from the combination of unusually dry conditions and rampant burning of felled-forest by private companies for commercial oil palm and tree plantations in Borneo, also dominated the scene. At its peak at the end of the third quarter of 1997, Sabah was blanketed by smog, with visibility reduced to between six and ten kilometres, and its people suffocated for almost four months. During this period the indigenous communities who are still practising traditional field clearing method for crops was not spared of blame by the government. The effect of the smog together with the prolonged drought was the state-wide drastic reduction of food crop production. Indigenous wet rice farmers in Sabah had one of their worst rice harvests in years. For example, farmers in Western Sabah complained of a reduction of about 50% in their harvest. Some farmers who were severely affected do not even have seeds for the next planting season.

Land Rights

In November 1997 the state government amended the Native Customary Rights (NCR) of the Sabah Land Ordinance 1930 (Cap 68), despite fierce objection from the opposition party. The amendments provide for government power to extinguish land rights held under NCR by paying money. There is no provision requiring the government to hold a public inquiry to determine the rights of the parties affected. There is also no requirement that the taking-over of land held under NCR shall be for public purpose as in the case of land with title. There is nothing to prevent the government from granting the same land to a new applicant for private development immediately or later. Clearly this amendment has the effect of diminishing the established NCR of

indigenous people of Sabah which make up about 70% of Sabah's population and who still depend very much on the land for their livelihood. This amendment was clearly made to pave the way for the establishment of privately-owned commercial plantations, hotels, resorts and golf courses which is seen to be in conflict with the interest of the indigenous communities.

Management of Natural Resources

September 1997 saw the launching of the Sabah's Sustainable Forest Management System (SFMS), prepared by the Department of Forestry with technical and financial support from the German Government through GTZ. For the past two years, the SFMS has been implemented in Deramakot Forest Reserve, as a pilot project, and is now being introduced to 16 other Forest Management Units (FMUs) in the state. By 2004, the state government expects all the commercial forest reserves to be managed along similar lines as in Deramakot. The International Tropical Timber Organisation (ITTO) has enforced that by the year 2000, consumer countries will only be allowed to buy logs felled from a forest on a sustainable basis. The management of the FMUs involves forest zoning into four groups for : (i) Protection of soil, water, climate, flora and fauna, (ii) Production of timber and customary rights to collect fruits, rattan, game and medicinal plants, (iii) recreation for urban population and tourists, and (iv) Community needs to support the local population living in and near to forest areas. Currently 10 FMUs (each about 100,000 hectares and 100-years tenure) have been given to 10 private companies to be sustainably managed by them. All the 2.7 million hectares of commercial forest reserves will eventually be given to private concessionaires. About 1 million hectares are presently under the management of Sabah Foundation.

While the aim of the SFMS is laudable and deserves full support from all quarters, and in the long term should be beneficial to the indigenous communities and the state as a whole, it is yet to be seen whether it could be successfully implemented. Much has been said about the policy by both the government and opposition. The lack of transparency in the whole affair of awarding of the FMUs to private companies has been the main stumbling block for its successful im-

plementation. No one really knows how the FMUs were allocated, but it seems that the opposition party's contention that it did not go through the proper procedure is justified. Some of the private companies selected to manage the FMUs are not qualified at all and most do not have any experience in forest management. Most of the companies are previously owners of logging concessionaires, and have been mainly responsible for the deplorable condition of the forests in Sabah today. While the SFMS recognises the needs of the local community, in practice this has not been strictly adhered to. In northern Sabah, several indigenous communities have been resettled in an area far from their traditional lands, as part of this exercise. Certainly, the interest of local communities is being side-lined and their rights to their customary land is clearly not respected by the implementors of SFMS. The proper management of the FMUs is thus questionable at this stage, and if left unsupervised may lead to greater environmental damage and human misery.

Conservation issues have gained some grounds as a result of works by WWF Malaysia and other NGOs. For example 1997 saw the formulation of a national policy on biodiversity as a follow-up of the Convention on Biodiversity. While conservation of resources is needed, its objectives may go against the interests of indigenous communities. In Sabah, the gazettement of the Lower Kinabatangan River area as a conservation area in 1996 has created problems for the people in terms of access to their traditional resources. The ecotourism industry actively promoted here, to generate alternative sources of livelihood, has not benefited the locals, as their participation is quite minimal.

Indigenous Peoples Network

The campaign by the Indigenous Peoples Network of Malaysia to gain recognition of their rights to land, culture and their identity as indigenous peoples continued. In October 1997, the fifth National Workshop was held in Peninsular Malaysia, with representatives coming from Sabah (12), Sarawak (12) and Peninsular Malaysia (13). The theme of the workshop was development of traditional economic systems. Issues of biopiracy were also discussed. In Sabah, the network representatives organised several community workshops to discuss

rights to natural resources in terms of use, management, ownership and boundaries. For example, in August 1997, more than 50 people from 8 villages in northern Sabah participated in a mapping workshop to discuss community mapping skills and methodologies. As a result of the workshop the participants were able to map their village boundaries and sort out overlapping and disputed boundaries among themselves. This activity is also an initial step to regain their customary land, encroached upon by a state agency (SAFODA), dealing with tree plantations.

Sarawak

The Dayak, the diverse native peoples inhabiting the Island of Borneo, form about 49% of the 1.9 million population of Sarawak. They are the most rural communities in the state with 95% of their total population residing in the rural areas. They are subsistence farmers, inland fishermen, hunters and gatherers.

Throughout the year 1997, the indigenous communities have encountered a multitude of issues and problems as a result of various development programmes and activities implemented by the government and the private sector. These activities are severely threatening their survival, the customary land rights and rights over resources which represent the lifeline for most of the indigenous Dayak groups in Sarawak.

Logging

Logging activities continue and are widespread all over the state. About 70 percent of the land area in Sarawak has been licensed to logging companies. Most of the logging licences are issued over the customary land of the indigenous communities. In many cases, logging concessions are found to have overlapped or covered the native customary land within the boundary of the native communities without their knowledge or informed consent. Logging has been carried out indiscriminately by the timber companies which has led to extensive destruction of lands, crops, burial sites, forest resources and pollution of rivers. The natives have lodged many complaints to the authorities

concerning these problems, but their complaints are continuously ignored.

Between 1987 and the early 1990s, the native communities put up a series of major blockades across logging roads in the state to prevent loggers from entering and destroying their customary land and forest. During this period, hundreds of natives were arrested, detained, charged and imprisoned for timber blockades. These blockades interrupted logging operations throughout the state.

At present, the indigenous peoples are still erecting blockades and protesting against the timber companies in the interior region of Sarawak. However, there is a total media blackout (both locally, nationally and even internationally) on the matter. In March 1997, the *Penan* community in the interior of Baram Region was badly treated by a group of Police Field Force (PFF) at a peaceful protest against logging. The PFF arrested four Penans and injured several others. They were charged at Marudi Magistrate for illegal assembly. Shortly after they were released the Police rearrested them for alleged stealing. Their case is still pending. At another blockade in Ensika, Kota Samarahan Division, 25 *Ibans* were arrested and are facing severe criminal charges.

Plantations

The Sarawak State Government plans to develop 1.5 million hectares of native customary land (NCL) as oil palm plantations. Large tracts of land which include the customary land of the natives have been earmarked and alienated by the government to be developed for plantations under the "New Concept" of Native Customary Land (NCL) development.

Recently, to enable the private companies to acquire and develop native customary land, the State Legislative Assembly has amended the land law to give the Chief Minister powers to extinguish native customary rights not only in the national interest but also in favour of private enterprises.

In implementing the land development programme, the government mainly grants provisional leases to the State statutory bodies/ agencies or private companies for a period of 60-90 years. Once the land has been leased, the agencies or the private companies become

the proprietors of the land. Without the knowledge or consent of the native communities, most of their NCL has been appropriated by private companies which are either state owned or owned by the same people who were granted the logging licences or permits to develop these land areas into oil palm plantations.

The native communities are opposing and resisting the implementation of oil palm plantations within their NCL and the acquisition of their customary lands for that purpose. In those areas which are currently affected, the indigenous communities are actively protesting to

Dayak during a logging road blockade in Long Geng, Sarawak (Photo: Nigel Dickenson/Leader Photos)

stop the operation of the oil palm plantation developers. As a result, they have been constantly intimidated, harassed, assaulted and suppressed by the police. In 1997, more than 80 natives have been arrested and detained for resisting the take-over of their lands by plantations.

In a recent incident, on 19 December 1997, about 50 Police Field Force personnel armed with batons, pistols and M16 rifles opened fire

on the unarmed Dayak Ibans at a peaceful protest within their compound in front of their longhouse at Rumah Bangga, Sungai Sebukut, Bakong, in Baram district of Miri Division. Three Ibans were shot. Enyang Ak Gendang, 40, was shot in the forehead and died after five days in the intensive care unit at Miri General Hospital. Eight were injured. About 30 Ibans were arrested and detained.

As an immediate action, some of the native longhouse communities who came to be aware that their Native Customary Lands have been designated for oil palm plantations have filed legal suits against the companies in the High Court in Miri. These cases are still pending for hearing.

Furthermore, the Sarawak government has targeted one million hectares of land for planted forests. To-date, some 10 timber companies have met with the Sarawak Timber Association and the Forest Department to carry out a scoping exercise to identify the concerns of potential investors in this venture.

In Tatau in Bintulu Division, the Borneo Pulp & Paper Sdn. Bhd. has alienated 373,700 hectare of land for planting of Acacia, Eucalyptus and other fast growing tree species. The site for the pulp and paper mill affects 12 Iban longhouse communities in Upper Tatau. The government has acquired and extinguished their Native Customary Rights (NCR), using provisions of the new amendments to the Sarawak land code, over a 6,200 ha area for the establishment of the mill. The Ibans are challenging the extinguishment of their NCR and also filed an arbitration in the high court.

Bakun Hydroelectric Project

The Bakun Hydroelectric Project (BHEP) is to be constructed across the Balui River in Belaga District of Kapit Division. The project was awarded without tender to Ekran Berhad, a Sarawak-based public listed company. Ekran, as the main stakeholder in the Bakun Hydro-Electric Corporation Bhd., subcontracted the project to ABB (Asea Brown Boveri), a Swiss-Swedish consortium, which was made responsible for the completion of the project by 2002. Its estimated cost is RM13.6 billion and it will have a capacity to generate 2400 MW of electricity

which will be mostly supplied to Peninsular Malaysia via a 640 km long high voltage undersea transmission cable. BHEP will be the largest dam in South East Asia and Malaysia's biggest and most controversial privatised infrastructure project.

If BHEP goes ahead it will submerge a land area of 69,000 ha and displace 9,000 people belonging to the *Kayan, Kenyah, Lahanan, Ukit* and *Penan* indigenous peoples. 80% of the land due to be flooded by the dam is Native Customary Rights land. Ever since the government's plan to build the Bakun dam was mooted, the affected natives in Belaga have been vehemently opposed to it as they are intimately aware of the bitter experiences of the Ibans who were displaced by the construction of Batang Ai Hydroelectric Project.

The Bakun dam project's preparatory construction work has been carried out during 1997 and the river diversion tunnels are near completion. The Native Customary Rights to land within the Bakun flooded area were deemed as extinguished in February 1997. In late 1997, some of the local people who had hoped for fair compensation were disillusioned by receiving very low compensation rates, varying from RM0.25 (US$0.063) to RM60,000 (US$15,000). The affected natives will be displaced from their ancestral lands and resettled in regimented oil palm plantation schemes in Sungai Asap, Koyan and Penyuan in the Upper Belaga River area. However, despite the serious consequences which might result from relocation, the 9000 affected natives in the Bakun region remain uninformed and most of them oppose the proposed resettlement schemes.

Meanwhile, during the last few months of 1997, due to the severe financial crisis that hit Malaysia, the federal government announced that the dam project be temporarily stopped. Uncertainty and secrecy also surrounds the name of the dam's constructors as the contract between Ekran and ABB was nullified in October 1997 and the government announced that it was taking over the project from Ekran through the Minister of Finance Incorporated, a government investment holding.

The government is at present expecting a due diligence exercise report on the state of affairs of Bakun Hydro-Electric Corporation and

Bakun hydroelectric project by international audit firm, Price Waterhouse, in order to decide on how to implement the take-over.

Tourism and Resort Development Projects

In recent years, the government has aggressively promoted the development of the tourism industry in the State. The government as well as private companies have built a lot of tourism related infrastructure projects such as hotels, resorts and golf courses to attract tourists and provide for their comfort and leisure. Many of these projects have adversely affected the indigenous and local communities.

The customary land rights of the Dayaks have again been affected by several schemes whereby land was appropriated by the State and then allocated to private firms to develop hotels and resorts with golf courses without the consent of the affected indigenous communities. The highland regions in the state are now designated for resorts which are likely to cause further exploitation of forest resources and environmental degradation.

Dayak lifestyles are being treated merely as tourist attractions and their longhouses are targeted as tourist destinations. The Dayks feel that their culture is being systematically violated and abused. The Dayaks in most of these targeted destinations feel that they are being treated as 'zoological objects' for the tourists. There are also cases of prostitution arising among the Dayak women.

The Borneo Height Resort Project in Kuching Division is threatening the livelihood of more than 1000 Dayak *Bidayuhs* of Ana Rais Village. The Bidayuhs have been protesting against the implementation of the project. The Resort is owned by the brother-in-law of the Malaysian Prime Minister. A series of blockade have been set up by the Bidayuhs to stop the ongoing work of the resort. Everyday, the police intelligent agents with not less than 30 police personnel are patrolling the area.

Human Rights Violation

Over the years, hundreds of indigenous people in Sarawak defending and protesting against logging, plantations and other destructive development activities within their customary land and infringement of

their rights have been brutally harassed, assaulted, intimidated, suppressed and arrested.

Under Malaysian laws, the rights of the natives to their land and forest and the defence of private property is recognised. Section 97 of the Penal Code states that every person has a right to defend his property against theft, robbery, mischief or criminal trespass or attempts of the above nature. But in practise, these rights are simply ignored by the private companies. The authorities on the other hand are not only very indifferent to their plight, but the Police and Forest Department officials have also arbitrarily arrested and detained the natives who put up any form of protest even though such protest was done within the confine of their own land and they have legitimate rights under the law to such forms of protest.

In a number of cases natives who were arrested and brought to court were subsequently found to be not guilty. The court decided that the natives were blockading/protesting on their own customary land, and the defence of one's property was recognised by the law. Example: Linusurud Ak Mumin & six others, Ajang Kiew & four others, 42 Ibans of Sunagi Bong, just to mention a few.

A situation of injustice persists today, where indigenous communities continue to face various threats from unsustainable development projects and arbitrary and high-handed aggression from the authorities.

The most vocal indigenous activists in the state are continuously intimidated and their privileges as citizen are denied. Thomas Jalong, Jok Jau Evong, Garah Jalong and Raymond Abin are banned from travelling abroad as their passports have been confiscated. A number of Dayak activists are black-listed by the authorities. Some lawyers and representatives of Malaysian NGOs from Peninsular Malaysia have been deported from Sarawak and are denied access to the state. If left on their own, the indigenous communities of Sarawak will be effectively and continuously isolated and brutally suppressed by the authorities.

The Orang Asli of Peninsular Malaysia

The *Orang Asli* numbered almost 100,000 in 1997. However, statistics revealed by the Director-General of the Department of Orang Asli Affairs (JHEOA) show that 80.8 per cent of the Orang Asli live below the poverty line (compared to 8.5 per cent nationally), of which 49.9 per cent are among the very poor (compared to 2.5 per cent nationally) (*The Star*, 19.2.1997). In general, nevertheless, the policies of the government towards the Orang Asli remain the same: to modernise the Orang Asli and to integrate them into the mainstream society. What was different in 1997 was how these policies were to be implemented. Two of these 'strategies' are discussed below.

Assimilation and Islamisation

In 1997, the *dakwah* (Islamic missionary activity) programmes of the authorities on the Orang Asli have been stepped up. The *dakwah* programme basically involves the implementation of a 'positive discrimination' policy towards Orang Asli who converted, with material benefits given both individually and via development projects.

For example, the Johor Islamic Religious Department (JAIJ) announced recently that it is to accelerate Muslim missionary (*dakwah*) among the Orang Asli via a multi-agency approach (*Utusan Malaysia* 21.1.98). The programme, called "Memasyarakatkan Orang Asli" (Socialising the Orang Asli), is to be launched in April 1998 and will be co-ordinated by the Johor Department of Orang Asli Affairs (JHEOA) with assistance from the Public Works Department, the Health Department and the District Office.

According to its Director, the Department is "always ready to work with any government agency that wishes to improve the community's social and religious status of the Orang Asli who are Muslim". He added that KEMAS (Department of Community Development), which runs the kindergartens in Orang Asli areas, has been approached to sow the seeds of Islamic living through daily singing of Islamic missionary songs by pre-school Orang Asli children. "Such efforts will ensure the dissemination of Islam at an early age and thus make it

easier to propagate Islamic values among the Orang Asli", he added (*Utusan Malaysia* 21.1.98).

The Selangor Islamic Religious Council (MAIS) also expressed dissatisfaction that only about 10 per cent of the Orang Asli in Selangor have converted to Islam. The State *Ketua Penggerak Masyarakat* (Chief Community Development Officer) complained that the missionaries of other religions were more aggressive and gave out various gifts like pillows and mattresses (*Berita Harian* 11.2.98). The *Pengerak Masyarakat* (Community Development Officers) were first introduced in 1991 – trained by the Religious Affairs Department and the JHEOA – as prime movers in the goal of Islamizing the Orang Asli.

Nevertheless, despite its obvious goal of converting all Orang Asli to Islam, and despite classifying Orang Asli as Malay in official data, the JHEOA goes to great pains to stress that the policy towards the Orang Asli is one of integration, not assimilation. However, the issue of the Orang Asli's assimilation is not merely a concern of the ruling government. The opposition Islamic party PAS concurs with the view that Islamisation should be a strategy for lifting the Orang Asli out of their poverty and that they should be assimilated into society as Malays. The PAS Member of Parliament for Kubang Kerian, Mohamed Sabu, even suggested that: "Instead of being recognised as Orang Asli, they should be assimilated into the Malay race. Their culture should be integrated so that they will no longer be considered separated from Malays" (The Star 26.11.97).

Twinning for Assimilation

In 1997, the government's policy of Assimilation/Islamisation took on a new strategy, which also affected Orang Asli land rights. This is the "Orang Asli-Malay Twinning Villages" programme launched in August 1997. The aim of this programme is to "bring about integration and brotherhood between the Orang Asli and Malays, and to inculcate a positive culture and positive socio-economic values among the Orang Asli". The plan is to 'twin' Orang Asli and Malay villages in 26 areas. However, the catch is, if the first few projects are anything to go by, these new twinned villages will be on Orang Asli traditional territories.

In the case of Kampung Bawong and the surrounding Temiar settlements in Lasah, Perak, 100 lots of land for 100 families – 50 Orang Asli and 50 Malay – would be developed. Each lot, for which individual titles have been promised, will consist of four acres of oil palm, one acre of fruit garden (*dusuns*), and a 60-foot by 90-foot wooden house. However, the project is in the existing Orang Asli settlement and as such this is tantamount to the Orang Asli giving up a part of their traditional territories to enable Malay settlement. In fact, for the launching ceremony in Lasah, existing Orang Asli *dusuns* and houses were bulldozed in order to make way for the site of the launching ceremony, and for the new project.

Privatization of Orang Asli Lands

Another new programme of the government that was put into practice in 1997 was the privatisation of Orang Asli traditional territories. This is in line with the JHEOA's 10-point strategy for Orang Asli Development viz. "to introduce privatisation as a tool in the development of Orang Asli areas".

Basically, such privatisation of Orang Asli settlements work by having the Orang Asli sign away their rights to their traditional territories – either with the JHEOA as proxy or through a representative committee of the community (such as a *Majlis Adat* or Customary Council) – to a private corporation, which may or may not be an Orang Asli entity. In exchange for the rights to mine, log, and own the land in perpetuity or on lease, the corporation enters into an agreement to provide basic infrastructure facilities and housing for the Orang Asli. In some instances, the promise of titled individual plots is thrown in.

The country's first privatised Orang Asli regroupment plan was launched in May 1997 with the signing of an agreement between the state government and Taktik Sejati Sdn Bhd. Some 600 Orang Asli from 149 families in the villages of Lenek, Selai, Kemidak, Kudong and Tamok in Segamat district in Johor were to receive assistance in terms of "economic, social, personal, mental and outlook [*sic*] development". A total of 748 hectares of the land was to be developed for agricultural, housing, infrastructure and other purposes. The remaining 290 hectares will be surrendered to the state to be alienated to the

Orang Asli once the agreement lapses on the 92nd month (*Berita Harian* 28-4-97, *New Straits Times* 28-4-97, *The Star* 28-4-97).

However, the Orang Asli involved were not happy with this move. Juki Sungkai, an Orang Asli youth leader had questioned why forest products valued at RM60 million were conceded to the Koperasi Daya Asli Johor Berhad (set up by JHEOA officers mainly) and not to the local community. For this reason alone, Juki added, "The regroupment project in Bekok should be put on hold because the project was given to a company which is not in accordance with the Orang Asli Act" (*Utusan Malaysia* 10.6.97). The older Orang Asli, on the other hand, were not in favour of the project as it would mean that three of the settlements would have to move into the traditional territories of Kemidak and Selai – that is, into a smaller area and in order to only benefit from infrastructure facilities that they are already enjoying in their existing settlements.

Batin Keli Osman of Kampung Lenek disputed the reason, given in the JHEOA working paper during a briefing session, that the village was too far in the interior and so needs to be relocated. "The actual fact is", he said, "our village is located next to the Malay village of Kampung Panca Jaya, about 6 kilometres from the main road. We have easy access to schools, clinics, shops and others, while enjoying the economic stability that comes with cultivating our own land" (*New Straits Times* 12.11.97). He added that it was puzzling that two other kampungs located about 64 kilometres in the interior could be retained, while his should be relocated.

Earlier in the year, the communities had demonstrated against the company that carried out logging activities on their land. Kampung Tamok headman, Batin Aaer, said that while he was happy with the Johor Chief Minister's efforts to bring development to the Orang Asli, he felt the state government should first consult the Orang Asli before making plans for them. "We are not the same Orang Asli community 30 years ago, which was then set in its primitive ways and had rejected development". He added, "the government should not think the Orang Asli were stupid people who did not understand what was good for them" (*New Straits* Times 27.1.97).

The Johor State Government, however, declared that it "would not succumb to the whims of isolated Orang Asli groups who reject projects aimed at providing greater security for them". State Unity and Social Welfare Committee Chairperson, Halimah Mohd Siddique said that it was the state government's prerogative to provide the best for the Orang Asli community and the state would fervently pursue projects to upgrade infrastructure for them, including through organising and restructuring their villages. "Our endeavour is to institutionalise them and make them a part of the state's development process", she added (*New Straits Times* 24.11.97).

Meanwhile in Kampung Buluh Nipis in Pahang, 26 Orang Asli were arrested and detained overnight for refusing to disperse when police instructed them to do so. They had blocked the movement of logging trucks out of their village in order to seek better compensation for the felling of logs in their traditional territories. The logging concession had been given out by the state as a prelude to turning the logged-over area as a resettlement area for two Orang Asli communities.

Rights to Resources Recognised

Also, in Johor, a major high court decision was handed down in favour of the Orang Asli. The matter involved the Johor State Government's decision to sell water rights to Singapore in 1993. At that time, the State JHEOA Director had contended that the dam to be built would not affect the livelihood of the Orang Asli since "they no longer depend on traditional hunting for a living". And according to the Environmental Impact Assessment (EIA) report, the Sungei Linggiu catchment was totally uninhabited.

Nevertheless, the 225 Jakuns stood their ground and threatened to take legal action. The JHEOA, finally acknowledging their presence, proposed a total one-sum compensation of RM 560,000.00. This works out to RM 2,488.00 per person. In the meantime, the Singapore Government had signed a contract to pay the Johor Government RM 320 million for the water. The Orang Asli took up the case in court and after three years, the judge ruled in their favour. In 1996, the state

government was ordered to pay the Orang Asli a total compensation of RM 26.5 million for loss of income over the next 25 years.

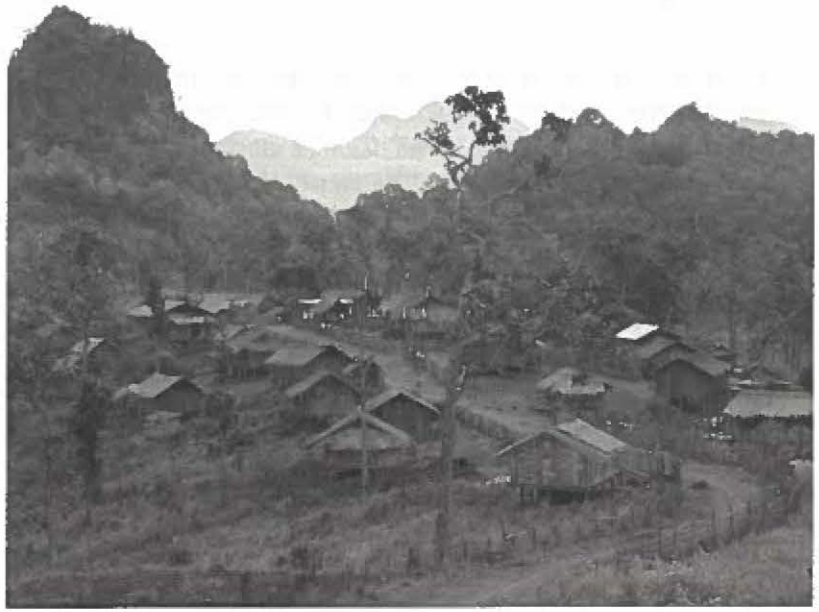
However, it should be noted that the judgement is for the loss of income due to loss of access to the traditional resource base, and *not* for loss of traditional territories. Thus, while Orang Asli resource rights seem to be recognised by the courts, their rights to their traditional lands have not achieved similar recognition.

THAILAND

There have been, over the course of the last decades, many developments in Thailand bringing hardship upon and weakening the rights of the indigenous peoples who are found throughout the country, but predominantly in the north. The difficulties faced by the entire country, stemming from bad environmental management, came to rest upon the shoulders of the tribal people as they now inhabit the last remaining stretches of forested land. The assumption is that the small remaining forested lands must be kept free from human habitation, indeed, that the human occupants must be removed and the wilderness kept in a pristine and isolated state to be used for day excursions by the rich. But it is questionable that this is the most effective conservation strategy that can be adopted. It is easy to demonstrate that this western philosophy of conservation does not apply to Thailand, that far from protecting the valuable and vulnerable natural resources it destroys priceless cultural heritage and removes from the delicate ecosystems the resource management strategies of the people that have protected the forests over centuries.

Economic development has been a focus of the Thai government since 1961, it is a form of development which stressed the increase of agricultural production for export, removing the traditionally sustainable nature of Thai agriculture. This immediately meant that the land under cultivation in Thailand increased dramatically, adding to the already serious deforestation problems. It is worth noting at this point that the new emphasis on surplus production did not have as great an effect in the areas populated by hill tribes. In Mae Hong Son, where the population of hill tribes is estimated at 80%, the forest cover is

significantly greater than in comparable provinces. The environmental damage could not go unchallenged and thus the government did begin to pay attention to the problem. In 1992 the Cabinet declared that all land was to be divided into zones in which the land uses would be controlled. Three classifications were put into place, identifying economic, agricultural and conservation areas.



Threatened to be relocated: Lahu village in Chiang Mai province, North Thailand (Photo: Christian Erni)

Within this declaration were the procedures for increasing the area of conservation land, as the 88 million rai (14.08 mio. ha) target was not complete. These procedures illustrate more clearly than anything else the western image of conservation which has been adopted by the Royal Thai Forestry Department. These procedures are given below as they appear in the Cabinet's declaration of 1992:

- Once land has been classified as conservation land all communities already in residence must be, if possible, relocated away from the delicate area.
- Trees planted immediately in all areas of the vacated land.
- If immediate relocation is not possible the government takes control of all the land used by the community and strictly controls any activity upon that land. The community should be convinced to leave the land and when this is achieved trees are to be immediately planted.

This system of regeneration of land shows the view held by the government on conservation land, i.e.. that it is pristine forest devoid of all human habitation. But it is worth having a closer look at the reality of land uses through these areas. The conservation area, stated at 88 million rai has actually at most 68 million, as 20 million rai currently have mining concessions granted by the government, the same government which has actually *removed* land titles from long standing communities within the conservation areas to facilitate the declaration and increase of conservation land.

Not only has the government granted mining concessions in the proclaimed ecologically critical conservation class land but in addition the logging, the government sanctioned logging, which took place in Thailand over the last 30 years of increased material prosperity, can be blamed for the devastating environmental damage on Thailand today, damage which culminated with the deadly floods in the south of Thailand in the beginning of the 1990's. This was what had to happen before the government stopped legal logging. Yet despite the obvious culpability of the government in environmental problems such as this the campaign has been to put the blame on the tribal peoples in the north.

The Peoples' Response

The clearest result is the startling growth in people's organisations, the people have come together in highland organisations, lowland organisations and have combined their voices in networks such as the

Northern Farmers Network in order to protest the decisions of the government that were threatening them. The well-known Assembly of the Poor saw huge turn outs of people determined to present their stories and the truth about the situation in Northern Thailand to the government. This massing of support for the poor of the north saw two main responses, the first was the government meeting with delegates on the 17th and 29th of April, 1997, to draft a Community Forest Law which would give the right of resource management of surrounding forest land back to the villages. These meetings were held in Chavalit Yongchaiyudh's time as Prime Minister. With the subsequent changing of the Cabinet the process was slowed. The second apparent result was a strong reaction by the government and green NGOs against the people's organisations. The government has used the hill tribe communities as scapegoats in a number of problems, allegations that when looked at in detail are hardly credible.

Firstly, however, we should look at the accomplishments of the two meetings of the 17th and 29th of April. The draft law as designed by the Cabinet was debated by both the green NGOs, the people's organisation delegates, and the government and a solution, acceptable if not welcomed by all resulted. A committee was established to determine the legitimacy of claims to land ownership and it was accepted that if occupancy could be proved to pre-date the 1993 declaration of 'conservation land' then land rights would be granted. Another meeting was also held during April 22, to which the delegates of the people's organisations were not invited. It was in this meeting that the procedures for the land delineation and titling were drawn up. The mapping was to be done by the military using the satellite mapping techniques and the Royal Thai Forestry Department was made responsible for the process of delineation. Difficulties emerged in the process of delineation, the mapping by the military was slipshod at best and in some cases villages did not even appear on the maps drawn up.

Many times the agreements reached in these two meetings have been in danger, most recently because of a smear campaign run by the government and the green NGO's, many established by retired members of the Thai military and the Thai Forestry Department. The alliances between the government and the NGO's of this kind have quad-

rupled since the rising popularity of the people's organisations from 4 to 25. This has meant that because the green NGOs support the view of forests devoid of human habitation, factionalism has appeared in the NGO community.

This factionalism has made the dirty work of blaming the hill tribes for the environmental damage much easier. In the Doi Inthanon National Park area the fires which have recently broken out were immediately considered the work of the Hmong and Karen hill tribes living there. The ensuing battle to extinguish the fires was attended by thousands of Hmong and Karen people every day and the careful watch to ensure that no more fires could get out of control was taken up by these tribes. However, the actions of these people went largely unnoticed in contrast to the similar actions of a smaller group of lowlanders who also aided in fighting the fires. This type of one sided reporting is incredibly damaging to the standing of the hill tribes in the public eye and this standing, this respect is essential if changes are to be wrought at the policy level.

The incident at Doi Inthanon is not unusual. The well-publicised Salween logging disaster and more recently the reaction to increasing deforestation in Chiang Dao, Chaing Mai Province are also clear examples of the one sided and intentionally misleading reporting of environmental problems in the north. There has emerged recently, however, a recognition in the public sector of the real nature of these problems. Increasingly people are seeing the 'scape goat' allegations for what they are and support is again on the rise for the people's organisations.

However, the process of land demarcation and the granting of land titles upon the results of the demarcation, as agreed to in the April meetings last year, is under greater threat now than ever before. On April 21st the government has debated whether to allow the process to be continued or not. But the decision was delayed. Meanwhile, pressure from lowlanders in the Chomthong district are mounting. With road blockades they both seek to prevent the indigenous villagers from meeting or demonstrating with the government, and to pressure the government into cancelling the agreements made on land titling with the previous government. There is a need now for outside support to

be stepped up to convince the government to mediate between the lowlanders and the indigenous communities. The indigenous people in the mountains fear that the situation may become more tense and turn violent.

CAMBODIA

Although reliable statistics do not exist due to decades of conflicts and war, and the results of the March 1998 census, the first in 30 years in Cambodia, are not yet published, the Royal Government of Cambodia reported a total number of 309,254 ethnic minority people, belonging to 39 different groups and constituting 3.6% of Cambodia's population. Of these, the indigenous peoples, also referred to as Highland Peoples, Khmer Loeu, Hill Tribes or Montagnards, make up somewhat less than a third, or about 1% of Cambodia's population. They are mostly living in the north-eastern provinces of Ratanakiri, Mondulkiri, Stoeung Treng and Kratie, but also in Pursat, Koh Kong, Kompong Thom, Kampot, Preah Vihear and Kompong Speu. The main indigenous peoples of the Northeast are the *Tampuan, Kreung, Jarai, Brao, Kachak, Kaveth, Lun, Phnong, Ide, Stieng, Thmon, Kraol, Rahong, Kuy, Tamoan, Mil and Khaonje.* These indigenous peoples' communities and their members, as well as their identity, their cultures and their traditional way of living are seriously at risk.

In the north-eastern province of Ratanakiri, the indigenous peoples form about 85% of the population of 83,000. The province last year still had a forest cover of 70-80%, which however is rapidly declining because of illegal 'anarchic' logging since the violent coup d'etat of early July 1997. Though this fact is disregarded by the Government, the forests of Ratanakiri, as well as those of Stoeung Treng, Kratie and Mondulkiri are the most densely populated forests of the country. The indigenous peoples have lived there since time immemorial and depend largely on the forest for their subsistence, both for practising swidden agriculture and for collecting forest products (limited extraction of wood for local construction, fuelwood, rattan, bamboo, fruits, vegetables, nuts, roots, mushrooms, resin for lighting). All of the indigenous families depend on these forest products for survival, and

only about 30% of the families have a wage-earner. Swidden agriculture, which is the most important (but insufficient on its own) source of subsistence, is mainly practised in younger secondary forest. The gathering of forest products preferrably takes place in areas of primary forest and leaves the big, old and most valuable trees unharmed, for spiritual reasons.

Access to forest land for both agriculture and forest products is crucial for the indigenous communities. Limits to such access and unsustainable exploitation of the forests violate their human rights, such as the right to food, adequate housing, a healthy environment, culture and work. Furthermore the basic rights to life and security are not guaranteed to the members of the indigenous groups, which are faced with intimidation and abuses by the logging companies and their security mechanisms. There seems to be no access to the court (which is not perceived by the indigenous groups as a potential provider of protection against abuses), and the survival of the identity and culture of several groups is at stake.

But Ratanakiri's forests are seriously at risk. Illegal logging, mostly by national military and police as well as Vietnamese nationals, is rampant and threatening the traditional way of life of the indigenous peoples. Loggers are observed to pay money to individual villagers to bring them to valuable timber. They pay between 2,500 and 10,000 riel per tree (an infinitesimal fraction of the international market value), not for the purchase, but to just to keep them silent. In other cases loggers show false papers - but really signed by the district chief - to the villagers, entitling them to cut valuable timber. Around Banlung there is little logging, but to the east there is a lot of transboundary movement of logs into Vietnam. Illegal logging is also going on in some of the 12 provincial (not national) protected areas, just as in Virachey National Park bordering with Laos and Vietnam, and in Lumphat Wildlife Sanctuary. Local sawmills buy trees from the district heads and other officials.

A major issue is the current replacement of the formerly unexploited 1.4 million ha logging concession which belonged to the Indonesian financial concern Macro-Panin. It encompasses the whole central highland region of Ratanakiri in which most of the indigenous groups live,

as well as parts of Kratie and Stoeung Treng. According to the Governor, neither Macro-Panin nor any of the other big forest concessions granted by the Government are legal concessions. The Provincial Authorities and the local population were never officially informed of them, they have never been consulted and environmental and social impact assessments have never taken place. The only current legal concession he knows of in Ratanakiri is the oil palm plantation in O Yadao. However, there has been a well publicized agreement between the Province and Valai, a Vietnamese logging company, which allowed this firm to export logs for one month, between December 5 and 31, 1997, and there is no guarantee that all the wood taken was previously felled timber. On December 16, 1997, the Governor organized a meeting with the NGOs which had expressed their concerns about the logging trucks and the fact that a camera and film of a CARERE (Cambodian Rehabilitation and Reintegration Programme of the UNDP Highland Peoples Programme) staff, which had been filming some of the logging operation, had been confiscated. During the meeting the Governor was very open, informing the NGOs that there had been two old deals and this new one, and that it provided money for 150 km of road repairs in Ratanakiri (from Banlung to each district), 9 border posts with Vietnam, a hostel for Khmer teachers and health workers, and 9 land cruisers for the Governors and some district chiefs.

According to the Governor, the huge Macro-Panin concession was agreed by both Prime Ministers, and then forced upon the Minister of Agriculture, the Chief of the Forestry Department and the CDC for approval. Allegedly, each of the then Prime Ministers, Ranariddh and Hun Sen, would have received 1 Mio. US$ for this deal. The former finance minister Sam Rainsy never got access to the negotiations or the drafts, and neither did Kem Sokha, chairman of the human rights commission of Cambodia's National Assembly. Mok Mareth, the Minister of Environment also has serious objections against the Macro-Panin concession, because parts of it overlap with national protected areas (Viracheay Wildlife Sanctuary and Lumphat National Park).

A study recently undertaken by EEPSEA, An Economic Analysis of Tropical Forest Land Use Options, Ratanakiri Province, Cambodia, calculates the market value of non-timber forest products (NTFP) as

compared to the value of timber extraction. The surprising conclusion is that the NTFP are worth more than twice the timber (1 ha over 90 years: NTFP = 3922 USD / timber = 1697 USD), and that is without counting the costs of logging, which results in loss of watershed and biological diversity, and even in climate change in the case of severe clearance. The current compensation paid by loggers is worth less than 1% of the value of the NTFP per ha. The problem is that the local population has a very weak bargaining position, is economically very vulnerable and has no real access to protection against intimidation or abuses. Another uncounted cost for the country is that heavy exploitation might lead to local insecurity and rebellion, as has happened with indigenous groups in Palawan and Madagascar. EEPSEA recommended the exclusion of customary forest land from any current and future commercial concession, the freezing of all commercial activities, the legal recognition of the Forest Conservation Association, that legal status be given to customary forest lands, the open and comprehensive review of Macro-Panin's management plan and the development of a comprehensive land-use plan for the area, including SIA and EIA.

In Cambodia, the only NGO really monitoring logging operations is Global Witness, a remarkably effective three man organization based in London and regularly travelling to Cambodia. According to local NGOs it may be unreasonable to fight for the preservation of the whole of Ratanakiri as it is, but it must be possible to map the traditional village boundaries, including all land and forest use, and impose that anyone desiring to use land within these boundaries, should comply with the village rules and traditions, whereby recognizing traditional land use does not necessarily imply establishing land ownership. Traditional boundaries could be used to indicate planning units, in which the Government's interests could be linked with those of the local people, and to avoid the risk of individuals selling their lands in disadvantageous deals with outsiders. The lands and forest could thus be jointly managed by the local community and the Government. The focus of the NGO community is thus on community forestry. In one case, six villages have set up a Commune Forest Conservation Association and proposed a set of Regulations to the Provincial Authorities to protect

their forest, which are being considered. The Forestry Chief, the Minister of Environment and the Ratanakiri Governor all strongly support this concept of community forestry, in which the local communities - in coordination with the Provincial authorities - would have the responsibility over the conservation, management and sustainable use of their forest areas. A proposal concerning forest exploitation could contain the concept of labelled or certified timber, guaranteeing that sustainable logging practices were used (and focus more on wood markets that are sensitive to such labelling), the concept of community managed concessions, with low volumes, strict management and maximized efficient use, and the concept of profit-sharing.

LAOS

The Government of Lao People's Democratic Republic is planning for a gradual scrapping of all swidden agriculture in the country. During the national forest conference of July 1 to 3, 1997, it was decided that for 1998 the area under swidden agriculture should be reduced by 25,000 ha Estimates of the total area under swidden agriculture vary between 160.000 and 300,000 ha, the number of families dependent on it between 130,000 and 280,000.

In the provinces the new directives seem to have been over-zealously interpreted. During a journey undertaken over several days in the northern part of the country, only a few newly burnt swiddens on a stretch of three to four hundred kilometres could be detected. Some of the roads travelled were over 2000 meters in altitude, and made it possible to see wide stretches of land. Everywhere swidden agriculture activities have entirely stopped. Cultivators from the Kammu people in a roadless village said they had been compelled to stop cultivating high-land rice, and to grow only irrigated paddy in the lowlands. The Kammu and other indigenous peoples in Laos have no tradition of growing irrigated paddy, and they have traditionally not kept ploughing bullocks or buffaloes. Although some of the village had had access to lowland paddy fields since the 70s, it was evident that the farmers had not yet learnt the techniques for keeping cattle, or the art of grow-

ing paddy. They were apprehensive about the future: Would they be able to survive only with their lowland fields?

Although a broader survey could not be undertaken, observations indicate that these Kammu farmers are no exceptions. Instead of a gradual switch to lowland paddy cultivation, the provincial authorities seem to be enforcing a virtual ban on swidden agriculture. Another observer, who had been witnessing the situation in the southern parts of the country, confirmed this impression. This is highly alarming since it threatens food security, endangers the fragile ethnical balance in the country, and maybe even jeopardises the ecological stability of the entire Mekong basin. It is not known exactly how much of the food grain harvested in the country that is grown in swidden land, but the figure of 15 per cent has been mentioned. In a country barely feeding itself, and with a population just above the minimum calorie requirements, removing fifteen per cent at the margin can have deleterious consequences. A fragile food security can quickly turn into a major food scarcity. As always, lower availability of food grains is likely to hurt the less privileged most. In Laos this is likely to be the land-short groups which are found both in the lowlands, but to a large extent in the highlands where these policies will add to an already ongoing decline in land resources and access.

Laos is one of the few countries in the world where the dominant population is in a minority. Only about forty per cent of the population belongs to the Lao-speaking groups, mainly inhabiting the lowland valley bottoms. The Lao people are traditional paddy growers and cattle keepers. Although they too have a tradition of growing highland paddy, they are likely to be less hurt than other groups. Paradoxically, the so-called minorities, the indigenous highland peoples, are a majority of the country's population, but they are split into an unknown number of groups. Forty to sixty different ethnic groups are figures circulating, but no one has made a reliable ethnographic atlas of the country.

The authorities divide the Lao people into three major groupings. The lowland Lao (Lao Lum) comprise several smaller groups besides the Lao-speaking 'majority'. The midland Lao (Lao Theung) also consist of several groups, of which the Kammu speakers is the biggest.

The highland Lao (Lao Sung) is the final category where the Hmong are the most well-known. Both the Lao Theung and the Lao Sung traditionally depend on swiddens for their food security. Although the Indo-China war brought massive relocation of the population, and although economic development and resettlement policies have triggered a downhill migration stream, hundreds of thousands of Lao farmers, mainly indigenous highland peoples, continue to depend on swidden agriculture for part of their food requirement. These are hurt by the present policies, and since they belong to the minorities, these policies threaten the fragile ethnic balance in the country. At present, it seems, the highland farmers have obeyed dictates from the regime, but when they face difficulties in feeding themselves and their families, their docility is not likely to last.

Theories have been set forward according to which swidden agriculture in the forested areas of the Mekong basin is essential to macro-ecological stability of the whole region. As is well known a forest in ecological climax is a self-contained ecological universe. It exports no nutritional matter downstream. For hundreds of years, a certain percentage of the forested areas of the region have been under swiddens. The rains falling on and the water flow through these areas bring with them a certain amount of eroded material, which has been an essential nutritional input to downstream agriculture. If this input is entirely blocked by a successful ban on swidden agriculture, the lowland paddy cultivation is likely to be affected. Thus, declining yields and increased requirements of chemical fertiliser may be a long-term consequence of an overzealous policy towards swidden agriculture. Thus there are reasons to worry about political development in Laos. Food insecurity, ethnic conflict, and ecological disturbances may be the unintended consequences of the present attitude towards swidden agriculture. There are all reasons for the surrounding world to react.

NAGALAND

Ten Months of Peace in 33 Years

Last year India took a path breaking decision to enter into an unconditional political negotiation with the National Socialist Council of Nagaland (NSCN) which is leading the Naga national resistance movement. The announcement of this decision in March was followed by a Cease-fire agreement from 1st August 1997 between India and NSCN. But with India changing its government frequently there has been little, if any, progress toward opening formal talks. The recent installation of the BJP party led coalition government in India has brought not much hope into the peace process either, given BJP's history of Hindu militancy. In fact there are apprehensions that India's commitment to a negotiated settlement could be derailed.

The Nagas are a Mongoloid people living in the hilly region of mainland Southeast Asia divided by the contemporary India-Burma border. Their highly egalitarian and community living sets them apart from the caste-stratified Hindu society in their neighbourhood. The occupation and partitioning of the Nagas' ancestral domain is a legacy of the British policies of the 19th century. The Nagas maintain that the continued subjugation of their territories violates both international law and the terms of the Nine Points Agreement/Hydari Agreement made at the time of India's own independence.

Since the early 1950s, the Indian government has sought to destroy, by military means, the material and spiritual basis of the Naga peoples' independence, at a high cost in human lives and environment. The only other attempt to negotiate a peaceful settlement, started in 1964, broke off in 1967 because India refused to budge from its self-awarded right "to extend its sovereignty over Nagaland".

> "It is obvious that Naga territory in eastern Assam is too small to stand by itself politically and economically. It lies between the two countries, India and China, and part of it consists of rather backward people who require considerable help." Indian leader Nehru wrote to Sakhrie, Secretary Naga National Council in August 1946.

From this kind of pre-independence talk of "helping the Nagas", the same Indian leaders turned to the military to forcibly occupy Nagaland soon after India became independent in 1947. By 1972 India shifted Naga issue from its External Affairs Ministry to Home Ministry. Since then India has been insisting that there will be no peace talk unless the Nagas first accepted the Indian Constitution.

Though badly battered and isolated by India and Burma from the rest of the world, the small Naga people, hardly 3 million, refused to surrender, instead they intensified the resistance movement. In most parts of Nagaland the situation became so bloody that not a week passed without fighting between the Indian occupation forces and the Naga guerrillas or assassination by gunmen operating in league with the Indian Intelligence. In Nagaland state alone 91 persons remained 'untraced' from among the 566 persons arrested by the Indian armed forces during April 4, 1995 - March 22, 1996 (as reported in the regional news paper Na*galand Post* March 23, 1996).

But it seems things have gone on too long and too far even for the Indian military. Indications of the tired and stressed Indian military going berserk, especially in the past five years, have been reported on many occasions: Shelling with mortar an entire town, such as Kohima, the capital of Nagaland state, on March 5, 1995 by 420 officers and ranks from 16 Rashtriya Rifles; firing indiscriminately and setting fire to the modern market centre Mokochung in Nagaland state by 16 Maratha Light Infantry on December 27, 1994 (reported in *Nagaland Post* issues of December 28, 29, 30, 1994, and March 6, & 7, 1995); or the massacre of innocent children and women, as at Nungleiband Naga village where the 1st JAKLI Indian regiment from Loukoipat Post killed 9 children and women in the morning of October 15, 1997, and over 100 villagers 'went missing'. The Commanding Officer, Col. Anil Gairola, killed himself next day when his gun 'went off by accident', as reported in *The Imphal Free Press*, October 17, 18, 1997.

In this context, the 1997 announcement for the peace talk was seen as a very significant development for peace in the region. The Indian government's decision on the peace talks has been supported by all the major political parties. By not setting any preconditions on the talks, and by agreeing that talks could take place in a neutral country,

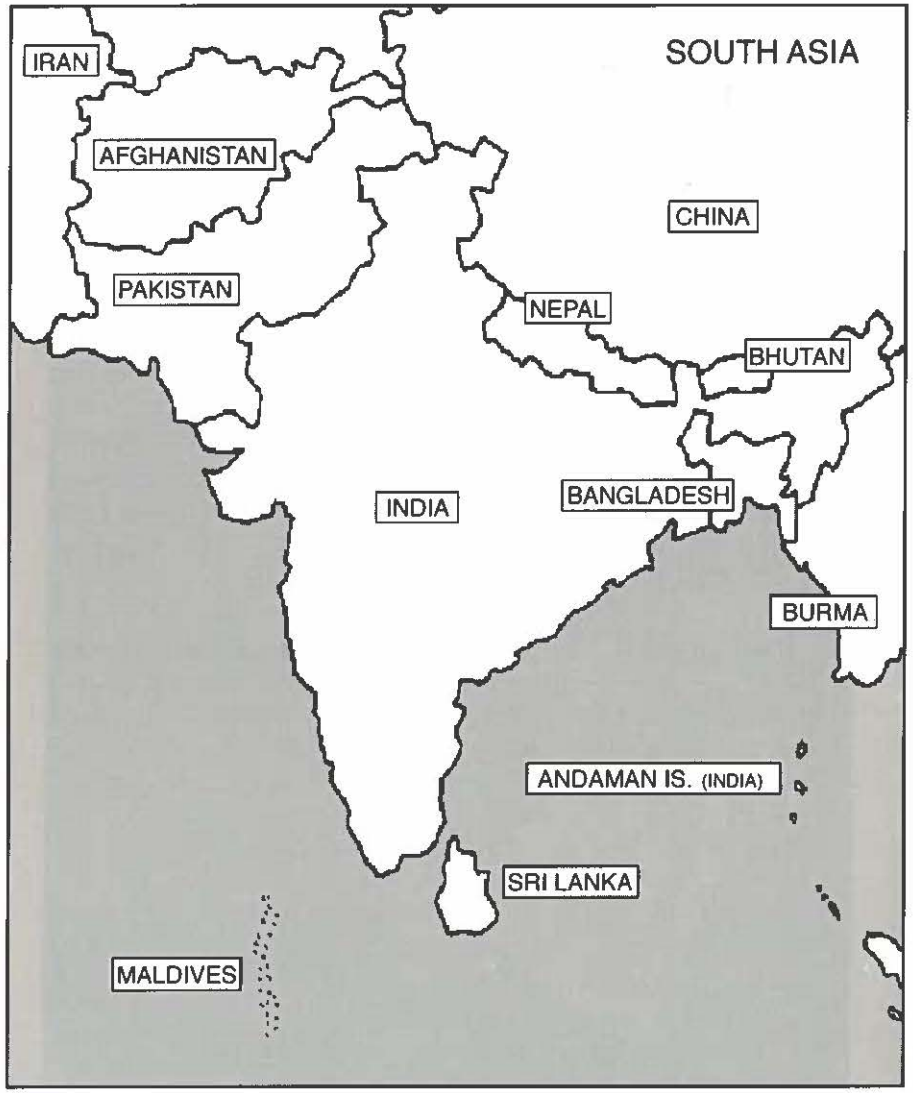
the Indian government appears to have accepted the necessity of negotiating with the Nagas on something like a nation to nation basis.

Naga students protesting against elections in Naga areas. Delhi, February 14, 1997 (Photo: Christian Erni)

The Naga public immediately seized the rare peace opportunity to express their strong support for the national resistance movement through public meetings convened by the Hoho Summit (the Federation of Traditional Tribe Councils). They called upon India to demonstrate its genuine commitment to the peace process and not to impose Indian elections in Nagaland during the peace talk. The Naga public, through the Hoho Summit, had expressed that participating in Indian organized elections while the peace process was going on can only undermine the struggle for independence. The extent to which these meetings represented Naga public opinion was conveyed sufficiently when less than 7% of the voters in Nagaland turned out for the Indian election held this February-March.

In the coming months the international community will be watching whether the largest democracy, India, will respond to the Naga question with respect for the expressed opinion of the Naga public or use its military might to continue the forcible occupation of Nagaland and prove that the largest democracy is a sham.

> "Simply because once we were chained together in our slavery, we hope that that period of our misfortune shall not form the important point of historical sequence for our people to quarrel at anytime." Phizo, Naga leader, in a letter written to Governor General of India, from jail November 1948



Countries/regions covered in this issue: Bangladesh (Chittagong Hill Tracts), India

SOUTH ASIA

BANGLADESH

Chittagong Hilltracts

1997 was an eventful year for the Chittagong Hill Tracts in south-eastern Bangladesh. On 2 December 1997 a peace agreement was signed to end two decades of ethnic conflict which has claimed thousands of lives.

Thirteen indigenous peoples including the B*awm, Chak, Chakma, Kheyang, Khumi, Lushai, Marma, Mro, Pankho, Tangchangya* and *Tripura* live in the Hill Tracts and have done so for centuries. They are known collectively as Jummas, a term coined from *jum*, the swidden cultivation traditionally practised in the Hill Tracts, and number approximately 7-800,000. They have their own traditions and cultures, and own state structures. However, for the past twenty years or so the indigenous Jummas have been subjected to militarization, unlawful killings, murder, rape, arbitrary arrest, detention and other violent tools of suppression. In addition, they have been dispossessed of their traditional lands by some 450,000 state-sponsored settlers from the plains areas who were illegally given their lands (1979-84). As a result, about 56,000 indigenous Jummas took refuge in India. During this period, an indigenous autonomous movement began in the CHT lead by the *Parbatya Chattagram Jana Samhati Samity* - United Peoples' Party of the Chittagong Hill Tracts (PCJSS), and its armed wing the *Shanti Bahini* (Peace Corps).

Previous attempts were made to resolve the conflict. In 1992, another round of negotiations began under the Khaleda Zia Government. On 2 December 1997, after five years of intense discussion and dialogue, the Government of Bangladesh and the PCJSS signed a Peace Agreement.

Peace Agreement

The following is a brief analysis of the salient features of the Accord which provides for the devolution of power through the following:

District Councils: The powers and functions of the existing District Councils are to be expanded and enhanced by amending the relevant laws (*Parbatya Zila Sthanio Parishad Ain 1989* - Hill District Local Government Council Acts 19, 20 and 21 of 1989) for Rangamati, Khagrachari and Bandarban respectively. Under the terms of the Agreement, the Hill District Councils (HDCs) are to be composed of 34 members with quotas for the different indigenous peoples, women (3), and non-indigenous (10). The Councils are to be elected directly from and by the CHT inhabitants for a period of five-years and the chairperson is to be of indigenous origin.

Subjects within the jurisdiction of the HDCs include land, *jum* cultivation, agriculture and forests, education (vocational, primary education in mother tongue, and secondary education), local police, indigenous law and justice, environmental protection and development, and tourism. The HDCs are also empowered with some financial and taxation rights including the right to levy taxes on commodities, land and structures, industries, businesses, fisheries etc. and to receive a portion of royalties on forest and mineral resources. They also have the right to appeal to the Government regarding legislation which may affect the CHT, and the Government may take the appropriate steps to redress the situation.

Another component of the Agreement is the requirement of *prior approval* of the relevant District Council for the settlement, purchase, sale, transfer or lease of any lands within the CHT with the exception of Reserved Forests, the Kaptai Hydro-electric Power Project, Betbunia Earth Satellite Station, state-owned industries, and lands recorded in the name of the Government. However, if one takes into account the amount of land which does not fall within any of the above categories it is estimated that the jurisdiction of the HDCs will extend to approximately 10% of the total land mass of the CHT. A major portion of the CHT is classified as Reserve Forest, and about one-fourth of the agricultural land is submerged under the waters of the Kaptai Lake constructed in 1959-61.

Regional Council: A 22-member Regional Council is to be established in the CHT with 2/3 indigenous representation including its Chairperson. Seven seats are reserved for the non-indigenous CHT

population, and three for women (two indigenous, one non-indigenous). The Regional Council is to be indirectly elected by the District Councils for a five year term, with the chairpersons of the three District Councils as *ex officio* members. The authority of the Council is principally supervisory as it is tasked to monitor and coordinate the work of the District Councils. Other matters within its jurisdiction include the general administration, law and order, indigenous law and social justice, and development including the work of the CHT Development Board and of NGOs. An important element of its power is the prerogative of being consulted prior to the enactment of any legislation relevant to the CHT.

CHT Ministry: According to the terms of the Agreement, a ministry on CHT affairs is to be created headed by an indigenous Minister. It is to be assisted by an Advisory Committee composed of the chairpersons of the Regional Council and the HDCs, members of Parliament from the CHT and three traditional chiefs (Rajas). It is envisaged that the Ministry will coordinate the work of the different ministries, agencies and other institutional bodies involved in CHT matters, and its role in influencing the policy process will be considerable.

As an interim measure Mr. Kalpa Ranjan Chakma, an indigenous MP, has been appointed as Minister without portfolio.

Land Rights: A major issue in the CHT is indigenous land rights. The government- sponsored settlement of an estimated 450,000 plains people to the Hill Tracts has led to conflicting land claims which as yet remain unresolved. The Agreement stipulates that a land survey is to be conducted to examine the land records and rights of ownership and possession of the indigenous peoples, in consultation with the Regional Council and that a Land Commission is to be established to resolve land claims headed by a retired judge. The relevant Chief, Regional Council, civil administration, and chairperson of the concerned HDC are to be members. The basis for the Commission's work will be CHT laws, customs and systems, and its decision is final. The Commission is to be established for an initial period of three years although this may be extended on consultations with the Regional Council.

To date, no steps have been taken to establish the Land Commission which is an integral component of the Peace process in the CHT.

Militarization: The presence of the military in the CHT has been ubiquitous. Estimates indicate that there are as many as 114,500 military personnel in the CHT (indigenous population: 600,000) military and para-military forces, and their direct involvement in human rights abuses has been well documented by United Nations bodies such as the Commission on Human Rights, the Working Group on Indigenous Populations, the Committee on Racial Discrimination etc. and Amnesty International. As per the terms of the Accord, all temporary camps of Army, Ansar and Village Defence Forces are to be gradually withdrawn to their permanent stations although it is not clarified if this is to be within or outside the CHT. The Bangladesh Rifles (BDR) and the permanent cantonments which are in Alikadam, Ruma, Dighinala and one each in the three district headquarters are to remain in the CHT, i.e. six permanent military installations. The armed forces can intervene during law and order situations or for natural disasters at the request of the Regional Council.

Given the past history of grave human rights abuses in the CHT, and the power and influence wielded by the armed forces in civil matters (for instance the chief commander of the army is the chairperson of the CHT Development Board), there are serious concerns as to whether the issue of militarization has been adequately addressed by the Accord. As of this date, there has been no reduction or withdrawal of armed forces from the CHT although the *Shanti Bahini* have deposited their arms and ammunitions (February-March 1998).

Anti-Accord Demonstrations

The CHT Peace Accord was greeted with enthusiasm, both at home and abroad, including the Secretary-General of the United Nations, Mr. Kofi Annan, US President Bill Clinton, the European Union, the British Parliament and the Governments of Australia, Canada, Denmark, and France among others. Prime Minister Sheikh Hasina and the ruling Awami Party have termed the Accord as necessary to protect national interest and to promote racial harmony, and many intellectuals, lawyers, activists etc. from among the majority Bengali population have also publicly stated their support for the Agreement. However, the Peace Agreement has met with fierce criticism from opposition political parties, in particular the Bangladesh National Party (BNP) lead by ex-Prime Minister Begum Khaleda Zia. The BNP condemns the accord as unconstitutional and against national integrity. Together with six other political parties, including the fundamentalist Jamaat-i-Islami and the Jatiyo Party (headed by ex-President Ershad), the BNP has been organizing demonstrations, marches, *hartals* (general strikes) etc. to protest the Peace Agreement.

Peace in the CHT: Arms deposit ceremony on 10 February in Khagrachari (Photo Raja Devasish Roy)

The indigenous peoples are extremely pleased at the prospect of peace after more than twenty years of living under military control with rape, killings and arbitrary arrests as every day occurrences. However, a splinter group of the Hill Students Council, the Hill Peoples Council and the Hill Women's Federation oppose the Agreement on the grounds

that it does not give regional autonomy to the CHT and fails to meet the demands for (i) constitutional recognition of the CHT as an indigenous area, (ii) recognition of their traditional land rights and (iii) the withdrawal of the army from the CHT.

CHT Bills

Four bills to provide the enabling legislative framework for the Peace Agreement were introduced in Parliament on 12 April 1998: three bills to amend the District Councils and another to establish the Regional Council. On studying the draft bills, the JSS objected on the grounds that they contained "many inconsistencies and deviations" from the text of the Agreement, and meetings were held between the JSS and the Government to resolve differences (19-21 April).

The passage of the four CHT bills through Parliament was stormy with the Opposition tabling as many as 5000 amendments. The bills were passed in May 1998. However, some discrepancies remain, in particular the one amending the Rangamati District Council Act although the Government has promised to rectify the situation shortly.

Repatriation of Refugees

On 15 February 1994, a process of repatriation of the Jumma refugees began. The refugees returned in batches under the terms of an agreement concluded with the refugee leaders which includes a 20 point benefits component and the restitution of their lands. The last batch of refugees including the Chairman of the Jumma Refugees Welfare Association, Mr. Upendra Lal Chakma, returned to the CHT on 27 February 1998 bringing the total number of repatriated refugees to an estimated 64,520 (12,582 families). However, there are reports that the terms of the agreement have not been met and that the rehabilitation facilities provided to the refugees have not been adequate in terms of food and other essential supplies. In addition, the majority of the repatriated Jummas have not been able to regain their homes and farms which remain under the illegal occupation of the settler families. Effective measures have not been taken to remedy this situation.

Another dimension of this situation is the refusal of district authorities to recognize thousands of refugees who returned to Bandarban

in southern CHT from Mizoram in India. Thus these refugees have not been officially registered as repatriated refugees and cannot avail themselves of any repatriation or rehabilitation assistance. As a result, their situation is serious and there are alarming reports of a food crisis in the CHT. The refugees are facing acute food shortage. At the same time they are suffering from various diseases. If such a situation continues, many refugees will die. Six persons have been reported dead.

A three-member task force for the rehabilitation of the refugees and the internally displaced persons has been established with an indigenous MP as Chairperson (Mr. Dipankar Talukdar), and representatives of the JSS and the Jumma Refugee Welfare Association. It is to be hoped the Task Force will take the necessary measures to alleviate and resolve the situation of the refugees effectively and urgently.

Oil Exploration

On 16 February 1997, United Meridian International Corporation (UMIC) signed a contract with the Government of Bangladesh (Petrobangla) for the exploration and development of the oil and gas potential of the CHT under a Production Sharing Contract for CHT Acreage (Block No. 22). This covers the entire area of the CHT. In early 1998, a team of scientists spent six weeks in the CHT and based on their findings and preliminary geological surveys, there are grounds to believe there may be oil and gas reserves in the CHT. UMIC is currently conducting an in-depth seismic survey expected to be completed by June 1998 to identify specific drilling sites.

The impact of this discovery will have major repercussions on the lives of the indigenous peoples, and with the Peace Agreement indicating the modalities for the participation of the indigenous peoples in the development and management of the CHT and its resources, a new element has been added to the Petrobangla-UMIC contract.

Human Rights

Although the general situation in the CHT has improved considerably since the agreement was signed, there have been a number of inter-ethnic clashes between the settlers and the indigenous peoples with fatal casualties on both sides. The plains settlers feel threatened by the

Peace Agreement and the situation is aggravated by the anti-Peace Agreement activities of the 7-party opposition alliance who are calling for the cancellation of the Agreement.

Some members of the Hill Students Council opposing the Agreement have been arrested. Among them are Sanchoy Chakma and Dhrubojyoti Chakma (18 March 1998), and Tapash Dewan, Prodip Tripura, Ushakanta Chakma and Bakka Chakma a few days later. In addition, the whereabouts of Kalpana Chakma, Organizing Secretary of the Hill Women's Federation who was abducted on 11 June 1996, are as yet unknown although an inquiry commission to investigate the matter has completed its report. The report has not been made public.

Conclusion

The Peace Agreement is the result of intense negotiations carried out during five years, complemented by the experience gained during previous rounds of negotiations. It is an important negotiating tool and provides the framework for dialogue and discussion. After 22 years of violence and tension there exists an opportunity to stabilize the situation in the Hill Tracts and to advance the rights of the indigenous peoples through democratic institutions and with their participation in decision-making processes.

The Peace Agreement is a beginning and not an end. It paves the way for peace and prosperity to return to the Hill Tracts and as Prime Minister Sheikh Hasina envisaged in her speech at the arms deposit ceremony on 10 February in Khagrachari it is hoped that this will usher in a new era in the history of Bangladesh, particularly the Chittagong Hill Tracts. The challenge ahead is to ensure its different components are implemented in a comprehensive manner. As Mr. Jyotirindra Bodhipriya Larma, President of the PCJSS, stated: "It is easy to sign an agreement. It is difficult to implement it."

INDIA

Northeast India

Of the 5653 communities in India, 635 are tribals; and of these about 200 are considered to be found in Northeast India. India's Northeast, consisting of seven states, had a total population of 31, 547,314 in 1991. Of this population, a total number of 8,142,624 Scheduled Tribes and 2,161,161 Scheduled Caste are spread over all the seven states. In terms of geographical area, Arunachal Pradesh covers an area of 83,743 sq. km. followed be Assam 78,438, Meghalaya 22,429, Manipur 22,327, Mizoram 21,327, Nagaland 16,579 and Tripura 10,486 sq. km. Assam has the highest share in the total Scheduled Tribe population of the Northeast (35.30 per cent), followed by Meghalaya (18.64 per cent), Nagaland (13.03 per cent), Tripura (10.48 per cent), Mizoram (8.03 per cent), Manipur (7.76 per cent) and Arunachal Pradesh (6.76 per cent).

In **Arunachal Pradesh**, the indigenous groups are migrants of Tibeto-Burman stock who entered the region many centuries ago. Some of the important tribes are the *Adis (Abors), Akas, Apa Tanis, Daflas, Gallongs, Khamtis, Monpas, Noctes, Sherdukpens, Singphos, Tangsas, Wanchos* and many smaller tribes. After reorganisation of North East India in 1971, the indigenous tribals began to realise the seriousness of transferring several forests tracts which had traditionally belonged to the tribal communities. The transfer of the forests land was effected in 1919. The issue did not invite attention until Arunachal statehood and its interest in retaining this land to facilitate communication network, to encourage settled cultivation and to develop growth centres.

As elsewhere in the Northeast, Arunachal has lately been disturbed by agitation on immigrant issues. The genesis lies in the exodus of Tibetan refugees after the flight of Dalai Lama to India in 1959. Moreover construction of Kaptai dam in Chittagong in 1964 also led to the displacement of *Chakmas*. The Chakmas moved in large numbers to Mizoram, Tripura, and Assam. Then the Central Government decided to repatriate the Chakmas in Arunachal due to its low density of population. The Arunachalese have sought to repatriate these Chakmas from

time to time. The Chakmas now claim citizenship as a matter of right and pose competition for land and employment.

"Quit Arunachal" notices have been issued occasionally by All Arunachal Pradesh Student's Union (AAPSU) declaring Chakmas as unwanted guests. The agitations result in arson, violence, denial of ration card and school admission. Underground movements in Assam and Nagaland even sought to back AAPSU demands. This could change what is still largely a peaceful state. During the second week of December 1997, local underground personnel shot dead police on duty at the check gate near Lakla in Changlang district. The police are now keeping careful watch on underground movements. The number of Chakmas is not large, but in some areas, the Chakmas outnumber the local people who feel threatened. And in a state with a population of 864,558 where outsiders constitute almost a third the situation can become critical. This is exactly what is happening at present in Arunachal Pradesh.

In **Tripura**, *Tripuris* were the original inhabitants of the region. Tripura was ruled by tribal kingdoms for many centuries. A succession of 183 tribal Princes of Tripuris ruled Tripura before they were marginalised and overpowered by immigrants. Tripuris are the dominant indigenous group. Other indigenous peoples include the *Reangs, Jamatias, Naotias, Halam, Kukis, Garos, Mizos* and others. During the19th century, Bengalese were welcomed since Bengali culture and technique of production were considered superior. Moreover, after enactment of Tea Garden Legislation in 1917 and 1925, non-tribals were encouraged to enter Tripura. And after partition, the rate of influx from Bangladesh intensified, and the density of population rose from 49 in 1949 to 196 in 1981. The first opposition to Bengali influx was felt in 1947 and SENG KRAK was formed to safeguard tribal interests. This was soon followed by the formation of Tripura Upajati Juba Samiti (TUJS), All Tripura Tribal Force (ATTF), Tribal National Volunteers (TNV), National Liberation Front of Tripura (NLFT). All this led to tribal underground agitational activities.

After 1960 the displaced position of the indigenous peoples has been revealed in the form of alienation of tribal land when the refu-

gees were rehabilitated in the tribal areas. Tribal reserve constituting 42 per cent of the total territory formed in 1931 and 1941 has been dereserved. Indigenous communities became landless and have been fighting to regain what has been lost. During 1980 pre-poll violence at least 30 people were killed by TNV, and 102 persons in 1988. But after the 1988 elections, TNV men surrendered and turned the outfit into the political party, but soon to be followed by the formation of ATTF. The ATTF called for poll boycott of 1998 General elections. This has had consequences in the form of a series of attacks on Bengali inhabited areas during February, 1998 killing 19 persons. Many Bengalis have left their houses for safety. The situation remains very tense.

The three major indigenous groups of **Meghalaya** are the *Khasis, Jaintias* and the *Garos*. Garos are the Tibeto-Burman stock and have been settled in the Garo Hills for the last 400 years. The Khasis uniquely belong to the Mon-Khmer group, and Jaintia is a generic term for Syntengs or Pnars and other sub-groups belonging to the land of 12 Dolois (local governors).

The British consolidation brought with it Bengalis, Nepalis and Marwaris. Meghalaya was peaceful till 1978 when the Khasi Students Union (KSU) began to take an active role in detecting outsiders. They have stated that in Jaintia coal belts, Nepalese and Bangladeshis outnumber the local people. And in the Khasi hills, Khasis have been outnumbered in some localities by outsiders. The KSU estimates that a total of about 300,000 Nepalese and Bangladeshis are in Meghalaya. It calls for identifying the foreigner and deport them.

The growing discontent of Meghalaya is again a result of pressure on land and forests and the related problem of unemployment among educated youth. Throughout Meghalaya, land is owned by the community as a gift from God. The Dolois, Syiems and Nokmas are only agencies for allocating the plots of land for shifting cultivation. Land issue is pivotal in Meghalaya as it is everywhere else. The KSU, Federation of Khasi, Jaintia and Garo Peoples (FKJGP), Achik Liberation Matgrik Army (ALMA), Khasi Hynniewtrep Achik Liberation Council (HALC) are all trying to safeguard indigenous tribal interests. The

HALC organises itself as an insurgent underground movement, and is gradually becoming more and more effective in controlling the course of events in the state. The riot of 1987 caused a number of Nepalis to flee Meghalaya and to seek refuge in Darjeeling and Siliguri. Although stray incidents and bandh calls were common throughout 1997, local politics in recent years prevents them from developing into mass communal violence as it happened in other areas. However, the situation remains very fluid.

The earliest known inhabitants of **Assam** seem to be the *Bodos*. The Bodos or Boros were politically dominant until they were subjugated by the Ahoms in the 13th century. The Ahoms were in turn subjugated by the British and the present Assamese society emerged. The Bodos were marginalised both during the *Ahom* rule and the British rule. They were ultimately left out of the provision of the Fifth and Sixth Schedules of the Constitution of India. The British also placed the Ahoms in a marginal position and retaliated by forming All Assam Ahom Association in 1893. The Ahoms were semi-Buddhist Shan tribals who got themselves sanskritized after the 13th century. In 1909 they were regarded as low Hindus, but lost this status in 1935 when they were eliminated from the list of minority communities. Since 1967 they have been trying to improve their condition by forming All Assam Tai Sabha and later Ahom Tai Mongoliya Rajya Parashad. Recently the Ahoms of upper Assam are trying for Schedule Tribe/Caste identity which the central government has not yet conceded.

Due to influx of immigrants and refugees after Independence, Bodos witnessed land alienation leading to the formation of Bodo Sahitya Sabha in 1952 and Plains Tribals Council of Assam in 1967. All Bodo Students Union (ABSU) and Bodo Peoples Action Committee (BPAC) claimed that over 50,000 hectares of land had been alienated. All Tiwa Students Union also claimed that 3256 acres of their land had passed on to non-tribals and another 24,039 acres acquired as reserved forests, 1327 of this for industry and 19,971 for tea gardens. The Bodo felt a deep sense of discrimination and in March, 1987 both ABSU and BPAC initiated a movement for a separate Bodoland which will include Bodo-Kacharis living in Karbi Anglong. Violence and intimidation escalated with extortion, kidnapping and killings. The Assam Legislature passed the Bodo Autonomous Council (BAC) Act on February 20,1993 to provide maximum autonomy to the Bodos for social, economic, educational, ethnic and cultural advancement.

BAC will consist of a General Council comprising 40 members, 35 elected for five years. This Council will have powers to make by-laws, rules and orders for application within the BAC area on 38 subjects specified as part of the Accord. But the Bodo Accord was not accepted by the Bodo Security Force as it did not fulfil the demand. The BPAC and BVF were later dissolved and a Bodoland People's Party was formed. On December 10,1994 Government notification confirmed extension of Bodoland Autonomous Council over an area of 5186 sq. km. comprising 2750 villages with 29 Assembly constituencies. This excluded a ten kilometre belt along the Bhutan border and Manas reserved forests. The ABSU denounced the notification and demanded inclusion of the entire area up to the international boundary and an additional 515 Bodo villages. The subsequent addition of 112 villages in October, 1995 was again rejected and the impasse continued through 1996 and 1997. The army was called out to help civil administration. The Bodo Security Force changed its name into Bodo Army and has been in contact with ULFA, NSCN(M). Bandhs, killings and explosions continue, and a boycott call to the 1998 General elections. But elections were held on February 16,1998 with merely 45 per cent of votes cast.

Manipur is the oldest state in North East India dating back to 33 A.D. since when 74 Meitei kings ruled the land. *Meiteis* are members of the Tibeto-Burman family. But in the 18th century king Garib Nawaz made vaishnavism the state religion, and the tribal social form became sanskritized. Manipur became a part of India in September 21,1949. Many Meiteis were not satisfied with becoming a part of India and formed the United National Liberation Front (UNLF) to restore Meitei kingdom. And in the wake of the insurgent movement, the army was called in and the application of Armed Forces Special Powers Act resulted in military suppression.

In the tribal dominated hilly regions, the *Kukis*, having stayed for more than 200 years, claim part of the area to be their homeland and refuse to pay house tax to the Naga underground. They thus decided to defend their villages by posting Kuki Guards trained in Myanmar. The situation led to ethnic clashes since 1992. The Kukis now demand the creation of Kukiland and formed the Kuki National Force. *Nagas* also formed the so-called Naga Lim Guard and decided to cleanse the area dominated by them from the Kukis. As a result of ethnic violence, more than 600 have been killed, 6000 houses set ablaze and 30,000 persons rendered homeless. Ethnic clashes may take another turn with the demand of the Nagas to carve out their territory from Manipur state, which will be met with resistance from the Meitei underground UNLF, as well as the prevailing tension between the Kukis and the Paites in the Churachandpur district.

The *Mizos* in **Mizoram** formerly resided in the present Shan state of Myanmar. Economic hardship forced them to move westward to Khampat in Kabaw valley and to the present Mizoram. Weaker groups were driven in different directions. They are *Miris, Hmars, Pangs, Bawmzos, Tangkhuls, Thahdos, and Annals*. The first subjugation of Mizoram was affected under the Chin-Lushai Expedition 1889-90, and marked the final colonisation of Mizoram. But the British refrained from encroaching on the internal administration.

It was, thus, only after India's Independence that the first substantial sign of the process of marginalisation and ethnification was perceived and felt when Mizoram was hit hard by famine in 1959-60. The Assam government did not take serious steps to solve the famine situation, and they thus perceived themselves as being reduced to a marginalised force and being isolated geographically, politically, religiously, and racially. As a result, Mizo National Front (MNF) was formed as a political party in 1961 to revive the integrity and identity of the Mizos, demanding secession from India. The MNF later turned itself into an underground insurgent movement in 1966 which eventually led to the creation of Mizoram state in February 20, 1987. The MNF again turned overground and there was a peaceful situation in

Mizoram since then only to be shadowed by the Chakma problem recently.

The *Chakmas* are immigrants from Bangladesh. The influx of immigrants started even before India's Independence, but became a major problem after partition and displacement of many Chakmas by the construction of Kaptai dam in 1964. They now claim the land they have inhabited as a matter of right and they are now demanding a separate district or Union Territory status. Article 244(2) of the Constitution of India provides for a Sixth Schedule as three parts. Part 111 includes (1) the Chakma district (2) the Mara district and (3) the Lai district. All the three districts are in south Mizoram. Because of the Constitutional provision, the Chakmas are confident in their claim of territorial possession. On the other hand, the Mizos feel that the Chakmas are encroaching upon their legitimate territory. The problem can give rise to fresh insurgent movement in Mizoram.

There are a good number of *Reang* inhabitants in Mizoram. The Reang insurgent outfits have been intimidating the Reang inhabitants of Mizoram in order to take shelter in Tripura. The intention of insurgent movement was to ultimately carve out a Reang Territory in Tripura. This was done in the later part of 1997, resulting in a great influx of Reang refugees in Tripura. Repatriation of these refugees has become a major problem in both Tripura and Mizoram. The situation was fully explored by the Chakmas, including Chakma Students Association, to play their trump card against the Mizos. In the circumstances, many unreliable stories have been invented and published in national newspapers during 1997. The situation could shatter the peaceful atmosphere in Mizoram.

(On the Naga see paragraphs in chapter Southeast Asia)

Jharkand

Often, cynically, we are prone to observe that Jharkhand is not only rich in natural and mineral resources, but it is also 'rich' in problems and hence also becomes a 'gold mine' for activists and scholars, both those that are well intentioned and those not so well intentioned. Per-

haps, those with a different emphasis may look at or be blind to the problems, and try to find or look at the silver lining amongst the dark clouds. However, for many others or most people in Jharkhand the dark of night never seems to break into the brightness of the daytime.

If one shifts through the mass of problems reported in the newspapers , a certain intensity and pattern appears apparent. For brevity of space we will deal with only a few of them i.e. the issues of:

1. Growing militancy or extremism in Jharkhand;
2. The assault on the forest and environment;
3. The threat of continued industrial exploitation ;
4. The neglect of tribal and regional languages; and
5. The opposition to autonomy or the recognition of Adivasi self-rule.

1. Growing Militancy and Extremism in Jharkhand

Innocents Attacked

In early May 1997, posters appeared in the small north western town of Mandar, in Ranchi District. In the posters the Maoist Communist Centre (M.C.C.) has asked that students be sent voluntarily to the training camps. The posters had also warned that if the children are not sent voluntarily, then they will be forcibly kidnapped.

On May 12, 1997 about 12 kilometres from Koderma, in the northernmost part of Hazaribagh district near the Footlaiya bridge, the banned M.C.C. killed eleven persons. The militants numbering around 40 to 45 persons were armed and waiting. Around eight in the morning extremists intercepted two vehicles coming towards Koderma and killed the eleven persons.

Internecine Warfare

On June 3, 1997 in broad daylight, in the afternoon, about 200 members of Party Unity surrounded village Madhgari which falls under the jurisdiction of Bhandari police station and murdered 2 supporters of M.C.C. In this instance they also set fire to two houses.

On September 7, 1997 in Amkudar village in Chatra, in northern Jharkhand a Marxist Leninist meeting was turned into a battle ground

when M.C.C. extremists attacked them. Firing began from both sides and in total 40 persons were killed. Some other sources place the death toll as 60. The day before, an attack on the village was anticipated. Amkudar village is considered a stronghold of the M.C.C. Because of the possibility of an attack, the M.L. had taken some riflemen with them. There were about 250 persons in the meeting, including 100 women. Around 4.00 o'clock M.C.C. supporters surrounded the meeting place from all sides. They had ultra-modern weapons with them. Within minutes bullets began to be fired from both sides. M.L. supporters could not continue fighting for long. When the firing stopped 40 persons had been killed. M.C.C. then singled out Laxmi Dangi and chopped off his head and they also shot down Jhaman Singh Bhogta.

State Attacked

On June 16, 1997 at Edla village, under the jurisdiction of Churchu police station, Hazaribagh District, Northern Jharkhand, supporters of the banned organisation M.C.C. assaulted a five member team of the Government of India's Forest and Environment Department. The team members were assaulted with rifle butts and rods and wounded and warned that in the area their government governs and that Government of India authorities cannot enter without their permission and it is also criminal. They were let go after being warned that if they enter the area once again they will be killed.

On 10 July 1997, at the Bihar Military Police Batallion 2 in village Kari under Manjhioan police station jurisdiction, about five hundred armed members of the banned Party Unity attacked and killed four soldiers. Five other soldiers were also injured. Two civilians were also killed in the cross-fire and two others injured.

On August 17, 1997 armed members of the banned Party Unity killed Mr. Baijnath Mishra, executive engineer of the North Koel reservoir Project or the Kutku dam. Mr.Mishra was killed at night in the headquarters of the project itself. During the night about 250 extremists surrounded the residence of the executive engineer. They broke open the door and took Mr. Mishra along with his cook, guard, driver and valet about 200 kilometres away to the dam site and riddled him with

bullets. They released his staff. In the floods that had preceded the killing, 27 persons were killed and only seven bodies were recovered. The extremists left a note informing that the killing was an outcome of the loss to life and property in the Kutku floods.

The growing tendency of militants to ruthlessly settle scores or rivalries amongst themselves, attacking or killing government personnel and even members of the innocent public is a serious cause of concern. Though it cannot be denied that some of the issues they raise are serious and deserve proper attention.

2. Assault on Forests and Environment

State Becomes an Active Collaborator of Environmental Destruction

In East Singhbhum open illegal mining is being conducted in the forest falling under the jurisdiction of the Forest Department. The orders of the Supreme Court that there shall be no mining in forest lands does not seem to have any effect. Legal mining was stopped but illegal mining has cropped up in its place, and the government does not get any royalties at all also from this. The mining is taking place with the tacit co-operation of the mine Mafia, the Mines Department, Forest Department, police and the village head-man. Precious stones are being extracted with no consideration for the forest and animals. Animals are having to flee from the mining area and hence their natural abodes.

In various village areas of the Rania and Torpa blocks of the Khunti sub-division in Ranchi district, illegal timber trade is going on in a big way. It is already well known that in Tapkara village under Torpa police station illegal furniture building has been going on for a long time. Moreover, on every weekly market on Saturday illegal and expensive wood of trees such as Sakhua, Sagwan, Paesar etc. is sold on a large scale. At any time one can see workers of the Forest Department collecting their dues from the traders. Very often officers from the Forest and Police departments carry off illegal timber to various places in their vehicles.

Apart from the above two examples, the environmental folly and complicity of the State of Bihar was further exposed when the Chandil dam floods caused destruction to homes and property. It is important to remember that the Chandil was built in the teeth of opposition from the local village people and Adivasis. The State had to resort to firing and the killing of a few persons and then only was the dam completed some years ago. Proper resettlement and rehabilitation has not been done.

3. The Threat of Continued Industrial Exploitation

Adivasi life has for a very long time been connected with nature. At the turn of this century about the time of the Adivasi hero Birsa Munda's death, the terrain of Jharkhand was still very much forested. The Adivasis had cleared some lands for agriculture and their need for food, shelter and clothing were largely met by the bounty of the forests and the fruits of their labour on the soil. Outsiders or people from other communities had not as yet made a big influx into the area, hence pressure on land was negligible and the Adivasis had greater economic and political space.

After independence the first Prime Minister's grandiose schemes of so called Nehruvian Socialism began the rapacious assault on Jharkhand for industrial development at the cost of nature and the environment and also consequently the traditional agriculture of the Adivasis and their forest economy. Industrialisation also led to more and more people, mainly from the central and North Bihar caste societies, Bengal and other parts of India to come to Jharkhand. This resulted in the curtailment of political and economic space for the Adivasis, and gradually the outsiders began to have a commanding hold over the economics and politics of the region. Unfortunately, present pressures and trends indicate that this will continue :

On August 6, 1997 the Ranchi Express reported that in the Chotanagpur region of Jharkhand the Bihar Mines development Board will look for diamonds and gold.

On December 14, 1997, in Ranchi, the Vice President of the Jharkhand Area autonomous council (JAAC), Mr. Suraj Mandal in a press conference made an appeal to investors that since law and order

and the power supply have been enhanced, the investors and industrialists should come forth to invest in industry in the region. Earlier in the year Mr. Ratnesh Kumar Jain had said that in the fifty years of Indian independence, industrialisation has not kept pace with what was expected, while population has increased in the region. Ranchi population itself has increased thirty times.

Hence, with the new atmosphere of liberalisation and globalisation, industrialisation it seems will be further attempted. However, there is not much reflection on the part of industrialists and politicians about protecting and improving the traditional agriculture and forest based economy. To the industrial-capitalist class, this may just mean another great opportunity for plunder, while to the Adivasis, particularly from the rural areas, it may mean further displacement and shrinking of their economic and political spaces.

4. Neglect of Tribal and Regional Languages

In Jharkhand, quite a few Adivasi languages and a few regional languages are used by the people in their daily conversation and communications with each other. However, there exists an attitude of double standards in practise to their legitimate due and recognition, in spite of good laws to the contrary.

Maithili is a language spoken in a particular area in North Bihar. It has been associated with a people known as Maithili Brahmins. In August 1997, the Patna High Court passed a decision wherein it held that the decision of the Bihar Government to remove Maithili from the list of the Bihar Public Service Commission's optional list of subjects as unmotivated and arbitrary and ordered that it withdraw the notification issued for its removal and again list Maithili as a subject.

On September 21, 1997 the Ranchi University Syndicate took an important decision that in the degree examinations apart from English and Hindi, Urdu and Bangla can also be used.

On the other hand Adivasi languages are not being given their due even at the primary level. Since August 13, 1953, the Government of Bihar in its Education Department Resolutions No. 695 E. R. of Ranchi held that "...The medium of instruction in non language subjects shall be the mother-tongue ..." till class eight, and that the "...languages to

be accepted as mother-tongue for the purposes of this resolution will be Hindi, Bengali, Oriya, Urdu, Maithili, Santhali, Oraon, Ho, Mundari and for Anglo-Indian pupils, English". In 1956, education in mother-tongues and its promotion received Constitutional endorsement. However, till date not a single government school in Bihar conducts primary education in Adivasi mother-tongues. The Christian Missions or Church who run literally thousands of schools in the region and whose membership is largely Adivasi are also unbothered. This state of affairs also indicates the lack of concern or biases of the Church Au-

Munda youth, Bihar, Jharkhand (Photo: Inger Sjørslev)

thorities regarding Adivasi tongues in primary education, even though the foreign missionaries from Belgium, Ireland, England, Germany etc. have long since virtually left. A singular effort is being made on the part of Sr. Anita and her co-workers at the Holy Cross School, Ranchi, to impart some instructions in the Khurukh Adivasi language in the lower classes.

Further a writ filed in the Ranchi Bench of the Patna High Court, which had as its prayer that a government notification for recruitment of primary teachers be quashed and be appropriately amended because it did not include recognised Adivasi languages in the examination or recruitment criteria, was recently dismissed on the grounds that "[it] is well settled that the High Court cannot exercise its power under Article 226 and 227 of the Constitution on the basis of an advertisement in a daily news-paper. In our view the petitioner should have been more careful in moving this court in Public Interest Litigation." That matter was not considered on its merits or the law points averred to. Hence on Adivasi languages in Jharkhand it could be said that the situation is in a totally unjust and unsatisfactory position.

5. The Opposition to Autonomy or Adivasi Self-rule

By the Jharkhand Area Autonomous Council Act, 1994, the Legislature of the State of Bihar enacted for its 18 southern and contiguous districts an Autonomous Council for the "... all round accelerated development of the Jharkhand Area". The area covers the districts of Bokaro, Chatra, Deoghar, Dumka, Dhanbad, Garhawa, Giridih, Godda, Gumla, Hazaribagh, Kodarma, Lohardaga, Pakur, Palamau, Ranchi, Sahebganj, Singhbhum (East) and Singhbhum (West) or an area of around 87,000 square kilometres. Under it fall 14 Parliamentary constituencies and 81 State Legislative Assembly or Member of Legislative Assembly (MLA) constituencies. This is the normal two tier Constitutional pattern for all states in India. However, under the recent JAAC Act arrangement the 81 MLA constituencies will be split into two and hence there will be 162 "... directly elected..." Councillors, and that apart, not more than "...18 nominated members".

The initial Interim Executive Council, the members of which were all nominated, was initially formed in August 1995 for a maximum of six months till elections took place. However, till now there have been about half a dozen extensions and the elections don't seem to be taking place. Further, as a recognition of the fact that this has been traditionally and historically an Adivasi area, the Chairperson of the JAAC has to be a member of the Scheduled Tribes.

Further, on December 24, 1996, The Provisions of the Panchayats (Extension to the Scheduled Areas) Act, 1996, received the assent of the President of India. It is to be noted that the Scheduled Areas are what have been traditionally and historically indigenous peoples' or Scheduled Tribes' lands and territories and they have been earmarked as Scheduled Areas. The Act has to do with Panchayats or essentially village or rural governance. Under this new Act the State governments are instructed that any law made in furtherance of this Act or for the governance of the rural Scheduled Areas must take into account or "...shall be in consonance with the customary law, social and religious practices and traditional management practices of community resources", and that "a village shall ordinarily consist of a habitation or a group of habitations or a hamlet or a group of hamlets comprising a community and managing its affairs in accordance with traditions and customs". And "...every Gram Sabha [village council] shall be competent to safeguard and preserve the traditions and customs of the people, their cultural identity, community resources and the customary mode of dispute resolution".

Other provisions that are also couched in favour of Adivasis are the sections on election which, interpreted accordingly, stipulate that there shall be reservation of seats at each stage of the Panchayat electoral system for those "... for whom reservation is sought to be given under Part Ix of the Constitution or the Scheduled Castes and Scheduled Tribes. Further ... that all seats of Chairpersons of Panchayats at all levels shall be reserved for the Scheduled Tribes".

These provisions, especially the ones conferring 'positive discrimination' - or rather compensatory discrimination for historical misdeeds of the dominant communities - have become a cause for grievance for the non- Adivasis or dominant communities. Some of these communities have been living side by side with the Adivasis, and some of them are very similar or could be classified as Adivasis, but were left out of the official government nomenclature of 'Scheduled Tribes'. A generic term 'Sadans' is sought to be given or constructed for them, notwithstanding their many inner contradictions, and also the similarity or likeness of quite a few of them to the aboriginal communities. To the Adivasi, the danger about the 'Sadan' identity is that, not being

a cohesive identity/construct, many groups/persons who are not long-standing and traditional Jharkhandi communities or peoples are attempting to climb onto the "Sadan identity". An important point to note is that many of the 'Sadan' communities are comfortable with imposed Panchayat structures, perhaps having lost or forgotten their self-rule traditions .

The Adivasis on the other hand still claim and retain traditional self-rule and governance systems and their claim is that the government give them due recognition. The present position is that throughout the year, Adivasis have demonstrated for the implementation of the 1996 Act and also set up or revived their traditional systems in the rural areas, notwithstanding opposition from the 'Sadans'. On the other hand, the state governments that had a directive by the 1996 Central Act to implement the Provisions of the Panchayats (Extension to the Scheduled Areas) Act, 1996, have not done so. It is a further example of how the state controlled by the dominant society withholds recognition of Adivasi rights, even if upheld by their own laws. Although some fully oppose it and although many if not most Adivasis have reservations about the 1996 Central Act, most for practical reasons go along with it.

With respect to the five issues we have mentioned above, the role of the state can be summarized as follows:

- With the growing militancy or extremism, the life and property of rural people including Adivasis are under threat. But the State is indicating its incapability and buckling under assault.
- Continued industrial exploitation and the assault on forest go hand in hand. In these instances the State preys upon the Adivasis by attacking their lands - that is their forests, hills, valleys, waters and the total natural environment. Ownership and control of land and territories also are facets of economic and political power and by assaulting their lands, the State attacks the basis of their economy and power.
- With the neglect of tribal languages, the State aspires to culturally and socially emasculate Adivasi, to have them subdued by the dominant cultures.

- And by not genuinely recognizing the Adivasis ' traditional self-governing systems and by not being serious about devolving autonomy, the Indian State and Society indicates a racist and imperialist attitude.

Uttar Pradesh

Van Gujjar Case brought to the National Human Rights Commission

The Van Gujjar indigenous people is a semi-nomadic tribe living in the forests of the low lying Shiwalik range during the winter and in the high altitude Himalayan pasture lands during the summer. (See reports in *The Indigenous World* 1994-95, 1995-96, 1996-97.) They are increasingly showing positive signs of empowerment. Rather than becoming victims of faulty conservation policies the Van Gujjars have decided to stand their ground and take up cudgels against the forest authorities. Not only have they refused to leave their centuries old forest homes, which the forest authorities were forcing them to do in order to convert their homelands into a National Park; they have even drawn up an elaborate plan of Community Forest Management in which they would be the main actors in the protection and management of the forests they live in. Their plan encompasses other communities who are also partially dependent on the forests the Van Gujjars live in. The role of the government has been envisaged to be that of facilitators. They were helped in giving shape to the plan by the Rural Litigation and Entitlement Kendra (RLEK), an NGO working in the area. The book containing the plan was released on 16 August, 1997, by the then Minister of Environment and Forests, Government of India.

The plan is in keeping with the New Forest Policy, 1988, of the Government of India and also shows the way to the government to keep its commitments to the ILO and the Rio Conference. However, it has created quite a stir amongst the forest bureaucracy who feel that its acceptance would vastly curtail their own powers which they have been exercising with impunity ever since the erstwhile British regime created the forest department. This has apparently compelled them to use unduly harsh methods, including coercion and threats to relocate

the community outside of the forests so that they no longer remain forest dwellers.

Unlike in the past when the Van Gujjars could only plead and pray to the forest authorities for their rights, this time they have taken the matter up with the National Human Rights Commission (NHRC). The NHRC has taken cognisance of this and the case is presently under its active consideration. The Van Gujjars have boldly submitted affidavits to the Commission that speak out the injustices done to them by the forest authorities and how their human rights are being violated. They have countered the charges levied against them by the forest authorities and are intent on exposing the misinformation and untruths that are spread about them.

Asserting their rights: Van Gujjar in Uttar Pradesh, India (Photo: Christian Erni)

South India

The Palani Cardamom Hills, an extension of the Western Ghats into the heartland of **Tamilnadu**, is the homeland of *Pulayar* and *Paliyar*. The Pulayar, who were until 1976 classified as Scheduled Tribe, were reclassified as Scheduled Caste which they resent as they and the Paliyar consider Pulayar as Adivasis. In the Kodaikanal Taluk of Dindigul District there are about 10,000 people divided almost equally between them. With the British identifying Kodaikanal for its cool climate and with the introduction of coffee and cardamom on a large scale, waves of migration commenced. Kodaikanal today has become a major tourist spot of south India. The Adivasis, who were practising shifting cultivation, took to settled agriculture, got systematically pushed out to become small and marginal farmers taking up wage labour on the plantation and farms of the migrants. The declaration of large areas as forests while ignoring the resident Adivasis communities by the Revenue Department, just like everywhere in India, ensured that their rights were denied.

A large tract on the borders of the Reserved Forest, both inside and outside, of some 250 acres in K.C Patti Panchayat was traditionally cultivated by the Pulayars of Kallakinaru Village, the Paliyars of Koramkombu in Kodaikanal Taluk and the Pulayars of the adjacent Dindigul Taluk. Since the later part of the 1970s, the regular harassment of the forest department pushed out the people though they continued to cultivate the land despite continued harassment. Some even managed to get enjoyment rights, though not ownership rights, in the 1980s. In 1990 the Palani Malai Adivasi Viduthalai Iyakkam (Palani Hills Adivasi Liberation Movement) came into existence. Since 1991, the attempts to take over this land by the Forest Department intensified. The Revenue Department refused to accept the annual fee for continued enjoyment of the land. Three Paliya houses were set ablaze by the forest officials in Koramkombu and two people were arrested on false cases in Kallakinaru in 1996.

On July 29, 1996 the forest officials destroyed 60 acres of coffee, oranges, bananas, ginger and bean crops worth over 100,000 Rupees. Crops in another five acres of land in the nearby Nalloorkadu worth

Rs. 500,000 were destroyed the next day. The movement blockaded the Battalagundu - Panrimalai Road at Thadiankudisai. The Revenue Divisional Officer of Kodaikanal came to hold talks, agreed that the land would be resurveyed to determine whether the lands belong to the forest department or the revenue department on August 5, 1996. But the next day the forest officials prevented the survey. The matter remained unresolved.

Around this time, as part of the spreading struggle for self-rule launched by the National Front for Adivasi Self-Rule, the Tamilnadu Front for Adivasi Self-rule came into existence with the initiative of the Adivasi movement of Palani Hills. Enthused by this development, the people retook their lands at Kallakinar and adjacent Nallorkadu in October, 1997 and commenced clearing the land for cultivation and also put up houses. On September 22, 1997 an attempt to destroy two houses by the forest guard was thwarted by the people. At about 12 p.m. on September 26, 31 forest officials with about 20 hired labourers led by the Forest Ranger destroyed 32 houses including utensils worth Rs.79,000 and also beat up two Adivasis. By about 1 p.m. about 200 people from the nearby villages of Nallorkadu, Kadaiyamalai, Kandipuram, Paraipatti, Kavuchikombu, Pallathuvalavu, Manravayal, Moolayaru, Vellarikarai etc. rushed to the assistance of Kallakinaru. The forest officials, surrounded by the villagers, withdrew hastily. The people declared that they shall not tolerate the vandalism of the forest officials. The hired labourers pleaded innocence that they were hired under the guise of forest related work by the officials. A complaint against the forest officials was registered in Thandikudi police station.

Then came a period when the forest officials spread information of a massive crackdown against the people. The people were prepared to face them with chillie powder, branches of thorny bushes etc. Besides, Adivasis from other villages took turns to be present on the disputed land at night. The uneasy calm prevailed till November, 1997. On November 4 at 1 p.m. about 500 forest officials and about 50 hired men under the leadership of the District Forest Officer, the Revenue Divisional Officer, the Tahsildar and other officials descended on Kallakinar by mid-day, set fire to 32 houses and attacked the people with rifle butts abusing them and managed to arrest 17 men who were

taken to Thadiankudisai forest office. The women rushed there demanding the release of the men, but were brutally attacked and abused. A complaint against these officials and their men under various provisions including the powerful Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act, 1989 were registered by the sympathetic police official who was immediately transferred for having registered an offence under this provision. However, in total violation of the law itself, the police is yet to act on the complaint, resorting to delay tactics.

The arrested were released on bail. The expected outcome of scaring away the people from the land failed and the lands continue to be held by the people. One of the key reasons for this brave resistance was the role and leadership of Adivasi women who, despite brutalities and injuries, stood up firmly and courageously. The government too had not expected such stiff resistance and for the time they have backed out. This success has led to a spate of incidents where smaller pieces of lands that were alienated were forcibly retaken.

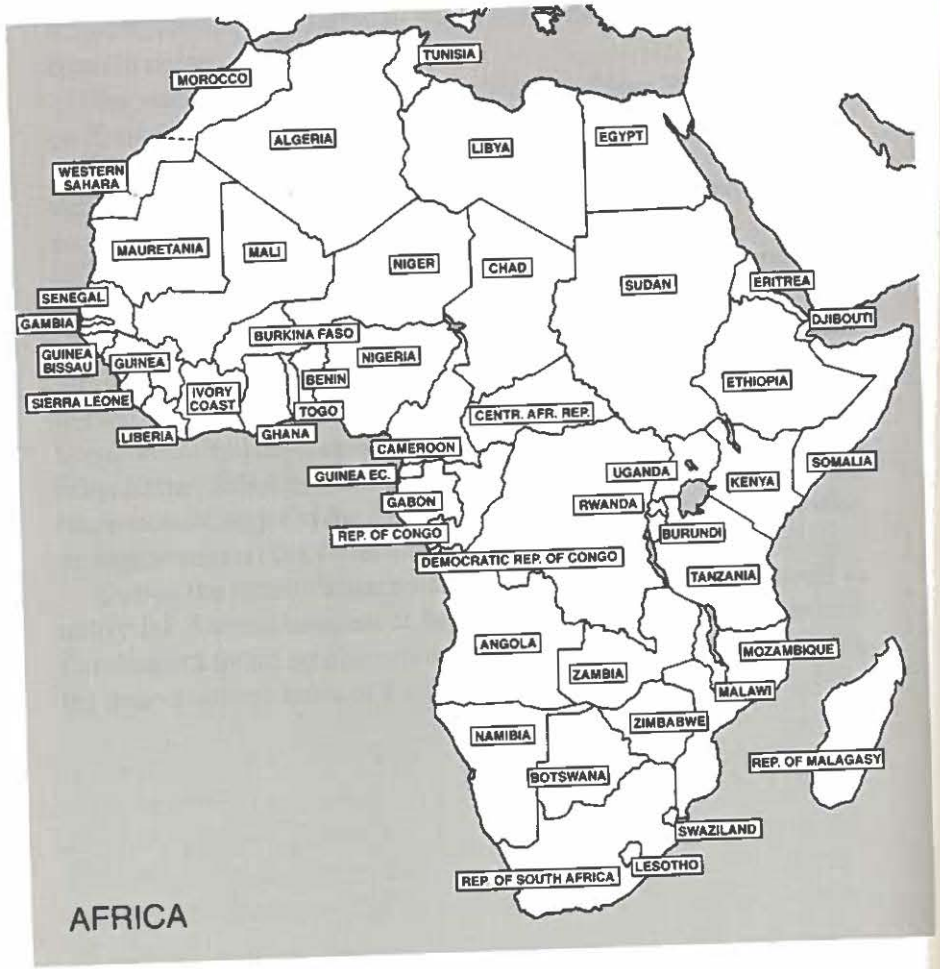
In the adjacent state of **Kerala**, the putting up of a board on August 15, 1997 (Independence Day) at Panavalli in Wayanad District (where the Adivasis successfully took over land three years ago after stiff battles with the forest officials under the leadership of an Adiya Adivasi woman C.K.Janu, see *Indigenous World* 1995-96), declaring the beginning of self-rule restricting entry of outsiders without the permission of the village leader, led to a hue and cry by the government and various political parties. This was followed by threats by the migrants and was seen as a prelude to similar actions spreading to other Adivasi villages. However, in order to defuse the tension, the forest department quietly took away the 'offending' board. However, the self-rule campaign has further spread demanding the notification of Adivasi villages under the Fifth Schedule.

On December 14, 1997 in yet another Adivasi belt of Attappadi in Palakkad District of Kerala, the Adivasis burnt title deeds to lands presented to some Adivasis by the Chief Minister two months earlier, resenting the fact that the title deed was given only to a very small portion of land they are actually enjoying. Organised by Girijan Sevak

Samithy, the development plan document of the government was also burnt in protest.

The amendment to the Kerala Scheduled Tribes Act (Restriction on Transfer of Lands and Restoration of Alienated Lands) of 1975, which was passed by the Kerala Assembly in September 23, 1996 and vehemently opposed by the Adivasi (see *Indigenous World 1996-97)* was finally returned by the President of India without his assent. In effect, the amendment has been rejected by the President as untenable and the original Act holds if the Kerala Assembly does not venture to pass yet another amendment. The High Court which had given time till December 23, 1997 to actually ensure that alienated lands are retrieved and returned to the Adivasis has further granted time to the Government and the case is to come up for hearing in May 1998. Naturally, further delay in restoring alienated lands will only intensify the bitterness and anger of the Adivasis further with the Government continuing to subvert the Constitution.

During the recent Parliamentary elections, despite the demands to notify the Adivasi hamlets or habitations under the Fifth Schedule, this demand found no place in the promises of the political parties in the three southern states of Kerala, Tamilnadu and Karnataka.



Countries/regions covered in this issue: Mali, Equatorial Africa, Kenya, Tanzania, Botswana, Namibia, South Africa

AFRICA

MALI

Refugees Returned Home

After a long period of resistance and hesitation to the repatriation, the majority of the *Tuareg* refugees returned to Mali during 1997. Following the outbreak of the Tuareg rebellion in June 1990 about 150,000 Tuareg and Moor fled their country. The four asylum countries were Algeria, Burkina Faso, Mauritania and Niger. The UNHCR (United Nations High Commissioner for Refugees) closed it's offices down in Mauritania in June 1997 and in Burkina Faso in January 1998. About 3000 refugees are still in Algeria and about 8000 in Niger but they will probably return during 1998. A small number of refugees have chosen to remain and settle down in the asylum countries. Even though the refugees were encouraged by state representatives visiting their sites in the asylum countries to return and participate in the elections, a large part of the refugees preferred to wait and follow the development from abroad. The elections didn't go smoothly but neither did the situation explode. Many refugees returned after the elections. A long discussed amnesty law was adopted by the parliament in 1997. It was an initiative that the refugees didn't appreciate very much. In their point of view, all who had caused deaths of civilians should be judged, a Tuareg rebel as well as a national soldier.

A Brief Outline of the Tuareg Rebellion

After six years of conflict, the Tuareg rebellion ended officially in March 1996 with the ceremony "Flamme de la Paix" in Timbuktu during which 3000 weapons were burnt. The causes of the conflict are many and complex. The North of Mali in general and the Tuareg nomad population in particular had suffered from negligence and exclusion on the part of the state authorities. In the beginning of the rebellion, the military actions of the Tuareg rebels were morally supported by the civilian population in the North. This was due to an overall

dissatisfaction with the military dictator General Moussa Traoré. In March 1991 he was overthrown by a coup d'Etat after months of public demonstrations in the southern region of the country and the Tuareg rebellion in the northern region. A unified front of the main Tuareg and Moor rebel movements signed a peace treaty, named "Pacte National" with the transition government in April 1992. The first democratically elected government in Mali's history with the president Alpha Konaré was installed the same year. The new authorities officially agreed with the peace treaty. But the conflict continued. The new democratic state faced many challenges and it had difficulties controlling the military who had been in power for 23 years (1968-1991).

In 1994 the conflict began to be fought on an ethnic basis between on the one side Tuareg- and Moor armed movements and on the other a Songhay armed movement established to defend the sedentary population. The latter movement was strongly influenced by the military and many of its members were from the national army. A reconciliation work began in 1995 initiated by the northern population itself as well as NGOs and the authorities. The different ethnic groups have co-existed for centuries benefitting from each other's differences in a variety of economic and cultural relations. Probably because of this common history the reconciliation has succeeded in the North of Mali.

The Tuareg in Exile

One way to measure that peace is becoming more consolidated is that the thousands of Tuareg and Moor refugees finally decided to return to their country of origin. During the exile they lived to a certain degree a different life than the one they knew in Mali. The majority of the refugees benefited from different kinds of goods (food and domestic items) and integration activities. Food has been distributed in periods at the refugee sites. School and health facilities have been available at some of the sites; a situation which was actually quite new for many of the refugees. Many Tuareg children went to school for the first time in the asylum countries. (This is particularly important as some Tuareg think that one reason for the rebellion was the lack of integration of Tuareg children in the school system). Associations

among the refugee women were established and different kinds of small enterprise projects were initiated for their benefit. But in general, they didn't change their nomadic way of life. In for example Burkina Faso a number of refugees had been able to bring their animals with them and they continued to some degree to live as nomads. They were not installed in closed camps as in other refugee situations.

The internal power relations of the Tuareg community have also been undergoing changes. Primarily because fractions had been split and because a certain level of education (the ability to speak, understand and write French) became a very important tool in the relations with local authorities in the asylum countries as well as with the organisations working with the refugees. It meant that persons who never had been leaders in Mali got a strong leader position in the asylum countries. The possible implications of this development are not immediately assessable.

The Reintegration in the North of Mali

UNHCR is present in the North of Mali and is in charge of facilitating the social and economic reintegration of the now returned Tuareg- and Moor refugees. UNHCR estimates that about 150,000 will return to Mali. The estimated total number of beneficiaries from the activities of the UNHCR in the North of Mali is 300,000. This is due to the fact that all the project activities not only are to the benefit of the returned population but of the communities as a whole. The construction and rehabilitation of wells, water pumps, schools, small enterprise projects are also to the advantage of the internally displaced people and the people who never fled.

Of interest is that many returnees chose new sites to begin their new life in the North of Mali. Sites where they had never lived and where actually nobody had ever lived. This choice is partly due to an overpopulation and a degradation of the natural resources at the sites where they used to live. Another particularity is that some groups of returnees have chosen a site close to the border with the asylum country. It could be described as a site of observation where they will stay until they feel more confident in the stability of the peace. This makes

the whole reintegration process a very big challenge to all the actors who are participating including the state. It will not be possible to construct wells, schools and health clinics at every site chosen due to lack of financial resources. The number of sites goes up to about 200.

Land tenure reforms represent another challenge to the state. A certain number of the refugees had conventions dating back from the colonial period which stated the right to exploit well defined grazing areas with herds of animals.

The Elections and the Peace Process in the North of Mali

Parliamentary elections were held in April but they were contested by everybody even by the party in power ADEMA. Subsequently, they were annulled by the constitutional court. The presidential election in May was carried out with only two candidates. Eight other candidates from the opposition refused to participate in protest over the way the parliamentary elections had been carried out. Alpha Konaré, president since 1992, was re-elected with a big majority and a level of participation of less than 30%. Many incidents happened and many demonstrations took place. This led to the arrest of five politicians from the opposition in June. They were accused among other things of disturbance of the public order. It was in this atmosphere that the parliamentary elections were held for the second time. ADEMA won an overwhelming victory with 130 out of 147 seats in total. The demonstrations continued and several confrontations between the demonstrators and police forces occurred. In August a policeman was killed during a demonstration. A group of ten politicians from the opposition were arrested afterwards. They were accused of being indirectly responsible for the murder. With their arrest, the opposition lost its capacity to mobilise. Despite the way the elections took place, they didn't have any direct influence on the peace process. In 1998, local elections will be held at the commune level.

In general there is peace in northern Mali but incidents of hold-ups and car thefts have been a reality in 1997 and this has influenced the peace- and reintegration process particularly in the regions of Gao and Kidal. In Kidal violent confrontations between two Tuareg factions

have occurred as well. The two factions were organised in two different armed movements during the rebellion and at one point they actually fought against each other. One reason for the recent confrontations should be that young people (ex-rebels) only have been demobilised and not yet been reintegrated into economic activities. It is in this region of the country as well that the state administration hasn't been fully extended yet. The number of demobilised soldiers has increased but the 12,000 previewed in the "Pacte National" haven't been reached yet. 8,500 demobilised soldiers have received their gratuity (an amount of money from 55,000 to 105,000 FCFA depending on their grade). But this demobilisation doesn't necessarily imply that the soldiers will be given the opportunity to engage in economic activities.

Two other worrying events are the presumable creation of a new armed movement ("Union pour l'Unité du Sahara Central") by two former leaders of the ex-movement and the very unstable situation in northern Niger. Fortunately it seems that it will not have the repercussions in northern Mali that it did in 1990.

The presence of the UNHCR in the North of Mali as well as its activities expire in the end of 1998. It is one of the few organisations present in this not easily accessible region. Hopefully, other organisations with a genuine development approach will enter and continue the necessary work to the benefit of the total population of the North of Mali.

EQUATORIAL AFRICA

The Twa of Rwanda

Concerning the present situation of the *Twa* in Rwanda, there has been no significant change to their marginalised status, poverty and lack of resources. The Central Government is apparently supporting local governments in attempts at fair and ethically neutral redistribution of land, which is apparently working reasonably well in some areas and is essentially a social rather than a legal process, although the final agreement between the landowner and government is legally ratified. However, the Twa are fearful of entering the process of land distribu-

tion by putting their names on a list, and are so not benefiting from this initiative.

The Twa organisations are concerned about the situation of Twa prisoners, who lack legal assistance. The Twa organisations have been successful in getting funds from donor agencies to distribute seeds, agricultural implements and materials for education (notebooks, school uniforms) to Twa in prefectures closest to Kigali.

Twa children watching a dance at Runda, Kigali (Fotos: Dorothy Jackson)

The co-ordinating body for Twa organisations, CAURWA (Communauté des Autochtones Rwandais) recently hosted a presentation of Twa potters at a National Commercial Exhibition in Kigali. Pottery is exclusively associated with Twa people in Rwanda, and was the main means of livelihood of Twa people outside the forest until the advent of cheaper, mass-produced plastic goods. The exhibition helped to raise the profile of Twa issues and needs, and it seems that the UN High Commission for Human Rights will help them set up a permanent

exhibition/market site in Kigali (their last site outside the Hotel Kivoyu was destroyed by the authorities). CAURWA has also established a small goat 'bank' for Twa families in the area around Kigali. Seven kids have been born so far, and the families are very positive about the project.

Although the situation of Twa people in Rwanda and Burundi is still a major cause for concern, most of the agencies working in Kigali are now aware of the existence of Twa and their particular vulnerability, and some are doing project work to assist Twa more-or-less directly.

A Twa person will shortly be taking up an internship at Secretariat of the International Alliance of Indigenous and Tribal Peoples of the Tropical Forests. The internship enables indigenous representatives to learn about international institutions, advocacy and campaigning, gaining valuable skills which will benefit the intern's organisation and region when he or she returns home.

An international group of donors and support agencies working with Twa people has been formed to improve information-sharing and better coordination of support to Twa people. The lead agency in the North is the Forest Peoples Programme, based in the UK. In Rwanda, the lead agency is CAURWA which acts as the coordinating body for Twa organisations and will liaise with donors and agencies in Rwanda to improve coordination locally.

Pygmies Near Kahuzi-Biega National Park Threatened

The Kahuzi-Biega forest is part of the Equatorial forest of Central Africa. It is located in South Kivu, in the east of the Democratic Republic of Congo, Kabare territory, some 25 km west of the town of Bukavu. The Pygmies were the first inhabitants of the Kahuzi-Biega forest, which was declared a National Park/patrimony in 1970. The Congolese government at that time forcibly expelled all the Pygmies living in the forest without any remuneration or territorial compensation. This is how these destitute pygmies came to settle in villages bordering the Park (Muyange, Cibuga, Combo, Kamakome, Mulangaala, Tshibati, Lushasha, Buhama and Muziku).

During the Rwanda conflict, Kivu province received thousands of refugees from Rwanda. Some of these refugees were able to return to their home during the liberation war. But refugees belonging to the Rwandese militia (INTERAHAMWE) and the ex-army forces of Rwanda (FAR) of President Habyarimana's regime remained and settled in the interior of the Kahuzi-Biega Park. Here they allied themselves with an opposition movement against the Tutsi called the MAI-MAI. This movement is against the present regime which has installed the so-called Banyamulenge Tutsi in public affairs and given them posts of responsibilities in the central government as well as at provincial level. Another mission of the MAI-MAI is to have the Rwandese militia and the FAR return to Rwanda. As the two movements do not have any external funding, they have become a group of bandits. Thus, in order to get food and other necessities, they have sacked and burned the small huts of the Pygmies living on the outskirts of the Park. This looting and aggression in turn provoked a massive migration of the pygmies away towards Bantu villages located at some distance from the Park. Here, more than 250 Pygmy families are now facing a very difficult situation as they are no longer in their own homes.

Certain authorities accuse the Pygmies of being members of the MAI-MAI because they live very close to the forest. Some 200 Pygmy families have benefited from assistance - food and other items - through the International Red Cross, but then the military authorities interfered, claiming that this action helps the MAI-MAI. Help is urgently needed. However, international humanitarian organisations such as UNHCR, CARITAS, ICR are not allowed to work in the province, as opposed to development organisations such as UNICEF, OXFAM, SAVE THE CHILDREN and local organisations.

Mobilisation of 'Pygmy' Groups in Cameroon

In Cameroon, CODEBABIK (Comité de Développement des Bakola/ Bagyeli des Arrondissements de Bipindi et Kribi) represents approximately 600 *Bakola* people (115 families in 25 camps). It aims to help Bakola people determine their own development and improvement in living conditions, to counter the marginalisation and prejudice experienced by the Bakola people, to protect their lands and to make their voice heard so that they are accepted as full citizens of Cameroon. CODEBABIK's work focuses on raising awareness at community level, facilitating the difficult (but seemingly inevitable) process of sedentarisation and tackling issues such as lack of education, malnutrition, alcoholism, domination by Bantus, promotion of Bakola culture and way of life, integration of women and children into economic and social networks and protecting their environment from logging companies. Jacques Ngoun, CODEBABIK's Secretary-General, attended the UN Working Group in Geneva in July 1997.

Workshops on Indigenous Peoples and Forests in Africa

The first of a series of three workshops on Indigenous Peoples and Forests in Africa was held in Accra, Ghana in October 1997. The workshop brought together community-based organisations, NGOs, government officials and forestry experts to discuss key issues affecting forest peoples in the West African region. The meeting highlighted the relationship between lack of democracy, social injustice and environmental degradation, and produced the Aburi Resolution. Two further workshops are planned for Central Africa and East Africa, with a continental conference scheduled later in the year.

KENYA

The national elections in December 1997 passed off with the expected associated violence. As was also expected, President Moi was re-elected and KANU formed another government. For indigenous peoples, very little, if anything, has changed. Despite the pledge made by President Moi for more sensitivity to the needs and aspirations of ordinary Kenyans, it is likely that the entrenched power of the political elite, continuing corruption, inefficiency of government institutions, and the use of violence as a means of suppression will continue operating against the interests of politically marginalised peoples.

Violence at the Coast

As a prelude to the election, violence erupted in Coastal province where perhaps as many as 1,000 people died. The bloodshed started in Likoni town where so called "up-country" people (*wabara*) were attacked by local gangs. The origin of the clashes is found in the dissatisfaction felt by coastal peoples (Digo, Giriama and Mijikenda) who have seen their traditional lands taken by outsiders for commercial development. However, the violence is also widely seen as politically motivated as the clashes were concentrated in those areas where opposition parties won key constituencies in the 1992 election. The government has been accused of inciting the violence so as to dislocate opposition voters and promoting *majimboism* (tribal based federalism) to create voter friendly enclaves.

Endorois Grievance Comes to Court

This case arose from the eviction in 1973 of more than 400 families of the *Endorois* people (sub-group of Tugen tribe and part of Kalenjin group) from Lake Bogoria Game Reserve and alienation of land within what was Mochongoi forest reserve - both regarded by the Endorois as their ancestral lands. At the time of eviction they were promised financial compensation or equivalent land elsewhere, and 25% of the total income generated by the Reserve. After petitioning the government in 1989, the Endorois were allowed limited resettlement in Mochongoi forest, but most of the good land was grabbed by others leaving them to occupy the remaining barren rocky terrain.

The loss of this land has adversely affected the whole Endorois community as their livestock have suffered because of the denial of access to their traditional pastures. Despite appeals to the President, who is also the local MP, and petitions to government for redress, only 30,000 Kenya Shillings (c. £30) compensation has been paid to them. This has prompted all 43,000 members of the Endorois community to bring a case against Baringo and Koibatek County Councils to the Nakuru High Court (No.214/1997) claiming true valuation and compensation for land they lost, and for back payment of 25% of the total income generated as gate fees of the Bogoria Game Reserve since

1973. It remains to be seen whether Moi will serve his constituents' interests and honour his public commitment to ordinary Kenyans by settling this case before it gets to court.

Iloodoariak Land Bill Founders

The *Maasai* residents of Iloodoariak are despairing that a legislative solution will be found to resolve the problem of fraudulent acquisition of their land by outsiders (see *The Indigenous World 1996-97*). Despite official assurances the proposed legislation (The Land Adjudication [Amendment] Bill) was not presented to parliament before the election and it is unknown whether the government will see fit to include it in the next programme of parliamentary business. The problem seems to be that those people with no interest to see the resolution of this problem, i.e. those connected to fraudulently acquired titles, also hold high office in government and are able to keep the bill out of the legislative programme. In these circumstances the Iloodoariak community is still actively campaigning to have the bill presented to parliament, and if all else fails they are considering bringing a case against the government to have the allocation of their land declared null and void and have it returned to them in trust so that the community itself may determine who occupies and uses it.

TANZANIA

In the last year there was little that was new or bad that affected indigenous peoples in Tanzania apart from the general effects of the worst drought in 40 years in some regions and the floods that followed.

The government's commitment to root out corruption was given impetus by a report of former Prime Minister and Attorney-General Warioba in which a former prime minister, a cabinet minister, six former cabinet ministers and other senior officials were named. This had an almost immediate positive effect when the Minister of Natural Resources and Tourism resigned after allegations were made public about his dealings with the Deputy Minister for Defence for the United Arab Emirates when issuing hunting licenses on Maasai lands in a scandal that has become known as 'Loliondogate'. In another revelation about

corruption in the courts it was admitted that "judgements were being written in the streets without even a hearing". This would give little comfort to those people who have brought claims for indigenous rights to the courts only to seem them founder.

Ngorongoro Residents' Rights at Risk

Conflict between mainly indigenous *Maasai* residents and the Authority entrusted with managing the Ngorongoro Conservation Area (NCA) continues over differing perspectives on the way the NCA is managed (see Charles Lane: Uncertain Future for Maasai of Ngorongoro, Indigenous Affairs 3/4-97). Residents still feel that their interests are treated as secondary to those of wildlife and tourism, and their rights to property - including the right to cultivate - are being infringed. Despite local protest, the General Management Plan has finally been approved and this has not improved relations. Of particular concern is the plan to re-impose the ban on cultivation that has resulted in food insecurity and under-nutrition, particularly amongst children.

Tensions were exacerbated recently by news that the Authority was planning to acquire title to the land of NCA that the Maasai fear could give the Authority a basis on which to force the Maasai out. It was also learned that it planned to move the administrative headquarters out of NCA to Karatu town that would distance administrators even further from residents. Government is also considering dividing Arusha region into two; assigning NCA to a new Rift Valley region that would be dominated by non-Maasai peoples that the Maasai fear could give rise to further displacement from their lands. In the face of these developments, Maasai residents are lobbying against changes in the legal status of their customary lands and plans to absorb Ngorongoro district into a new region. At the same time they are seeking legal advice about reform of the law under which NCA is administered with a view to ensuring that their rights are respected and they will have a greater role in its future management.

"Zoo in the Bush" at Mkomazi

Mkomazi Game Reserve is the focus of a struggle between government wildlife authorities supported by private conservation organisations, and the mainly Maasai and Ilparakuyu peoples who were evicted from the Reserve in 1988. The eviction of between 5,000-10,000 residents with 80,000 cattle was strongly enforced and no provision was made for their relocation. This caused severe disruption to the local economy as cattle died and many families were forced to leave the area. Those that remain have had to eke out a living from inadequate pastures in a narrow strip of land between the Reserve and nearby mountains. Some of the 60,000 people who live around the Reserve today feel they are entitled to access the land they regard as their own, even if that means having their livestock impounded and paying huge fines for 'trespassing' into the Reserve.

When appeals made to government failed a local community-based organisation, Ilaramatak Lorkonerei, took the matter to the courts (*Faru Kamunyu and 16 Others v. The Minister for Tourism, Natural Resources and Environment and 3 Others*, Civil Case No. 33 of 1994 and *Kopera Keuya Kamunyu and 44 Others v. The Minister for Tourism, Natural Resources and Environment and 3 Others*, Civil Case No. 33 of 1995 - now combined). In the case now being heard the Plaintiffs contend that the evictions failed to follow due process of law and are unconstitutional as they are in breach of customary rights to land. Despite international protest, attempts to bring a court injunction and the fact that legal rights to the Reserve are pending judgement in the courts, the George Adamson Wildlife Preservation Trust (UK) and the Tony Fitzjohn/George Adamson African Wildlife Preservation Trust (USA) have continued supporting the construction of a 17.5km^2 electric wire fenced rhinoceros sanctuary in the Reserve, referred to by one local Maasai leader as a "zoo in the bush", and imported into the Reserve five Black rhinoceros from South Africa. This constitutes a slap in the face to local people and works against a negotiated settlement of people's claim to the Reserve. It also lifts the stakes of the conflict and makes a judgement in favour of local people all the more difficult to implement.

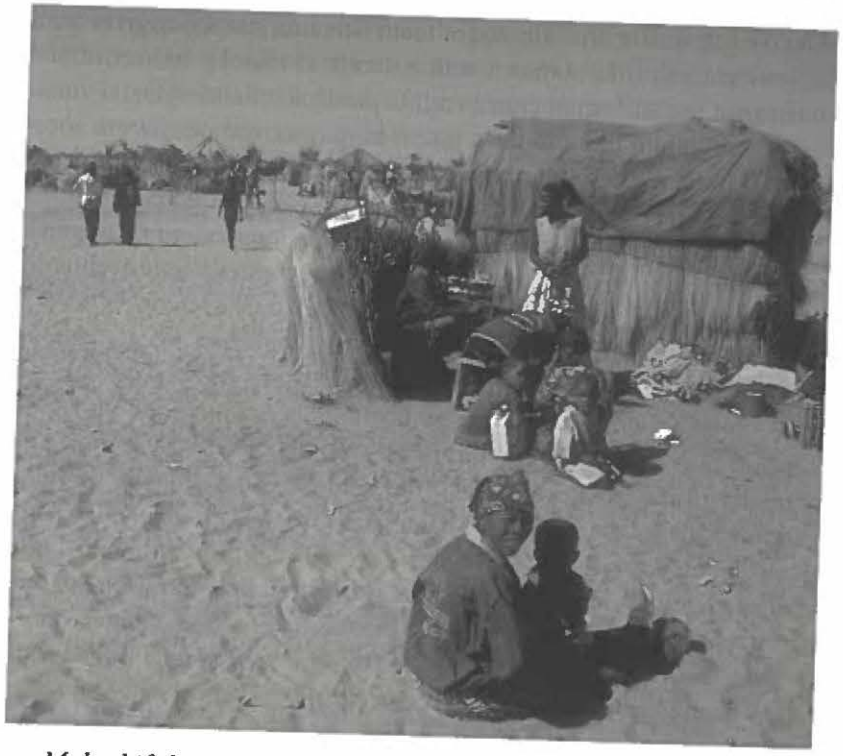
BOTSWANA

The Central Kalahari Game Reserve (CKGR)

The movement of a large proportion of the inhabitants out of the Central Kalahari Game Reserve illustrate the uneasy relationship between the government of Botswana and its indigenous minority. The government claims that the 52,000 square kilometre Game Reserve (set up in 1961 as a reserve for people and wildlife) can not carry both an indigenous population and the wildlife, and moreover, that the state can not afford to provide basic services to a population living in such remote parts. The proposals for resettlement met with fierce protests form the people inside CKGR and also attracted international attention as the organisation First People of the Kalahari brought the matter to Geneva.

However, amidst solemn declarations that no one would have to move against their will, some 600 people from Xade, the largest settlement, were transported out in May 1997, and later people have moved out from some of the other smaller settlements (see *Indigenous Affairs* 3/4 1997).

In a literal sense, the removal has not been by force. Botswana takes pride in its reputation as a liberal democracy with a good record on human rights issues, and the government is adamant that all movements are voluntary. Reports show that no violence has been used to make people move. However, reports also confirm severe cases of coercion: people have been approached on an individual basis, they have been promised services and compensation in cash and kind if they would move, and at the same time they have been made to understand that there would be no security and no part in development for those who chose to remain. A desperately poor population has been given a choice between two equally unattractive alternatives, and has left their ancient land with great sorrow. Predictably, the individual compensation paid out in cash has disappeared quickly in consumer items and liquor, and the public amenities in the new place of settlement (New Xade) have been very slow in coming.



Makeshift huts in New Xade resettlement site, August 1997. (Photo: Christian Erni)

The Need for Dialogue

The Central Kalahari Game Reserve controversy proves the need for organisations that can adequately represent the interests and views of indigenous people, and the importance of governments to recognise such organisations. So far the government has done little to facilitate a dialogue.

In June 1997 the First People of the Kalahari (FPK) met with representatives from the communities inside the reserve, and a Negotiating Team was formed consisting of two representatives from each settlement, representatives of the three Bushmen organisations in Botswana, and some non-voting representatives of local supporting NGOs.

A letter was sent to the Minister of local Government, Land and Housing, respectfully asking for a meeting with the Ministry to discuss how a dialogue could be established on the question of land rights. Assuming that such a dialogue would take a long time, the ministry was requested in the meantime to agree on the following:

1. There shall be a moratorium on all removals form the CKGR until the land claim has been resolved;
2. Existing services to villages shall be maintained until a settlement is reached, or the matter is otherwise resolved;
3. Villagers resident in the CKGR shall have access to development opportunities complementary to the purposes for which the reserve was established but otherwise equivalent to those San communities living outside the reserve, pending a resolution of the land claim;
4. The Negotiating Team, and in particular the CKGR Committee shall be considered by the government to be the authentic representative of the San residents of CKGR;
5. The Government shall not communicate directly with individual residents of the CKGR, but shall channel all communication through FPK, and the advisors to the team;
6. The Government shall disclose all information (and supply copies of documentation where such exists) relevant to its policy of removals, and to those residents who have been removed since December 1996;
7. There shall be an agreed timetable by which the parties shall endeavour to resolve the land claim (Letter from the FPK and CKGR Committee, July 8th, 1997).

These requests were the outcome of a proper process of debate and dialogue among the people concerned, and offer a reasonable basis for discussion, and subsequent negotiations with the government. Procedures along the lines indicated are by now familiar in most democratic countries in the dealing with indigenous minorities. Observers in Botswana have noted with great respect that the people concerned had been able to organise themselves in a Negotiating Team ready to talk with its government. All the more remarkable that the Ministry in question simply ignored the letter, and continued its policy of coercion. Moreover, as noted by many observers, moving all local people out of the Game Reserve contradicts the government's tourism policy, which emphasises ecotourism and the involvement of the local population in wildlife management.

The situation for the people in Central Kalahari has brought a sense of urgency to the matters taken up by the First People of the Kalahari, and made it necessary to concentrate its modest staff and resources on the resettlement issue, at the expense of other objectives that the FPK was set up for. Inevitably, it has caused a delay in the mobilisation on the ground directed towards the establishment of a national representative council

In February 1998 a new workshop was held to bring together members of the Negotiating Team and FPK to reassess the situation for the CKGR land claim. The workshop discussed new strategies for reaching a dialogue with the Botswana government and considered possible legal actions and direct action. After having issued a press statement voicing their concerns, and through the mediation of Botswana Centre for Human Rights, a contact was established and the Negotiating Team headed by Mathambo Ngakayeaja and Roy Sesana met the outgoing President on March 24. The most tangible outcome was that the Ministry of Local Government apologised for having ignored previous communication, and a proper meeting with the Ministry was promised.

A Step Backwards

While the problems in CKGR were being debated, the newspapers reported that "The British promise to offer a solution to Basarwa's problem". The background was an offer from the British High Commissioner to call a conference on poverty, assuming this to be the biggest problem for the Basarwa. The proposal was seen by the San organisations as a step backwards compared to the Regional San Conference which was hosted by the government in Gaborone in 1993, and which brought promises for consultations with San representatives which are still waiting to be honoured. The British proposal sub-

scribes to the official Remote Area Development policy, which is to address people in the marginal areas only in their capacity of being poor and in need of welfare, disregarding the considerable cultural differences and entrenched social stratification between the San people and the Bantu-speaking majority groups. The First People of the Kalahari and the Kuru Development Trust both expressed considerable resentment about another top-down conference being planned without addressing the problems as the San people themselves perceive them, and at the moment it is not entirely clear whether the plan for a RAD workshop will go ahead.

WIMSA/Botswana and Kuru Development Trust

The Botswana branch of the Working Group for Indigenous Minorities in Southern Africa (WIMSA), a regional umbrella organisation with its head-office in Windhoek, is collaborating with Kuru Development Trust in the further development of a *Community-Owned Rural Development Support Programme*. The programme has included independent local community organisations throughout Ghanzi District, and is now being extended to the North-West part of Botswana, with a new contact point in Shakawe.

NAMIBIA

The Ju/'hoansi of Nyae Nyae (San, Bushmen, !Kung)

The Ju/'hoansi, about 3,000 residing in the Nyae Nyae area, are a population of Khoisan-speaking former hunter-gathers. They pursue a mixed economy, combining foraging and subsistence hunting with livestock production, small-scale dryland agriculture, craft manufacture, and a small amount of wage labor. People in the Nyae Nyae area still exploit a wide variety of resources, including over 120 species of edible plants and dozens of large and small mammal species. Hunting is done with traditional weapons (bows and poisoned arrows, spears, and clubs) and gathering of wild plants is done by hand or with the aid of a digging stick.

Traditionally, the Ju/'hoansi were organized as bands of individuals centered on and supported by the resources of a n!ore, the Ju/'hoansi

word meaning "the place to which you belong". Today, there are some 32 decentralized communities in Nyae Nyae, each with a water source, usually a bore hole with a windmill, kraals for protecting their limited number of cattle, and small agricultural fields and/or gardens. The communities range in size from about a dozen people to as many as 150.

The resources in a n!ore, including water, small game, and wild foods, are shared by an extended family group that is headed by a n!ore kxao, or "resource steward." The n!ore kxao is picked by the group members from amongst its elders and can be either a man or a woman. Some resources are viewed as 'common' and two or more n!oresi may have a stake in the same resources. In this case, decision-making is undertaken jointly by the concerned n!ore kxaosi. All game is considered to be common property, as are natural water points, and some wild foods, including mangetti nuts, marula nuts, and morama beans.

The Nyae Nyae Farmers' Co-operative (NNFC), the community based organisation representing the Ju/'hoansi of Nyae Nyae (former Eastern Bushmanland), overall goal is to secure land rights and to improve the quality of life for the Ju/'hoansi through various means including the sustainable management and utilisation of natural resources, increasing food production and income.

Over the past 12 years, in partnership with the Nyae Nyae Development Foundation of Namibia (NNDFN), an NGO which was set up to support, advise and facilitate training, the NNFC have implemented an integrated rural development programme (IRDP). The main aim of the IRDP is for Nyae Nyae to become economically independent from donor funding. This means that staff need training and skills development in the various aspects of their jobs to implement sustainable projects. Over the past year all the projects have been looking at being self sufficient which means changing from the idea of a donor funded project into a small viable business that can cover costs to run the projects and ensuring that people have the skills to run these businesses.

Currently, the NNFC are managing five main projects with all of them having a strong training component with the main aim focusing on self-reliance and sustainability, namely:

1. Income Generation – The overall aim is to generate income for and within the community of Nyae Nyae to increase self-reliance. The project is divided into 2 parts:

a. craft/shop activities: purchasing crafts in the villages which is run in conjunction with a mobile shop stocking basic foodstuffs;

b. tourism – the tourism project is investigating the tourism potential, viability and various options that the Ju/'hoansi communities could involve themselves in.

2. Village Schools Project – The overall objective is for the children of Nyae Nyae to have access to education for the first three years in their mother tongue (Ju/'hoansi). 5 Village Schools have been established in Nyae Nyae. The main focus has been on training Ju/'hoansi speaking student teachers, and developing curriculum material in Ju/'hoansi and English. The schools have been registered as one semi private school with the idea that the schools will fall under the auspices and responsibility of the Ministry of Basic Education and Culture in the near future.

3. Technical Workshop – The main aim of the workshop is to be able to maintain the existing technical systems in Nyae Nyae, and to become a viable business by offering technical services to other people and organisations. Training has included the following: basic vehicle maintenance and repairs, borehole maintenance including solar powered pumps, metal and wood fabrication, various aspects pertaining to running a small business.

4. Institutional Development – The main aim has been to strengthen the institutional capacity of the NNFC. The NNFC Management, Board of Management and staff have received training in skills to run an effective organisation including staff management, communication, and programme/business management.

5. Community Based Natural Resource Management – It monitors and manages the natural resources, subsistence level agriculture, and training of community rangers. The overall goal is to increase food production and income, which will result in an improved quality of life for the community through sustainable management and use of the natural resources.

Nyae Nyae is one of the remaining communal areas in Namibia with abundant wildlife and potential tourism sites. Historically, the communities living in the communal areas were not allowed to benefit from the wildlife, which destroyed some of their crops, and shared the meager resources with livestock. On 4 June 1996, the Namibian Parliament enacted a Conservancy Legislation Bill allowing for the formation of conservancies in communal areas. This will grant communities living in communal areas the right to utilise wildlife through the formation of the conservancies and wildlife councils which will facilitate the return of economic and societal benefits derived from the sustainable natural resource management to the community.

The community of Nyae Nyae decided and applied for one conservancy for the whole area, which was granted in February 1998. The Nyae Nyae conservancy was the first registered conservancy in Namibia.

Over 620 adults, with the potential of over 100 additional individuals, have been registered in the Nyae Nyae Conservancy. The area of the Nyae Nyae Conservancy is only 14 percent of what the Ju/'hoan ancestral territory had been pre-1950.

This loss of territory has had a serious impact on the ability of the Ju/'hoansi to subsist solely by hunting and gathering. The available area and resources can not sustainably support the current population. Furthermore, the integration of the Ju/'hoansi into the broader economy has created a need for cash. As a result, any plan to improve the well-being of the local people while using the resources sustainably is based on a diversified production system - one combining wildlife, tourism, livestock, crops, and income generation (i.e.: crafts production).

The Nyae Nyae Conservancy is over 9,000 km^2 in size and falls within the semi-arid ecological zone, receiving between 300-500 mm

of rainfall/year. Vegetation is highly variable throughout the Nyae Nyae Conservancy, reflecting the different soil patterns. It ranges from grasslands to shrub savannas to occasionally tree savannas. The Conservancy is characterized by a system of seasonal pans and depressions, especially in the south, that is unique in the Kalahari area. In years of good rainfall, the pans and the large areas of calcrete are inundated, attracting a large number of water and wading birds, including flamingos and pelicans, in the winter months. Endangered Wattled Cranes, snipe, the rare Slaty Egret and many migrants from Europe are also found when the pans are full.

The area is home to a number of animal species that are rare or endangered in Namibia or across the African continent. Elephant, wild dog, leopard, and roan are among the key species. There are also lion, cheetah, giraffe, blue wildebeest, red hartebeest, steenbok, gemsbok, kudu, and ostrich. There is a remnant herd of 30 buffalo which was cut off from its migration route to the Okavango Delta in neighboring Botswana when the border fence was erected. The game resources are depleted and unbalanced in quantity and species; while only small numbers of buffalo, giraffe, roan, and lion remain, the elephant, hyena and leopard populations are high.

The overall aims of the Nyae Nyae Conservancy are:

- to restore and sustainably manage and utilize the area's wildlife for the benefit of present and future generations and for maintaining Namibia's biodiversity; and
- to promote the economic and social well-being of the members of the conservancy by equitably distributing the benefits generated through consumptive and non-consumptive exploitation of the wildlife.

The NNFC will be facing a challenging task over the next few years with the management of the five projects and developing these into viable businesses (with the exception of the Education project) and in developing the Nyae Nyae Conservancy so that the Ju/'hoansi community benefits from all of these projects and initiatives to an extent whereby the NNFC will no longer rely on donor funds and will be a self-sufficient, self-reliant and an economically viable organisation.

The Himba People's Opposition to the Epupa Dam

The *Himba* people are continuing their struggle against a construction of a hydroelectric dam on the Cunene River. The Himba feel ignored by their governments and are becoming increasingly marginalised by current political developments. The construction of the planned hydroelectric dam would flood much of the land where the Himba people live, with fatal consequences for the Himba people's cultural, economic and social life.

The Himba number between 5000 and 7000 people and live on both sides of the Cunene River in northwestern Namibia and neighbouring Angola. They are a nomadic pastoral people who for centuries have adapted to the region's harsh conditions, the arid and mountainous landscape where rainfall is highly unpredictable. The ecological equilibrium is extremely delicate, and the ecosystem can not tolerate great pressure. The Himba people are economically independent, but their lifestyle requires to be able to move about large areas in order to find sufficient grazing land and water for the cattle. About 75% of Himba households engage in some agricultural activity during the course of the year to produce supplementary food, with the alluvial soils along the Cunene being prime garden spots. The Cunene, 1,050 km long, is the only river in the region which has water throughout the year.

The Himba have preserved their rich traditions and cultural heritage and are only marginally involved in the market economy. But the Himba people, similar to other peoples in the region, are politically marginalised. They have been excluded from the political process concerning regional development plans. The local population have no access to education, the majority therefore is illiterate, and only very few speak English, the national language.

Like many other indigenous peoples, they are at present affected by the nation state's development schemes. Namibia's demand for electricity is increasing both for household consumption and the mining industry. And Namibia wants in this respect to become independent from the former colonial power South-Africa. The idea to build a hydropower on the Cunene river has existed since Namibia got its

independence in 1990. Since 1995 a team of consultants has conducted a feasibility study on the possibility of constructing a dam at the Epupa waterfall. The study should analyse the technical, economic, ecological and social aspects of a construction of a hydroelectric dam and assess alternative sources of energy. It is being conducted by a consortium consisting of the Namibian government, Burmeister & Partners, Angola, Norconsult, Norway, and Swedpower, Sweden. The project has been financed by the Swedish International Development Authority (SIDA) and the Norwegian Agency for Development Co-operation (NORAD). Two alternatives are being investigated: the Baynes alternative, located four miles downriver from the Epupa waterfall and with a reservoir area of 50 sq km; and the alternative preferred by the government, with a 380 sq km reservoir area. It is estimated that both alternatives will produce 300 MW electricity, covering the present national consumption of 280 MW.

The feasibility study has however already been severely criticised. The criticism holds, among other things, that:

- the Namibian government has already decided to build a dam, and therefore the development aid money should have been used for something else than a feasibility study;
- the study has not seriously investigated sources of alternative energy;
- large-scale hydroelectric dams are not sustainable sources of energy;
- adequate studies have not been carried out on the Angolan side;
- there has not been adequate communication nor consultation between the government, consultants and the local people. They feel ignored by the government with respect to development programs in the region;
- by financing the feasibility study the controversial pre-feasibility study is legitimised;
- SIDA and NORAD legitimise construction of a dam by financing the feasibility study;
- it's questionable whether donor money should be used for a project which will marginalise already neglected people.

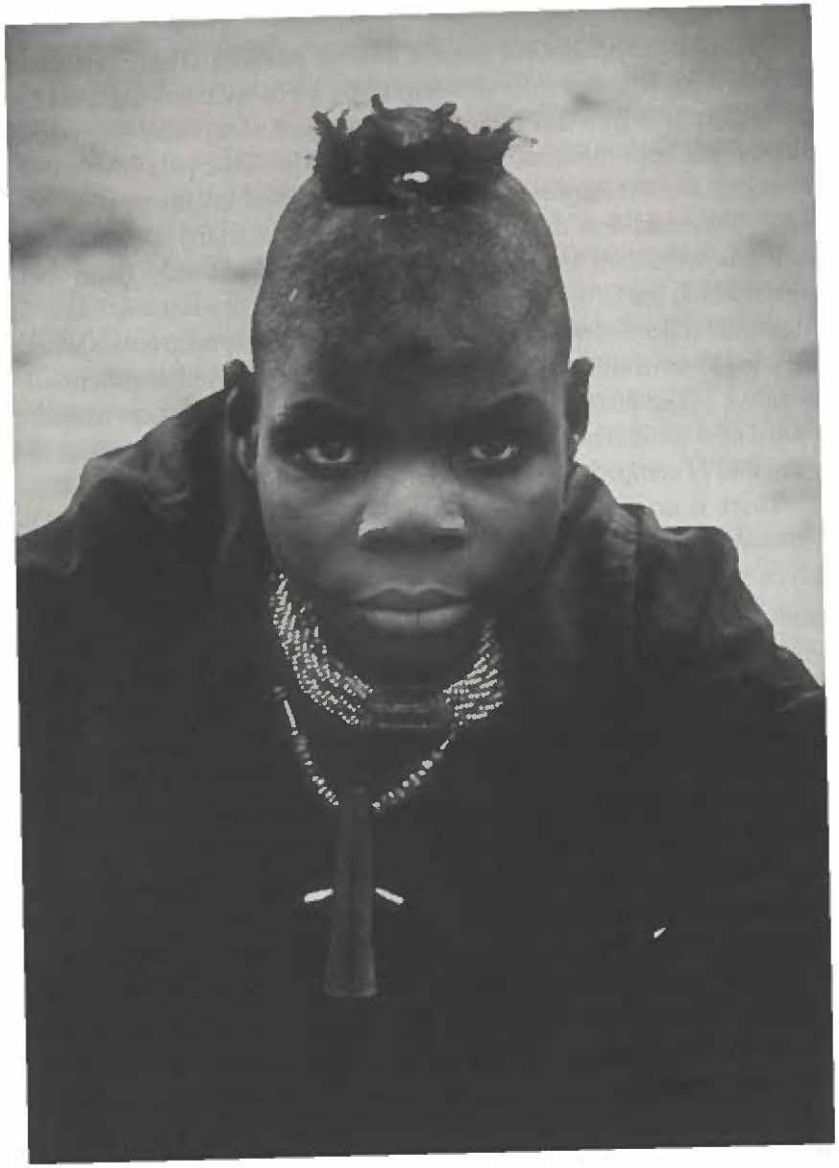
The Consequences for the Himba People

The Himba people do not have a unified position. There are some among them who consider the dam to be a positive development for the region. It is first and foremost the younger generation who points out the job opportunities, and merchants who anticipate increase in business. But the majority of Himba are opposed to construction of a dam. They feel that they have no need for electricity and prefer to continue with their traditional life. A dam will not only flood their fields which are of great importance during the dry season, but also important places of worship including ancestral burial grounds where they go to consult with ancestors. A dam has also other potentially negative consequences such as the presence of construction workers, roads, new settlements, and a commercialisation which today does not exist and is completely foreign to the region.

There is no indication on how exactly the Himba would be compensated should this occur and where alternative land would be found given the dire shortage of productive land in the region. But international experience has shown in other parts of the world where such projects have been implemented that the relocation of people has always led to their impoverishment. Forced relocation also does not take into account the enormous spiritual and emotional loss people suffer when being forced to leave their ancestral land.

Resistance

The feeling of powerlessness among those Himba people opposed to the dam reached its culmination when the vice-minister of energy and mines in Namibia, Jesaya Nyamin, made a public declaration in March of 1997 stating that it had already been decided to build a dam, and that the feasibility study will only serve to help decide which alternative to choose. And President Sam Nujoma indicated in August 1997 that Namibia will build the dam no matter what the study recommends, arguing that: "The Government will not be deterred by the misguided activities of those who want to impede economic development and upliftment of the standards of living of our people."



A future with the dam? Young Himba in Namibia (Photo: Mark Hakansson)

The opposition called for a meeting and formed a commission, the Epupa/Kaoko Committee (EKC). The EKC named a delegation which turned to Europe to seek support to stop the construction of the dam. Europe was chosen because the Namibian government stated that it was from there that financing for the construction of the dam would come.

The delegation was composed of Hikumene Kapika, chief of the Epupa region, Paulus Tjavara, chief of the Himba people in Namibia, and a woman translator. The Himba people feel that it is of great importance that the world become aware of their situation and the consequences of building a dam. During the three-week visit in Europe they went to Germany, Great Britain, Belgium, Norway and Sweden which was made possible thanks to co-operation between various international environmental and human rights organisations.

The objective of the visit was to give the Himba representatives the opportunity to speak for themselves and present their opinions; that they be able to influence the processes which are currently threatening them and their future; as well as to have the possibility to form an opinion at an early stage, before real decisions are made. At the same time the delegation gained a better understanding and knowledge about the new situation which they find themselves forced into. The visit to Sweden was reported on the radio, TV and in newspapers; the Namibian press wrote daily about the delegation's visit to Europe. The Himba were promised access to all information and that their position would be included in the final report. SIDA, the World Bank and the European Union have rejected financing construction of the dam.

In summer 1997 70 Himba representatives have met with their legal counsel, the Legal Assistance Center, to discuss the project, which prompted an assault by the police. The Namibian police forces and security police, armed with automatic weapons, stormed the private consultation. The police based their action on the AG 23 proclamation and prevented the Himba people from holding the meeting. Hikumene Kapika went to the Supreme Court in Namibia where his rights were recognised and indemnification for the police assault was awarded. SWAPO, the present government party in Namibia, has been seriously

criticised by all sides, and opposition parties have charged the government with antidemocratic treatment of the Himba people.

In contrast, the Himba in favour of the dam have not had any difficulties in being heard and making their views known in the corridors of power. It is regrettable that the authorities are acting in such a biased way, trying to exclude the great majority of the Himbas who are against the dam project. To ensure the rights and needs of all parties, an open dialogue in which all parties can participate to discuss the development of the region is necessary.

SOUTH AFRICA

In South Africa the Grigua National Forum has been established to promote the claims of the Grigua people to be recognised as an indigenous group and to give impetus to their claims to ancestral lands. Meanwhile the Department of Constitutional Affairs is planning a national workshop to establish a forum for all indigenous groups in South Africa. Such a forum would then assist in the development of a national policy regarding indigenous affairs.

In the meantime the *Khomani* people of Kagga-Kamma have been resettled on ancestral lands in the Northern Cape Province with the assistance of the Department of Land Affairs.

The fortunes of the *!Xu* and *Khwe* communities of Schmidtsdrift are mixed. Soon after they procured Platfontein, a farm near Kimberley, for resettlement, the Northern Cape Provincial Government placed a moratorium on the development of Platfontein. No reasons were given for this step. After lengthy and frustrating negotiations the moratorium was lifted and an agreement was entered into with the Provincial Government to develop the land. However, since the signing of the agreement no tangible progress has been made. The delay in the resettlement of the communities is very costly for the communities in terms of frustration and emotional stress as well as financially due to the escalation of development costs. Today, some eighteen months after the communities bought the land they are still at Schmidtsdrift, living in tents that are falling apart after eight years. In anticipation of the

permanent houses to be built on Platfontein, which are at best another 12 months away, the tents are not likely to be replaced.

The unhappy experience with the Provincial Government has an effect also on international sponsors, who are wary of becoming involved in funding projects. For this reason the cultural mediation project had to be interrupted, and is now pending international funding. This means that the much needed training to enable the communities to face the challenges of adapting to the new environment close to an urban area had to be discounted.

Fortunately some of the development projects on Platfontein are continuing, even though the continuance is coupled with difficulties due to the communities not being present to gain the feeling of being owners of the land. The cattle and game farming projects are progressing and maintain themselves financially. Royalties received in respect of mining activities on the farm ensure that the monthly running costs of social projects can be continued and that the administration costs of the Communal Property Association can be covered.

The communities are strengthening their links with the Working Group for Indigenous Minorities in Southern Africa (WIMSA) and are also participating actively in the establishment of a national forum for indigenous groups in South Africa.

PART II

INDIGENOUS WOMEN'S ISSUES

FIRST AFRICAN INDIGENOUS WOMEN'S CONFERENCE: SHARING KNOWLEDGE, EXPERIENCE AND STRENGTH

From April 20-24 1998 the First African Indigenous Women's Conference (FAIWC) was held in Agadir, Morocco. A meeting in which 36 of the invited 43 women of indigenous peoples from North, South, East, and West Africa were able to participate. It was the first time in history that African indigenous women got together to share their knowledge, experience and strength. Discussions and exchanges of experience and strategies acted as a basis for awakening to their own situation as an indigenous people. It provided them with the opportunity to explore similarities and differences together collectively with other indigenous women. Through this they were able to determine the connections on a larger scale between their position in their own community and within the dominant society. As a consequence, solutions for problems and strategies for the future were discussed, thus resulting in the strengthening of the position of both indigenous women and indigenous peoples.

Indigenous Women of Africa in World Perspective

The situation of indigenous women is at the cross-roads between two major issues: human rights and women's rights.

In both fields, important social movements are active in the struggle for real changes. International interest in these issues, and the success of the movements are demonstrated through the recently held world-wide conferences such as The World Conference on Human Rights, Vienna, 1993; the UN Economic & Social Summit, Copenhagen, 1995; and the Fourth World Conference on Women, Beijing, also held in 1995. During the last-mentioned conference, there was a special meeting of indigenous women. However, in the final list of signatories to 'The Declaration of Indigenous Women' presented during the conference, no African indigenous women were listed.

Even at meetings especially focused on indigenous peoples, such as the yearly UN Working Group on Indigenous Populations in Geneva, the female participation within the African delegations forms only a small minority (in 1995 the ratio of women to men was 3:30, in

1997 7:42). At two international indigenous women's conferences, held in 1988 in Adelaide, Australia and in 1990 in Karasjohka, Norway, respectively, not a single African representative was listed. The invisibility of indigenous women in Africa at the aforementioned conferences point to the fact that these women do not have the possibility to formulate their interests and viewpoints at an international level.

In general, indigenous peoples all over the world find themselves in a marginal position within the countries they inhabit. In many ways they find themselves isolated. Although these obstacles are common to all indigenous organizations within Africa, additional blockades apply to women, caused by both their position within the indigenous community as well as the position of women in the dominant society in general.

The First African Indigenous Women's Conference, held in the fifth year of the 'International Decade of the World's Indigenous Peoples' (1994-2003), had the objective of breaking through the isolation of the indigenous women of Africa. The project was based on the assumption that the women in question, as well as their organizations, will be better able to collectively develop and formulate their interests and viewpoints. This position is supported by the fact that nearly all indigenous peoples' organizations have a history in collective action and strong interest in mutual contacts. This is especially true for women's organizations. The results at the international conferences in recent years were in fact made possible by these collective actions and international cooperations.

Conference Subjects

The consultations with African indigenous organizations, which formed the basis of the conference, brought forth two subjects determined thus to be the core issues. These two subjects formed the structure, within which the participants of the FAIWC shared their experiences and viewpoints with each other. The subjects are:

1. The role of the indigenous women as treasurers of the cultural and intellectual property of their people, and
2. Violence against indigenous women.

These are the subjects that practically all indigenous women have experience with and which play an important role in their lives.

Furthermore, some specific and practical *workshops* were organized on the following subjects:

a. The juridical situation of indigenous women in the countries they inhabit;
b. Traditional medicine;
c. Biodiversity;
d. Fund-raising;
e. Socio-drama.

1. Indigenous women and the cultural and intellectual property of their people

The culture of most indigenous peoples has a close connection to their natural environment. Indigenous peoples, because of their knowledge of their natural surroundings, could survive and use the environment in a sustainable manner. This knowledge was learned, established and developed over generations. In addition to the economic aspect, the environment has a big impact on other aspects of their culture including the spiritual and social structures of society. These include the knowledge regarding medicinal plants and other forms of healing; tool design; oral traditions including stories, poetry and songs; and other artistic forms of expression such as dance, dress and ornamentation.

Although the cultural and intellectual property of a people is developed by men and women alike, it is mostly the women who continue to propagate the culture of their people and pass it on to the next generations. One reason for this is that often the men have to move out of their environment, due to either economic pressure or because they enter into armed resistance against national authorities. This leaves the women to fully take over the education of the children, in spite of

the crumbling of the indigenous community and the threat of poverty and violence, both within their own region and/or in refugee camps.

Due to the fact that the women have saved and developed the culture of their peoples, i.e. the language, it is possible, in a subsequent phase, to fuel an emancipation movement and to provide it with the positive identity of indigenous cultures.

Draping a Berber scarf. Xguka Krisjan (Kuru Development Trust, Botswana), left, Silole Mpoke Gronlykke (Osiligi), right. (Photo Yvonne Peen)

2. Violence against indigenous women

Where peoples are suffering from marginalisation and violence coming from the government, most of its victims are women. In the case of armed resistance against the government authority, unarmed women, children and old men form an easy target for revenge. Violence against

indigenous women can be used as an effective tactic by the government to drive indigenous peoples from their territories.

Since women, as a result of their position within the community, guarantee the cohesion of the society, terrorist acts against them are carried out in the attempt to uproot the entire indigenous community. In addition, one may observe that in the eyes of the dominant society, women are often seen as the property of their men. In this case, the raping and mutilating of women is used as a means of revenge on the indigenous men.

It is not only from the dominant society that women are threatened in their existence and integrity, but also from within the indigenous community itself. Here violence against women is also increasing. This violence is initiated by those men who, due to the influence of the dominant society, have either lost their sources of income, thus suffering a loss of self- esteem, or by men who, as a result of an unexpected offer of wage labour, enforce their position of power at the expense of the women.

The influence of the dominant culture strengthens the patriarchal tendencies in the indigenous communities and undermines and/or erases the traditional, often matrifocal, structures and cultural elements.

A third form of violence against women is part of some of the indigenous cultures. These traditions are often meant to control the sexual and economic activities of the women. These lead to the restriction of freedom by means of threatening with violence and/or by employing it as a means of control, i.e. circumcision (genital mutilation). A less visible form of violence against women is to marry them (very early), thus making them the property of their husbands. Another is to morally silence the women, thus obstructing their ability to express their opinions and advocate their rights.

In spite of the crucial role women play in their society as educators of the new generation, a task often accomplished under extremely harsh circumstances, women frequently hardly have any real decision-making power, even over their own lives and bodies.

Outcomes of the Conference

The five days of the FAIWC were largely filled with plenary meetings, workshops, excursions and last but not least, informal sharings of the participants during the time between and after the scheduled meetings. The open and warm atmosphere among the women coming from all over Africa was one of the shared experiences of all women present, participants as well as organizers. The exhibition set up the day before the start of the conference helped to explain the background and culture to the African indigenous women from other regions.

The two main subjects were treated in plenary meetings. The outcome of the 'Indigenous Woman as Treasurer of the Cultural and Intellectual Property of her People' was in short that the traditional culture in the form of language and knowledge of the environment should be saved and transmitted to future generations. And it was especially women who were most able and already very active in doing so. On the other hand, degrading practices and traditions against women should be abolished. Such as female genital mutilation (FGM) and the fact that in several indigenous societies women were not allowed to posses or gain property, being herself the property of her husband. One participant remarked that it should be the women who could and should change this negative side of the culture. Several participants stated that through external influences such as colonisation and globalisation the situation worsened.

This was made clear when the women shared their experiences on the second main subject, 'Violence against Indigenous Women'. All present were very much moved by the description of the terrible sufferings the Nuba had to endure due to the simple fact of them being Nuba. These experiences with state violence were to a large extent shared by the women from the Oromo from Ethiopia and the Kel Tamachek from Mali and Niger. Other forms of violence from outside the indigenous community were shared by the San women from Namibia and Botswana, who also underlined the fact that in earlier times their society had been egalitarian, but that nowadays things had changed under the influence of the dominant culture. FGM and the consequences

for the women (premature and forced marriages, no formal education, economical dependence, lack of knowledge of rights) were given as examples of violence inflicted on women from within the indigenous society. For most of the women coming from other regions it was the first occasion to learn about this tradition, which for many of them was quite a shock. On the fourth day when the results of the plenary meetings on the two main issues and the workshops on the 'Juridical Situation of Indigenous Women' and on Biodiversity were presented, many participants commented that they would like to continue the sharing of experiences with other indigenous women of Africa which they had started during the FAIWC. They discussed the fact that it was important to establish regional and local groups which could not be effective without an overall African indigenous women's organisation which they decided to establish. This organisation should keep all participants informed and should coordinate actions to support, both the struggle for rights of one of the member organisations as well as their common goals as indigenous women of Africa.

The office of the African Indigenous Women's Organisation, founded April 24, 1998, in Agadir is temporarily located in Amsterdam, at the NCIV office, P.O. Box 94098, 1090 GB, Amsterdam, The Netherlands, FAX 00-31-20-665 2818. The office will facilitate the release of a newsletter in English and French, the 'Voice of the African Indigenous Woman/La voix de la Femme Autochtone Africaine'. At the end of this year we hope to release an elaborate report on the First African Indigenous Women's Conference, in French and English.

SECOND ASIAN INDIGENOUS WOMEN'S CONFERENCE

From March 25-29 this year, 30 Asian indigenous women assembled in Kanchanaburi, Thailand for the Second Asian Indigenous Women's Conference. The event was organised by the Asia Indigenous Peoples' Pact (AIPP), the Asian Indigenous Women's Network (AIWN) and IWGIA. The Conference which has received financial support from the Royal Norwegian Foreign Ministry (NORAD) and the Danish Foreign Ministry (DANIDA) was hosted by AIPP. The purpose of the Conference was - besides sharing experiences - to identify the main issues confronting indigenous women and their community and develop these issues into programmes for future actions.

The participants came from Thailand, India, Nepal, Cambodia, Indonesia, Malaysia, Philippines, and Taiwan, and for many of them it was the first time they attended an international conference. A small groups of Karen and Karenni women originating from Myanmar and today living in refugee camps in Thailand were also able to join. Two Maasai women from Kenya, Africa also participated in order to contribute with their experiences and establish links with their Asian sisters.

Main Issues and Recommendations

The first day and a half was used to present the various country reports and to identify the issues to be discussed in workshops and plenaries during the two following days. Four workshops were organised on the following themes: Land and Economical Issues; Culture, Belief and Spirituality; Knowledge and Education; and Politics.

Land and Economical Issues

Among the many issues raised by the country reports, a recurrent one was the usurpation of indigenous ancestral lands and the natural resources hereon. From Jharkhand (India), Jyotsana Tirkey reported that "a silent alienation of tribal land is going on", and that as a result of mining, dam constructions, industries and wildlife projects "85 lakhs tribals have been displaced during the past four decades" and 22.5 lakhs acres of land have been taken from (them)". Anna Lidan from

Sarawak related that about 300,000 hectares of Sarawak's primary forest are logged every year. A similar picture was drawn by Rahima Datumanong from Mindanao (Philippines), where more than 226 development generating projects ranging from pasture leases and logging to mining, plantations and government reservations have plundered the island's natural resources. From Cambodia, Chak Meul spoke about the plans for large-scale resource extraction projects in the province of Ratanakiri, and how they will threaten the indigenous population, who hitherto had lived relatively isolated in this remote region: "Conflicts are growing as the ancestral lands are encroached on by plantation developers, timber companies, property speculators and anarchic forces...The majority of these concessions have been granted without consultation with the local people", she said.

All this deeply affects the livelihood of indigenous women who experience increasing difficulties in fulfilling their role as providers, gatherers of firewood and non-forest products and land tillers. The workshop also identified a number of other problems resulting from the commercial exploitation of ancestral lands, such as health problems, early child labour, sexual abuses and prostitution. A distressing example was that of Kalimantan (Indonesia) where in order to survive many Dayak women get 'temporarily married' to company workers, but are abandoned as soon as the latter's work contract is finished. The numerous children from these marriages are called 'Anak ASEAN' (ASEAN kids).

As their subsistence basis disappears, many women have no other alternative than to migrate, and thousands of indigenous women all over Asia each year leave their communities in search of paid jobs in the big cities or, as in the case of the Cordillera women of the Philippines, even abroad. What they find, however, are often far worse conditions than those they left behind, and each year numerous cases of inhuman work conditions, sexual abuse and violent deaths are reported.

The introduction of the market economy is also affecting indigenous women. As Mor Tummarchartudom, a Hmong from Thailand, explained, the promotion of monocultures means more work throughout the whole year and hence less time for learning and keeping the traditions alive. She also stressed that the promotion of cash crops not

only erodes the traditional position of women but makes the households totally vulnerable to external market forces and the price of pesticides and fertilizers. Irene Katete from Kenya, who works as a social worker, described how the introduction of cash has destroyed the barter system that previously allowed Maasai women to have control and access to resources. This change in their economy has resulted in the control of resources and cash being allotted to the men. Another example was from Ratanakiri where some of the highlander women experience problems with the market economy because of their "inability to count money or read scales". This recurrent problem has given rise everywhere to middle-men, often corrupt non-indigenous persons that take advantage of the women's lack of knowledge.

As concluded by the workshop, the "new market economy offers limited job opportunities for indigenous peoples. The work is not sustainable and when resources have been depleted for the benefit of multinationals, the indigenous people are left unemployed and with their traditional source of subsistence destroyed. The traditions and culture of the indigenous communities are changing as a result. But indigenous women need more and better information on common issues and the effects and repercussions on their life, and steps to raise forums for common concerns should be taken."

Education and Knowledge

The country reports showed that the lack of education is a general problem for indigenous women. There are many reasons for this, as for example time constraints, workload, lack of mobility or access to the education system and the perceived lack of need. In the case of Maasai girls, Priscilla Nangurai's experience as the headmistress of a girls' boarding school, was that many school drop outs were due to early marriage, teenage pregnancies, and circumcision.

In the case of the Hill Tribe women in Northern Thailand, the lack of education has wide ranging implications since it entails that they cannot apply for a Thai citizenship and obtain an identification card (ID card) as "applicants must know or speak mainstream Thai language and adopt a Thai name before they are considered eligible". Without an ID card, on the other hand, their movements are severely restricted,

they cannot legally go to work outside their communities, they cannot purchase land and they are ineligible for any government supplied services such as health, education, etc.

While there was a general agreement on the importance for women to get an education, the participants also criticised the different mainstream education systems for introducing an alien culture that not only endangers the indigenous peoples vernaculars and their traditional way of life, but also their moral values. This was especially emphasised by Stella Tamang speaking about the situation in Nepal where the indigenous youths come out of the Hindu mainstream education system "having lost everything from their own culture without having gained access to the dominant society".

Many therefore emphasised the need for defining and preparing a curriculum that integrates elements from both mainstream and indigenous education systems and secures the teaching of indigenous languages.

The workshop also discussed how indigenous knowledge could be protected from appropriation by international companies. Various examples of piracy from Nepal, Burma and Taiwan were given, and one of the recommendations was to explore how indigenous knowledge could be effectively protected.

Culture, Belief and Spirituality

The importance of culture and traditional values was invoked by most speakers in the presentation of their country report. In general indigenous women play an important role in their communities in promoting belief and spirituality and they are also usually recognised as having specialised knowledge and skills in traditional health care.

However, the situation described in the report from Sarawak remains valid for most of the indigenous societies represented in the Conference: "The Dayak women remain one of the most marginalised, discriminated and oppressed sections of society. The community socio-political institutions and processes are men dominated. The community's leadership is also male dominated. The women's role in the society has been continuously neglected or overlooked due to societal attitudes concerning women. There exist stereotypes of women as being

weak, indecisive, emotional, dependent and less productive than men. These stereotypes undermine women's development and achievements." In her report Jyotsana Tirkey noted that Jharkhand women feel that "customary laws now practised need to be somewhat and to some extent changed. Some casteist unwanted attitudes and practices are also coming into Adivasi society". Similar concerns were reported by Pratima, who as a Jaunsari lives in a society that practises both polygamy and polyandry. She referred to one of the recommendations from the 'Conference of Indian Tribal/Indigenous Women' held in Dehra Dun, India in early March, which states that: "...while codification of customary laws and practices is generally a good step it is fraught with grave danger for women. There are various tribal practices which adversely affect women, like polygamy, exclusion of women from property rights, etc. Codifying these negative aspects would permanently harm the tribal women".

In the workshop the women discussed some of the institutions and practices they consider to be especially oppressive to women, such as early marriage, dowry and bride price, inheritance practices and property rights. Drug addiction and alcoholism were an issue that also was discussed as it affects many indigenous peoples. It is often seen as stemming from the situation of cultural, economic and political repression they are submitted to, and leads not only to domestic violence but also dependency and disempowerment.

There was a general consensus on the need to change many attitudes and not see tradition and culture as static and unchanging, but on the contrary encourage the re-examination and reinterpretation of certain practices which are used to discriminate against women.

Politics

Almost all the country reports underlined the limited participation of women in local political structures and village decision-making processes. Traditional village councils and other representative bodies are almost always male dominated, and in the few cases where women do participate the authority lies with the elders who are men.

Yet, this marginalisation has not prevented indigenous women from taking an active part in the struggle to protect their communities from

so-called development activities that is land alienation, forced displacement, etc., a role which is not too often heard about but which was underscored by several speakers. In Jharkhand, for example, women have been at the forefront of the 27 year long struggle against the building of a dam over the Koelkaro river, and they were part and parcel of a movement to prevent the setting up of the Netrahat Field Firing Range. In both cases the government had to give in and stall its projects. Some of the speakers could even refer to their own experience, as for instance C.K. Janu from Kerala in South India who has spent large periods of her life in jail, and Mama Yosepha, one of the leaders of the Amungme clans of West Papua (Irian Jaya), who told about how she forced an eye-to-eye meeting on the powerful president of Freeport McMoran, the gold mining giant based in the USA which has confiscated the land of the Amungme and the Komoro tribe. In the opinion of C.K.Janu "in the course of agitations, it is usually the women who stay on to fight. Men are easily lured away with a cigarette or a *beedi* (Indian cigarette) or other temptations".

In almost all the armed resistance movements indigenous women have taken active part, and examples were given from Myanmar, the North Eastern states of India, and the Philippines. And they are often those who suffer most seeing their families killed, their homes destroyed, and themselves tortured, imprisoned, and raped. The women's experience was that rape was being widely used as a weapon to emasculate the indigenous nations. Many women end up in refugee camps, but even there, as testified by the Karen and Karenni women living in the refugee camps along the Thai-Burmese border, people live in fear as there have been several attacks by the Burmese SPDC troops resulting in the death of many refugees. The Thai army is also known to harass the refugees.

In the view of the indigenous women's deep involvement in their peoples' struggle for self-determination and human rights, the workshop's main recommendation was to demand that "(this) role be recognised and that we may fully participate in the decision making proc-

esses, whether in our own society or in indigenous peoples' interaction with the dominant society".

Outcome and Follow-Up

In its closing session, the Conference discussed how, in the words of Stella Tamang, "to go from dreams, hopes and ideas to actions". As a first step a resolution was passed to set up a committee. This committee will be a 'loose' body set up under AIPP, and for the moment its responsibility will be to follow-up on the results of the four workshops and finalise a workplan, to network and to prepare for the next regional meeting.

But a prerequisite for the committee's work will be the strengthening of indigenous women's movements and organisations, a task that must be taken up by the participants in their respective communities. Only through organising will indigenous women be empowered and gain more influence. Several examples were put forward at the Conference. One was that of the Cordillera women who were able to put alcoholism on their communities' agenda; another that of the women in the Karenni refugee camps who have been able to organise and initiate welfare programmes. From Nagaland, Shimreichon Luithui gave the example of the women's organisations who, thanks to their organised struggle against state violence, have played an important role in conflict resolution and are now taking part in the dialogue with the government of India.

Much remains to be done, however. Speaking about Jharkhand, Jyotsana Tirkey noted that: "Indigenous women's organisations are very few. And they want more support from national and international women's fora. The future of the indigenous women's movement faces many invisible and visible barriers and challenges". Other speakers presented similar views. But there were also given encouraging examples of new initiatives, for example from India where Shimreichon Luithui told about a newly formed Women's Task Force established within the All India Indigenous/Adivasi Coordinating Forum with the specific purpose of strengthening the indigenous women's movement.

CONFERENCE OF INDIAN TRIBAL/INDIGENOUS WOMEN AT DEHRA DUN

Various surveys and studies have shown that Indian tribal women, like their sisters abroad, are victims of a threefold oppression - as women, as tribals and as poor. Although tribal people in India and their organisations have increasingly gained recognition and in some cases even political influence, tribal women have remained almost invisible and little or no attention has been paid to issues concerning them directly.

Rural Litigation and Entitlement Kendra (RLEK) has been working with the indigenous communities of the Van Gujjars and the Jaunsaris in the Garhwal region of Western Uttar Pradesh for the past few years. In the process of its attempts to empower the women of these communities it has seen that the problems of these tribal women are also shared by their tribal sisters in the rest of the country. RLEK therefore felt that these should be seen in a wider and more national context in order to recognise the general awareness of the situation of tribal women in India, their human rights and their crucial role for the survival of the tribal peoples.

With this in view RLEK organised a Conference of Indian Tribal/ Indigenous Women from 15 to 17 March, 1998, at Dehra Dun in Uttar Pradesh, India. It has received financial support from the Danish Foreign Ministry (DANIDA). The conference gave the opportunity to the participating tribal women representatives to share their problems, concerns and aspirations with their sisters. The conference prepared the ground for furthering the possibility of their being able to raise their voice at regional and international fora.

Seventy three tribal women representatives (with their interpreters/translators) from across the country participated in the conference. The tribes represented in the conference were: Kinnora, Bhil, Kundh, Santhal, Karbi, Uraon, Thakur, Mizo, Kom, Varali, Kokani, Khasi, Naga, Tharu, Bodo Kochary, Garo, Dungri Grasia, Chero, Jaunsari, Van Gujjar, Tripuri, Reang, Konda Reddy, Konda Dora, Konda Kamari, Ho, and Kondh.

Inaugural Function

The Conference of Indian Tribal/Indigenous Women was inaugurated on the 15th of March, 1998, at 11:30 a.m., by Justice Mrs. Shobha Dixit of the Lucknow Bench, Allahabad High Court. In her inaugural address Mrs. Justice Shobha Dixit encouraged the women to join hands with their men folk in creating an equitable society. She said that to a large extent women themselves were responsible for the discrimination against the girl child as they succumbed to social pressures. In a panel discussion by the tribal women representatives of the North East it emerged that where they shared a commonalty with their tribal sisters in other parts of the country their situation also had its uniqueness. In an atmosphere rife with aggressiveness and violence they had to play the role of peace makers and peace keepers, she said.

Two hundred and fifty local tribal/indigenous women attended the inaugural ceremony. Their representatives remained to participate in the conference.

Six more speakers addressed the participants at the inaugural ceremony:

Ms. Vijay Lakshmi (mamber of the District Panchayat, Kinnore, Himachal Pradesh) lauded the opportunity that the reservation for women in the *panchayat raj* system had given to the women of India and emphasised that it was very necessary for women to be given a good education. She also described the effects of lack of medical and health services in remote areas upon the women and children.

Ms. Leela Kayastha (Nepal, National Depressed Welfare Social Organisation) highlighted the growing incidence of trafficking in women and girl children from Nepal to India.

Ms. Phulkeria Minj (Bihar) described the plight of tribal women in big cities like Delhi.

Ms. Ratna Devi (Kshetra Panchayat Member, Kalsi, Jaunsar) pointed out how her tribe's customary laws denied any right to property to the women, making them totally dependent upon their men.

Ms. Imami Murmu (Dumka, Bihar) highlighted the migration of tribal labour from Bihar to other states because of lack of any opportunity for them in Bihar. The women are sufferering most as they have to create a domestic environment in totally unknown lands. Those

women who are left behind in Bihar had to take up all the responsibilities and are subjected to a great deal of exploitation, both financial and physical

Ms. Badki Bai Damor (Chairperson, Adibasi Mahila Jagriti Sansthan, Udaipur) talked about the lack of education opportunities for her tribe, specially women, and, consequently, a great incidence of unemployment among them.

Plenary Session on the Process before and after the Beijing Conference

The four main speakers had all attended the Beijing Conference and explained to the participants what it meant for tribal women. They spoke about how several workshops and seminars were held at regional and village level all over India to take women's voices to Beijing. The women communicated through songs, drawings, actions, theatre etc. A cultural delegation from the grassroots level participated in the cultural fora in Beijing. The significant thing that emerged from these meetings was that the life of indigenous women was in danger. They had never been involved in the decision making process. Yet they have traditional systems, like the health system, which they have kept alive for so many centuries. All these experiences were shared in the Beijing process. An alliance of marginalised and *dalit* women was also made at the national level which was a very important alliance for indigenous women.

At Beijing a special conference was called for the women of the North Eastern states of India because it was recognised that not only were they facing problems as tribal women but they had also to face the problems arising out of the armed conflict taking place there between the people and the state as well as people and people.

The Beijing Declaration was also briefly explained to the participants.

Farewell hug in Dehra Dun (Photo: Christian Erni)

Other Plenary Sessions

Six papers were read and presentations made in the plenary sessions. They dealt with the following issues: Role of indigenous women in development of society; Working Conditions of Tribal Women in Metropolitan Cities; Tripura at a Glance and Status of Tribal Women in Tripura; Socio-cultural life of the Bodos; Forest Dwellers & Non Timber Forest Produce (film); Nomadic Pashmina Herders of Changthang, Ladakh (slides & commentary)

Special Plenary on North East India

The tribal women of the North East share a commonalty with other tribes but are also living in a unique situation because of the insurgency in the area. A special plenary session was devoted to the problems of the North East.

Besides describing the characteristic features of the tribes they belonged to the group pointed out how they were playing the role of peacemakers between their own men and the state agencies as well as between the men of their different tribes. The greatest sufferers from militancy in the area were the women and the children.

Working Groups

The participants were distributed cards in which they were requested to note down the problems they felt most effected their situation as tribal/indigenous women. On the basis of these the participants were divided into three groups to discuss three broad categories, socio-cultural, socio-economic and socio-political.

After the working groups had discussed and analysed the issues that effect them one, two or three of them were required to present their findings and suggestions in the plenary session that would follow. To facilitate the groups each one of them was provided with a moderator and a rapporteur.

Group I - Socio-economic Issues. Focus was on: Problems of landlessness; Unemployment; Impact of multi-nationals; Poverty; Alcoholism amongst men.

Groups II A and II B - Socio-political Issues. Focus was on: Land ownership rights of women; Resettlement/eviction from forests; Basic facilities like health, education, sanitation, water, roads etc.; Traditional rights and entitlements; Corruption amongst the bureaucracy etc.; Women in governance; Fear psychosis amongst tribal women/ police atrocities; Government policy regarding multinationals.

Group III - Socio-cultural Issues. Focus was on: Education - the need for including traditional knowledge and language; Incidence of alcoholism; Male chauvinism and male oppression; Discrimination between men and women - specially the girl child; The burden of household work; Early marriage; Modernisation; Lack of understanding of tribal issues.

Recommendations of the Conference of Indian Indigenous/ Tribal Women held from 15-17 March, 1998, at Dehra Dun, Uttar Pradesh, India

The suggestions made in the presentation of each group were then incorporated as the Recommendations of the Conference. These were

1. a) Transfer of lands in tribal womens' names should be facilitated to prevent easy alienation of land from tribal households to either non-tribal individuals or companies/corporations.

b) Many social injustices will be alleviated if joint ownership of land and property of husband and wife is the new pattern of land ownership.

c) Marketisation of economy is adversely affecting the food security of the tribal families and the position of women in tribal households.

Market forces are creating a shift in agricultural pattern from staple food crop production to commercial food crop production.

In a food based agricultural system women have decision making power both in regard to the subspecies of food crop to be grown and the use of such produce for family consumption and market. With cash

crops the households become totally vulnerable to external market forces over which the households have no control and in such a market driven economy men necessarily have to take on a more dominant role.

The national economic policy of liberalization and globalization and the dominant development framework or paradigm are harmful to the country and to tribal people and these policies need to be changed.

2. The entire tribal society has been traditionally dependent on nature i.e. forests, natural water and other natural resources including non-timber forest produce. There had always been a symbiotic relationship between communities and their environment. Tribal people generally do not harm nature because that would deprive them of their life and living. However, compulsions like indefinite tenure or natural disasters compel them at times to overexploit their natural resources. It is necessary, therefore, that environment education is extended to tribal groups.

The present trends towards sustainable environment management and preservation of biodiversity unfortunately deny this historical and symbiotic relationship. This adversely affects their occupation, livelihood and lives.

On the other hand commercialization through large scale logging and creation of monoculture forests are definitely harming biodiversity and ecological balance.

3. The remoteness and insularity of tribal groups creates a feeling of isolation and insecurity. NGOs should try to include in their agenda of activities exchange programs between different tribes from different regions so that each group knows the commonalty of their problems which would help solidarity and help collective, collaborative organization.

4. Whereas codification of customary laws and practices is generally a good step for the tribes it is fraught with grave danger for women. There are various tribal practices which adversely affect women, like polygamy, exclusion of women from property rights (excluding three matrilineal societies i.e. Khasi, Garo and Jayantia), non-participation

of women in collective decision making etc. Codifying these negative aspects would permanently harm the tribal women. There is, therefore, a need to re-examine the whole matter to advance the interest of women in tribal society.

5. a) Formation of strong tribal women's organisations at the local, regional, state and national levels are imperative in order to deal with social, political, economic and development related problems that tribal women face.

b) A network of tribal women's organizations should be developed to help each other out in difficult situations and to focus attention at the state, regional and national levels to ensure appropriate remedial actions and to perform an advocacy role.

c) This network will also act as a pressure group to project tribal problems through the media and the legislature. They can also take up issues of violation of human rights and other infractions of law and the constitution in the state High Courts, state Human Rights Commission, National Human Rights Commission and the Supreme Court.

6. There is deep concern about the spread of alcoholism which is disrupting tribal families and economies and causing violence against women. Alcoholism, which is often promoted for commercial considerations by the corporate sector, must be stopped.

Apart from brewing their traditional alcoholic beverages in the family there should be total prohibition of entry of commercially manufactured alcohol in tribal areas.

7. Education is essential for the empowerment of women and the curricula should include the tribal cultural ethos and ancient wisdom particularly relating to health care and economic pursuits.

In fact there should be serious research of such ancient tribal knowledge to enrich modern science and establish a link between the past and the present. In addition there is a need for the inclusion of a tribal women's history in the main body of the country's history.

8. Though tribal women have a high status in their own society they are totally excluded in all matters relating to the governance of the

tribal society. In most tribes women are not allowed participation in tribal councils or any system of tribal justice.

Reservation of women as provided for in the 73rd and 74th Constitution Amendments is an issue on which there was a broad measure of consensus though there were differences of opinion in the extension of panchayat system to 6th Scheduled Excluded territories and the excluded states of Mizoram and Meghalaya.

An attempt should be made to have the best elements of Panchayat Raj embodied in the 6th Schedule areas so that women may exercise governance in these territories like their sisters elsewhere in India.

9. India is signatory to a number of international conventions that are specifically related to the indigenous and tribal people of the world, and to the indigenous and tribal women in particular. They pertain to respecting the rights and entitlements of these people and recommend that in any state decision that may have a direct or oblique impact upon the tribal people they must always be consulted and their decisions incorporated.

However, a number of these conventions are not even ratified by the government and even where they have been ratified they are not implemented. Tribal groups in India must collectively put pressure on government to ratify and implement these conventions.

10. The situation of migrant tribal women labour has to be seen as a serious problem that not only undermines the self respect and dignity of these tribal women but also puts them in situations where they are oppressed and exploited. Organisations of such tribal women must be built up and strengthened to ensure that occupations provide them the appropriate salaries and wages commensurate with their work. Also, that they are given the due respect that any person working for a living must get.

The Interstate Migrant Labour Act partially responds to this problem. Recourse may be taken by this Act, especially in the case of migrant tribal women labour.

11. To provide employment and earning options to tribal women the state governments will have to be persuaded to provide requisite vocational training to develop alternate skills.

12. Any major development activity, especially relating to mining, industries related to mineral resources, major dams etc. result in large scale displacement of certain populations, particularly of tribals. No sound policy is followed for proper rehabilitation of persons so displaced, both from their livelihood and lifestyle. While selecting the sites due care and caution should be taken to avoid large scale displacement. Some displacement is unavoidable. Proper measures should be taken to rehabilitate such families/communities in an ambience which is familiar to them to provide them with appropriate skills to make them employable in modern industry.

PACIFIC FAMILIES' NETWORK

Pacific Women's Network was founded in 1995 as a women's forum, located in Hawai'i. It provided Pacific women opportunities to meet and discuss with other women of colour common concerns in the Pacific region (nuclear racism, high rates of incarceration, drug abuse, domestic violence, sexism and sexual harassment on the job and/or in school). The organization's birth was timely, coinciding with a women's gathering - the 7th International Cross-Cultural Black Women's Institute - in Hawai'i. Pacific Women's Network became the host for this event, linking up Hawai'i and American women of colour with Pacific women students attending University of Hawai'i on O'ahu, and visiting women from Fiji, Western Samoa, Palau, Amerika Samoa, Solomon Islands, Australia and Aotearoa.

In April, 1998, the Pacific Women's Network changed its name to Pacific Families' Network, in keeping with an expanded mission and philosophy: serving Pacific women and children, especially incarcerated women transitioning out of prison and their families, through 'empowerment options' - providing broad support for women (and their mates) who choose to work in the social justice field after they leave

prison. PFN is currently instituting an internship program for transitioning inmates now in residential programs to encourage them to choose from a number of options, such as higher education, training in video production, environmental restoration, social activism through legislative lobbying, mediation training and/or peer counselling in any social justice field. Internships will consist of 'career shadowing', as well as a modest stipend, to expose inmates to new ideas and to train them to train others.

PFN's focus on prisons arises out of concern for the numbers of Pacific people being incarcerated in US prisons and in Pacific states. Studies show that in Hawai'i, for example, Hawaiian inmates comprise 73% of the prison population, while Hawaiians, as a group, make up only 20% of the total population. Overrepresentation of Hawaiians in Hawai'i prisons mirrors the percentages of Native Americans and Blacks in American prisons, and likely holds true for Pacific peoples in other areas in the Pacific.

While PFN has tried to meet the needs, primarily, of Hawai'i families, it is hoped that before the end of 1999 PFN will have linked up with family networking organizations in other areas of the Pacific.

For more information on our program, contact Lynette Cruz (Outreach Coordinator) at (808) 738-0084 - phone, or (808) 738-1094 - fax, or e-mail <lcruz@hawaii.edu>.

PART III

INDIGENOUS RIGHTS

UN DECLARATION ENTERS A THIRD YEAR AT THE UN COMMISSION ON HUMAN RIGHTS

By Andrew Gray and Jens Dahl

Between October 27th and November 7th 1997, the third session of the Open Ended Working Group of the UN Commission on Human Rights (CHR) discussed the draft Declaration on the Rights of Indigenous Peoples. The draft Declaration is a document which, after a process of nearly ten years of consultation with indigenous peoples, was approved by the expert UN Human Rights Sub-Commission on the Prevention of Discrimination and the Protection of Minorities in August 1994. The draft was then sent on to the CHR to be discussed by governments in the Open-Ended Working Group (OEWG). The first two sessions of the OEWG have been described in detail in IWGIA's Indigenous World 1995-96 and 1996-97.

Formally the Open-Ended Working Group operates according to the rules of the Commission on Human Rights. This consists of 53 government representatives who have the full participatory rights of attendance, speaking and decision-making. Non-member governments can attend as well as NGOs with consultative status with the Economic and Social Council (ECOSOC) of the UN. NGOs have the right to attend CHR meetings and speak once on each item of the agenda.

When the Open-ended Working Group was established in 1995, the UN decided to allow indigenous participation and a complicated procedure was established for accreditation of indigenous organisations. This involves writing to the coordinator of the 'Indigenous Decade', Mr. Ibrahim Fall, at the Human Rights Centre in Geneva who consults with the governments concerned. With their approval the application is passed to the NGO Committee in New York where each proposal is discussed and most are accepted. Over one hundred organisations have been accredited, although about a dozen (mainly from Africa and Asia) have still not been approved. However, by working with NGOs who have consultative status with ECOSOC, everyone who wishes to attend the Open-Ended Working Group can do so.

During the 1996 session, indigenous peoples fought for the right for full participation at the meeting. After a walk out and subsequent negotiations, the Chair, using his discretion, allowed indigenous peoples the right to speak on their own behalf at the meeting and to have their opinions reflected in the report. Attendance and speaking rights are two out of the three areas of possible participation at the United Nations, and indigenous peoples forcefully demanded that they should be granted full and informed consent before any decision was made or article approved in the Open-Ended Working Group.

At the beginning of the 1997 meeting, the Chair carried out extensive consultations with governments and indigenous peoples and a compromise was reached. The meeting was to be divided into 'informal' and 'formal' sessions. No decisions would be passed on to the formal sessions until all participants, both indigenous and governments were in consensus. This agreement provided the indigenous participants with a de facto veto over any formal decision-making. After only a few days, it appeared that some governments regretted approving these procedures.

The governments and indigenous peoples who participate at the Open-Ended Working Group form different caucuses. The indigenous peoples' caucus is based on a group which has worked since the 1980s at the UN Working Group on Indigenous Populations. This takes the form of a two day preparatory meeting, the weekend prior to the Working Group which is arranged and facilitated thanks to the Mohawk representative Kenneth Deer, with logistical support from the World Council of Churches.

During the Preparatory Meeting this year, the indigenous caucus discussed their strategy and agreed by consensus to continue their defence of the draft Declaration as it stands. The indigenous representatives analysed the previous year's experiences and maintained their conclusion that the Declaration is a totality, interconnecting indigenous rights on a holistic basis.

During the meeting the Chair of the Working Group addressed the indigenous representatives and the procedures and agenda were discussed. Some indigenous representatives were concerned at the proposed agenda suggested by the Chair whereby the 'non-controversial' articles would be discussed without any previous exchange of views on fundamental rights such as that of self-determination. However this theme links all aspects of the Declaration and to approve articles without having a sense of governments' support for the right of self-determination could risk the undermining of the whole Declaration at a future date after articles have been adopted. This was the subject of considerable discussion on the first day of the Working Group.

The indigenous caucus met every evening and at times during the meeting, indigenous representatives from three regions met together or with governments from their areas, such as North America, Latin America, Asia and Australia/New Zealand. Even though the discussion was always intense, the indigenous caucus worked constructively together throughout the meeting and demonstrated a flexibility and co-operation which resulted in a strong block for the defence of their rights.

The government alliances in 1996 formed blocks which underwent a substantial shift prior to and during the 1997 meeting. The 'western' group consisting of the Nordic countries, Europe, North America, Australia and New Zealand; the Latin American countries; and the Asian countries had formed three groups in 1996. During this year's Open-Ended Working Group, a new formation appeared. The 'western group' underwent a three-way split. The European countries such as France, the Netherlands, Germany and the United Kingdom spoke little, a new group called CANZUS (Canada, Australia, New Zealand and the United States) emerged, taking a markedly more conservative position in opposition to the Nordic countries.

This affected the overall framework of the meeting. The Latin American group was divided between those who openly supported the Nordic countries such as Bolivia, and those who supported the CANZUS group (Brazil and Argentina). The Asian group were quiet but when they did speak it was usually opposed to the CANZUS group and they became increasingly positive towards the draft Declaration during the two weeks of the meeting. Indeed, at various points in the discussion, India, Bangladesh and China (the main vocal Asian governments) said that in principle they had no objection to the text.

The agreement for the procedures of the meeting provided the indigenous peoples with a veto in all the informal meetings, whereas governments continued to hold decision-making powers in the formal sessions. This provided indigenous peoples with a strong veto in discussions on specific articles of the draft Declaration, but a weaker position when the final report was approved in a formal plenary session. This became apparent when indigenous peoples were not given the right to question whether the report represented the statements of governments in the informal sessions.

The Meeting

The first day of the meeting began with the re-election of Mr. José Urrutia as Chair of the Open-Ended Working Group. After the initial formalities, the meeting was adjourned. For the rest of the day the Chair negotiated with the governments and indigenous peoples over the procedures and the agenda for the meeting. The division into formal and informal sessions was agreed and after an extended discussion it was agreed that the meeting would be divided into general comments, a discussion of Article 3 on self-determination on the Thursday of the first week, and a debate on the principles and text of the less controversial articles: 15, 16, 17, 18, 43, 5, 14, 44, 45, 1, 2, 12 and 13. The final day would be devoted to discussion and approval of the report.

The General Debate

Indigenous representatives dominated the general debate. Only one government statement was made when China reiterated its previous position on the need for definition of the term 'indigenous'. The indigenous statements covered a broad spectrum of general approaches to the draft declaration and together constituted the philosophy behind the text.

Indigenous representatives emphasised that the draft Declaration should be seen as a whole with all of the articles linked together by the critical concept of indigenous self-determination, as established in Article 3. They explained that the text had been drawn up over a period of more than ten years by experts with the full participation of indigenous peoples, and while it may not be perfect, it constitutes the minimum basis of standards for the protection of indigenous rights.

Several participants emphasised that the draft Declaration opens up new aspects of international law and stressed the importance of collective rights and respect for the cultural diversity of indigenous peoples. All who spoke made the demand that the draft Declaration be adopted as written and that indigenous participation in the whole UN process of approving the Declaration should be full and free.

The Discussion on Self-Determination

Article 3 of the draft Declaration says: "Indigenous peoples have the right of self-determination. By virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development." Governments were more vocal in the discussion on this subject. Although there was some debate as to the wording of the article, practically all governments (with the prominent exception of the United States) accepted the article in principle.

Those governments which were most supportive were the Nordic countries (Denmark, Norway, Finland and Sweden), Fiji, Pakistan, Bangladesh, Switzerland, Bolivia, Colombia, Canada and New Zealand. Their concerns were that self-determination is consistent with their domestic understandings with indigenous peoples. For some countries, such as Colombia, this meant that in practice self-determination would take the form of autonomy, whereas for New Zealand, it would be framed by the Treaty of Waitangi. On the whole, however, these governments did not have any major problems with the concept.

Other governments supported self-determination but were concerned that it should not create any threat to the territorial integrity of the state. Mexico, Venezuela, Guatemala, El Salvador, Brazil and Argentina broadly held this view. The only country in the debate which unequivocally opposed the principle of self-determination for indigenous peoples was the United States. (In the final debate Argentina claimed that it agreed with the US, although in the government's state-

ment it clearly argued that self-determination, if it were to be accepted, should take place within the framework of the state.)

This constituted a considerable shift in governments' opinions from the year before. The Asian governments moved markedly into a more progressive position, while the Latin American governments were prepared to argue in favour of the principle of self-determination, providing that the territorial integrity of the state was protected.

In response, the indigenous representatives provided a broad account of self-determination which emphasised its importance and answered directly the concerns of the governments. All indigenous representatives emphasised that self-determination underlies all the articles in the draft Declaration and binds together the notion of indigenous peoples as collectivities. Self-determination embraces the informal nature of indigenous identity and daily life and also includes the determining of the relationship between the indigenous peoples and the state. The result is of equal partners in dialogue where the state makes no unwanted interference in the affairs of indigenous peoples.

Indigenous self-determination covers social, cultural and political areas as well as control over the use of their resources. Indigenous representatives throughout the discussion emphasised that they are peoples who should be recognised and treated as equal to all other peoples. To do anything else is racial discrimination. For this reason there should be no qualification on the right of self-determination for indigenous peoples.

A concern of some governments was the question of whether indigenous self-determination can be considered as 'internal' as opposed to 'external' self-determination for states. Indigenous peoples found this concept difficult to understand because all international activities, such as participation at the UN constitutes a form of external self-determination; all treaties carried out with states by indigenous peoples are also external self-determination; while for indigenous peoples, external refers to anything outside of their territories. For this reason, indigenous peoples felt that the internal/external distinction was a false dichotomy.

Indigenous peoples also responded to concerns of governments regarding territorial integrity. They pointed out that the UN Declaration on Friendly Relations establishes clearly the conditions whereby states can secede and that those conditions provide the legal context for discussing concerns about peoples separating from states. Although the indigenous peoples in the meeting stated clearly that independence was not their particular aim, nevertheless their rights as peoples, equal to all others, should be embodied within the international legal framework and customary practices which respect state territorial integrity as well as the recognised conditions under which new states are formed.

Indigenous peoples felt that their points were strong and that the meeting should have no difficulty in recognising the principle of self-determination as a starting point for future discussion.

Discussion on Article 15 - Governments Try Some Drafting

Part IV of the draft Declaration (Articles 15 - 18) concerns education, public information, the media and labour rights. The Chair considered that this uncontroversial section might have been a starting point for adopting some of the articles of the Declaration. This hope was short lived. Whereas the government statements seemed to approve the whole section in principle inevitably one or two of them proposed changes to each article.

Indigenous representatives had made it clear that they would not accept any changes to the text. As all discussions took place in the informal sessions of the meeting and nothing could be approved without the consent of all participants, the constant demand by some governments to redraft the text led to no adoption of the articles.

Article 15 covers four features: indigenous peoples have the right to state education; they have the right to establish and control their own education systems and institutions; indigenous children outside of their communities have the right to education in their own culture and language; and states shall provide appropriate resources for these purposes.

Government concerns on Article 15 covered three main areas - all of which stood to weaken the article substantially. The United States, for example, insisted that all indigenous controlled education should

be subject to state minimum standards. An indigenous representative from Hawai'i immediately responded, conjuring up the vivid picture of government education inspectors following elders as they taught youngsters how to fish or plant.

Another concern, raised by Brazil, was whether bilingual education was practical in a country with over 170 different indigenous languages. A parallel point was made by several governments as to whether indigenous children outside of their communities could always have access to education in their own culture and language. Some governments did not like the aspect of the article which required them to provide resources for indigenous peoples' education.

Not all governments wanted to weaken the article. Mexico, Norway and Finland thought that a more direct reference to adult education would be strengthening; although indigenous representatives responded that the use of the term 'indigenous peoples' covers a comprehensive application of the text.

Indigenous representatives replied to the general points of the governments by arguing that the article refers to both access to state education and respect for and recognition of indigenous peoples' own education systems. Not to include both of these elements would violate the principle of the article. Regarding the support for indigenous peoples outside of their territories and the provision of resources for indigenous education, the indigenous participants responded that the Declaration is an aspirational document aimed at providing the impetus for states and indigenous peoples to work together to solve these difficulties, not a prescription for immediate solution.

This debate was the first informal session of the meeting. It became clear that there was no consensus with regard to the text. During the second day of the meeting, the CANZUS group began to float the idea of a drafting group. They met with the Chair and other governments, but this idea was quickly stopped by the Nordic countries because it was opposed to the agreement on procedure made at the start of the meeting. Throughout Tuesday and Wednesday of the first week, the CANZUS group called for meetings with the indigenous and other government blocks. They seemed eager to start on the process of drafting. During these discussions, a new 'unattributable' draft for Article 15 was floated by the CANZUS group:

> "Indigenous children have the right to all levels and forms of education of the State *on the same basis as other members of the national community.* All indigenous peoples also have this right and the right to establish and control their own educational systems and institutions providing education in their own languages, in a manner appropriate to their cultural methods of teaching and learning *in accordance with applicable education standards.*
>
> Indigenous children living outside their communities *should have reasonable* access to education in their own culture and language. States *should provide* appropriate resources for these purposes."

The words in italics are added or subtracted from the original text which was considerably stronger. The indigenous reaction was quick to oppose this proposal because the suggested changes, particularly in the first paragraph would undermine the very principle of bilingual, bicultural education, embedded in the draft Declaration.

The Chair, after consultations, agreed to receive proposals for amendments to the draft Declaration, but he would not incorporate them into the formal meeting. After this episode, the discussion calmed down and looked at the rest of the articles in Section IV.

Discussion on Subsequent Articles in Section IV

Article 16 on education and public information was supported by all the indigenous representatives and practically all of the governments. Canada thought that it could be linked to Article 17 on the media, but otherwise there were no concerns regarding the text. The same reaction came concerning Articles 17 on the media and Article 18 on the application of labour rights to indigenous peoples. The US argued that Article 17 should emphasise non-discriminatory treatment by the media rather than equal access and Argentina thought that the text could be 'improved'. Otherwise there was no major disagreement. Article 18 was also broadly acceptable to governments. A few governments made minor suggestions such as wishing to reiterate the term 'adverse'

in front of the term 'discrimination'. Some governments wanted individual rights emphasised, but the indigenous participants pointed out that labour rights cover collectivities as well as individuals.

The Chair had hoped that some of the Articles in Section IV would have been adopted because they were the least controversial. In the general discussion at the end of the meeting, the Nordic countries proposed that, even though the section may not be perfectly drafted, for its first reading the text should be approved. This received some support from the positive governments such as Bolivia and Fiji, while many of the Latin American governments were moving towards this view. Unfortunately, the United States and the CANZUS group held out against adoption, and Brazil and Argentina followed suit. In this way an important opportunity for adopting some meaningful articles was lost.

Article 43 and 5 - The First Articles Are Adopted

At 11.40 a.m. on Wednesday 5th November, the Chair stopped the informal session and called the formal meeting to order. Everyone remained in exactly the same position and listened to the Chair say that consensus had been reached on Article 43 ("All the rights and freedoms recognized herein are equally guaranteed to male and female indigenous individuals"). He called for adoption of Article 43 and gavelled through approval of the first Article of the draft Declaration. No government opposed the article. By 11.41 a.m. the informal session had been resumed and discussed moved on to Article 5.

Article 5 states that "every indigenous individual has the right to a nationality". The governments were broadly in agreement with this, although several governments considered that the discussion on the right to belong to an indigenous community and nation in Article 9 and indigenous citizenship in Article 32 should be looked at in more detail at a later stage. Unfortunately, the United States representative wanted to resolve these questions immediately and said that Article 5 should refer to state nationality and not citizenship with an indigenous nation. This pre-empted the discussion and it became clear that a few

governments such as the US, Argentina and Brazil wanted the interpretation of articles narrowed.

The Chair brought the meeting to a consensus and the text was approved. However it became apparent that the principle of the Article was not interpreted in the same way by the US, Brazil and Argentina as by the indigenous peoples. The Chair pushed through the consensus by agreeing with the US representative to make a reference to his concern in the final report. In spite of this, the indigenous caucus was pleased that a second article had been approved.

When looking at the two approved articles, however, it quickly became apparent that they are two which deal exclusively with indigenous individuals and in fact add nothing to the international repertoire of provisions for indigenous peoples as a whole. Nevertheless, two articles were approved and this in itself was a historical step in the recognition of the Declaration on the Rights of Indigenous Peoples.

Articles 14, 44 and 45 - 'People' Raises its Head

Article 14 guarantees the right of indigenous peoples "to revitalise, use, develop and transmit to future generations their histories, languages, oral traditions, philosophies, writing systems and literatures, and to designate their own names for communities, places and persons". Whereas the governments had no difficulty with this part of the Article, the second statement which involves state obligations encountered resistance: "States shall take effective measures, whenever any right of indigenous peoples may be threatened, to ensure this right is protected and also to ensure that they can understand and be understood in political, legal and administrative proceedings, where necessary through the provision of interpretation or by other appropriate means."

To demonstrate the importance of the second part of this paragraph, Willie Littlechild, an indigenous representative from Canada spoke entirely in his own language and when the floor requested a translation, explained that this proved the necessity of adopting the whole of Article 14. Nevertheless governments complained that the second paragraph was 'not clear' or that they did not understand 'its scope'. These

are euphemisms for a desire to 'clarify' (i.e. limit) its meaning to reduce or even eliminate state obligations.

The Australian government tried to propose that throughout the text of the draft Declaration the word 'shall' be replaced by the more aspirational 'should', which he argued was the language of Declarations. However the indigenous delegation from Australia immediately responded by pointing out the Universal Declaration of Human Rights is full of 'shalls'. This reaction was but one example where indigenous representatives after 14 years of work on this text have shown themselves to be considerably more knowledgeable than most government representatives. Indeed they 'won' the arguments regularly throughout the discussion. Unfortunately, the final decisions were not based on logic or morals, but on politics, and this is where the rub occurred in the final paragraphs under discussion.

Article 44 says that "Nothing in this Declaration may be construed as diminishing or extinguishing existing or future rights indigenous peoples may have or acquire". Whereas most governments supported the text as it stands, the United States and Russia objected to the term 'future rights' - disputed immediately by indigenous representatives as this would limit the Declaration to all rights recognised until its adoption. However the main discussion on Article 44 arose when the government of Brazil opened up the question of the 's' on indigenous peoples, recommending that it be bracketed (recorded as undecided). The French government went even further and proposed a 'technical change' from 'peoples' to 'populations'.

This caused strong resistance among the indigenous representatives and many governments. Not only is the term peoples accounted for in the report, where the term is accepted by the Chair both with and without the 's', but it also opened up the question of bracketing words, which until now had been scrupulously avoided by the Chair in order not to create outrage among the indigenous participants. During the recess, some members of the indigenous caucus prepared posters similar to those used in the Vienna Human Rights Conference, consisting of a large 'S', which were displayed by indigenous peoples (and even some governments) during the subsequent debate.

Indigenous representatives stated clearly that certain governments were lingering over the fact that the draft Declaration must contain the rights of indigenous individuals. Mick Dodson from Australia pointed out that the Human Rights Committee and other treaty bodies in the UN such as the Committee on the Elimination of Racial Discrimination use the term 'indigenous peoples' with the 's'. Ted Moses, from the Grand Council of the Crees pointed out that not to recognise the 's' on peoples was an act of racial discrimination because indigenous peoples should be treated collectively in the same way as other peoples. Others pointed out that to view indigenous peoples as individual members of a minority population is wrong. In response both Brazil and France said that they accept the notion of collective rights, but still were not convinced about the term 'peoples'.

Article 44 was not adopted and a brief discussion on Article 45 followed, which states: "Nothing in this Declaration may be interpreted as implying for any State, group or person any right to engage in any activity or to perform any act contrary to the Charter of the United Nations". Most governments supported it, although Australia asked why it specified persons and groups and exclusively mentions the UN Charter. As there was no immediate response to this point, the discussion petered out. The debate on the draft Declaration was complete for another year. The only thing remaining was the report.

The Final Report

Although the first few pages of the final report had been available for several days, the rest of the text, although brief, was not produced until the afternoon of the final day of the meeting. The main discussion concerned the text describing the discussion on self-determination. The Chair had circulated a few preliminary drafts, but no one knew what he was going to propose. In the end the text in the report was very weak and rather than reflecting the discussion which actually took place on the floor, appeared to many as a politicised view of what certain governments wanted reflected.

Indigenous peoples had hoped that the report would reflect that practically all the governments with the exception of the US had ap-

proved the principle of self-determination for indigenous peoples. This would have demonstrated the broad consensus which the indigenous peoples had felt coming through the informal session. However, the Chair's text separated out states' positions, thereby weakening the extent of the support. The report read that "some States supported the principle contained in draft Article 3". The lists made by indigenous peoples showed that most States supported this view. The report then divided the states into those seeking more clarification, those with concerns over secession and those states (in reality one - the US, or maybe two if the ambiguous statement by Argentina were to be included) which opposed the principle of self-determination for indigenous peoples. This gave the impression that only some States supported the principle of self-determination. However when reading the report carefully in conjunction with the list, it is still clear that most states supported the principle of self-determination for indigenous peoples with the provision that clarifications be sorted out later. However, everyone at the meeting was quite clear that only the US was unequivocally opposed to the notion.

When indigenous peoples tried to point this out to the Chair, he ruled that only those parties directly referred to in the text of the report had the right to seek amendments. This meant that indigenous peoples could make no comment on how the governments were reported in the report. As a result, governments sought their own consensus based on the lowest common denominator of agreement, and indigenous peoples could say nothing, even though they considered that the agreed text was inaccurate. The result was increasing frustration in the indigenous caucus. When a few speakers were cut off, some stormed out of the meeting room as tempers frayed. Things calmed down later and the report was passed by the formal meeting. Although the report could have been stronger, indigenous representatives felt that they could change nothing more and that they had defended their rights to the limit.

Conclusion

The most significant progress made in the third Open-Ended Working Group was in the area of procedure. Throughout the whole discussion of the text indigenous representatives effectively had full and free participation, both in attendance, in speaking and in decision-making. However, this took place 'informally' and when the final report was discussed, the indigenous caucus felt that their participation was under strain.

Whereas indigenous peoples had a veto on any changes to the text of the draft Declaration with which they did not agree, in the end, they did not need to exercise this right, as there was no agreement among the governments over any articles apart from the two which were adopted. The push for changing the text centered around the CANZUS group, particularly the governments of the United States and Australia. The forceful way in which they tried to push for changes was seen by some other governments as obstructive. The US, in particular, became increasingly isolated throughout the meeting, to the extent that the CANZUS group alliance was looking decidedly shaky by the end of the second week.

As indigenous representatives left the third Open-ended Working Group, they could feel satisfaction that the text of the draft Declaration remains intact for another year. The co-ordination by the indigenous caucus in defence of the text was extremely effective throughout the meeting. As one leader from Australia said: "Every time the governments came up with arguments against the articles, we were ready for them".

After fourteen years of experience, it is clear that most of the indigenous representatives in the room were far more expert than the government delegates. Furthermore, as the instructions for government delegates often come from sections of the bureaucracy which are out of touch with indigenous questions, the political and ideological assertions stated by some governments often had neither factual nor logical substance.

As arguments arose from the government seats in the front, indigenous representatives were ready with lucid and succinct responses.

They related the government attack on the draft to other provisions of international law and connected the consequences of changes in the text to real events in their communities. Furthermore, two articles were approved and this does indicate that there has been some movement in the work of the Commission on Human Rights.

On the other hand, indigenous peoples realised that the meeting had not gone very far. Indigenous peoples had fought to prevent changes to the text, but they had wanted to identify some areas where consensus could be found, preferably in the text, but also in principle. However this was not forthcoming. The four articles on education, public information, media and labour rights were not very controversial, and with a bit more good will, the governments could have adopted a 'chapter' of the Declaration. Another missed opportunity was that the meeting, with further negotiation and discussion, would have come close to accepting a proposal by the government of Denmark that the right of Self-determination for Indigenous Peoples be recognised in principle.

These two agreements would have sent an important message to indigenous peoples and their communities, demonstrating the good will of governments and an important desire to move forward with the draft Declaration. The approval of controversial parts of the text in principle would also have shown that there was some agreement on the rights of indigenous peoples enshrined in the draft Declaration. Unfortunately this did not take place. The two articles adopted were, in fact, fairly innocuous as they do not relate specifically to indigenous peoples, but rather to any individual living in a state.

Nevertheless, the attitudes of many governments have undergone a markedly progressive shift over the last year, particularly those of Asia and some Latin American countries such as Venezuela. However it is uncertain whether this constitutes a permanent change or just annoyance at the antics of the CANZUS group. Nevertheless, there was a feeling that the governments were on the whole more constructive during 1997 and hopefully this will continue in future years.

Meanwhile indigenous peoples are discussing their current position further and working on strategies for defending the draft Declaration for next year. As several representatives said: "We can only take it one year at a time".

Government Positions

Warm means that the governments broadly accept the text. *Lukewarm* means that the governments accept the principles but would like some minor changes. The *tepid* countries are consistent on most points but would like substantive changes in certain areas, whereas the *cold* participants want substantive changes on major rights such as self-determination, territorial rights or collective rights as a whole. # means a worse position than 1996 and * means an improvement.

Cold	Tepid	Lukewarm	Warm
Active Participants			
Argentina	Australia #	China *	Colombia
Brazil	Venezuela	New Zealand *	Finland
France	Bangladesh *	Sweden *	Bolivia
Japan		Russia	Denmark
USA		Canada	Norway *
		Mexico	Fiji
		Chile	Pakistan *
		India *	
		South Africa	
		Kenya	
		Estonia	
		Panama	
		El Salvador	
		Ukraine	
Silent Countries			
Nigeria	Indonesia	Philippines *	Cuba
	Malaysia	Spain	Nicaragua
	Germany	United Kingdom	
	Nepal	The Netherlands	

This general table made over the last two years has been developed further by several participants at the meeting into one broken down into themes.

THE 54TH SESSION OF THE UN COMMISSION ON HUMAN RIGHTS

By Jens Dahl and Lola García-Alix

The 1998 meeting, which took place in Geneva from March 16 to April 24, has attracted a large number of representatives both from member governments and observer governments. Compared to the situation only a few years ago, the number of government representatives has increased significantly, especially from Eastern European and Third World countries. This could mean that more governments participate (there are now more regular members of the Commission compared to the situation some years ago), but the reason could also be that each governments send more delegates. Last, but maybe not least, it can also be explained by a more regular participation of the government delegates.

What supports the latter interpretation is an observation about the way governments participate in the meeting. We still remember the first time we took part in the CHR meeting in 1990. At that time, when the meeting was on, maybe half of the government seats were occupied; the others were empty while the representatives were either not in the building or sitting in the coffee lounge. Furthermore, fewer governments had officially registered their participation in 1990 as compared to this year.

We also recall that in 1990 when one of the NGOs had the floor many of the government representatives took off their earphones or started to read the Financial Times or another newspaper, or they simply walked out of the room. This is different today. Now, the government representatives are in the room most of the time and they listen to the speeches, even by the NGOs. It is, of course, still the case that some governments (such as the US) and some NGOs (such as Amnesty) are listened to more than others. But the interest from the governments has obviously increased.

This trend is worth noticing. First of all because it can be interpreted as a sign of governments becoming much more interested in

human rights issues, and also that the position and influence of NGOs has increased. However, there is also a trend that there are now so many NGO speakers on some of the agenda items that their presentations drown. Some days, the meeting went on until midnight.

With the increased number of government representatives physically being there in the room, it follows that the NGOs are less visible. The government members (53) of the CHR sit in the front of the semi-circular room. Behind them are delegates of observer governments. Observer governments have the same rights as the member governments, except that they cannot vote (which is often not called for). Behind the governments are the non-member states (Switzerland and the Holy Sea) and the United Nations bodies such as the High Commissioners, UNICEF, UNEP, etc. In this group we also find the specialised agencies such as the ILO, IMF and others. Further behind these, we have the intergovernmental organisations as, for example, the Council of Europe, the Arab Labour Organisation, etc. There is one liberation movement (from Palestine) and a few other organisations such as the Red Cross and the Order of Malta. Furthest back in the room there are the various types of accredited NGOs.

While the group of NGOs used to occupy more than a third of the room, there are now very few seats available for them and they have to squeeze in between the press in a separate annex to the main floor.

This year, the South African chairman was very strict in not allowing people to walk around the room nor to stand behind and talk. From an NGO point of view the implication is that it has become more difficult to lobby government delegates and to approach them while they are in their seats. On the other hand, it gives the feeling of a more serious meeting.

The hierarchy between governments and NGOs has been given a new dimension. A digitalised signboard now indicates how much time is left for the speaker who has the floor. So, it is now also visually clear that governments are allowed to speak for 10 minutes and NGOs for 5 minutes.

The Agenda of the 54th Session of the UN Commission on Human Rights

This was the third time indigenous issues were considered as a special item since the Commission decided to add this to its agenda in 1996. This year, indigenous issues were item 23 on the agenda, scheduled for the 26th and 27th of March. The voting on resolutions for this item took place on the 9th of April.

Agenda Item 23: 'Indigenous Issues'

Under item 23, the annotations to the provisional agenda noted four major topics to be considered:

- *A Permanent Forum for Indigenous Peoples:* In its session last year, the Commission on Human Rights requested the High Commissioner to convene the second workshop on a Permanent Forum for Indigenous Peoples in the United Nations System. The second workshop was held in Santiago de Chile from 30 June-2 July. The Commission also requested the High Commissioner to transmit the report of the Workshop to the Working Group on Indigenous Populations (WGIP), inviting it to express its views and to submit a report, together with any comments arising from discussions in the Working Group, to the Commission's session this year. As documentation for this sub-item, the report from the Santiago workshop and its annexes, as well as the report from the 15th session of WGIP, were distributed.
- *Working Group of the Commission on Human Rights to elaborate a draft Declaration on the Rights of Indigenous Peoples:* In 1995, the Commission decided to establish an open-ended inter-sessional working group of the Commission with the purpose of considering the draft Declaration on the Rights of Indigenous Peoples, elaborated by WGIP and approved by the Sub-Commission in 1994. The inter-sessional WG met for the third time in Geneva from the 27th of October to the 7th of November 1997 (see report by Jens Dahl and Andrew Gray in this volume) and as in previous years, its report was submitted to this session of the Commission on Human Rights.

- *International Decade of the World's Indigenous Peoples:* In December 1994, the General Assembly proclaimed the International Decade of the World's Indigenous Peoples. The General Assembly adopted a Programme of Activities for the Decade. The Commission on Human Rights, at its session last year, invited the High Commissioner for Human Rights to submit a report to its fifty-fourth session
- Resolutions and recommendations of the *Sub-Commission on Prevention of Discrimination and Protection of Minorities* regarding indigenous issues.

Indigenous Participation

Indigenous participants began arriving in Geneva on March 24 and 25. On the day of the last indigenous caucus on March 26, there were 29 indigenous representatives. The majority of the representatives were from Canada, United States, and Central and South America. Unfortunately, there was only a small representation from Asia and the Pacific.

The Fund for the Human Rights of Indigenous Peoples financed the participation of 9 of the indigenous representatives from India, Philippines, Canada, Guatemala, Chile, Panama, Mexico, and the Solomon Islands. Except for the two representatives from Chiapas (Mexico) who participated in the discussions on item 10 (which took place on 14 April), all the others were in Geneva on the 25th, to participate in the discussion on item 23 on March 27.

Tuesday 24th of March: First Indigenous Caucus:

This first meeting was convened by the International Indian Treaty Council. The first matter decided was to have daily meetings until the 27th, the day scheduled for discussion of the item on indigenous issues. This meeting was merely of an informative nature regarding the topics to be discussed under the agenda item on 'Indigenous Issues' and there were 16 indigenous representatives present. The organisers invited a person from the staff of the UN Office of the High Commissioner for Human Rights to give a presentation of the issues.

With respect to the resolutions on the Permanent Forum, it was reported that to date there was only one draft resolution made, the one by the government of Denmark for the Commission to establish an ad-hoc intersessional group to elaborate a mandate for the Permanent Forum to be presented to the Commission at its next session.

Indigenous representatives present decided to invite the representative of Denmark to the meeting accorded for the next day, in order to be informed in greater detail on the Danish proposal and to discuss a possible indigenous strategy on the topic.

It was also reported that Mary Robinson, the High-Commissioner, had been designated by the General Assembly as Coordinator for the Decade and is to present a report on the progress of the Decade. Some indigenous representatives asked whether there were concrete plans to hold a 'mid-term evaluation' of the Decade. There was a majority opinion among participants on the importance of this evaluation being carried out within a maximum time frame of one to two years.

The representative of the International Indian Treaty Council, moderator of this meeting, reported that some indigenous representatives had requested the High Commissioner for Human Rights to meet with those indigenous representatives present in Geneva, and that the meeting would take place on the 25th at 10 a.m.

Wednesday 25th of March

Meeting with Mary Robinson, High Commissioner for Human Rights. The High Commissioner regretted that, due to a tight work schedule, she only had 25 minutes to hold a dialogue with indigenous representatives. She expressed her satisfaction at meeting with indigenous representatives, and said that she hoped that this type of meeting could be held regularly during other meetings that indigenous representatives participate in.

She pointed out the importance of the work of the indigenous peoples' unit of her office, and regretted the lack of economic resources within the United Nations regular budget, but signalled that there was much work being done to obtain external financing. In this respect, she reported that the government of Holland had decided to support economically the 'fellowship programme' by financing one to two

persons for its coordination. The governments of Austria and France have also offered to finance programmes in the indigenous peoples' unit. She also signalled the importance of government donations to the Voluntary Funds for the Decade and the WGIP, and reported on her work to achieve this objective, asking that indigenous representatives request donations from their governments for the Voluntary Funds.

The representatives from Australia and Canada invited the High Commissioner to visit their peoples during the High Commissioner's planned visits to these countries, scheduled for 1998-99. Other indigenous representatives pointed out the importance of her role as mediator in critical situations affecting indigenous peoples. In this respect, the representatives of the Ogoni people asked her to take concrete action to alleviate the suffering of their people. South American representatives also requested her mediation in the cases of Chiapas and Colombia.

Second Indigenous Caucus

This second meeting included the presence of those indigenous participants who had arrived in Geneva the previous day, increasing the number of indigenous representatives present to 24.

The main issues discussed at this meeting were:

Accreditation of indigenous representatives. Several indigenous representatives signalled the importance of indigenous representatives actually taking the floor on item 23. To that point in time, only 7 indigenous representatives had signed up to give a statement. It was agreed to ask different NGOs with UN consultative status to give IWGIA's speaking rights to indigenous representatives on this agenda item.

The draft resolution on the Permanent Forum by the government of Denmark. The head of the Danish delegation, made a presentation on the draft resolution that the CHR establish an 'ad hoc' working group. The mandate of this 'ad hoc' group would be to elaborate and consider proposals for the mandate of a Permanent Forum. This working group would submit its report to the next session of the Commission on Human Rights, to consider forwarding it to ECOSOC.

All the indigenous representatives who intervened after the presentation of the Danish representative expressed their support of this proposal, which corresponds to the views expressed by indigenous representatives during the workshops in Copenhagen and Santiago and the regional meeting in Temuco and Kuna Yala. The Danish government would continue to hold discussions with governments until 6 April, the deadline for submitting draft resolutions on item 23. Indigenous representatives expressed their interest in the Danish government being kept informed of developments in negotiations.

Study on Treaties. Miguel Alfonso Martínez, representative of the government of Cuba and member of the Sub-Commission and Working Group on Indigenous Populations, was also invited to this meeting. The Cuban representative reported that he hoped to be able to present his final report on the Treaty Study during the next WGIP session.

He stated that his interest in being present at the current meeting was to hear the views of indigenous representatives on the situation of the Declaration on the Rights of Indigenous Peoples and the establishment of a Permanent Forum. With regard to this, he said that there was a recommendation from the Sub-Commission that this topic be discussed in WGIP, and that he would like to hear the views of indigenous representatives accordingly.

Regarding the *Declaration on the Rights of Indigenous Peoples*, the representative of the Grand Council of Crees, reported on the last meeting of the Working Group. He expressed his concern regarding the situation in which the process currently finds itself, wherein governments, particularly those assuming the position of the so-called CANZUS group (the group of governments from Canada, Australia, New Zealand and USA), are obstructing the establishment of a constructive dialogue.

With respect to a possible strategy, the representative of the Indian Law Resource Center, made an analysis of the current situation of the declaration and raised the question as to how to proceed with the work toward the adoption of a strong and effective declaration. He suggested that indigenous peoples and governments make a commitment to what they would call an 'ethical engagement', that is opening up a process

of discussion with governments toward acquiring the adoption of the strongest possible declaration.

In response, indigenous representatives reasserted their obligation to keep the integrity of the document, but agreed upon the necessity to analyse and discuss a consensual indigenous strategy before the next meeting of the working group on the declaration. With respect to this, it was pointed out that there is a need for an indigenous strategy in as much as governments are already elaborating their own strategy.

Thursday 26: Third indigenous caucus

The central point was the preparation of indigenous interventions under item 23. Everyone was in agreement that the central themes were the importance of the rapid adoption of the declaration and the establishment of an 'ad hoc' group to elaborate a mandate for the Permanent Forum. The representatives of Central and South America presented the results of the Second International Indigenous Conference held in Panama, and signalled the importance of holding regional conferences on this topic. Representatives from Asia and New Zealand reported that they are preparing a regional conference in Asia and another in Fiji for the Pacific region.

The group of indigenous representatives from Central and South America presented to the caucus for its approval an indigenous declaration that requests the establishment of an 'ad hoc' group to elaborate a mandate on the Permanent Forum. This declaration was accepted by all the participants, and it was decided that it would be distributed to all the governments present at this session. Everyone present was encouraged to talk to their governments and request support for the draft resolution of the Danish government. In this regard the representatives from South and Central America reported on their meeting with the GRULAC (group of Governments form Latin America and the Caribbean) and said that Chile, Bolivia, Mexico, Argentina and Guatemala were positive to the establishment of the 'ad hoc" group while Cuba, Peru and Brazil expressed a strong opposition to the Danish draft resolution.

Several indigenous representatives expressed their concern that certain governments had the intention of removing the item on 'Indig-

enous Issues' from the Commission's agenda, pointing out the need to highlight the importance of having a separate item on indigenous issues on the agenda.

The UN Commission on Human Rights: Discussion of Item 23 'Indigenous Issues'

The item was opened on Thursday 26th with Ambassador Urrutia's presentation of the report of the Working Group on the Declaration and continued on Friday 27th . Altogether, 15 governments and 30 NGOs spoke on this item, which ended on the 27th of March, after extension to an evening session on the 27th of March.

Ambassador Urrutia opened the agenda item, reporting on the Third session of the Intersessional Working Group. Ambassador Urrutia said that the working group faces a double challenge, that is the establishment of an atmosphere of trust between governments and indigenous peoples, and the achievement of concrete results. He pointed out that some things had been achieved, especially with regard to the method of work approved at the last session, adopting the structure of formal and informal sessions. The participation of 123 indigenous organisations and NGOs give this working group a special sense of legitimacy.

He stated that there had been concrete and substantive progress made with the adoption of articles 43 and article 5, that other articles had been debated, and that amendments had been proposed that should be debated during the next session. With regard to this, he signalled the importance of the discussion on Article 3, that refers to the self-determination of indigenous peoples. According to Urrutia, the results were satisfactory and he requested the Commission to continue the work although a simple renewal of the mandate would not be enough. A commitment to flexibility among governments and indigenous people would be necessary; and he concluded by stating that the text can and should be improved. Governments as well as indigenous peoples have the responsibility to overcome difficulties.

Friday 27th of March

The session on the 27th was dedicated wholly to the item on Indigenous Issues. Among the governments, New Zealand did not make concrete reference to the topic of the declaration nor the Permanent Forum, but reiterated its commitment to international initiatives to improve the situation of indigenous peoples.

Canada expressed its gratitude to the Chair of the Working Group on the Draft Declaration for his efforts in supporting the dialogue during the intersessional Working Group on the Declaration. It pointed out the need to establish a more constructive dialogue around the declaration, and expressed the need for governments as well as indigenous peoples to take a more constructive attitude during the next session. Canada expressed its hope that a strong declaration would come out of this working group and presented a draft resolution for the Intersessional Working Group of the UN Commission on Human Rights to continue its work in 1998.

Among the Latin American governments, Argentina, Chile, Guatemala and Bolivia expressed their commitment to follow-up on the objectives of the Decade: the adoption of the declaration and the establishment of the Permanent Forum. With respect to the latter, they expressed their support of initiatives that would serve to advance discussions on this topic, and accordingly, said that the draft resolution of Denmark could serve to continue discussions. On the other hand, Brazil said that it was too soon to take any decisions on the subject of a Permanent Forum, since to date, there had not been sufficient discussions on the need to establish a body of this nature. Cuba supported the decision of the Sub-Commission that the WGIP be the forum for discussing those topics not yet defined regarding the 'possible' establishment of a Permanent Forum. Russia also expressed its support to the subject of the Permanent Forum being discussed at WGIP. The intervention on behalf of Nordic countries was made by Greenland's Prime Minister, Mr. Jonathan Motzfeldt. In his presentation, he said that the recommendation of the Vienna World Conference to establish a Permanent Forum, after having held two seminars on the subject, is at the stage of taking concrete action, and suggested that the Commission establish an ad hoc group to elaborate a proposed mandate. With

relation to the Working Group on the Declaration, he said that the adoption of two articles represents a step in the right direction, but that it is necessary to accelerate the process if the declaration is to be adopted within the time frame of the International Decade. He urged governments to work in closer cooperation and consultation with indigenous peoples toward the swift adoption of the declaration.

Many strong and significant interventions were made by indigenous representatives. It should be noted that the indigenous representatives present did not have difficulty getting the necessary accreditation through different NGOs with consultative status. Everyone, after thanking the NGO for offering the opportunity to take the floor, then spoke in the name of their own organisation.

The great majority of statements made reference to the topics of the rapid adoption of the declaration in its current form, and the establishment of a Permanent Forum. With respect to the declaration, concern was expressed over the delay in its adoption and the efforts of many governments to 're-draft' it, despite the opposition expressed by indigenous peoples. The representative of the organisation Kuna Napguana, and regional coordinator of the International Alliance of the Indigenous and Tribal Peoples of the Tropical Forests, intervened under IWGIA. In his statement, he referred to the results of the Second Indigenous Conference in Panama, and considering the recommendations made by the official seminars and the regional indigenous conferences held in Central and South America, supported the recommendation to establish an ad hoc group that would elaborate a draft mandate, structure and implementation of a Permanent Forum.

With regard to the Decade, some indigenous interventions made reference to the need for a 'mid-term' evaluation of activities.

Although the majority of last year's interventions made reference to the problem of participation, this year only a few indigenous interventions made minor references to this issue.

9th April: Voting on Resolutions on Item 23

Most of the indigenous participants left Geneva when the Commission had discussed item 23. The two most important issues to be voted on under this item of the agenda were the Draft Declaration and the

Permanent Forum. Concerning the Draft Declaration, the report of the intersessional working group ("Working Group of the Commission on Human Rights to elaborate a draft declaration in accordance with paragraph 5 of General Assembly resolution 49/214 of 23 December 1994") was accepted and a resolution (drafted by Canada) proposed that the intersessional working group continue its work.

The other controversial indigenous issue this year was the proposal for the establishment of a Permanent Forum for indigenous peoples. The proposal for a Permanent Forum under Ecosoc came originally from indigenous peoples and was then endorsed by the Danish government who brought it into the Commission on Human Rights.

The resolution drafted by Denmark-Greenland proposed, first of all, the establishment of an *ad hoc working group* under the CHR to elaborate and consider proposals for a Permanent Forum. The idea is that this ad hoc group should finalise its work within one or a maximum of two years and then present its report with suggestions to the CHR in order for it to be forwarded to Ecosoc.

Indigenous peoples all supported this process although they would have preferred the immediate establishment of a working group under Ecosoc. It should be born in mind that this took place in opposition to the decision taken by the Subcommission which would have taken the further dealings with the Permanent Forum down to the WGIP. This proposal came originally from the Cuban member of the WGIP (and Subcommission member), who strongly opposed the Danish resolution by lobbying for the CHR to return the discussion on the Permanent Forum to the WGIP, a step which had been opposed by indigenous peoples in general.

After the debate on item 23, the Danish and Greenlandic delegates lobbied for the Danish resolution, but since basically all indigenous peoples had left, there was very little lobbying on their part. If this is combined with the observations as referred above, that governments have become more and more interested in human rights issues, it is worth remembering in the future that the opportunities of indigenous peoples to lobby might have been improved. The process to establish the Permanent Forum and to have a far-reaching Declaration adopted

will be extremely difficult, and the necessity of indigenous lobbying cannot be underscored enough.

The resolution of the Permanent Forum was drafted by Denmark and proposed by all the Nordic countries. It was then co-sponsored by Argentina, Bangladesh, Bolivia, Canada, Chile, Cyprus, Estonia, Greece, Guatemala, Honduras, Latvia, Lithuania, Mexico, Nepal, Portugal, Russia, Spain, Switzerland and Ukraine, and a few members added their names to the list in the end (Only Argentina, Bangladesh, Canada, Chile, Guatemala, Mexico, Nepal, Russia and Ukraine are members of the Commission). It is worth noting that Bangladesh and Canada were among the supporters of the resolution. The reason for Bangladesh joining could be a sign indicating that they consider that the so-called peace process in relation to Chittagong Hill Tracts gives them a new international human rights profile (so far, Bangladesh has not recognised the term indigenous peoples being used specifically about the peoples in the Chittagong Hill Tracts).

Before the resolution on the Permanent Forum came to a vote, a number of consultations took place between governments. In spite of the fact that a few changes were made to make the resolution acceptable to the USA, they nevertheless continued to demand changes which would have made it useless. In the end it seems as if they gave up, but the voting developed into a real drama.

On the morning of April 9, three resolutions on indigenous peoples were put to the floor. The first one (on the WGIP and the decade) which was put forward by New Zealand was adopted unanimously. The second resolution (on the intersessional working group) was drafted by Canada and was also adopted without voting. In their explanation for the resolution, Canada stressed that they were in favour of a "strong declaration". The third resolution (on the Permanent Forum) was put forward by Denmark. As soon as the Danish delegate started his explanation, Cuba asked for the floor (by raising the country's name tag).

The voting procedure in the Commission on Human Rights is the following: 1. The chair announces the suggested resolution. 2. The sponsoring country gives a short explanation. 3. Countries that co-sponsor the resolution are mentioned by the secretary who also explains how other countries can add their names as co-sponsors. 4. The chair asks if there are members who want the floor for short general comments (NB: only member states can speak when a resolution is put to the vote). 5. When all who wish have spoken the sponsoring country will, eventually, be given the floor. 6. The secretariat takes the floor to explain the financial implications of the resolution. 7. The members are given an opportunity to explain their votes. 8. The chair asks if any member wants a vote to take place. 9. If not, the resolution is adopted unanimously (without a vote). If only one country demands it, a vote takes place. 10. If only one country demands it a vote by naming takes place. 11. Any member can return and explain their vote.

The procedure may be helpful in understanding the confusion which followed the adoption of the resolution on the Permanent Forum.

When the explanation of the resolution on the Permanent Forum was over, Cuba had the floor. The Cuban representative delivered a long speech explaining his worries about the financial implications of establishing this new working group which should do the same work that already takes place in the WGIP and he appealed to the co-sponsors for explanations on a number of issues. He found that it was premature to establish an ad hoc working group which should discuss the Permanent Forum before it was decided how this should be structured and he also said that there was no reason to have this group since the sub-commission had decided that the future discussion on this matter should take place in the WGIP.

After Denmark had responded, France took the floor and asked why this resolution could be adopted when all other new initiatives had been brought to a halt until the financial implications were known. The secretariat then took the floor and explained that this resolution had no financial implications.

Again, the Cuban representative took the floor and went on and on. When Denmark appealed for a unanimous decision, the chair asked Cuba, Denmark and the secretariat to meet over lunch and reach an agreement on the financial matter.

After that there was a vote on three recommendations from the Sub-commission. Two proposals in favour were adopted, but the one which proposed that the Permanent Forum should be dealt with by the

WGIP was postponed. This was decided despite protests from the Cuban representative.

During lunch time, Cuba had asked for a change to paragraph two in the Danish resolution. This was accepted, but when the meeting was convened Cuba again asked for the floor and explained that they could not accept the resolution. Denmark then asked for a vote. When the chair now asked if there was any country that asked for a vote, not even Cuba raised its hand. This was obviously confusing for the chair, but it was then adopted unanimously.

After that the vote on the remaining item from the Sub-commission was to take place. Now the Cuban representative also wanted this to be adopted although the Danish-Greenlandic resolution had made it obsolete. When a member state asked for financial implications of the WGIP dealing with an issue which it was decided should be dealt with in a work group directly under the Commission, the chair concluded that the proposal was rejected. Cuba then again asked for the floor with a new intervention, but was turned down by the chair.

The controversial text in the resolution on the Permanent Forum is paragraph 4 which now reads: "*Decides* to establish an open-ended inter-sessional ad hoc working group, from within existing overall United Nations resources, to elaborate and consider further proposals for the possible establishment of a permanent forum for indigenous people within the United Nations system". Japan explained its vote by saying that they were against a permanent forum, but that they would come forward with their opinions in the ad hoc working group. USA explained their vote by saying that they understood paragraph 4 to mean that the ad-hoc working group could also consider the WGIP.

It is assumed that the ad-hoc working group will meet in either January or February next year. One important issue that is still unresolved is the appointment of the chair of the ad hoc working group.

TOWARDS A EUROPEAN POLICY ON INDIGENOUS PEOPLES AND DEVELOPMENT CO-OPERATION

By Birgitte Feiring

Introduction

The European Union is the world's biggest donor of development co-operation, both through the national agencies of its Member States and through the European Commission. The role of indigenous peoples in development processes has received increasing attention during the last decade, as it is recognised to be of great relevance for the general objectives of European development co-operation: Poverty reduction, sustainable development and the observance of human rights.

Recognising the importance of the issue, several Member States of the EU, such as the Netherlands, Germany, Denmark and Spain, have developed specific strategies and policies for their co-operation with indigenous peoples. Some of these countries have raised the issue in the EU, in order to ensure a common European position. In June 1997, these efforts showed their first result: The Council of Ministers decided to invite the European Commission to prepare a policy paper on co-operation with and support to indigenous peoples in European Development Co-operation. Based on this policy paper, the Council of Ministers will adopt a resolution, which will guide the Commission and the Member States in their future development co-operation with indigenous peoples.

Structure of the EU

In order to follow the process towards a European policy, it is useful to have a general overview of the different EU institutions:

The European Commission is the executive body of the EU. The Commission is based in Brussels, Belgium, but has representative delegations in many countries throughout the world. The Commission is divided into a number of 'Directorates

General' (DGs), each holding different responsibilities. The DGs of most interest for indigenous peoples in developing countries are DGVIII, responsible for development co-operation with Africa, Caribbean and the Pacific, DGIB, responsible for co-operation with Asia and Latin America and DGXI responsible for the environment. These DGs administer a number of budget-lines, which finance projects and programmes involving or affecting indigenous peoples.

The right to propose new legislation in the EU also lies with the Commission. It is therefore the Commission which has the responsibility for developing a EU policy paper on indigenous peoples in development co-operation.

The Council of Ministers is the forum where most decisions are taken, as all new legislation in the EU has to be approved by the Council. The Council is comprised of a Minister from each of the Member States. Different Ministers participate in the Council meetings according to the topics on the agenda (environment, education, health etc.). The issue of indigenous peoples and development co-operation is being treated by the Council of Ministers of Development Co-operation.

The European Parliament has until now had a limited influence in the EU. The Parliament has to be consulted in a number of cases and has co-decision powers on a number of topics. But unlike other Parliaments, it does not have the right to propose new legislation. The Parliament has for several years paid attention to indigenous issues and urged the Commission to take action.

The Process in the Commission

Following the invitation from the Council of Ministers, the Commission started to work on a policy paper on indigenous peoples in October 1997. The work was undertaken by DGVIII, unit A/2, dealing with human and social development. In short, the process was divided in the following stages:

- In February 1998 a draft document had been developed in the Commission and was distributed to more than 200 indigenous organisations in an open consultation
- In March 1998 the Commission invited 30 indigenous experts from 27 developing countries to participate in a workshop in Brussels and exchange views with Commission staff.
- Later in March the draft document was discussed in a workshop with experts from the Member States of the EU.
- In April the draft document was amended according to the comments received from indigenous peoples and Member States' experts, and the final document translated into all Member States' languages.
- In May 1998 the Document was presented to the Council of Ministers. It is foreseen that the Council of Ministers will adopt a Resolution on the subject as soon as possible (July 1998).

Short Summary of the EU-Document

The final document, called 'Working Document of the Commission on indigenous peoples and development co-operation', is available in its full length through the European Commission. Only some of the most important points and arguments will be summarised here.

Scope of the proposed policy. The proposed policy addresses the question of indigenous peoples and development co-operation. This is a geographical and thematic limitation, whereby the policy excludes indigenous peoples in so-called developed countries. There are also a number of indigenous problems, concerns and aspirations which cannot be solved by development co-operation, but must seek solution in other fora at the local, national or international level. The proposed policy should therefore be seen as a pragmatic step, suggesting a general policy framework, which hopefully can contribute towards the solution of some of the problems faced by indigenous peoples.

Main arguments. The document is based on the following main arguments:

Many indigenous peoples live in areas which are crucial for the conservation of the environment and its biological diversity. Their societies are in general non-industrial, and they maintain social and cultural practices which allow for a sustainable use of the resources. As distinct peoples they hold their own diverse concepts and aspirations as to the development process. On the other hand indigenous peoples are marginalised both politically, culturally and economically and they suffer from recurrent violations of their human rights.

In sum, special attention should be given to indigenous peoples in the development process because:

- Their cultures and identities are invaluable and necessary contributions for achieving sustainable development.
- They play a key-role regarding the conservation and sustainable use of biological diversity.
- They possess a special vulnerability to being disadvantaged in the development process.

Identification. The policy proposes to pay special attention to indigenous peoples, and it is therefore important to understand *who* they are. The United Nations estimates that indigenous people number a total of 300 millions, living in more than 70 countries. But the meaning, definition and implications of the concept 'indigenous' is a theme for ongoing discussions. In Latin America the concept refers to a given point in history, when colonisers overruled local societies: Descendants of those who first inhabited the continent are the indigenous of today. But in Africa and Asia the picture is more complicated. There the current interpretation of the concept suggests a certain structural relationship between the group and the nation state. Perhaps it is impossible to measure whether the Maasai or the Pygmies arrived in a given area before other ethnic groups - but they will share many of the features which in practice characterise indigenous peoples:

- Historical continuity with pre-colonial societies
- Strong link to territories
- Distinct social, economic or political systems
- Distinct language, culture and beliefs

- Form non-dominant sectors of society
- Identify themselves as different from national society
- Link to the global network of indigenous peoples

The EU document acknowledges that there is no universal definition which can embrace as different peoples as the Inuit of Greenland, the Adivasi in India, the Quechuas in the Andean region etc. It must be up to the local actors to explore and define the local implications and connotations of being indigenous, and the EU must avoid imposing the concept of being indigenous in any local context where the implications can be potentially negative.

Objectives. The objectives expressed in the policy are balancing between two considerations which might seem contradictory at the first glance. On the one hand indigenous peoples are marginalised, they are poor, their human rights are often violated and they are often excluded from the decision-making processes. On the other hand they reaffirm their distinct indigenous identity and reject any attempt of forced assimilation into the mainstream society. The challenge for development agencies is thus to include indigenous peoples in the development process *and* respect their own visions and priorities for development. This implies a fundamental respect for cultural diversity and the recognition of the diversity of the development concept itself.

The overall objective of the proposed policy of the European Commission reflects this ethical aspect, as it aims at:

- Enhancing indigenous peoples' right and capacity to control their own social, economic and cultural development.

Experience suggests that development co-operation which overlooks the special situation of indigenous peoples will often lead to negative results. This can e.g. be forced resettlement, loss of vernacular language or ethnic violence. The more pragmatic objective of the policy is therefore to:

- Improve the positive impact of European development policy on indigenous peoples, integrating the concern for

indigenous peoples as a cross-cutting aspect of human empowerment and development co-operation.

Implementation. The policy proposes to integrate the concern for indigenous peoples as a cross-cutting issue at all levels of European development co-operation instead of creating a special budget-line. To 'isolate' indigenous peoples in a special budget-line would be to marginalise the issue and only link it to the 'traditional small-scale development project'. To integrate the concern for indigenous peoples at all levels means to take special considerations in instruments such as policy dialogue between EU and partner countries, trade relations, structural adjustment programmes, sectoral programmes, projects etc. This is an enormous challenge, which will require time, resources and further research, as most considerations concerning indigenous peoples have been linked to the 'project level' There is an urgent need for research on how to assess the impact of macro-economic interventions on indigenous peoples, how to ensure their participation in these processes, and how to reflect their needs in sector programmes.

The document proposes a general policy framework and recognises the need for further action in order to implement it properly. Like most big institutions the Commission suffers from lack of coherence and coordination in its activities, lack of detailed knowledge of local conditions, restricted resources and slow and rigid administrative procedures. It takes time to change the practice of such big institutions and indigenous peoples should be aware of the role they can play in this implementation-process.

The project level. At the project level there seems to be general agreement on the elements which should be applied when addressing indigenous peoples. These are:

- the prior consultation with indigenous peoples
- their informed consent to envisaged activities
- their full participation throughout the project cycle
- the use of culturally appropriate means of communication
- the adjustment of activities to the indigenous notion of time and decision-making.

However, to achieve this full and free participation in the development process is still not an easy task:

Complicated partnerships. Indigenous groups are not homogenous and have no single formal institutional network to identify or legitimate authority. In many indigenous societies there is a layering of religious, social, political and gender-specific institutions. How to ensure indigenous participation, how to select indigenous representatives and how to reach their informed consent are therefore questions which are subjects of permanent discussion.

The definition of roles between different partners in the development process is another issue for discussion. There are few examples of direct interaction between the Commission and indigenous groups, but until now most projects have been channelled through NGOs. Many indigenous peoples are calling for a redefinition of these roles, but have difficulties in fulfilling donor requirements. This leads to the question of capacity-building..

Capacity-building. Many indigenous peoples are calling for support to capacity-building. However, capacity-building should not just be the adjustment of indigenous societies in order to fulfil donor requirements, which will eventually erode existing social structures. Capacity-building should be understood as enhancing the capacity of indigenous societies to manage change and adopt long-term sustainable strategies. Capacity-building should include training of indigenous professionals, strengthening of institutions and organisations at local, national and international level and exchange of experiences and networking among indigenous peoples.

The Next Step

The policy paper and the envisaged Council resolution propose a general policy context for European development co-operation with indigenous peoples. This is a first step towards an intensified dialogue and partnership, and has in itself been a very positive experience for the European Commission. The next step will have to concentrate on the practical implementation of the policy framework. This will prob-

ably be a long process, in which indigenous peoples themselves should play a fundamental role.

Documents available from the European Commission:

Working Document of the Commission on Indigenous Peoples and Development Co-operation. The Document is available in European languages.

Summary of comments received on the European Commission's Working Document on Indigenous Peoples and Development Co-operation. The Document is only available in English.

Later in 1998 a full report from the workshop held in Brussels with indigenous experts will be available in French, English and Spanish.

Requests for these documents should be addressed to:

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DOCUMENTS PUBLISHED IN 1997/98

DOCUMENTS IN ENGLISH

ENSLAVED PEOPLES IN THE 1990S. INDIGENOUS PEOPLES, DEBT BONDAGE AND HUMAN RIGHTS describes and reveals how indigenous peoples suffer from slavery often in the shape of debt bondage and prostitution. The cases discussed covers indigenous peoples in India, Nepal, Taiwan, the Philippines and Indonesia in Asia. In South America cases from Peru, Bolivia and Paraguay are revealed. The enslaved peoples are often tropical rainforest dwellers or mountain hill tribes. In the opening chapter the actual slavery of the 1990s is brought in a historical perspective, as the editors relates the slavery of indigenous peoples today to the general history of slavery and the history of Anti-Slavery International. Through the numerous casestories light is shed on the mechanisms and consequences of contemporary slavery in the modern world.

IWGIA Document No. 83, 1997. Published in collaboration with Anti-Slavery International, England. Compiled and edited by Anti-Slavery International. Paper, 224 pp., maps.
ISBN 0900-918-40-3, ISSN 0105-4503. US$ 27 + postage

HONOUR BOUND: ONION LAKE AND THE SPIRIT OF TREATY SIX. THE INTERNATIONAL VALIDITY OF TREATIES WITH INDIGENOUS PEOPLES. When the United Nations approved the Study on Treaties, Agreements and other Constructive Arrangements between States and Indigenous Peoples in May 1989, Treaty Six Chiefs invited the Special Rapporteur, Miguel Alfonso Martínez, to attend an Elders and Treaty Six Chiefs' meeting. The meeting was not an attempt to make a historical reconstruction. It was a spiritual and descriptive re-creation of the signing of Treaty Six, which covers an area of over 130,000 square miles. This IWGIA document aims to reflect the event, with the Elders discussing the conditions under which the Treaty was negotiated and signed and its aftermath. With articles by Sharon Venne, Isabelle Shulte-Tenckhoff, and Andrew Gray.

IWGIA Document No. 84, 1997. Paper, 127 pp.
ISBN 87-980717-7-7, ISSN 0105 4503. US$ 18.- + postage

INDIGENOUS PEOPLES, ENVIRONMENT AND DEVELOPMENT is a compilation of the proceedings of the conference of the same title held in May 1995 in Zürich, Switzerland, supplemented by a few other relevant articles on the issue. The authors of the articles are well known environmentalists, indigenous and non-indigenous scholars and activists.

The Document is divided into five parts. The first gives a general introduction to the issue. The second deals with the interlinkags between "Land Rights, Self-Determination and Resource Use", discussed with reference to several cases from all over the world. The third part presents different approaches to and aspects of the issue of the relationship between "Biodiversity Conservation and Indigenous Peoples". Here we find both general discussions of the issue as well as case studies. The questions of identity, equity and cooperation are dealt with in the fourth part on "Indigenous Culture and Development". Part five deals on the one hand with indigenous rights and international conventions and declarations, on the other hand it presents initiatives towards improving European states' development assistance policies on indigenous peoples.

IWGIA Document No. 85, 1997. Edited by S. Büchi, Ch. Erni, L. Jurt and Ch. Rüegg. Paper; 359 pp., maps, photographs.
ISBN 87 984110-2-0, ISSN 0105-4503. US$25.- + postage

INDIGENOUS HERITAGE AND SELF-DETERMINATION is a work which aims to examine and analyse critically the possible legal mechanisms and processes which could be used by indigenous peoples in the protection and management of their cultural and intellectual property.

This IWGIA document studies the historic and legal context in which the debate on the rights of indigenous peoples has developed and analyses mechanisms such as the Convention on Biological Diversity and the Agreement on TRIPS. Finally, the work analyses the alternative proposed legal models, culminating in a discussion on the possible courses of action which indigenous peoples could take in order to improve the levels of protection and management available to them regarding their cultural and intellectual property.

IWGIA Document No. 86, 1997. By Tony Simpson. Published jointly with El Programa para los Pueblos de los Bosques, UICN-Holand and the Autonomous Government of Greenland. 232 pp. Also available in Spanish (IWGIA Documento No. 22).
ISBN 87-984110-0-4, ISSN 0108-9927. US$ 20.- + postage.

INDIGENOUS PEOPLES AND BIODIVERSITY CONSERVATION IN LATIN AMERICA is the result of a conference held in Pucallpa, Peru, where representatives from indigenous organizations, environmentalists and independent experts met to discuss different methods for managing the protected areas of Latin America. This is a particularly important issue for the region given that 80% of Latin America's protected areas are inhabited by indigenous peoples. The meeting discussed the cases of Peru, Bolivia, Paraguay, Colombia, Brazil, Venezuela, Panama, Honduras and Costa Rica.

IWGIA Document 87, 1998. Published in collaboration with The Forest Peoples Programme and Interethnic Association for the Development of the Peruvian Amazon. Edited by Andrew Gray, Alejandro Parellada and Hellen Newing. 304 pp., maps, photographs. Also available in Spanish (IWGIA Documento No. 23).
ISBN 87-984110-5-5, ISSN 0105-4503. US$ 25.- + postage.

INDIGENOUS WOMEN: THE RIGHT TO A VOICE is a collection of articles and inter-views focusing on the situation of indigenous women today. With a few exceptions, the articles have been written by indigenous female grass roots activists and academics from the Americas, Africa, Asia and Oceania.

The Document gives a vivid picture of the many different realities and problems indigenous women are facing. Obviously, many of these problems as for instance poverty, domestic violence, and marginalisation are not specific for indigenous women. But the perspective taken by the contributors is new and different, and a recurrent theme is the critique of the "dominating system" exemplified in the "New World Order" which is seen as a threat to their cultural and physical survival as well as to the relationship between women and men. This indigenous perspective gives the book a definite tonality and sets it apart from other books on women.

As one of the very few publications on and by indigenous women, *Indigenous Women: The Right to a Voice* is essential for anyone working with or interested in the issue of indigenous peoples or in gender issues.

IWGIA Document No. 88, 1998. Edited by Diana Vinding. Paper; 328 pp., photographs.
ISBN 87 98 4110-6-3, ISSN 0105-4503. US$20.- + postage

EAST TIMOR: OCCUPATION AND RESISTANCE. The document is a collection of articles written by international known experts, activists and politicians. The document provides a broad and in-depth picture of the consequnces of the Indonesian occupation of East Timor concentrating on the latest years development.

East Timor is a small country where a regional superpower, Indonesia, has violently occupied and annexed the territory of the indigenous peoples. Nearly one-third of the eastimorese population have died as a conesquence. Starvation, warfare, illness and widespread violation of basic human rights is the order of the day in East Timor. In

the book this is documented, and light is shed on the genocide the Indonesian regime is committing in East Timor.

The book also puts the conflict in its historical context by relating Indonesia's and East Timor's history and a number of events, that have been focal in the conflict is discussed in detail: i.e. the murders on five overseas journalists in Balibo just before the invasion in 1975, the massacre on the Santa Cruz cemetery outside the capital Dili in 1991, the summit in APEC in 1994, the awarding of the Nobel Peace Prize in 1996.

Several aspects of the conflict is also discussed, such as: health and hospitals, environmental consequences, the condition of the east-timorese women, the role of the catholic church and the armed resistance against the Indonesian occupation.

IWGIA DOCUMENT NO. 89, 1998. Edited by Torben Retbøll. Paper, 288 pp., maps, photographs.
ISBN 87-984110-7-1, ISSN 0105-4503, US$19.- + postage

DOCUMENTS IN SPANISH

RI MAYA' MOLOJ PA IXIMULEW - EL MOVIMIENTO MAYA EN GUATEMALA *(Ri Maya'Moloj pa Iximulew - The Mayan Movement in Guatemala)* examines the nature and profile of the Mayan organizational movement from the perspective of ideas, roots and developmental factors. It presents a picture of, and reflects upon, ethnic oppression and the Mayan people's attempts at organization to date and gives an outline of the overall objectives of, and strategies and solutions proposed by, the struggle.

IWGIA Documento No. 20, 1997. By Demetrio Cojtí Cuxil. Published in collaboration with Cholsamaj, Guatemala. 158 pp.
ISBN 84-89451-27-3, ISSN 0105-4503, US$ 20.- + postage.

DERECHOS HUMANOS Y PUEBLOS INDÍGENAS. UN MANUAL SOBRE EL SISTEMA DE LAS NACIONES UNIDAS *(Human Rights and Indigenous Peoples. A Handbook on the United Nations System)* gives a detailed description of the existing international mechanisms for prevention and compensation of serious violations of the fundamental rights of indigenous peoples. This IWGIA document aims to dispel the mystery which surrounds the workings of the United Nations, and to reduce the suspicion which some people hold towards it whilst moderating the exaggerated optimism of others, making available to the reader a collection of basic information on the possibilities and limitations of United Nations action in the field of human rights.

IWGIA Documento No. 21, 1997. By Florencia Roulet. Published jointly with El Consejo de Todas las Tierras. Paper, 174 pp.
ISBN 0108-9927, ISBN 87-980717-7-7, US$ 21.- + postage

PATRIMONIO INDÍGENA Y AUTODETERMINACIÓN *(Indigenous Heritage and Self-determination;* on contents refer to abstract of the document published under the same title in English).

IWGIA Documento No. 22. By Tony Simpson. Published jointly with El Programa para los Pueblos de los Bosques, UICN-Holand and the Autonomous Government of Greenland. 232 pp. Also available in English (IWGIA Document No. 86).
ISBN 87-984110-0-4, ISSN 0108-9927. US$ 20 + postage

DERECHOS INDÍGENAS Y CONSERVACIÓN DE LA NATURALEZA (Indigenous rights and conservation of nature; in English published under the title *"Peoples and Biodiversity Conservation in Latin America"*, on contents refer to abstract above).

IWGIA Documento No. 23, 1998. Published in collaboration with The Forest Peoples Programme and Interethnic Association for the Development of the Peruvian Amazon. Edited by Andrew Gray, Alejandro Parellada and Hellen Newing. 320 pp., maps, photographs. Also available in English (IWGIA Document No. 87).
ISBN 87-984110-4-7, ISSN 0108-9927. US$ 24.- + postage.

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